LOGGING ACCESS TO CONFIDENTIAL PERSONAL INFORMATION (CPI)

POLICY STATEMENT: All employees of the Ohio Department of Transportation who access or direct an employee Department to access confidential personal information (CPI) from a personal information system shall record whenever it is directed towards a specifically named individual or a group of specifically named individuals. Logging shall be recorded manually by completing all the required fields of the log located at: http://portal.dot.state.oh.us/Divisions/DoIT/dataprivacy/Lists/ODOT%20CPI%20Log/AllItems.aspx

1 Chapter 1347.15, O.R.C., requires manual or electronic recording of CPI access by agency employees. ODOT's current computer systems do not contain an "electronic" recording system so CPI access shall be logged manually, when appropriate, by completing the required fields located on the following form: http://portal.dot.state.oh.us/Divisions/DoIT/dataprivacy/Lists/ODOT%20CPI%20Log/AllItems.aspx

BACKGROUND AND PURPOSE:

This policy amplifies the administrative rules adopted in chapter 5501-4 of the Ohio Administrative Code, which restricts access to confidential personal information in accordance with R.C. §1347.15 and the Governor's Management Directive on Accessing Confidential Personal Information Maintained by the State. All ODOT employees shall adhere to the procedures established herein when responding to a request by an individual to obtain confidential personal information maintained by the Department of Transportation.

Definitions

“Access” means copying, viewing, or otherwise perceiving records, documents, data, or files, in electronic form or hard copy, that contains confidential personal information.

"Acquisition of a new computer system" means the purchase of a computer system that is not currently in place, nor a system for which the acquisition process started prior to September 26, 2010.
"Confidential Personal Information" (CPI) includes, but is not limited to:

**Social Security Number**

Examples of documents containing SSN include:

- Accident reports / Injury reports
- Certified contractor payrolls
- Drug/alcohol test results
- Pre-employment background checks
- Vendor system for purchase of real estate
- Personnel Actions
- Employment Verifications

**Personal Information submitted in relation to qualification as a possible Disadvantaged Business Enterprise (DBE)**

Examples include:

- Social security numbers and bank account information in DBE Certification Files and the Ohio Unified Certification Program

**Medical records**

Examples of documents that may include CPI:

- Any documents and/or information relating to hospitalization, treatment or diagnosis generated from medical treatment.

**Investigation reports**

Examples include:

- Personal information related to investigation of accidents involving rail fixed guideway systems

**Bidder information**

Examples of documents that may include:

- Contract prequalification information
- Certified payroll information

**Trial preparation records**

- Examples of records that may contain CPI include:
  - Accident reports /Injury records
  - Investigation reports prepared by district staff
  - Settlement agreements
Confidential law enforcement investigatory records

Examples of documents that may contain CPI include:

- Pre-employment background checks (including court data)
- Cases involving vendors (certified payroll information)
- Cases where Ohio State Highway Patrol reports are involved (any personal information attached to the patrol report)

“Department and/or ODOT” means the Ohio Department of Transportation.

“Employee of the Department” means each ODOT employee regardless of whether he/she holds an elected or appointed office or position within ODOT.

“Individual” means natural person or the natural person’s authorized representative, legal counsel, legal custodian, or legal guardian.

"Maintains" means ODOT has ownership of, control over, responsibility for, or accountability for systems that includes, but is not limited to, ODOT’s depositing of information with a data processing center for storage, processing, or dissemination and all systems of records that are required by law to be kept by ODOT.

"Personal Information" means any information that describes anything about a person or that indicates actions done by or to a person, or that indicates that a person possesses certain personal characteristics, and that contains, and can be retrieved from a system by a name, identifying number, symbol, or other identifier assigned to a person.

"Reasonable Amount of Time" depends upon such factors as the extent of the request and physical location of the documents.

"System" means a collection or group of related records, kept in an organized manner and maintained by ODOT, from which personal information may be retrieved by name of the person, identifying number, symbol, or other identifier assigned to the person.

1. Examples of records included as part of a system:

- Accident Reports (OVARS)
- Injury Reports
- BWC Claims
- VSSR Claims
- Appropriations Accounting
- Drug and Alcohol Test Results (DATS)
"System" does not include routine information that is maintained for the purpose of internal office administration, the use of which would adversely affect a person, i.e., records maintained by Human Resources regarding ODOT employees, or information maintained for internal office administration.

"Personal Information System" means a “system” that “maintains” “personal information” as those terms are defined above and in R.C. §1347.01.

"Senior Official" means the ODOT Director, Assistant Director, Chief of Staff, or any person filling the position on an interim basis.

