The Department of the Treasury Report Pursuant to Section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007

June 30, 2009

Introduction

The Department of the Treasury is committed to protecting the privacy and civil liberties of individuals by ensuring that when executing its programs and policies, the Department gives due consideration and regard for information privacy and civil liberties. In recognition of global expansion of information technology (IT) posing new threats to individual privacy and civil liberties, the Department continues efforts to strengthen its oversight responsibilities in these areas.

Department Actions

During Record and Information Management Month, the Office of Privacy and Treasury Records provided a seminar on the relationship between records management and privacy. On April 30, 2009, representatives from the Federal Trade Commission presented a briefing entitled, Privacy and Records Management: Managing and Protecting Information in the Digital World. Seminar participants received information about the interface between the records and privacy of both Treasury employees and the public. The individuals attending this briefing learned how: to request information collection authorizations to obtain personally identifiable information (PII); to use physical and technological security safeguards, to inventory records systems, critical computing systems, and storage media to identify those containing PII; and, to dispose of records and equipment containing PII in a secure manner and in accordance with Departmental instructions.

Furthermore, during this reporting period, the Department of the Treasury has become an active participant in support of the Federal CIO Council Privacy Committee and four of its subcommittees. As a member of the Council, the Deputy Assistant Secretary for Privacy and Treasury Records provides valuable privacy and civil liberties input to facilitate policy formulation. The Internal Revenue Service is playing an integral part in International Subcommittee discussions of developments in global privacy policies and how they impact the formulation of U. S. strategies for delivery of a consistent Government message in international forums. In addition, the Program Director for Privacy and Treasury Records and the Director of the Office of Privacy and Civil Liberties are key participants in the Development and Education, Best Practices, and Web 2.0 Subcommittees. These two Treasury managers are providing input to: help facilitate Federal employees' understanding of privacy laws, regulations, policies and procedures; identify and promote best practices for

Federal privacy programs and policies; and, create the best environment possible for promoting the new Administration's "Open Government and Transparency" initiative.

The new Administration directed a 60-day cyberspace policy review to assess U.S. policies and structures for cybersecurity. The review team engaged a cross-section of industry, academia, the civil liberties and privacy communities, State governments, international partners, and the Legislative and Executive Branches to solicit and assess relevant issues including how to improve cybersecurity while protecting privacy and civil liberties. The Department of the Treasury took part in this effort, sending a representative from the Department's Office of Privacy and Treasury Records to participate in discussions with the review team. The final report was released on May 29, 2009, and included recommendations for ten (10) near-term actions, including designating a privacy and civil liberties official, and building a cybersecurity based identity management vision and strategy that addresses privacy and civil liberties interests, leveraging privacy-enhancing technologies for the Nation.

Quarterly Report

The Department uses a standard reporting framework and instructions tailored to its mission and functions to address Section 803 reporting requirements. This framework has been coordinated with OMB, as well as with the other quarterly reporting agencies identified in the statute.

The attached June 2009 report consolidates all privacy and civil liberties activities of the Treasury and Bureau offices responsible for privacy and civil liberties functions, including data on the related reviews conducted, reference to the advisory guidance delivered, and information about written complaints received and processed.

The report categories are defined as follows

Reviews: Reviews include activities of the Treasury or Bureau office that handles privacy or civil liberties functions delineated by controlling authorities, such as the Privacy Act of 1974, 5 USC 552a; E-Government Act of 2002 (P.L. 107-347); Consolidated Appropriations Act of 2005 (P.L. 108-447); Office of Management and Budget (OMB) Circular A-130, Appendix 1; and, OMB Memo M-07-16. Examples of reviews include:

1. Privacy Threshold Analyses – review of an IT system's use of data to determine if a Privacy Impact Assessment is required;
2. Privacy Impact Assessments;
3. OMB Memo 07-16 issues, such as reviewing records to maintain the minimum necessary for the proper performance of an agency function, Social Security Number use reduction efforts, or initiatives related to combating identity theft;
4. OMB Circular A-130 issues, such as System of Records Notices (SORNs), Routine Use Descriptions, Agency contacts security, Recordkeeping and Disposal policies, Training Practices, Continued Privacy Act Exemptions under (j)(2)(k), and/or Computer Matching Programs;
5. Persistent Tracking Technology features used on a website;

6. Achievement of machine readability, which ensures that website users are automatically alerted about whether site privacy practices match their personal privacy preferences;
7. 5 CFR 1320 (collection of information/Paperwork Reduction Act reviews);
8. Information Sharing Environment (ISE) policies and ISE system reviews; and,
9. Documents related to the OMB Exhibit 300 process.

Advice: Advice includes formal issuance of written policies, procedures, guidance, or interpretations of privacy requirements for circumstances or business processes, which have been written by the Treasury or Bureau office that handles privacy or civil liberties functions, as approved by Treasury leadership, to respond to issues or concerns regarding safeguards for privacy and civil liberties.

Response to Advice: Specific action taken in response to *Advice* given by the Treasury or Bureau office that handles privacy or civil liberties functions on privacy or civil liberties matters. Examples of a response to advice include issuance of a Regulation, Order, or Directive; an interpretation or other guidance issued as a result of the *Advice*, or the reaching of an agreement; and issuance of any training programs or other procedures that enhance understanding of the issue that precipitated the request for *Advice*.

Privacy Complaint: A written allegation of harm or violation of personal or information privacy filed with the Treasury or Bureau office that handles privacy or civil liberties activities. This information will include:

1. Notice: Process and procedural issues, such as consent, collection, and appropriate notice;
2. Redress: Non-Privacy Act of 1974 issues, such as Terrorist Watchlist Redress process or identity theft mitigation; or,
3. General: Privacy Act of 1974 issues.

Civil Liberties Complaint: A written allegation of harm or violation of the constitutional rights afforded individuals filed with the Treasury or Bureau office that handles privacy or civil liberties activities. Civil liberties complaints do not include any claims made based on statutory rights. Types of civil liberties complaints include, but are not limited to:

1. U.S. Const. amend. I, Freedom of speech and association;
2. U.S. Const. amend. IV, Protection against unreasonable search and seizure; or,
3. U.S. Const. amend. V and amend. XIV, § 1, Due process and equal protection.

Dispositions of Complaints: Generally, an action taken by the Treasury or Bureau office that handles privacy or civil liberties activities in response to a privacy or civil liberties complaint. The response to a complaint received will be reported as follows:

1. Action taken (describe what was done in the summary report);
2. Referred to another agency or entity that may be able to assist in addressing the complaint (state to what agency and why in the summary report); or,

3. No action was required (explain why in the summary report).

The Department will submit quarterly reports in coordination with the Office of Management and Budget. The current report covers data collection form March 1, 2009, through May 31, 2009. The next quarterly report is due September 30, 2009, and will cover the period of June 1, 2009, through August 31, 2009. The data collection period for each report ends approximately 30 days before the report is due.