



Court Services and Offender Supervision Agency  
for the District of Columbia

Office of Research and Evaluation

Reviewed and Reapproved on 2/3/2017

By: [Signature]  
David Huffer, Associate Director

ORE-M-14-01

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MEMORANDUM

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To: Nancy Ware, Director  
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From: David Huffer, Associate Director, ORE

Date: Friday, June 6, 2014

Subject: **Ensuring Full Compliance with Statutory Information Collection Provisions**

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This Memorandum describes information collection provisions set forth in the Paperwork Reduction Act of 1995 as well as those articulated in the Privacy Act of 1974 and related laws and regulations.<sup>1</sup> These provisions collectively develop a system of transparency and public collaboration and are designed to ensure the greatest public benefit from information collected, minimize the public burden, and improve the quality of these collections while ensuring data security and privacy. Failure to comply with information collection provisions can result in criminal penalties. This Memorandum therefore also describes actions the agency must undertake to comply fully with information collection provisions.

To ensure compliance with statutory information collection provisions, each unit must provide the Office of Research and Evaluation (ORE) with descriptions of current information collections and, going forward, must request advanced approval for any new collection. For each current or planned information collection, the ORE requires that all units submit a copy of the information collection instrument and a completed Form ORE-F-14-01 (*attached*) to ensure compliance with information collection provisions.<sup>2</sup> We ask that units submit this information for all *current* information collections by **July 11, 2014**; approval for planned information collections must be obtained prior to collecting information.

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<sup>1</sup>Most notably, (a) the E-Government Act of 2002 (44 U.S.C. § 101); (b) the Federal Information Security Management Act of 2002 (44 U.S.C. § 3541); (c) the Computer Matching & Privacy Protection Act of 1988 (P.L. 100-503); (d) Memorandum of May 22, 2006, M-06-15, on “Safeguarding Personally Identifiable Information,” available at <http://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2006/m-06-15.pdf>, and (e) Memorandum of June 23, 2006, M-06-16, “Protection of Sensitive Agency Information,” available at <http://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2006/m06-16.pdf>.

<sup>2</sup>A screen-fillable Form ORE-F-14-01 is available at <https://csosaweb.csosa.gov/Forms/ORE-F-14-01.pdf>.

## Background

Among other goals, the Paperwork Reduction Act of 1995 (PRA) was designed to “ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government” and to “improve the quality and use of Federal information to strengthen decisionmaking, accountability, and openness in Government and society.”<sup>3</sup> Federal agencies play a critical role in collecting and managing information to promote openness, increase program efficiency and effectiveness, reduce burdens on the public, and improve the integrity, quality, and utility of information to all users within and outside the government.<sup>4</sup>

The Privacy Act of 1974 (Privacy Act) establishes a Code of Fair Information Practice that governs the collection, maintenance, use, and dissemination of personally identifiable information about individuals that is maintained in systems of records by Federal agencies.<sup>5</sup> A system of records is a group of records under the control of an agency from which information is retrieved by the name of the individual or by some identifier assigned to the individual. The Privacy Act requires that agencies give the public notice of their systems of records by publication in the Federal Register. It prohibits the disclosure of information from a system of records absent the written consent of the subject individual, unless the disclosure is pursuant to one of twelve statutory exceptions, it provides individuals with a means by which to seek access to an amendment of their records, and it sets forth various agency record-keeping requirements. Of particular concern are the Privacy Act requirements pertaining to the collection of Personally Identifiable Information (PII) and protecting personal privacy: PII should be collected only to the extent necessary and information collections must comply with regulations regarding data security and privacy.

Office of Management and Budget (OMB) regulations define “information” as “any statement or estimate of fact or opinion, regardless of form or format, whether in numerical, graphic, or narrative form, and whether oral or maintained on paper, electronic or other media.”<sup>6</sup> This category includes: (a) requests for information to be sent to the government, such as forms, written reports, and surveys; (b) recordkeeping requirements, and (c) third-party or public disclosures.

