

# Baseline Model Privacy Notice for Homeless Organizations

May 2005

## How to Use This Model Privacy Notice

The Homeless Management Information System privacy standards require each covered homeless organization (CHO) to publish a privacy notice. The standards establish baseline privacy requirements for CHOs. The standards also include additional privacy protections that a CHO may adopt. CHOs must also comply with mandated security standards. The security standards are not addressed in this model notice.

This model notice assists a CHO that seeks to meet the baseline privacy requirements. The HMIS privacy standards allow each CHO to adopt additional privacy protections if it chooses. A separate optional model notice has language that a CHO can use to describe the additional privacy protections set out in the HMIS standards. The standards set out numerous additional privacy protections, and a CHO may also adopt other privacy protections not specifically suggested in the standards.

If a CHO is subject to federal, state, or local laws that require additional confidentiality protections, the CHO must comply with those laws. The HMIS standards do not exempt CHOs from other laws. In developing a privacy notice, each CHO should make appropriate adjustments required by another applicable law.

For a CHO using only the baseline elements, the language in this model notice will need some customization. Each organization must add or adjust the information in this notice to reflect its own requirements. Square brackets [like these] show where basic descriptive information, such as name and address, should be added to the model notice.

The notice also includes instructions about customizing the notice to reflect local policies and practices. Curly brackets {like these} contain directions to the drafter of the notice. They indicate where it is appropriate to include custom language or offer other advice. The verb used in the curly brackets tells you whether additional language is mandatory (e.g., add, include or make) or optional (e.g., consider adding). In a few instances, the model notice also identifies some optional elements that an organization may choose to include. A *customization box* like this contains these instructions and optional elements:

### **Customization Box: Box Title**

**{A box like this one contains more detailed instructions for customizing the notice to local requirements. It may also suggest optional elements or provide model language to include.}**

Preparing a baseline privacy notice for your CHO using this model will require some effort. Find all the identified parts of the notice that require customization and provide the information as indicated. In a few instances, it will be necessary to write descriptions of your organization's information processing practices.

Think carefully about the contents of your privacy notice. A CHO is bound by the policies in its privacy notice. This means that each CHO may need to make administrative or procedural changes in its operations in order to implement the privacy standards that it adopts. Among other things, the notice requires that each staff member must receive and acknowledge receipt of a copy of this privacy notice.

An organization may find it appropriate to accomplish several purposes with its privacy notice. The notice informs clients about the organization's privacy practices. It may also include specific directions to the organization's staff about procedures and responsibilities. That is an option. Alternatively, an organization may choose to have a separate document to describe internal procedures and responsibilities.

A CHO has discretion in deciding how much detail to include in its privacy notice. In several places, the customization boxes direct CHOs to describe aspects of record keeping practices, such as the category of records maintained, sources of information, and routine sharing of records with affiliated organizations. The notice should contain as much detail as it is practicable to include consistent with the goal of fairly providing the reader of the notice with a reasonable understanding of what happens to personal information.

#### A Note About Uses and Disclosures

The model notice includes a standard list of permissible uses and disclosures common to covered homeless organizations. Organizations should include them in their privacy notices unless there is a specific justification to do otherwise. Most uses and disclosures on the list are permissive. A homeless organization can always refuse, on a case-by-case basis, to make a permissive use or disclosure listed in its privacy notice.

In principle, a CHO may decline even to reserve the option to make a use or disclosure from the standard list by not including the use or disclosure in its privacy notice. It would clearly be appropriate to do so, for example, if a state law prohibited a particular use or disclosure. A privacy notice should reflect other restrictions that apply to homeless organizations.

A homeless organization that does not include a use or disclosure in its privacy notice must generally obtain written client consent for the use or disclosure. For example, if a homeless organization receives funding contingent on reporting client information to the funder or other party, the organization will be in an impossible situation if it relies on client consent. When a client refuses consent, the organization will violate the conditions of its funding.

Relying on consent as an alternative to maintaining a complete and accurate description of uses and disclosures in a privacy notice can create problems. The privacy notice describes the information practices of an organization for the world as well as for clients. Consent has a place, but the consent process can raise conflicts of interest between organization and clients. Explaining consent and managing client choice can be complex and resource-intensive.

It is important to remember that not all disclosures are permissive. Disclosures required by other laws must be made in accordance with the terms of those laws. The HMIS standards do not exempt homeless organizations from compliance with other laws. Disclosures for oversight of compliance with HMIS privacy and security standards are mandatory and cannot be avoided by omitting the authority from

the privacy notice. A privacy policy that does not include all mandatory disclosures is incomplete and not in accordance with the standard.

