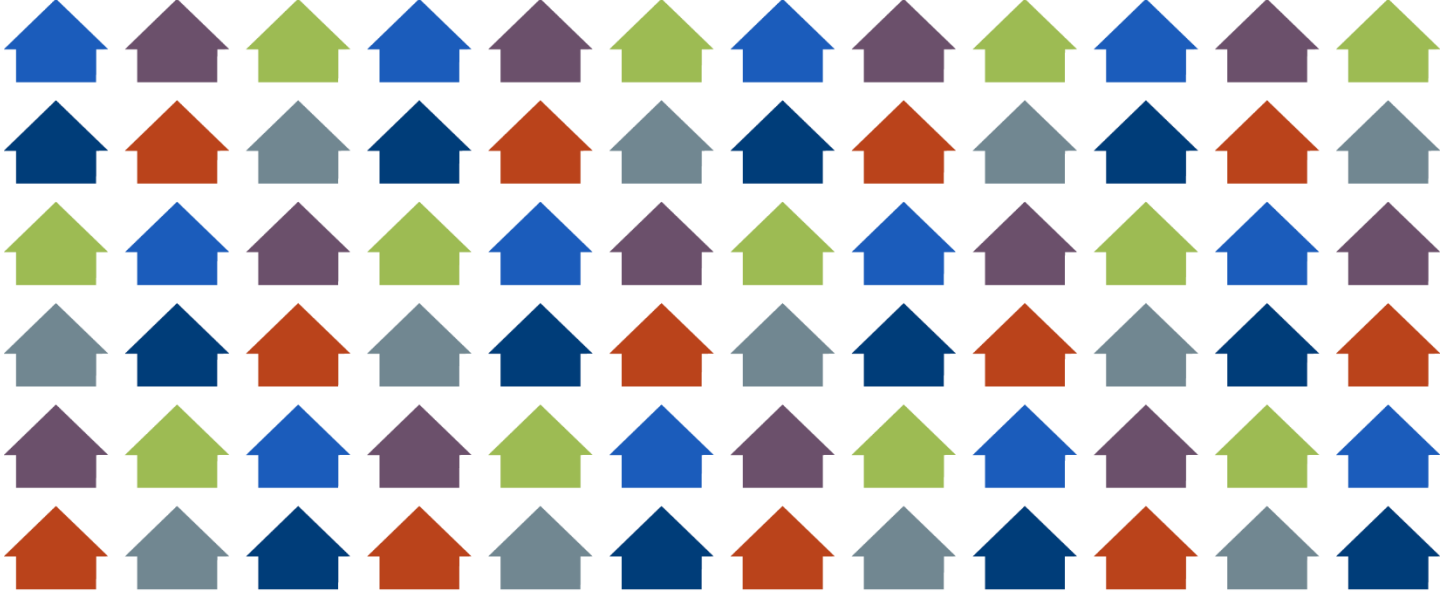




THN

TEXAS HOMELESS NETWORK



Homeless Management
Information System (HMIS)
Privacy Policies and
Procedures

Texas Balance of State CoC



TX Balance of State CoC HMIS Privacy Policies and Procedures

Revised March 2020

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Privacy Policy Change History

Date	Change
11/17/15	None; Original
6/11/19	Version 2.0
3/25/20	Version 2.1

Purpose

The goal of the TX-607 Homeless Management Information Systems (HMIS) Privacy Policies and Procedures is to ensure confidentiality and security of all client data captured in HMIS in conformity with all current regulations related to privacy and data confidentiality rights.

Outlined in this HMIS Privacy Policies and Procedures are the TX-607 Continuum of Care (CoC) standards and parameters to be followed by all HMIS Covered Homeless Organizations (CHO). The CoC recognizes its participating agencies may have established their own policies that meet HUD privacy requirements and the CoC standards set forth herein. The HMIS Privacy Policies and Procedures is not intended to supplant individual CHO privacy policies. If CHO privacy policies and practices meet the thresholds established in this policy and do not contradict the practices described, CHOs may establish additional or more stringent requirements for HMIS end users. Additionally, this policy serves to describe how the HMIS Lead Agency and the HMIS meet the privacy requirements established in HUD privacy standards.