A number of items are generally not considered “information”. Important examples include: (a) affidavits, receipts, changes of address, or consents; (b) tests of the aptitude, abilities, or knowledge of persons, and (c) facts or opinions that are submitted in response to general solicitations of public comments, addressed to a single person, obtained or solicited at or in connection with public hearings or meetings, obtained through direct observation by the agency (e.g., through visual inspection to determine how long it takes for people to complete a specific transaction), or those obtained from participants in clinical trials (which typically do not involve answers to “identical questions”).

By statute, some information collections are excluded from the provisions. For instance, OMB approval is not required for information collections during a Federal criminal investigation or prosecution, during a civil action to which the United States is a party, or during the conduct of intelligence activities.<sup>7</sup> Collections from “agencies, instrumentalities, or employees of the United States” in their official capacities are generally not subject to the information collection provisions unless those collections are for “general statistical purposes.”<sup>8</sup> It is worth emphasizing that agencies may ask for facts and opinions of Federal employees without triggering the PRA.

Before requiring or requesting information from the public, Federal agencies must seek public comment on proposed information collections and submit proposed collections for review and approval by the OMB. The OMB’s Office of Information and Regulatory Affairs (OIRA) reviews agency information collection requests for approval or disapproval. When the OMB approves an

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<sup>3</sup>44 U.S.C. § 3501.

<sup>4</sup>44 U.S.C. § 3506b.

<sup>5</sup>5 U.S.C. § 552a.

<sup>6</sup>5 C.F.R. 1320.3(h).

<sup>7</sup>44 U.S.C. § 3518(c).

<sup>8</sup>44 U.S.C. § 3502(3)(A).

information collection, it assigns an OMB control number<sup>9</sup> that the agency must display on the information collection.

A central goal of the OMB review is helping agencies strike a balance between collecting information necessary to fulfill their statutory missions and guarding against unnecessary or duplicative information that imposes unjustified costs on the American public. In this regard, OIRA evaluates whether the collection of information by the agency: (a) is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;<sup>10</sup> (b) minimizes the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected, and (c) maximizes the practical utility of and public benefit from information collected by or for the Federal Government.<sup>11</sup>

To obtain the public's input on an agency's proposal to collect information, Federal agencies must publish a 60-day notice in the Federal Register soliciting public comment on the agency's proposed collection. The notice must include a specific request that the public evaluate whether the proposed collection of information is necessary; evaluate the accuracy of the agency's estimate of the burden that the collection would impose on respondents; comment on how to enhance the quality, utility, and clarity of the information to be collected; and comment on how to minimize the burden of the collection of information.<sup>12</sup>

After conclusion of the 60-day comment period and the agency's internal consideration of the public's comments, the agency submits the collection to the OMB and publishes a second Federal Register notice to announce the start of OMB review.<sup>13</sup> This second notice informs the public about how to submit comments to the OMB and informs the public that the OMB may act on the agency's request only after the 30-day comment period has closed.

Under certain circumstances, an agency head or designee may request that it be permitted to seek expedited, or "emergency," OMB review of an information collection request. When expedited review is granted, the agency must take all practicable steps to consult with members of the public, but OMB may modify or, if necessary, waive the public comment requirements.<sup>14</sup> And when review is expedited, OMB acts promptly through a suitably streamlined process, consistent with the purposes of the PRA.

OMB may grant expedited review if: (a) public harm is reasonably likely to result if normal clearance procedures are followed; (b) an unanticipated event has occurred, or (c) the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information or is reasonably likely to cause a statutory or court ordered deadline to be missed.<sup>15</sup>

An agency may also request a "generic" Information Collection Request (ICR) in situations in which (a) there is a need for multiple, similar low-burden collections that do not raise substantive or policy issues and (b) the specifics of each collection cannot be determined until shortly before the data are to be collected. Generic clearances have proved useful for customer satisfaction surveys, focus group testing, and website usability surveys. To obtain a generic clearance, agencies provide the public with opportunity for comment as required by the PRA and provide all information that would allow for meaningful comment, including a description of the need for the collection, the general nature of the collection, an estimate of the overall burden, and a description of the methodologies that will be used to collect the data. Once approval is granted for the overall collection, individual collections that fall within the generic clearance are reviewed on an expedited basis and are not generally required to undergo further public comment.