Organizations should take note that the restrictive procedures in the standard list (e.g., for disclosures about victims of abuse, for academic research, or to law enforcement) must be complied with when making those uses or disclosures. Those procedures belong in every privacy notice. A disclosure may be permissive, but the procedures in the HMIS standard must be followed when making the disclosure. Organizations must describe other procedures required by law, and they may include additional procedures if desired. For example, an organization can decide that disclosures for research or for law enforcement require the approval of the organization's director.

Homeless organizations should make changes to the standard list of uses and disclosures only with caution and forethought. In most cases, it will be appropriate to reserve the right to make standard uses and disclosures. The actual decision about whether to make a use or disclosure of a particular record can be postponed until the need arises. If a CHO includes a use or disclosure in its privacy notice, the CHO will not diminish its ability to decline to make the use or disclosure later. However, broad restrictions in a privacy notice may turn out to be unduly limiting, can create problems for organizations, and may be unfair to clients.

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## Customization Box: Notice Summary

{A CHO may add an optional summary to the front of the notice. A short and simply written summary will help clients and others understand the purpose and contents of the notice. Here is a sample brief summary for the baseline model notice:}

## Brief Summary

[Effective Date]

[Optional Version Number]

This notice describes the privacy policy of the [Name of Homeless Agency]. We may amend this policy at any time. We collect personal information only when appropriate. We may use or disclose your information to provide you with services. We may also use or disclose it to comply with legal and other obligations. We assume that you agree to allow us to collect information and to use or disclose it as described in this notice. You can inspect personal information about you that we maintain. You can also ask us to correct inaccurate or incomplete information. You can ask us about our privacy policy or practices. We respond to questions and complaints. Read the full notice for more details. Anyone can have a copy of the full notice upon request.

# Baseline Model Privacy Notice for Homeless Organizations

## Full Notice

[Effective Date]  
[Optional Version Number]

### A. What This Notice Covers

1. This notice describes the privacy policy and practices of [Name of Homeless Organization]. Our main office is at [Address, email/web address, telephone.]
2. The policy and practices in this notice cover the processing of protected personal information for clients of [Name of Homeless Organization]. **{Consider adding an explanation as described in the Scope of Policy Customization Box.}**

#### **Customization Box: Scope of Policy**

**{Each CHO should identify the category of records covered by the notice by including a fair description of covered/uncovered programs or activities here. For example, explain if the policy does not cover personal information about a client that might otherwise appear to be covered or if another privacy policy (e.g., the HIPAA health privacy rule) applies to some records. Examples of a fair description include:**

**\* All personal information that we maintain is covered by the policy and practices described in this privacy notice.**

**\* All personal information that we maintain for our shelter program is covered by the policy and practices described in this privacy notice. Personal information that the medical clinic collects and maintains is covered by a different privacy policy.}**

3. Protected Personal information (PPI) is any information we maintain about a client that:
  - a. allows identification of an individual directly or indirectly
  - b. can be manipulated by a reasonably foreseeable method to identify a specific individual, **or**
  - c. can be linked with other available information to identify a specific client. When this notice refers to personal information, it means PPI.
4. We adopted this policy because of standards for Homeless Management Information Systems issued by the Department of Housing and Urban Development. We intend our policy and practices to be consistent with those standards. See 69 Federal Register 45888 (July 30, 2004).
5. This notice tells our clients, our staff, and others how we process personal information. We follow the policy and practices described in this notice.

6. We may amend this notice and change our policy or practices at any time. Amendments may affect personal information that we obtained before the effective date of the amendment. **{Consider adding amendment process information as described in the Notice Amendment Process Customization Box.}**

### **Customization Box: Notice Amendment Process**

**{If a CHO has a formal process for amending its privacy notice, it would be appropriate to describe it here. Elements might include the administrative process for adopting amendments or methods for public dissemination of amendments.}**

7. We give a written copy of this privacy notice to any individual who asks.

**{If appropriate, include statement from Web Site Notice Alternative Box.}**

### **Customization Box: Website**

**{If an organization has a website, then it must put a copy of its privacy notice on the website. It should reference the availability of the notice like this:}**

8. We maintain a copy of this policy on our website at <www.---.org>.

## **B. How and Why We Collect Personal Information**

1. We collect personal information only when appropriate to provide services or for another specific purpose of our organization or when required by law. We may collect information for these purposes: **{Include a list of purposes as described in the Collection Purposes Customization Box.}**

### **Customization Box: Collection Purposes**

**{Each privacy notice must describe the purposes for which a CHO collects personal information, whether from the client or from a third party. Use or modify these descriptions as appropriate:}**

