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DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS-2006-0063]

Privacy Act; Background Check Services System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of Privacy Act system of records notice.

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SUMMARY: Pursuant to the Privacy Act of 1974, the Department of  
Homeland

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Security, U.S. Citizenship and Immigration Services, proposes to  
add a  
new system of records to the Department's inventory, entitled  
Background Check Service. The U.S. Citizenship and Immigration  
Services, Office of Field Operations operates the Background  
Check  
Service. U.S. Citizenship and Immigration Services conducts  
background  
checks on petitioners and applicants who are seeking immigration  
related benefits. To facilitate the background check process and  
to  
improve efficiency, U.S. Citizenship and Immigration Services  
developed  
the Background Check Service as a centralized repository that  
contains

the consolidated data on all background check requests and results. The Background Check Service allows authorized U.S. Citizenship and Immigration Services representatives to request background checks and access the data stored in the Background Check Service during the adjudication process in order to facilitate informed decision-making.

DATES: The established system of records will be effective January 3, 2007 unless comments are received that result in a contrary determination.

ADDRESSES: You may submit comments, identified by Docket Number DHS-2006-0063 by one of the following methods:  
Federal e-Rulemaking Portal: <http://www.regulations.gov>.

Follow the instructions for submitting comments.

Fax: 571-227-4171 (This is not a toll-free number).

Mail: Hugo Teufel III, Chief Privacy Officer, Department of Homeland Security, 601 S. 12th Street, Arlington, VA 22202-4220

FOR FURTHER INFORMATION CONTACT: For system related questions please contact: Greg Collett, Branch Chief of Application Support for Office of Field Operations, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., Washington, DC 20529. For privacy issues please contact: Hugo Teufel III, Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) is congressionally tasked with processing all immigration benefit applications and petitions. In order to assist in this task, USCIS established a new system of records that will consolidate all background check requests

and results on immigration benefit applicants/petitioners. This new system of records is called the Background Check Service (BCS). USCIS conducts three different background checks on applicants/petitioners applying for USCIS benefits: (1) A Federal Bureau of Investigation (FBI) Fingerprint Check, (2) a FBI Name Check, and (3) a Customs and Border Protection (CBP) Treasury Enforcement Communication System/ Interagency Border Inspection System (TECS/IBIS) Name Check. BCS will maintain the requests and results of all background check activity for USCIS.

As a centralized repository containing all background check activity, BCS will provide the status and results of background checks required for completion of immigration eligibility petitions and application determinations from one web-based system to geographically dispersed field offices. This system supports USCIS's initiatives to reduce immigration benefit/petition case backlog and provide significant efficiencies in vetting and resolving the background checks that are required for USCIS benefits. Prior to BCS, information relating to the FBI Fingerprint Checks and the FBI Name Checks were stored in the FD-258 system and FBI Query system respectively. Information relating to the TECS/IBIS Name Checks was not stored in any system.

The information maintained in BCS is initially collected and maintained in one of the following USCIS case management systems and then it is transferred to BCS:

Computer-Linked Application Information Management System (CLAIMS) 3, which is used to process applications including, but not limited to, an Adjustment of Status (Green Card) and Temporary Protective Status (TPS);

CLAIMS 4, which is used to process applications for Naturalization;

Refugee Asylum Parole System (RAPS), which is used to

process Asylum applications; and

Marriage Fraud Assurance System (MFAS), which is used for processing information relating to investigations of marriage fraud.

The benefit applicant/petitioner do not have direct interaction with BCS.

The above systems will send necessary and relevant information to BCS in order to generate a Name Check Request for both the FBI Name Check and TECS/IBIS Name Check. Both the requests and results will be stored in BCS.

Fingerprint information is collected from the applicant at the time the fingerprints are taken in order to conduct the FBI Fingerprint Check. Fingerprints are taken electronically at a USCIS Application Support Centers (ASC) or taken from hard copy fingerprint cards (FD-258) that are submitted for those applicants who are unable to go to an ASC. The fingerprints are currently stored in the Benefit Biometric Support System (BBSS), which interfaces directly with FBI's Integrated Automated Fingerprint Identification System (IAFIS). The responses to the FBI Fingerprint Check are collected electronically from the FBI and stored in BCS.