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<sup>9</sup>The OMB Control Number is two four-digit codes separated by a hyphen. The first four digits identify the sponsoring agency and bureau; the second four digits identify the particular collection. The public can find OMB's inventory of currently approved collections, with OMB control numbers, at <http://www.reginfo.gov>.

<sup>10</sup>44 U.S.C. § 3508.

<sup>11</sup>44 U.S.C. § 3504.

<sup>12</sup>44 U.S.C. § 3506(c)(2)(A). If a new information collection is associated with a proposed rule, OMB regulations require that only one notice be published. Agencies include this PRA notice in the preamble to the proposed rule and comments are directed to OMB. See, 44 U.S.C. § 3506(c)(2)(B); 5 C.F.R. 1320.11.

<sup>13</sup>44 U.S.C. § 3507(a)(1)(D).

<sup>14</sup>5 CFR 1320.13(c) and (d).

<sup>15</sup>44 U.S.C. § 3507(j); 5 C.F.R. 1320.13(a)(2).

The CSOSA has obtained approval for a “generic” ICR from the OMB for customer satisfaction surveys.<sup>16</sup> This approval permits collecting information on service delivery from our stakeholders, including offenders, criminal justice system stakeholders, and community residents. Importantly, current clearance permits information collections that are: (a) voluntary; (b) short; (c) do not collect personally identifying information; (d) are not used for substantially influencing policy decisions; (e) are not disseminated outside of the agency, with the exception of Congressional inquiry or a Freedom of Information Act requests, and (f) contain questions that are simple and non-controversial. This generic ICR allows the agency to submit customer satisfaction surveys directly to the OMB without publication in the Federal Register.

## Action

While the agency is permitted to collect information, all information collections—including those bearing on customer satisfaction—must be approved by the OMB when the agency conducts or sponsors<sup>17</sup> standardized data collections of information using identical questions<sup>18</sup> posed to, or reporting or recordkeeping requirements imposed on, *ten or more* respondents<sup>19</sup> in a 12-month period.

To ensure compliance with the information collection provisions described above, we ask each unit provide the ORE with information describing current information collections and, going forward, submit requests for information collections in advance of collecting new information.

For all current and planned information collections, units must submit:

1. a copy of the information collection instrument
2. a completed Form ORE-F-14-01 (*attached* and *see*, <https://csosaweb.csosa.gov/Forms/ORE-F-14-01.pdf>)

to the ORE at [OREsurveyreview@csosa.gov](mailto:OREsurveyreview@csosa.gov).

Note, Form ORE-F-14-01 requires the following information for each collection:

- name or title of information collection
- responsible office
- primary point of contact
- staff managing the collection
- topic
- target population/expected number of respondents
- estimated length of time to complete
- data collection method
- voluntary nature of the collection
- inclusion of PII
- date of administration
- data storage, security, and retention plans
- planned use of the collection
- dissemination plans
- privacy statement

We ask units submit a copy of the information collection instrument(s) and a completed Form ORE-F-14-01 for all *current* information collections by **July 11, 2014**; approval for planned information collections must be obtained prior to collecting information.

<sup>16</sup>Information regarding CSOSA’s current Generic ICR is available at [http://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=201312-3225-001](http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201312-3225-001).

<sup>17</sup>A data collection is considered Federally sponsored when a Federal agency: (a) causes another agency to collect information; (b) contracts or enters into a cooperative agreement to collect information, or (c) requires a person to provide information to another person, or otherwise causes another person to obtain, retain, solicit, or require the disclosure to third parties or the public.