This policy describes the standards and procedures related to the Homeless Management Information System (HMIS) administered by the HMIS Lead Agency, the Texas Homeless Network (THN). The policy describes how THN may use and disclose protected personal information (PPI) and additional data collected by covered homeless organizations (CHO). In its capacity as the HMIS Lead Agency, THN has developed the policy and will review annually to make any necessary changes or improvements. The policy may be amended at any time, and the amendments may affect information collected prior to the date of the change. In addition to this policy, partner agencies must comply with federal, state and local laws that require additional confidentiality protections. This policy only applies to data collected in the HMIS and does not apply to any other website or application. The terms of this policy shall govern all interactions and communications wherein HMIS data is subject. A link to the policy is located on THN's website. Upon request THN or a CHO will provide a copy of this policy and request written acknowledgement of its receipt. This policy is not a legal contract. This policy meets a legal requirement to maintain the confidentiality of PPI. THN must follow the terms of this policy that are currently in effect.

Policy Access and Amendment

The HMIS Lead Agency may amend its privacy policy and practices at any time. The HMIS Lead Agency may bring issues to the CoC Board as necessary. An amendment may affect data that had been entered in the HMIS before the effective date of any such amendment. This policy is consistent with current privacy standards for HMIS issued by HUD.

The Privacy Policy will be reviewed and amended consistent with the procedure described in the Roles and Responsibilities section of the HMIS Policies and Procedures.

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Applicability

The HMIS Privacy Policies and Procedure applies to the HMIS Lead Agency, CHOs, and any person accessing HMIS data. CHO projects subject to the privacy rules established under the authority of the Health Insurance Portability and Accountability Act (HIPAA) or other more restrictive policies will be honored.

The limitations of the HMIS implementation are described in the Client Informed Consent and Privacy Rights section of the HMIS Policies and Procedures.

The HMIS Lead Agency and CHOs will uphold federal and state confidentiality regulations to protect client records and privacy. If a CHO is covered by more stringent regulations, such as HIPPA, the more stringent regulations will prevail. Any project not subject to the HMIS Privacy Policies and Procedures will be identified in the CHO's HMIS New Agency Application.

Participating Agency Policy

Each CHO is responsible for maintaining a privacy policy and certifying that each participating project complies with the HMIS Privacy Policies and Procedures. CHO HMIS Administrators are responsible for reviewing privacy policies and ensuring consistency with the HMIS Privacy Policies and Procedures. At times, CHOs may require more rigorous privacy standards but they must, at minimum, meet and not contradict the privacy standards set forth herein. In addition, CHOs must maintain documentation regarding changes to their privacy policies.

Each CHO will adopt the standard policy or their own, as long as the policy meets and does not contradict with the privacy standards set forth in this Policies and Procedures.

A CHO's Privacy Policy will:

- Specify the purpose for collecting the information.
- Specify all potential uses and disclosures of client personal information.
- Specify the time for which the hard copy and electronic data will be retained at the organization and the method for disposing of it or removing identifiers from personal information that is not in current use.
- State the process and applicability of amendments and commit to documenting all amendments.
- Offer reasonable accommodations for persons with disabilities and/or language barriers.
- Allow the client the right to inspect and to have a copy of their client record and offer to explain any information the individual may not understand.
- Include reasons and conditions when an organization would not release information.
- Specify a procedure for accepting and considering questions or complaints about the privacy policy.

Compliance Review

The HMIS Lead Agency is responsible for ensuring HMIS is operated in accordance with HUD standards. CHOs are responsible for conducting annual reviews certifying each

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participating project complies with the HMIS Privacy Policy and HUD standards. The TX-607 CoC, through the HMIS Lead Agency, will conduct virtual and, in some instances, on-site visits to ensure compliance with the HMIS Privacy Policy and Procedures.