- a. to provide or coordinate services to clients
- b. to locate other programs that may be able to assist clients
- c. for functions related to payment or reimbursement from others for services that we provide
- d. to operate our organization, including administrative functions such as legal, audits, personnel, oversight, and management functions
- e. to comply with government reporting obligations
- f. when required by law
- g. **{identify any other known purposes}.**

2. We only use lawful and fair means to collect personal information.
3. We normally collect personal information with the knowledge or consent of our clients. If you seek our assistance and provide us with personal information, we assume that you consent to the collection of information as described in this notice.
4. We may also get information about you from: **{Include description of sources as described in the Information Sources Customization Box.}**

### **Customization Box: Information Sources**

**{Each privacy notice must describe the routine sources of information about clients. The description should be as specific as reasonably practicable.**

**Examples of source descriptions include:}**

- a. Individuals who are with you
- b. Other private organizations that provide services (identify)
- c. Government agencies (identify)
- d. Telephone directories and other published sources
- e. **{list other regular sources of information}.**

5. We post a sign at our intake desk or other location explaining the reasons we ask for personal information. The sign says:

We collect personal information directly from you for reasons that are discussed in our privacy statement. We may be required to collect some personal information by law or by organizations that give us money to operate this program. Other personal information that we collect is important to run our programs, to improve services for homeless individuals, and to better understand the need of homeless individuals. We only collect information that we consider to be appropriate.

### **C. How We Use and Disclose Personal Information**

1. We use or disclose personal information for activities described in this part of the notice. We may or may not make any of these uses or disclosures with your information. We assume that you consent to the use or disclosure of your personal information for the purposes described here and for other uses and disclosures that we determine to be compatible with these uses or disclosures:
  - a. to **provide or coordinate services** to individuals **{Consider including a description of routine sharing as described in the Information Sharing Customization Box.}**
  - b. for functions related to **payment or reimbursement for services**
  - c. to **carry out administrative functions** such as legal, audits, personnel, oversight, and management functions
  - d. to **create de-identified (anonymous) information** that can be used for research and statistical purposes without identifying clients

### Customization Box: Information Sharing

{When a CHO maintains PPI in a manner that involves routine sharing with other organizations via a computer network, joint operations, combined files, or in other ways, describe the scope of sharing and the names or types of organizations. Include a statement like this:

“We share client records with other organizations that may have separate privacy policies and that may allow different uses and disclosures of the information.”}

- e. **when required by law** to the extent that use or disclosure complies with and is limited to the requirements of the law
- f. to **avert a serious threat to health or safety** if
  - (1) we believe that the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of an individual or the public, **and**
  - (2) the use or disclosure is made to a person reasonably able to prevent or lessen the threat, including the target of the threat
- g. to **report about an individual we reasonably believe to be a victim of abuse, neglect or domestic violence to a governmental authority** (including a social service or protective services agency) authorized by law to receive reports of abuse, neglect or domestic violence
  - (1) under any of these circumstances:
    - (a) where the disclosure **is required** by law and the disclosure complies with and is limited to the requirements of the law
    - (b) if the individual agrees to the disclosure, **or**
    - (c) to the extent that the disclosure is **expressly authorized** by statute or regulation, **and**
      - (I) we believe the disclosure is necessary to prevent serious harm to the individual or other potential victims, **or**
      - (II) if the individual is unable to agree because of incapacity, a law enforcement or other public official authorized to receive the report represents that the PPI for which disclosure is sought **is not intended to be used against the individual** and that an immediate enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.
  - and**
  - (2) when we make a permitted disclosure about a victim of abuse, neglect or domestic violence, we will promptly inform the individual who is the victim that a disclosure has been or will be made, except if:
    - (a) we, in the exercise of professional judgment, believe informing the individual would place the individual at risk of serious harm, **or**
    - (b) we would be informing a personal representative (such as a family member or friend), and we reasonably believe the personal representative is responsible for the abuse,



neglect or other injury, and that informing the personal representative would not be in the best interests of the individual as we determine in the exercise of professional judgment.

h. for **academic research purposes**

- (1) conducted by an individual or institution that has a formal relationship with the CHO if the research is conducted either:
  - (a) by an individual employed by or affiliated with the organization for use in a research project conducted under a written research agreement approved in writing by a designated CHO program administrator (other than the individual conducting the research), **or**
  - (b) by an institution for use in a research project conducted under a written research agreement approved in writing by a designated CHO program administrator.