All information is currently collected as part of the established USCIS application/petition process and is required to verify the applicant/petitioner's eligibility for the benefit being sought. The FBI Fingerprint Check is a search of the FBI's Criminal Master File via the Integrated Automated Fingerprint Identification System (IAFIS). This search will identify applicants/petitioners who have an arrest record. The FBI Name Check is a search of the FBI's Universal Index

that consists of administrative, applicant, criminal, personnel, and other files compiled for law enforcement purposes. The TECS/IBIS Name Check is a search of a multi-agency database containing information from 26 different agencies. The information in TECS/IBIS includes records of known and suspected terrorists, sex offenders, and other people that may be of interest to the law enforcement community. USCIS will use TECS/IBIS to access National Crime Information Center (NCIC) records on wanted persons, criminal histories, and previous Federal inspections.

The information collected in BCS as part of the background check process provides USCIS with information about an applicant/petitioner that has National Security or Public Safety implications or indicia of fraud. Having this information and taking action to prevent potentially undesirable and often dangerous people from staying in this country clearly supports two primary missions of DHS: preventing terrorist attacks within the United States and reducing America's vulnerability to terrorism, while facilitating the adjudication of lawful benefit applications.

The results of these background checks will be used to make eligibility determinations, which will result in the approval or denial of a benefit. If fraudulent or criminal activity is detected as a result of the background check, information will be forwarded to appropriate law enforcement agencies including Immigration and Customs Enforcement (ICE), FBI, CBP, and/or local law enforcement.

The Privacy Act embodies fair information principles in a statutory

framework governing the means by which the United States Government collects, maintains, uses and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a ``system of records.'' A ``system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

The Privacy Act requires each agency to publish in the Federal Register a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system to make agency recordkeeping practices transparent, to notify individuals reading the uses to which personally identifiable information is put, and to assist the individual to more easily find such files within the agency.

In accordance with 5 U.S.C. 552a(r), a report on this system has been sent to Congress and to the Office of Management and Budget.

DHS-2006-0063

SYSTEM NAME:

Background Check Service (BCS).

SECURITY CLASSIFICATION:

Sensitive but Unclassified.

SYSTEM LOCATION:

The primary BCS system is located at a Department of Homeland Security (DHS) approved data center in the Washington, DC, Metropolitan area. Backups are maintained offsite. BCS will be accessible world-wide from all USCIS field offices, service centers, and application support

centers that are part of the DHS Network.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this notice consist of:

A. All individuals who are applying for benefits and or who are petitioning on behalf of individuals applying/petitioning for benefits pursuant to the Immigration and Nationality Act Sec. 101. [8 U.S.C. 1101] (a)(b).

CATEGORIES OF RECORDS IN THE SYSTEM:

BCS maintains three general categories of records: applicant/petitioner identification information, Background Check Request information, and Background Check Result information.

A. Applicant/Petitioner information includes biographic information associated with each applicant/petitioner including, but not limited to; Name, Date of Birth, Country of Birth, Address, and employment status. The applicant/petitioner information also includes uniquely identifiable numbers, including but not limited to: Alien Number, Z-number, Receipt Number, Social Security Number, Armed Forces Identification Number, etc. This information would be derived from newly created benefit applications in USCIS Systems of Records or an update to previously submitted benefit applications.

B. Background Check Request information contains data necessary to perform a background check through the FBI Fingerprint Check, FBI Name Check and CBP IBIS Name Check services. This data may include: Transaction Control Numbers associated with FBI Fingerprint Checks, Receipt Numbers, date/time of submission, physical description of subject, and a reason for the submission of the application (i.e. USCIS Form Code). This category also covers logs associated with the requests of background checks, which may include: requesting location and

requesting person.

C. Background Check Result information encompasses data received from the FBI and CBP. This data may include: identifying transactional information (i.e. transaction control number), biographical information, a subject's FBI Information Sheet (informally known as a RAP Sheet) as a result of an FBI Fingerprint Check, an FBI Name Check Report, and information from the CBP IBIS Database. The CBP IBIS Database includes data from TECS and NCIC databases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

8 U.S.C. Sections 1103 (a).

PURPOSE(S):

BCS is a single centralized system that records, reconciles, and stores Background Check Requests and Results of applicants and petitioners seeking USCIS benefits. The following types of Background Checks will be recorded by BCS: FBI Name Checks, TECS/IBIS Name Checks, and FBI Fingerprint Checks. The collection of information is required to verify the applicant/petitioner's eligibility for USCIS benefits. A background check of varying degree, determined by the benefit/petition, is required for any individual applying for USCIS benefits. The applicant/petitioner could not seek the benefits provided by USCIS without the information collected from the applications/petitions.