Each year, CHOs will be required to self-certify that they comply with the Texas Balance of State HMIS Privacy Policy and Procedure. CHOs must indicate whether it has:

- Adopted the HMIS Privacy Policies and Procedures, or
- Adopted a different privacy policy that meets the requirements outlined in the HMIS Privacy Policies and Procedures.

In the event the CHO adopts a different privacy policy, the CHO will be expected to attach a copy of the policy to their HMIS New Agency Application. If no policy has been adopted at time of execution of the HMIS New Agency Application, or at the time of the annual certifications thereafter, the CHO must establish a date no later than three months from the certification review date by which such a policy will be developed and implemented.

Privacy Policy Notice

The HMIS Lead Agency and CHOs must ensure privacy policies are readily accessible to clients and the public.

Public Access Procedure

The HMIS Lead Agency will post the TX-607 HMIS Privacy Policies and Procedures on its official website and provide a copy to any individual upon request.

Informed Client Consent Procedure

The HMIS Lead Agency will maintain HMIS data using lawful and fair means. CHO privacy policies will include a provision stating the CHO will only collect data with the knowledge or consent of their clients. Any client seeking assistance from a CHO will be notified through a signed consent form that data collection will occur. The HMIS Lead Agency will assume that client information in HMIS has been entered with the consent or knowledge of the client according to these policies and procedures. All CHOs will keep copies of the signed consents on file. Individual CHOs may maintain stricter policies relating to client consent to collect and share data with the HMIS Lead Agency.

When the use or disclosure of data is mandatory by the HUD 2004 HMIS Data and Technical Standards, CHOs are not required to seek participant consent. In these particular instances, participants may refuse to provide the information and still receive services, but the provider must ask. In all circumstances, CHOs should make the data collection process transparent and provide participants with a written copy of the privacy notice.

At minimum, the HMIS Lead Agency requires CHOs to post signs at each intake desk or other appropriate locations where data collection occurs explaining the reasons for HMIS data collection. See Appendix C for a sample text.

Accessibility Procedure

Each CHO that is a recipient of federal assistance will provide required information in languages other than English that are common in the community, if speakers of these

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languages are found in significant numbers and come into frequent contact with the organization.

CHOs must make reasonable accommodations for persons with disabilities throughout the consent, intake, and data collection processes. This may include, but is not limited to, providing qualified sign language interpreters, readers or materials in accessible formats such as Braille, audio, or large type as needed by the individual with a disability.

HMIS Data Use and Disclosure

Collecting and sharing participants' personal information is often a necessary aspect of helping persons to resolve their housing crisis. The HMIS Lead Agency and CHOs may only collect, use, and disclose data for the specific purposes and reasons defined in this section.

HUD gives CHOs the authority for the following uses and disclosures without needing to obtain participant consent for the reasons below as referenced in the Privacy Notice.

- Providing or coordinating services to an individual
- Creating de-identified records from PPI
- Carrying out administrative functions (e.g., legal, audit, personnel, oversight and management functions)
- Functions related to payment or reimbursement for services
- To provide or coordinate individual referrals, case management, housing, or other services. Client records may be shared with other organizations that may have separate privacy policies and that may allow different uses and disclosures of the information;
- For functions related to payment or reimbursement for services;
- To carry out administrative functions, including but not limited to audit, personnel oversight, and management functions;
- To produce aggregate-level reports regarding use of services;
- To produce aggregate-level reports for funders or grant applications;
- To create de-identified (anonymous) information;
- To track system-wide and project-level outcomes;
- To identify unfilled service needs and plan for the provision of new services;

Coordinated Entry-related uses and disclosures are as follows:

- Use and disclosure for coordinated care. Disclosing information to multiple CE providers that are assisting to connect the individuals to appropriate resources and services.
- Use and disclosure to determine client prioritization for housing. Disclosing assessment data can help staff determine the placement of an individual on a prioritization list and if needed develop a safe sheltering plan while the individual is waiting for placement into permanent housing.
- Use and disclosure for making referrals. Disclosing client information can help match a person to the right resource and potentially create multiple referral options.
- Use and disclosure for determining participant progress. HMIS can be used to build a single participant record that contains information through the CE process from access to project enrollment.