"Senior Staff" includes the following positions and any person filling one of the listed positions on an interim basis:

- Chief Legal Counsel;
- Deputy Director of Communications;
- Deputy Director of Policy and Legislative Affairs;
- Deputy Director of Construction Management;
- Deputy Director of Equal Opportunity;
- Deputy Director of Facilities and Equipment Management;
- Deputy Director of Finance;
- Deputy Director of Operations;
- Deputy Director of Information Technology;
- Deputy Director of Engineering;
- Deputy Director of Human Resources;
- Deputy Director of Planning; and
- Deputy Directors for each of ODOT’s 12 Districts

"Research" means collecting information concerning a specific subject.

"Routine" means commonplace, regular, habitual or ordinary.

“Upgrade” means a substantial redesign of an existing system for the purpose of providing a substantial amount of new application functionality; e.g., application modifications which would involve substantial administrative or fiscal resources to implement.

“Upgrade” does not include maintenance, minor updates and patches, or modifications that entail a limited addition of functionality due to changes in business or legal requirements.
LOGGING REQUIREMENTS:

**Manual Logging.** Access by an ODOT employee to CPI in computer systems that does not include a mechanism for recording access to CPI, shall be logged manually whenever it is directed toward a specifically-named individual or a group of specifically-named individuals at:


The CPI Access Log shall contain the following information:

- Name of personal information system from which person’s CPI is being viewed or otherwise retrieved by name or personal identifier;
- Name of senior official or staff directing employee to access CPI (if applicable);
- Name of employee accessing CPI;
- Name or identifier (unless the identifier itself is confidential) of the person whose CPI was accessed;
- Reason for access;
- Date access occurred in MM-DD-YYYY format; and
- Time access occurred in hours and minutes.

**Exemptions to Manual Logging.** The manual logging requirements set forth in this policy shall not apply:

1. When personal information is accessed as a result of a request of the person whose information is being accessed.
   - A request from an individual’s authorized representative should be considered as a request from the individual. An authorized representative can be legal counsel, legal custodian, or legal guardian of the individual.
   - If an individual requests that an employee take some action on the individual’s behalf and the employee needs to access the CPI to accomplish the actions, there is an inherent authorization by the individual to access CPI.

   *For example, an ODOT employee would not log access to CPI for a non-ODOT person who contacted ODOT requesting information concerning the status of their Court of Claims settlement check.*

2. When an ODOT employee comes into incidental contact with CPI and the access of the information is not specifically directed toward a specifically named individual or a group of specifically named individuals.
An ODOT employee is compiling information regarding the number of times ODOT has filled potholes along a particular portion of the state highway. In performing that research, an ODOT employee accesses personal information, i.e., social security information and financial information, for residents living along that portion of the state highway to whom ODOT has paid settlement claims to as a result of damage to their cars. This is an example of incidental access of CPI and logging is not required.

3. When an ODOT employee is accessing CPI for official department purposes, including research and the access is not specifically directed toward a specifically named individual or a group of specifically named individuals.

For example, an ODOT employee is directed to locate records on individuals with outstanding court judgments as a result of an agency-wide request from the Governor’s office. As a result CPI for 50 individuals, not ODOT-employees, is accessed. This access is excluded from logging requirements.

4. When access to CPI occurs as a result of routine office procedures, i.e., an internal office function, and the access is not specifically directed toward a specifically named individual or group of specifically named individuals.

For example, this would apply to HR information about individuals internal to ODOT:

Medical information is accessed related to an employee’s leave request under FMLA; however, the ODOT employee accessing this information would not be required to record the access because it relates to a routine procedure related to an individual internal to ODOT.

Note, information maintained by ODOT as a result of a background check on a job applicant would not be excluded and access to this information would have to be recorded.

Automated Logging. The ODOT Information Technology Office shall ensure that any upgrades to an existing computer system, or the acquisition of any new computer system, that stores, manages, or contains CPI includes a mechanism for recording specific access by ODOT employees to CPI.

The ODOT Information Technology Office shall ensure that log entries capture user access events and at a minimum include the name of the application generating the log, the date the event occurred, the time the event occurred, the time zone (GMT time and offset or EST/EDT), username, name/identifier of the person whose CPI was accessed. In addition, logs should also include whenever feasible and practical, the version of the application, the level of the event
(warning, informational, etc.), access type (read, write, update, etc.), the command, options and parameters directly initiated by the user, the resource accessed, and a “before” and “after” picture of the modified record or data elements changed within the record.

A log or recording mechanism required by R.C. §1347.15 shall be protected to restrict access and to prevent modification of any log or recording mechanism in accordance with the applicable state and ODOT security policies. All logs shall be secured and maintained in accordance with the required security measures and retention schedule.