**and**

- (2) any written research agreement:
  - (a) must establish rules and limitations for the processing and security of PPI in the course of the research
  - (b) must provide for the return or proper disposal of all PPI at the conclusion of the research
  - (c) must restrict additional use or disclosure of PPI, except where required by law
  - (d) must require that the recipient of data formally agree to comply with all terms and conditions of the agreement, **and**
  - (e) is not a substitute for approval (if appropriate) of a research project by an Institutional Review Board, Privacy Board or other applicable human subjects protection institution.

i. to a law enforcement official **for a law enforcement purpose** (if consistent with applicable law and standards of ethical conduct) under any of these circumstances:

- (1) in response to a lawful court order, court-ordered warrant, subpoena or summons issued by a judicial officer, or a grand jury subpoena
- (2) if the law enforcement official makes a **written request** for PPI that:
  - (a) is signed by a supervisory official of the law enforcement agency seeking the PPI
  - (b) states that the information is relevant and material to a legitimate law enforcement investigation
  - (c) identifies the PPI sought
  - (d) is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought, **and**
  - (e) states that de-identified information could not be used to accomplish the purpose of the disclosure.
- (3) if we believe in good faith that the PPI constitutes **evidence of criminal conduct** that occurred on our premises
- (4) in response to an oral request for the purpose of **identifying or locating a suspect, fugitive, material witness or missing person** and the PPI disclosed consists only of name, address,



date of birth, place of birth, Social Security Number, and distinguishing physical characteristics, **or**

(5) if

- (a) the official is an authorized federal official seeking PPI for the provision of **protective services to the President** or other persons authorized by 18 U.S.C. 3056, or to foreign heads of state or other persons authorized by 22 U.S.C. 2709(a)(3), or for the conduct of investigations authorized by 18 U.S.C. 871 and 879 (threats against the President and others), **and**
- (b) the information requested is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought.

**and**

- j. to comply with **government reporting obligations** for homeless management information systems and for oversight of compliance with homeless management information system requirements.

**{If appropriate, comply with instructions in Other Uses and Disclosures Customization Box.}**

### **Customization Box: Other Uses and Disclosures**

**{Continue description of other anticipated uses or disclosures here:**

**k. include other uses and disclosures}.**

- 2. Before we make any use or disclosure of your personal information that is not described here, we seek your consent first.

#### **D. How to Inspect and Correct Personal Information**

- 1. You may inspect and have a copy of your personal information that we maintain. We will offer to explain any information that you may not understand.
- 2. We will consider a request from you for correction of inaccurate or incomplete personal information that we maintain about you. If we agree that the information is inaccurate or incomplete, we may delete it or we may choose to mark it as inaccurate or incomplete and to supplement it with additional information.
- 3. To inspect, get a copy of, or ask for correction of your information, **{Include an explanation of access and correction procedures as described in the Access and Correction Customization Box.}**

### **Customization Box: Access and Correction**

**{Describe access/correction procedures. For example, a simple procedure may be for an individual to ask any staff member for access.}**



4. We may deny your request for inspection or copying of personal information if:
  - a. the information was compiled in reasonable anticipation of litigation or comparable proceedings
  - b. the information is about another individual (other than a health care provider or homeless provider)
  - c. the information was obtained under a promise or confidentiality (other than a promise from a health care provider or homeless provider) and if the disclosure would reveal the source of the information, **or**
  - d. disclosure of the information would be reasonably likely to endanger the life or physical safety of any individual.
5. If we deny a request for access or correction, we will explain the reason for the denial. We will also include, as part of the personal information that we maintain, documentation of the request and the reason for the denial
6. We may reject repeated or harassing requests for access or correction.

#### **E. Data Quality**

1. We collect only personal information that is relevant to the purposes for which we plan to use it. To the extent necessary for those purposes, we seek to maintain only personal information that is accurate, complete, and timely.
2. We are developing and implementing a plan to dispose of personal information not in current use seven years after the information was created or last changed. As an alternative to disposal, we may choose to remove identifiers from the information.
3. We may keep information for a longer period if required to do so by statute, regulation, contract, or other requirement.

#### **F. Complaints and Accountability**

1. We accept and consider questions or complaints about our privacy and security policies and practices. **{Include explanation as described in Complaint Procedures Customization Box.}**

**Customization Box: Complaint Procedures**  
**{Describe the complaint procedure, including how an individual can file a complaint, how the complaint will be processed, and when and how the individual who complained will receive a response. The procedure should be clear enough so that staff members know what they are supposed to do.}**

2. All members of our staff (including employees, volunteers, affiliates, contractors and associates) are required to comply with this privacy notice. Each staff member must receive and acknowledge receipt of a copy of this privacy notice.

**{Consider adding a change history section as described in the Optional Change History Customization Box.}**



### **Customization Box: Optional Change History**

**{A CHO may choose to include a change history as part of its privacy notice. A change history might include elements like this:**

#### **G. Privacy Notice Change History**

- 1. Version 1.0. October 30, 2004. Initial Policy**
- 2. Version 1.1. January 15, 2005. Revised access/correction procedure.}**