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The confidentiality of HMIS data will be protected. CHOs must collect data by legal and fair means, consistent with the Data Policies and Procedures section of the HMIS Policies and Procedures.

The HMIS Lead Agency collects HMIS data from organizations that directly enter data into the TX-607 HMIS with the knowledge and authority of the CoC Board. The HMIS Lead Agency requires that CHOs notify individuals seeking their assistance that data collection, use, and disclosure will occur. By entering data into the HMIS, the CHO verifies that individuals have provided the CHO with consent to use and disclose their data for purposes described below and for other uses and disclosures the HMIS Lead Agency determines to be compatible:

- When required by law (to the extent that use or disclosure complies with and is limited to the requirements of the law);
- To avert a serious threat to health or safety if:
 - The CHO, in good faith, believes 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
 - The use or disclosure is made to a person reasonably able to prevent or lessen the threat, including the target of the threat.
- To report about an individual reasonably believed 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 in any of the following three circumstances:
 - Where the disclosure is required by law and the disclosure complies with and is limited to the requirements of the law;
 - If the individual agrees to the disclosure; or
 - To the extent that the disclosure is expressly authorized by statute or regulation and either of the following are applicable:
 - The CHO believes the disclosure is necessary to prevent serious harm to the individual or other potential victims; or
 - 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 HMIS data 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;
 - When such a permitted disclosure about a victim of abuse, neglect, or domestic violence is made, the individual making the disclosure will promptly inform the individual who is the victim that a disclosure has been or will be made, except if:
 - In the exercise of professional judgment, it is believed that informing the individual would place the individual at risk of serious harm; or
 - It would be informing a personal representative (such as a family member or friend), and it is reasonably believed that the personal representative is responsible for the abuse, neglect, or other injury,

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and that informing the personal representative would not be in the best interests of the individual as determined in the exercise of professional judgment.

- For academic or research purposes
 - 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 program administrator (other than the individual conducting the research) designated by the CHO; or
 - By an institution for use in a research project conducted under a written research agreement approved in writing by a program administrator designated by the CHO.
 - A written research agreement must: (1) Establish rules and limitations for the processing and security of PPI in the course of the research; (2) provide for the return or proper disposal of all PPI at the conclusion of the research; (3) restrict additional use or disclosure of PPI, except where required by law; and (4) require that the recipient of data formally agree to comply with all terms and conditions of the agreement
- 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:
 - In response to a lawful court order, court-ordered warrant, subpoena or summons issued by a judicial officer, or a grand jury subpoena;
 - If the law enforcement official makes a written request for HMIS data that:
 - Is signed by a supervisory official of the law enforcement agency seeking the HMIS data;
 - States that the information is relevant and material to a legitimate law enforcement investigation;
 - Identifies the HMIS data sought;
 - Is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and
 - States that de-identified information could not be used to accomplish the purpose of the disclosure.
 - If it is believed in good faith that the HMIS data constitutes evidence of criminal conduct that occurred on the CHO's premises;
 - In response to an oral request for the purpose of identifying or locating a suspect, fugitive, material witness or missing person and the HMIS data disclosed consists only of name, address, date of birth, place of birth, social security number and distinguishing physical characteristics; or
 - If the official is an authorized federal official seeking HMIS data 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 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.

