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**STATE OF COLORADO**  
**DEPARTMENT OF LAW**

October 5, 2023

**COLORADO PRIVACY ACT: APPLICATION FOR INCLUSION IN COLORADO'S  
PUBLIC LIST OF UNIVERSAL OPT-OUT MECHANISMS**

The Colorado Privacy Act (CPA) contains express Consumer<sup>1</sup> rights, including the rights of Colorado Consumers to opt out of the Sale of Personal Data and the Processing of Personal Data for Targeted Advertising. Beginning on July 1, 2024, organizations that fall within the CPA's application thresholds<sup>2</sup> must allow Consumers to opt-out of the Sale of their Personal Data or use of their Personal Data for Targeted Advertising using a Universal Opt-Out Mechanism ("UOOM") that meets the technical specifications set forth by the Attorney General in the CPA Rules. C.R.S. § 6-1-1306.

To ensure that Consumers and Controllers know which UOOMs will be enforced in Colorado, CPA Rule 5.07 explains that the Attorney General will "maintain a public list of Universal Opt-Out Mechanisms that have been recognized to meet the standards of this subsection," and that the list "shall be released no later than January 1, 2024, and shall be updated periodically." 4 CCR 904-3, Rule 5.07.

To compile the Colorado Attorney General's UOOM list (the "List"), the Department of Law ("The Department") will solicit applications and comment from the public. The information contained herein is intended to guide individuals or entities applying to have a specific UOOM included in the List.

I. Instructions

If you wish to apply to have a UOOM included in the List, please read all information contained herein and respond thoroughly to each question in this application packet. When you have completed your application, please save it as a .pdf file and submit it using the portal available at [coag.gov/cpa](https://coag.gov/cpa). Please contact our office at [coprivacy@coag.gov](mailto:coprivacy@coag.gov) if you need special accommodations.

Applications will be accepted through the UOOM application portal located at [coag.gov/cpa](https://coag.gov/cpa) until 11:59 PM MST on November 6, 2023. Applications received outside of this specified

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<sup>1</sup> All undefined terms capitalized herein shall be interpreted as defined in the CPA or CPA Rules.

<sup>2</sup> C.R.S. § 6-1-1304

period will not be considered. To ensure that your application is considered, please complete all required fields in the portal form, including the names of each person or entity involved in developing and submitting the UOOM application.

Once your application has been submitted, it will be reviewed by the Colorado Department of Law (the "Department") and may be selected for a narrow list of potential UOOMs (the "Shortlist"). The Department will publish the Shortlist of UOOMs and their accompanying applications on or around November 20, 2023. Members of the public will be invited to review the UOOMs included in the Shortlist and provide comments. If your UOOM is included in the Shortlist, the entire application will be made available to the public for public comment. Please do not include personal, trade secret, confidential, or proprietary information in your application.

## II. Criteria

To be considered for the List, a UOOM must meet all requirements described in the CPA and CPA Rules. The Department strongly urges organizations and entities to work collaboratively in groups to propose UOOMs and to obtain broad pre-submission input from diverse sets of stakeholders. The Attorney General will prioritize and give paramount consideration to applications that have been submitted by groups that represent a broad cross-section of affected stakeholders. The specific factors that will be considered are:

- Compliance with the requirements of the CPA and the CPA rules
  - UOOMs included in the list must comply with:
    - Notice and choice requirements contained in 4 CCR 904-3, Rule 5.03.
    - Default setting limitations contained in 4 CCR 904-3, Rule 5.04.
    - Personal data use limitations discussed in 4 CCR 904-3, Rule 5.05.
    - The required technical specifications described in 4 CCR 904-3, Rule 5.06.
    - The standards set forth in 4 CCR 904-3, Rule 5.07 (C).
    - The standards set forth in CRS § 6-1-1313(2).
  - The Department will also consider the factors set forth in 4 CCR 904-3, Rule 5.07(D).
- The process used and breadth of participation in developing the UOOM submission
  - The breadth of participation in developing the proposed UOOM (e.g. participation by stakeholders such as users, developers, publishers, and advertisers).
  - The extent of solicited and considered third-party comments from other stakeholders, including from the general public.
- Criteria relating to the technical and business implementation:
  - Interoperability and compatibility of the UOOM with the laws of other jurisdictions.
  - Ability of the UOOM to adapt to changing technology.
  - Scope of the UOOM.
  - Results of previous tests or reviews concerning the UOOM.
- Other Relevant criteria

### III. Application Questions

Please answer each question in this section thoroughly in a separate document, attaching additional information as needed. Once you have completed the answers to each question, please save your entire document as a .pdf file and submit the file through the application portal located at [coag.gov/cpa](http://coag.gov/cpa).

1. What is the name of the proposed UOOM?
2. What are the names of the individual(s) or organization(s) submitting this application?
3. Please provide a general overview of the UOOM, in plain English.
4. Please provide the specification for the UOOM.
5. What steps would a Consumer have to take to use the UOOM? Please include whether the UOOM will be a default setting for a tool that comes pre-installed with a device.
6. What steps would a Controller have to take to detect the UOOM?
7. When your UOOM is used by a Consumer, how can a Controller determine that the consumer using the UOOM is a Resident of the State of Colorado and that the use represents a legitimate request to opt out of the Processing of Personal Data?
8. What are the costs of use, implementation, and detection of the UOOM by Consumers and Controllers?
9. Is the UOOM based on an open system or standard that is free for adoption without permission or on fair, reasonable, and non-discriminatory terms?
10. How will personal data collected in connection with the Consumer's utilization of the UOOM be used, disclosed, or retained? Please include whether the UOOM will be used as part of a digital fingerprint.
11. Has the UOOM been adopted by Consumers or Controllers?
12. Has the UOOM been approved or is being actively considered by a widely recognized, legitimate standards body after multistakeholder participation in the standards-making process? If so, which?
13. Which individuals and organizations have been involved in developing the UOOM?
14. How did you solicit and consider stakeholder input while developing the UOOM and/or this application?
15. Which stakeholders provided input on the UOOM?
16. Is the UOOM likely to comply with the requirements of other jurisdictions that recognize universal opt-out mechanisms or signals by law?
17. Has the UOOM already been recognized by any jurisdiction?
18. Is the UOOM flexible, especially in light of changing user preferences, business model changes, and shifts in the laws of other regulations?
19. What is the scope of the UOOM?
  - a. Does the UOOM function with phones, computers, and/or any other devices? Does the UOOM provide just one opt out right as opposed to both?
20. Has the UOOM been vetted by expert reviewers? Has it been tested in laboratory or real-world environments?
  - a. If yes, please share the results of any tests or reviews.
21. Are there any additional factors that you would like the Attorney General to consider in reviewing your UOOM application?

