

## 2610.03 Privacy Choice and Consent

Issued: July 30, 2019  
Revised:

### PURPOSE

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To ensure agency privacy policies and/or procedures address the choices available to individuals related to seeking their consent for the collection, use and disclosure of their potentially personally identifiable data (PPID), where applicable.

### APPLICATION

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This procedure applies to all state of Michigan (SOM) Executive Branch Departments and Agencies who collect PPID. An Agency with access to PPID shall ensure its appropriate use as set forth in this and all SOM enterprise policies and procedures.

Adherence to this procedure does not guarantee compliance with all laws and regulations. Agencies should consult their legal counsel for advice on laws, regulations, other policies and procedures, specific business practices, contracts, or grants applicable to their data.

### CONTACT AGENCY

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Department of Technology, Management and Budget (DTMB)  
Chief Data Officer (CDO)

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### SUMMARY

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An Agency that collects PPID shall make available to individuals permitted and appropriate choices over the collection, use and disclosure of their PPID to the extent required by law, or when an Agency elects to do so per internal procedure. The agency will also communicate the effects of those choices on the individual's ability to access the Agency's services.

### PROCEDURES

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- An Agency privacy notice describes any consent that is required to disclose their PPID, as required by applicable law, rule, regulation, policy or procedure.
- An Agency will determine whether existing or new processes require consent, and if so, what consent is required.
- An Agency will review existing consents to assure compliance with applicable laws.

- If applicable and reasonable, individuals must be allowed to revoke their consent after it is provided.
- Where possible, an Agency will make reasonable modifications to PPID when an individual has concerns regarding its use or retention.
- Consent and accommodation are not generally required to process PPID where applicable laws impose obligations on the Agency to process it.
- Where consent is not required, an Agency will develop a process for responding to and accommodating reasonable concerns, if appropriate, about the collection, use or disclosure of the PPID. Hereafter, the word reasonable as used in this procedure means something that does not cause a significant financial, time, or resource-related burden to the Agency. If an Agency elects not to address an individual's concerns about the collection, use, or disclosure of PPID, then the Agency should clearly document the burdens alleged to justify non-compliance with this procedure.
- Where federal or state laws require the express or explicit consent of individuals for the collection, use or disclosure of PPID, or if an Agency elects to require express or explicit consent, each Agency will obtain it (e.g., via a form or paper request or on an Agency's website in an interactive or downloadable form). When required by law, the consent shall be signed giving the Agency consent to disclose PPID limited to the purposes specified and shall be retained for time periods set forth in applicable state or federal law or when no law governs, by policy. A copy of the consent will be provided to the individual, upon request. Consents shall be written in plain language and include the following:
  - Specific information to be disclosed
  - The name or identification of the person(s) providing the consent
  - An expiration date or event that relates to the purpose
  - A statement of the individual's right to revoke
  - Statement that the information used or disclosed may be subject to redisclosure
  - Date and signature by the individual. If signed by an authorized or personal representative, a description of authority must be included, and documentation of such authority obtained.
- An Agency may conduct consumer marketing and analytics activities if a consumer elects to participate in an agency program or buys an agency product or service. Where an applicable law requires consent in advance or an opt-in by the individual prior to the collection of their PPID, the Agency will comply.
- An Agency will establish limits on the collection of PPID which can only be obtained by lawful and fair means, and where appropriate or required by law, with the knowledge and permission of the individual. In certain circumstances, Agencies may seek consent with respect to use or disclosure of PPID after the information has been collected where it is not covered by the original notice.

- An Agency may not, as a condition of the supply of a product or service, require an individual to permit the collection, use, or disclosure of information beyond that required to fulfill the Agency’s lawful purposes and otherwise comply with applicable laws.
- An Agency will not disclose, make available or use PPID for purposes other than those specified in the Agency’s notice except with consent or as authorized or required by law.

## **ROLES AND RESPONSIBILITIES**

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### **Agency**

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#### **Agency Director (or Designee)**

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- Ensures that the Agency implements, maintains, and enforces internal Agency privacy policies and procedures consistent with enterprise-wide SOM privacy policies.

#### **Privacy Protection Officers (also referred to as an Information Privacy Protection Officer) or Agency-Specific Equivalent**

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- Coordinates Agency compliance with this, and other, SOM enterprise-wide privacy policies and procedures and state and federal privacy laws.
- Coordinates work with appropriate business staff to develop and implement applicable Agency policies and procedures.

### **DTMB**

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#### **DTMB Chief Data Officer (CDO) or Designee**

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- Serves as liaison to the Chief Data Stewards and Privacy Protection Officers on privacy-compliance issues.

## **AUTHORIZATION**

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### **Authority**

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The CDO is accountable to the Enterprise Information Management Steering Committee for identifying privacy best practices. The CDO has authority, along with this procedure, under:

- Executive Order (EO) 2016-24.
- Administrative Guide to State Government 2600 Privacy Policy and 2610.01 Data Privacy Procedure.
- MCL 18.1101, et seq.; MCL 18.41.
- The Administrative Guide to State Government.

## **TERMS AND DEFINITIONS**

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Definition of terms available in the Administrative Guide Glossary (section 8000).

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