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- To comply with government reporting obligations for HMIS and for oversight of compliance with HMIS requirements.
- To third parties for the following purposes:
 - To permit other systems of care to conduct data matches (i.e., to determine if you are also utilizing services from such other systems of care); and
 - To permit third party research firms and/or evaluators to perform research and evaluation services, as approved by the CoC, relating to the projects administered by the HMIS Lead and the CHOs;
 - Provided that before client-level HMIS data are disclosed under this subsection, the third party that will receive such client-level HMIS data and use it as permitted above must first execute a Data Use and Security Agreement (found in Appendix H of the Policies and Procedures). The Data Use and Security Agreements requires the third party to comply with all applicable laws and regulations, including the privacy standards and disclosure provisions contained in the current HUD HMIS Data and Technical Standards.

The HMIS Lead may share client level HMIS data with contracted entities as follows:

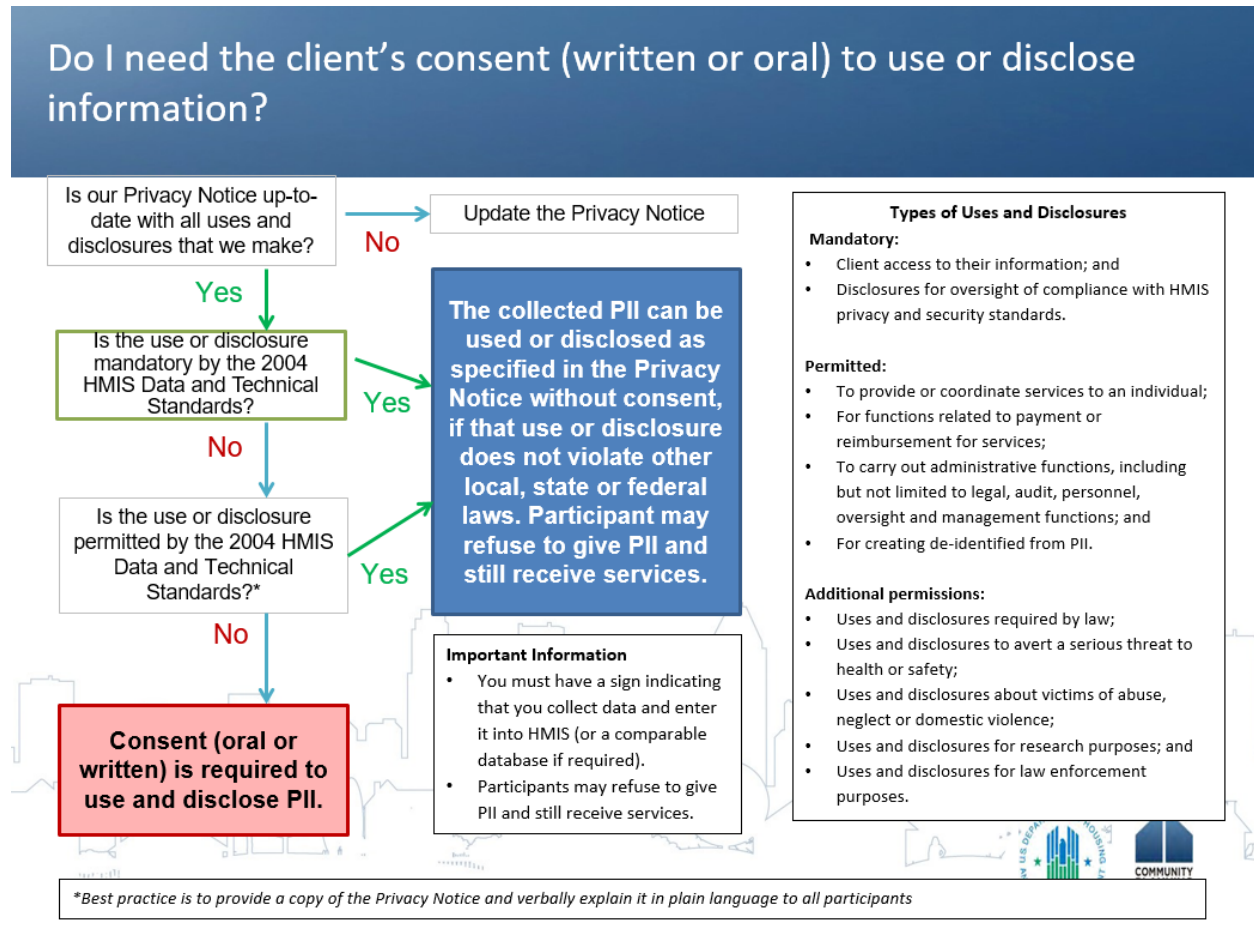
- The CHO originally entering or uploading the data to the Texas Balance of State HMIS.
- Outside organizations under contract with the HMIS Lead Agency or other entities acting on behalf of the Texas Balance of State CoC for research, data matching, and evaluation purposes. The results of this analysis will always be reported in aggregate form; client level data will not be publicly shared under any circumstance.