Access logs shall be retained by ODOT pursuant to the Department of Administrative Services (DAS) General Retention Schedule No. IT-OP-07 for “System Users Access Records” until they are no longer of administrative value, and then destroyed.

**Paper Documents Containing CPI.** ODOT keeps many paper documents that contain CPI. While logging is not required to access paper documents containing CPI, ODOT has put in place the following protective actions to control access to these documents:

1. All documents shall be classified and labeled in accordance with applicable statutes and directives.

2. All documents containing CPI shall be stored in locked file cabinets, locked desk drawers, or other secure storage when not in use. These documents shall not be left on work surfaces, desktops, or unsecured in cubicles when the employee is not in the work area.

3. Business unit managers shall issue keys for the cabinets only to those employees having a need to access these documents.

4. Treat mass storage devices such as CDs, DVDs, and thumb drives containing sensitive information the same way by placing them in secure storage.

**ACCESSING CPI2:**

2 Each employee authorized to access CPI kept electronically shall have a unique user ID and password, and each employee shall be responsible for electronic transactions conducted using that user ID and password. All passwords shall conform to existing federal and state laws, regulations, and ODOT Password and Personal Identification (PIN) Number Security Sub policy, 28-012P.

**Valid Reasons for accessing CPI.** An ODOT employee utilizing a manual system and/or computer system are limited to accessing CPI for the following purposes:
Performing the following functions constitute valid reasons for authorized ODOT employees to access confidential personal information:

- Responding to a public records request;
- Responding to a request from an individual for the list of CPI that the department maintains on that individual;
- Administering a constitutional provision or duty;
- Administering a statutory provision or duty;
- Administering an administrative rule provision or duty;
- Complying with any state or federal program requirements;
- Processing or payment of claims or otherwise administering a program with individual participants or beneficiaries;
- Auditing purposes;
- Permit, certification, eligibility, registration, or filing processes;
- Investigation or law enforcement purposes;
- Administrative hearings;
- Litigation, complying with an order of the court, or subpoena;
- Human resource matters (e.g., hiring, promotion, demotion, discharge, salary/compensation, leave requests, time card approvals);
- Complying with an executive order or policy;
- Complying with a department policy or a state administrative policy issued by the department of administrative services, the office of budget and management or other similar state agency; or
- Complying with a collective bargaining agreement provision.

**Unauthorized Access.** Accessing CPI for any purpose not authorized by this policy is strictly prohibited. Unauthorized access includes, but is not limited to, accessing CPI for “curiosity purposes” in regards to persons or groups of persons that an employee may personally know, or knows of due to the person or groups of persons being in the media, holding elected or appointed positions, or having achieved a certain amount of fame or notoriety.

**PROCEDURES:**

**Requests for CPI.** An individual may make a written request for a list of the CPI kept by ODOT about him/her by completing and submitting a CPI Request Form. If the individual is a legal guardian, the individual must also present a certified copy of the court entry appointing him or her legal guardian. If the individual is an authorized representative, the individual must also present a notarized power of attorney form.
Forms may be delivered in person to:

Ohio Department of Transportation
Office of Chief Legal Counsel
1980 W. Broad Street
Columbus, OH 43223

Or mailed to:

Ohio Department of Transportation
Office of Chief Legal Counsel
1980 W. Broad Street
Columbus, OH 43223

If the CPI Request Form is delivered in person, it may be dropped off at the ODOT reception desk in the main lobby on the first floor at Central Office or any of the District Offices. The employee at the reception desk or District office will then forward the form to the Office of Chief Legal for processing.

**Responding to an Individual request for CPI.** Upon receipt of the completed request, CLC shall record the request, review to determine that it is notarized and the information required has been provided.

3 Note, any questions regarding whether a request is a public records request, a request for non-public records, or a request for CPI should be directed to CLC.

If the request is not notarized or incomplete, the CPI Request Form, along with a statement that the request was improperly submitted, shall be returned to the requestor; or

If the form is notarized and properly completed, CLC shall send an acknowledgement letter to the requestor stating that their request was received and is in the process of being filled.

