



August 14, 2007

The Honorable Adam B. Schiff
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Schiff:

I am writing in response to your letter concerning the implementation of Homeland Security Presidential Directive 12 (HSPD-12). The National Aeronautics and Space Administration (NASA) is committed to implementing HSPD-12 security requirements, consistent with the U.S. Constitution and all statutes, including the Privacy Act. In its implementation of HSPD-12, NASA has added no investigation requirement beyond those already required for Federal civil service employees.

HSPD-12 provided that the policy of the United States is to enhance security, increase Government efficiency, reduce identity fraud, and protect personal privacy by establishing a mandatory, Government-wide standard for secure and reliable forms of identification issued by the Federal Government to its employees and contractors (including contractor employees). HSPD-12 provided that the Secretary of Commerce would promulgate, in accordance with applicable law, a Federal standard for secure and reliable forms of identification. HSPD-12 also provided that secure and reliable forms of identification (a) are issued based on sound criteria for verifying an individual employee's identity; (b) are strongly resistant to fraud, tampering, counterfeiting, and terrorist exploitation; (c) can be rapidly authenticated electronically; and (d) are issued only by providers whose reliability has been established by an official accreditation process.

Accordingly, the Secretary of Commerce promulgated Federal Information Processing Standard (FIPS) 201-1, "Personal Identity Verification of Federal Employees and Contractors." FIPS 201-1, in turn, provided that Federal executive departments and agencies adopt and use an approved identity proofing and registration process. This process begins with the initiation of a "National Agency Check" (NAC), "National Agency Check with Written Inquires" (NACI), or other approved investigation as required for Federal employment. FIPS 201-1 further provides that, at a minimum, the FBI National Criminal History Check (fingerprint check) shall be completed before credential issuance. The NAC, NACI, and other approved background investigations, including fingerprint checks, have been required of Federal employees by Executive Order 10450, in effect since 1953. Therefore, HSPD-12 and FIPS 201-1 extend the same background investigation requirements to contractor and subcontractor employees, including foreign nationals, that civil service employees routinely undergo.

It should be noted that FIPS 201-1 requirements for background investigations relate to proof of identity and are separate from the personal information requirements for any individual in a position needing access to classified information. As established by Executive Order 10450 and 5 CFR 731, each Agency must determine whether a given position poses a low, moderate, or high security risk to the efficiency and integrity of its work. Moderate- or high-risk positions are deemed "Public Trust" positions and require a more extensive background investigation of applicants, including medical and financial information.

The use of information collected for HSPD-12 badges is governed by the Privacy Act. Consistent with the Privacy Act, on August 10, 2006, NASA published in the Federal Register a revised Privacy Act System of Records Notice. This notice describes the types of information being collected by the Agency, as required by HSPD-12 and FIPS 201-1. It informs the public about how NASA is utilizing this information and to whom it may be lawfully disclosed absent the consent of the individual. Members of the public were invited to comment on this notice; no comments were received. The notice can be accessed at the following Web address:

<http://a257.g.akamaitech.net/7/257/2422/01jan20061800/edocket.access.gpo.gov/2006/e6-13009.htm>.

Additionally, NASA conducted a comprehensive review of the privacy impacts of HSPD-12 implementation, as required by the E-Government Act and recent Office of Management and Budget memoranda. The Privacy Impact Assessment (PIA) analyzes the information technology systems used to implement HSPD-12 and the associated privacy considerations. This PIA may be accessed at the following link:
http://www.nasa.gov/privacy/PIA_NASA_Security_Records_System.html.

Under the Privacy Act, an individual who willfully misuses Privacy Act information may be subject to criminal penalties, including a misdemeanor conviction, and fined not more than \$5,000. NASA may take disciplinary action against employees for violating the Privacy Act by unlawfully disclosing personal information to those who do not need to know the information. Disciplinary action against civil service employees may include reprimand, up to and including removal. Contractor employees who are involved in badge issuance are also subject to criminal and/or contractual consequences for any misuse of Privacy Act information. Any use of such information by other agencies must be compatible with the routine uses as published under the Privacy Act and can include sharing pertinent information with legitimate law enforcement agencies.

NASA will continue to work to ensure that its obligations under the requirements of HSPD-12 and FIPS 201-1 are fully and effectively met in a manner consistent with the Constitution and applicable laws, including the Privacy Act and other statutes protecting the rights of Americans.

We appreciate your interest in this matter and trust this information will enable you to respond to your constituents.

Sincerely,

A handwritten signature in black ink, appearing to read "M. D. Griffin", with a long horizontal flourish extending to the right.

Michael D. Griffin
Administrator