<sup>18</sup>Whether a question is identical depends on whether each respondent or group of respondents (e.g., focus group) is being asked to provide the same level of information on the same subject. Identical questions need not be phrased exactly the same way each time they are asked, nor does each respondents need to be asked the same “set of questions.”

<sup>19</sup>Under the PRA, “respondent” means “an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a State, territorial, tribal, or local government or branch thereof, or a political subdivision of a State, territory, tribal, or local government or a branch of a political subdivision.” 44 U.S.C. § 3502(10); 44 U.S.C. § 3502(3)(A)(i).

Jointly with the Office of General Counsel (OGC), the ORE will review the extent to which the information collection is consistent with applicable laws, regulations, and policies related to privacy, confidentiality, security, information quality, and statistical standards. Once a decision is reached regarding whether the request conforms to applicable requirements, the ORE will notify requestors. If the information collection conforms to applicable requirements, the ORE will notify the requestor of internal approval and forward the request to the OMB for review. Otherwise, the ORE will collaborate with the requestor to make any necessary changes or to seek separate approval for the request from the OMB. Once OMB approval is obtained, the ORE will notify the requesting office of authority to initiate information collection.

When questions arise about the applicability of the information collection provisions, the CSOSA's ORE and OGC are the best sources for guidance and assistance. General questions about information collections can be routed to the ORE at [OREsurveyreview@csosa.gov](mailto:OREsurveyreview@csosa.gov).

I am hopeful these actions will prevent any information collection violations.

Thank you for your assistance.

Attachments (1):

1. [ORE-F-14-01.pdf](#) (7 pages)

cc: Dwayne Marigny, Program Support Specialist, ORE

## **Guidance Disclaimer**

The contents of this guidance do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.



**Court Services and Offender Supervision Agency  
for the District of Columbia**  
*Office of Research and Evaluation*

**Information Collection Review Form**

This form is used to assess compliance with the Paperwork Reduction Act (PRA) of 1995. The PRA requires that federal agencies obtain Office of Management and Budget (OMB) approval before requesting certain types of information from the public. The purpose of the PRA is to minimize paperwork and reporting burdens on the public and maximize practical utility of the information collected. These “information collections” include, but are not limited to, surveys, forms, interviews, and recordkeeping requirements. PRA clearance and approval by the OMB is required when an agency seeks to conduct or sponsor a standardized data collection from ten or more respondents within a 12-month period.<sup>1</sup> Information collections should include a Privacy Act Statement on the form.

**Instructions:** *This form must be completed prior to information collection. Submit this form and a copy of the proposed information collection instrument to [OREsurveyreview@csosa.gov](mailto:OREsurveyreview@csosa.gov). The ORE and the OGC will jointly review the submission to ensure compliance with the PRA and will then request OMB approval for the information collection. Information collection should not begin until after receiving notification from the ORE.*

**1. Name or title of information collection**

*This should be a descriptive phrase or code to identify the information collection and distinguish it from other collections.*

**2. Responsible office**

- Community Supervision Services
- Community Justice Programs
- Office of Legislative, Intergovernmental and Public Affairs
- Office of Research and Evaluation
- Office of Administration
- Office of Financial Management
- Office of General Counsel
- Office of Human Resources
- Office of Information Technology

<sup>1</sup> Further details on the PRA can be obtained at <http://www.paperworkreduction.gov/>.

**3. Primary point of contact (name, unit, phone, and email)**

*The point of contact should be the person managing the information collection. The ORE will direct all communications to this point of contact.*

**4. Topic**

Customer satisfaction

Other

**5. Respondent type(s)**

*Indicate who will be participating in the information collection.*

Offenders

Community Residents

Criminal Justice System Stakeholders

Other

*Include a detailed statement of who will be completing the information collection (e.g., offenders who complete a particular program, all attendees of a CJAN meeting).*

**6. Expected number of respondents within 12-month period**

**7. Estimated length of time, in minutes, for a respondent to complete the information collection**

minutes

**8. Data collection method: Format**

- Paper
- Electronic
- Other

**9. Data collection method: Administration**

- In-person

*If in-person, where will the respondent complete the survey? (e.g., in a CSO's office, in a conference room with other respondents)*

