



2. Principle of Individual Participation

This principle calls upon agencies that collect PII to involve the individual in the process of using his or her PII. In particular, to the extent practical, agencies should seek individual consent for the collection, use, dissemination, and maintenance of PII and should provide mechanisms for appropriate access, correction, and redress regarding its use. The proposed *Best Practices for Protection of PII* provides guidance to State DMVs on how to implement this principle.

It is often difficult to apply the individual participation principle where the government mandates collection of PII in order to obtain a benefit. In such instances, the government may need the PII in order to ensure that the right individual receives the right benefit, in this case a driver's license or State-issued ID. Although REAL ID is a voluntary program for the States, it is not necessarily voluntary for individuals who want to obtain a driver's license so that they can legally drive unless their State also provides an alternative non-compliant credential, which some States may issue for a number of different reasons, such as licensing residents who cannot document lawful status. It is likely that the types of PII DMVs will collect will be very similar for REAL ID and non-REAL ID compliant cards and that both types of cards will have a MRZ containing PII that is not encrypted or protected from third party skimming. Despite these similarities, some individuals may still choose to have a non-REAL ID driver's license.

At the Federal level, pursuant to the Privacy Act of 1974, individuals may request access to information held by the various Federal programs participating in the REAL ID implementation, including the SAVE and SSOLV systems. At the State level, States generally have access laws that enable individuals to request access to their DMV information and an opportunity to correct their records if there is an error. State DMVs direct applicants to the appropriate Federal agency -- SSA to verify SSNs or USCIS to verify immigration status -- to handle errors in Federal records. As described in the final rule, SSA and USCIS have redress programs in place to assist individuals whose records are incomplete or inaccurate. For example, an individual who believes that information about them in SAVE is inaccurate, can schedule an appointment online with USCIS at www.uscis.gov and be assigned an appointment at their designated immigration office based on the individual's residential zip code. These appointments afford an individual an opportunity to meet with an Immigration Officer face-to-face to resolve any non-asylum related issues relating to their current or pending immigration case. Minimal information, including an Alien Registration Number or Receipt Number is required to schedule an appointment. In addition, DMVs conduct State-to-State record checks when processing a new applicant; however, when an applicant needs to seek access to his or her out-of-State DMV record, the applicant must make the request directly to the State DMV. DHS states in the final rule that it will work with the States to inform the public of the States' ability to access and correct DMV records as well as records held in the various Federal data verification systems used to implement the REAL ID.