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 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 outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the United States Department of Justice (including United



States 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 the litigation or has an interest in such litigation: (a) DHS, or (b) any employee of DHS in his/her official capacity, or (c) any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent said employee, or (d) the United States or any agency thereof;

B. To another federal agency (including the Merit Systems Protection Board and the Equal Employment Opportunity Commission), or to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding.

C. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law.

D. To a Congressional office, for the record of an individual in response to an inquiry from that Congressional office made at the request of the individual to whom the record pertains.

E. To the National Archives and Records Administration or other Federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. Sections 2904 and 2906.

F. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish a DHS mission function related to this system of records, in compliance with the Privacy Act of 1974, as amended.

G. To appropriate Federal, State, local, tribal, or foreign governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where

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USCIS believes the information would assist enforcement of civil or criminal laws;

H. To Federal and foreign government intelligence or counterterrorism agencies or components where USCIS becomes aware of an indication of a threat or potential threat to national or international security, or where such use is to assist in anti-terrorism efforts and disclosure is appropriate to the proper performance of the official duties of the person making the disclosure;

I. To a Federal, State, local, tribal, territorial, foreign, or international agency, if necessary to obtain information relevant to a Department of Homeland Security decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit.

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

Records in the system will be stored in a central computer database.

RETRIEVABILITY:

A combination of the following BCS data elements may be used to initiate a query in order to retrieve data from the BCS User Interface.

These data elements include, an individual's Alien File Number; Name and Date of Birth; and Receipt Number.

#### SAFEGUARDS:

Information in this system is safeguarded in accordance with applicable laws and policies, including the DHS Information Technology Security Program Handbook. All records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards. These safeguards include restricting access to authorized personnel who have a need-to-know, using locks, and password protection identification features. The system is also protected through a multi-layer security approach. The protective strategies are physical, technical, administrative and environmental in nature and provide access control to sensitive data, physical access control to DHS facilities, confidentiality of communications, authentication of sending parties, and personnel screening to ensure that all personnel with access to data are screened through background investigations commensurate with the level of access required to perform their duties.

#### RETENTION AND DISPOSAL:

The following USCIS proposal for retention and disposal is pending approval by the National Archives and Records Administration. Records are stored and retained in the BCS Repository for 75 years, during which time the records will be archived. Background checks are conducted on individuals/petitioners from the age of 14 and up. The 75 year retention rate comes from the length of time USCIS may interact with a customer. Further, retaining the data for this period of time will enable USCIS to fight identity fraud and misappropriated benefits.

SYSTEM MANAGER(S) AND ADDRESS:

Greg Collett, Branch Chief of Application Support for Office of Field Operations, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., Washington, DC 20529

NOTIFICATION PROCEDURE:

All individuals applying for Immigration benefits are presented with both Privacy Act notices and a Signature Certification and Authorization for Release of personally identifiable information on all USCIS forms, which must be signed. These two notices supply individuals with information regarding uses of the data.

RECORD ACCESS PROCEDURES:

To determine whether this system contains records relating to you, write the USCIS Freedom of Information Act/Privacy Act officer. Mail requests to: Elizabeth S. Gaffin, Privacy Officer, Department of Homeland Security, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue, NW., Room 4210, Washington, DC 20529.

CONTESTING RECORD PROCEDURES:

See the ``Notification Procedure'' above.

RECORD SOURCE CATEGORIES:

Information contained in this system of records is obtained from USCIS Systems of Records; including, CLAIMS3, CLAIMS4, RAPS, and MFAS. Information contained in the system is also obtained from the Federal Bureau of Investigation, and the United States Customs and Border Protection Services. All information contained in BCS is derived from the above systems.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: November 22, 2006.  
Hugo Teufel III,  
Chief Privacy Officer.  
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