- Mailed
- Emailed
- Online (e.g., Survey Monkey)
- Other

**10. Is the information collection voluntary?**

- Yes
- No



### 11. Personally Identifiable Information (PII)

Collection of personally identifiable information is governed by the Privacy Act of 1974. Generally, collection of PII is discouraged unless needed and practices should be put in place to safeguard PII when it is collected. Please refer to <http://csrc.nist.gov/publications/nistpubs/800-122/sp800-122.pdf> for more information on PII including what it is and how to safeguard it.

In addition to avoiding the collection of PII, information collections should be designed such that it would be difficult for someone to determine who completed the information collection even when PII is not collected. For example, if an offender completed a survey, the offender was the only one completing the survey at that time, and the offender handed it directly to the CSO who administered it, it would be easy for the CSO to identify who completed the survey.

Will the information collection include PII?

Yes       No

If yes, explain why PII is needed.

If yes, check what PII will be collected

Name                                       Computer IP address  
 Date of birth                               Phone number  
 Offender Id                                 Photograph  
 Home address                               Other

### 12. When will the information collection be conducted?

Describe when the respondent will complete the information collection (e.g., at the end of supervision, at the conclusion of orientation).

Expected Start Date

Expected End Date (If no end date expected, enter 'none.')

13. To whom will the information collection be returned (name, unit, phone number, email)? If it is not returned to a particular person, please explain how the respondent will return the completed information collection and indicate who is responsible for managing the submitted information collections.

14. Data storage and retention

- 14a. Are you using paper forms?

Yes       No (If no, skip to question 13e.)

- 14b. Where will the original forms be physically stored (indicate address, office number and/or any other relevant information)?

- 14c. Will the forms be in a locked file cabinet or other locked container?

Yes       No

- 14d. How long will the forms be retained? When destroyed, how will they be destroyed?

- 14e. Are you using electronic forms or entering paper forms into an electronic database?

Yes       No (If no, skip to question 14.)

14f. Where will the electronic forms or data be stored (database name, table name, folder name, external hard drive and/or any other relevant information)?

14g. Will the electronic forms or data be password-protected, encrypted or have another access restriction?

Yes

If yes, what?

No

14h. How long will electronic forms or data be retained? When destroyed, how will they be destroyed?

**15. How will the information be used?**

*Please note, information collections conducted for the purpose of substantially informing influential policy decisions require a separate OMB approval process. Information gathered for the purpose of providing insights into customer or stakeholder perceptions, experiences and expectations, to provide an early warning of issues with service, or to focus attention on areas where communication, training or changes in operations might improve delivery of products or services likely will not require a separate OMB approval process if they are determined to be covered by CSOSA's current OMB approval for customer satisfaction information collections.*

**16. Dissemination**

*With the exception of Freedom of Information Act (FOIA) requests or Congressional inquiries, information collections which include dissemination of results outside of CSOSA must go through a separate OMB approval process.*

Will results from the information collection be disseminated outside of CSOSA?

Yes

If yes, to whom?

No

**17. Privacy**

Information collections are required to have a Privacy Act statement. Here is a sample:

*In accordance with the Privacy Act of 1974 (Public Law 93-579), this notice informs you of the purpose of the survey and how the findings will be used. Please read it carefully. Information collected in this survey will be used to help improve the Agency's operations to gauge the performance of its leadership personnel. Your participation in this survey is voluntary and failure to respond will not result in any penalty to the respondent. However, maximum participation is encouraged so that the data will be complete and representative. Your responses will be treated as confidential and will only be disclosed as generally permitted under 5 U.S.S. 552a(b) of the Privacy Act, for the purposes as is determined to be relevant and necessary, for routine use, and that is compatible with the purpose for which the record was collected.*

Does the information collection include a Privacy Act Statement?

Yes

No