- CLC shall send a copy of all proper requests to the District or Central Office Division Coordinator for public records requests. The District or Central Office Division Coordinator for public records requests will, within a reasonable time period, coordinate the search and retrieval of the CPI that is on file within their District or Division and return the results in a list to CLC. All results should be forwarded to CLC for review regardless of whether such results fall into one of the exceptions listed below.
- Following a response by a District or Division to a request for CPI, CLC shall review the information and determine what information will be released in compliance with R.C. §1347.15, and CLC will then send a response letter containing the information available for release to the requestor.
Confidential personal information shall not be released when:

- It relates to an investigation about the individual;
- It is part of a confidential law enforcement record, investigatory record, or trial preparation record;
- It is maintained in a database owned by a division that is exempted from R.C. Chapter 1347, as indicated in §1347.04 (A)(1)(a) through (e); and
- If all information relates to an investigation about the person or any of the other exemptions listed above, CLC shall inform the requestor that ODOT has no CPI that is subject to disclosure.

When releasing CPI, CLC shall provide a response letter that will:

- Contain a list of the exact CPI on file;
- Notify the requestor that the requestor has the right to dispute information under R.C. §1347.09;
- Refer the requestor of the requestor’s rights under R.C. §1347.08; and
- Inform requestor that any questions should be referred to CLC, who shall provide a contact number and e-mail address in its response.

ODOT shall provide a list of CPI at cost. Costs will not include the cost of labor involved in preparing the list. The standard charge for hard copies is 5 cents per page and postage may be included in the charges. The copying fee may be waived for requests under 10 pages. Prior to any release, CLC shall determine whether to require pre-payment.

Improper Requests and/or Access.

Any employee may make a confidential inquiry to CLC regarding the appropriateness of direction from a senior official to access CPI about a specific individual or group of specifically named individuals. Any employee who becomes aware of inappropriate access or direction to access CPI shall follow ODOT Policy No.: 15-008(P) regarding Notification of Employee Wrongdoing and/or Suspected Illegal Activity, and should notify CLC immediately by calling 614-466-3664. Questions regarding whether access for a specific purpose falls within the Department’s powers, duties and responsibilities should be directed to CLC.

PENALTIES:

An ODOT employee, who violates this policy, or the applicable laws, could face the following:

- Criminal prosecution;
- Civil liability for the employee;
- Termination without progressive discipline;
- Prohibition of employment with the State of Ohio for the employee’s lifetime.
AUTHORITY:
Ohio Revised Code, Chapter 1347.15
Ohio Administrative Code, Rules 5501-4-01 through 5501-4-05

REFERENCES:
ODOT - Policies and Forms
4. Password and Personal Identification (PIN) Number Security Sub policy, 28-012P
5. CPI Request Form
Ohio Revised Code
1. §149.43 Availability of public records for inspection and copying;
2. §1347.04 Exemptions from chapter;
3. §1347.08 Rights of person who are subject of personal information;
4. §1347.09 Disputing information; and
5. §1347.15 Access rules for confidential personal information
Ohio Administrative Code
1. Rule 5501-4-01 Definitions;
2. Rule 5501-4-02 Procedures for accessing confidential personal information;
3. Rule 5501-4-03 valid reasons for accessing confidential personal information;
4. Rule 5501-4-04 Confidentiality Statutes; and
5. 5501-4-05 Restricting and logging access to confidential personal information in computerized personal information systems.
SCOPE:
All Districts, Divisions and Offices of the Ohio Department of Transportation.

TRAINING:
This policy requires that all employees of the Ohio Department of Transportation be trained annually on this policy.

FISCAL ANALYSIS:
The Division of Information Technology will perform the training annually for each employee of the Ohio Department of Transportation, in the most cost effective manner.

ODOT CPI REQUEST FORM
Individual’s Full Name: _______________________________________

LAST FIRST M.I.
Phone: (_____) ____________________
Address: _________________________________________________________________
_________________________________________________________________

Check to indicate that CPI is being sought on behalf of another person and requestor is legal guardian or legal representative for individual listed above.

Please provide name and contact information for guardian or legal representative if a request is being made on behalf of another person seeking CPI regarding his or her self. Note, if a legal guardian is seeking information on behalf of an individual with CPI thought to be maintained at ODOT, a certified copy of the entry appointing him or her legal guardian must be submitted. If an authorized representative is seeking information on behalf of an individual with CPI thought to be maintained at ODOT, a notarized power of attorney must also be submitted.

Name of Legal Guardian/Representative: ______________________________
Phone: (_____) __________________
Date of Request: __________________ Requested Response Date: __________________

Please indicate below the preferred delivery method for requested documents

_____ Electronic _____ Mail _____ Pick-up

Please provide email address for email delivery: ______________________________

Check to confirm that you understand that pre-payment of costs for hard copies may be required before delivery of CPI list. Costs will not include the cost of labor involved in preparing the list. The standard charge for hard copies is .05 cents per page and postage may be included in the charges. The copying fee may be waived for requests under 10 pages.