Entities providing funding to organizations or projects required to use HMIS will not have automatic access to HMIS. Access to HMIS will only be granted by the HMIS Lead Agency when there is a voluntary written agreement in place between the funding entity and the organization or project. In such cases, funder access to HMIS will be limited to data on the funded organization or project. Funding for any organization or project using HMIS cannot be contingent upon establishing a voluntary written agreement allowing the funder HMIS access.

Any requests for reports or information from an individual or group who has not been explicitly granted access to the Texas Balance of State HMIS will be directed to the HMIS Lead Agency Administrator. No individual client data will be provided to meet these requests without proper authorization.

Before any use or disclosure of PII that is not described here is made, the HMIS Lead Agency or CHO wishing to make the disclosure will seek the consent of all individuals whose PII may be used or disclosed.

Below is a chart that can be used to determine when client consent is needed to use or disclose information.



Access and Correction

Clients whose data is collected in HMIS may inspect and receive a copy of their HMIS record by requesting it from the CHO that originally collected the information. The HMIS Lead Agency requires the CHO to establish a policy to manage such requests and to explain any information a client may not understand.

Each CHO privacy policy will describe how requests from clients for correction of inaccurate or incomplete HMIS records are handled. The policy will allow clients to request their HMIS data or request the data be removed from the HMIS. Nothing in this section is intended to indicate that a CHO is released from any obligation by any funder to collect required data elements.

If a client requests to have his or her information in the HMIS corrected or removed, and the CHO agrees that the information is inaccurate or incomplete, they may delete it or they may choose to mark it as inaccurate or incomplete and to supplement it with additional information. Any such corrections applicable to the data stored in the HMIS will be corrected within one week of the request date.

In the event that a client requests to view his or her data in the HMIS, the CHO HMIS Administrator will keep a record of such requests and any access granted. The CHO HMIS

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Administrator or CHO Case Manager will provide a copy of the requested data within a reasonable timeframe to the client.

CHOs are permitted to establish reasons for denying client requests for inspection of HMIS records. These reasons are limited to the following:

- If the information was compiled in reasonable anticipation of litigation or comparable proceedings;
- If the record contains information about another client or individual (other than a healthcare provider or homeless service provider) and the denial is limited to the section of the record containing such information;
- If the information was obtained under a promise of confidentiality (other than a promise from a healthcare provider or homeless provider) and if the disclosure would reveal the source of the information; or
- Disclosure of the information would be reasonably likely to endanger the life or physical safety of an individual.

If a CHO denies a request for access or correction, the CHO will explain the reason for the denial. The CHO will also maintain documentation of the request and the reason for the denial.

CHOs may reject repeated or harassing requests for access to or correction of an HMIS record.

