

Client Alert

February 2015

White House Sets Privacy Expectations for the Federal Government's Use of Unmanned Aircraft Systems

On February 15, 2015, the White House [released](#) a Presidential Memorandum entitled "[Promoting Economic Competitiveness While Safeguarding Privacy, Civil Rights, and Civil Liberties in Domestic Use of Unmanned Aircraft Systems](#)" (the "Memorandum") to address the privacy, civil rights and civil liberties concerns associated with the federal government's use of Unmanned Aircraft Systems ("UAS"). The Memorandum provides privacy expectations for the federal government's use of UAS by setting requirements for federal agencies to establish and maintain privacy and civil liberty safeguards, as well as by placing restrictions on certain information collection and use practices. Key highlights from the Memorandum include:

- Permits federal agencies to collect information through UAS or use such information only when consistent with and relevant to an authorized purpose.
- Limits retention of personally identifiable information collected through UAS to no more than 180 days unless a longer retention is necessary for an authorized mission, maintained in a system of records covered by the Privacy Act, or required by any other applicable law or regulation.
- Restricts federal agencies from disseminating UAS-collected information outside the agency, unless for an authorized purpose or as required by law.
- Clarifies that federal agencies must collect, use, retain and disseminate information gathered using UAS in compliance with federal laws, including the Privacy Act of 1974, when UAS-collected information is maintained in systems of records.
- Promotes transparency about the federal government's use of UAS by, for example, requiring federal agencies to provide public notice regarding where the agency's UAS are authorized to operate in the National Airspace System.

The Memorandum also addresses commercial UAS, tasking the Department of Commerce with establishing a multi-stakeholder engagement process to develop a framework regarding privacy, accountability and transparency for commercial and private UAS use. Further, in conjunction with the release of the Memorandum, the Federal Aviation Administration ("FAA") announced a Notice of Proposed Rulemaking ("NPRM") containing a proposal that would allow commercial use of small UAS (under 55 lbs.) subject only to specified restrictions, but which are substantially more permissive than the restrictions the FAA has applied to each of the exemptions it has granted to date pursuant to Section 333 of the FAA Modernization and Reform Act of 2012 (Public Law 112-95). Once this NPRM is published in the Federal Register, a 60-day public comment period will commence.

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