Data Retrieval and Sharing

HMIS, as implemented in the Texas Balance of State CoC regions, is a system that will generate reports required by HUD, the CoC, and other stakeholders. This will be at a level that does not identify individuals but can provide accurate statistical data such as numbers served and trend assessments based on data entered by CHOs. Data from HMIS will be used to produce CoC and local level statistical reports as well as corresponding reports. These purposes are included in the HMIS Data Use and Disclosure section of the HMIS Privacy Policies and Procedures.

The HMIS Lead Agency staff has access to retrieve all data in the TX-607 HMIS. The HMIS Lead Agency will protect client confidentiality in all reporting.

CHOs may share clients' personal information with each other for the purposes of determining eligibility and coordinating client services. For other data sharing, CHOs may only provide the client's personal information once an agreed upon Release of Information is in place, as outlined in the Client Informed Consent and Privacy Rights section of the Policies and Procedures.

CHOs may also retrieve HMIS data entered to produce statistical reports including number of clients served and trend assessments for internal purposes, grant applications, and other required reports, within the parameters established by the HMIS Lead.

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Grievances

Concerns related to the Texas Balance of State HMIS Privacy Policy and Procedure may be raised according to the procedures outlined in the HMIS Client Grievance Procedure Form. CHOs must establish a policy and regular process for receiving and reviewing complaints from clients about potential violations of the policy.

CHOs should report any violation of their privacy policy to the HMIS Lead Agency. In addition to any corrective actions taken by the CHO, the HMIS Lead Agency may also report the findings to the CoC Board or law enforcement, as appropriate, for further action. Such action may include, but is not limited to the following:

- Suspension of system privileges
- Revocation of system privileges

Individuals sanctioned because of HMIS privacy violations, can appeal to the HMIS Lead Agency.

All HMIS end-users are required to comply with this privacy policy. CHOs must ensure all end-users involved in HMIS data collection and/or entry receive privacy policy training. End-users must receive and acknowledge receipt of this privacy policy.

Data Retention

CHOs collect personal information that is relevant to the purposes for which they plan to use it. For those purposes, CHOs should seek to maintain only personal information that is accurate, complete, and timely.

At THN's discretion, PPI not in current use seven (7) years after the information was last created or last changed may be removed from HMIS. Alternatively, THN may choose to remove identifiers from information.

THN may keep information for a longer period if required to do so by an applicable statute, regulation, contract, or other requirement.

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Client Receipt of Privacy Policy

This document shows the client has requested and received a copy of the Texas Balance of State CoC HMIS Policies and Procedures.

The policy may be amended at any time, and the amendments may affect information collected prior to the date of the change. In addition to this policy, partner agencies must comply with federal, state and local laws that require additional confidentiality protections. This privacy policy only applies to data collected in the HMIS and does not apply to any other website or application. The terms of this privacy policy shall govern all interactions and communications wherein HMIS data is subject. An online link to the policy is also located on the Texas Homeless Network's website at thn.org.

Client Name: _____

Client Signature: _____

Date: _____

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HMIS End User Receipt of Privacy Policy

By signing below I acknowledge that I have read the Texas Balance of State Continuum of Care's Privacy Policy and have received a personal copy.

User Name: _____

User Signature: _____

Date: _____

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Sample Privacy Notice Text

We collect personal information about the people we serve in a computer system called a Homeless Management Information System (HMIS). Our funders require us to collect personal information for reasons that are outlined in our Privacy Policy. You can request a copy of the Privacy Policy at any time.

The personal information we collect is important to run our programs, to improve services for you and others, and to better understand your needs. Here is how your data will be used:

- To provide or coordinate services to you and others
- To document the services this agency provides you
- To analyze and report on de-identified, anonymized data
- For carrying out administrative functions

In order to provide or coordinate individual referrals, case management, housing, or other services, some client records may be shared with other organizations. Those organizations are required to have privacy policies in place in order to protect your personal information.

We take your privacy seriously. We only collect information we consider appropriate or are required to collect. You have the right to decline to share your information, though it may take longer to organize referrals.