

# The Freedom Of Information Act

5 U.S.C. § 552  
As Amended

§ 552. Public information; agency rules, operating procedures

(a) Each agency shall make available to the public the following:

(1) Each agency shall separately state in the Federal Register for the guidance of the public:

(A) descriptions of its central and field offices, the established places at which the employees of the agency are stationed, and the uniformed service, the members of which the public may obtain information, make

(B) statements of the general course of its major functions are channeled and determined, of all formal and informal procedures at which forms may be obtained, and contents of all papers, reports, or communications;

(C) rules of procedure, descriptions of all forms to be used, and contents of all papers, reports, or communications;

(D) substantive rules of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has a right to a particular record, a person may not in any manner

# The Privacy Act Of 1974

5 U.S.C. § 552a  
As Amended

§ 552a. Records maintained on individuals

(a) Definitions

For purposes of this section—

(1) the term "agency" means agency as defined in section 552(f) of this title;

(2) the term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(3) the term "maintain" includes maintain, collect, use or disseminate, or cause to be maintained by an agency, including but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or his identifying number, symbol, or other identifying particular assigned to the individual;

(4) the term "record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or his identifying number, symbol, or other identifying particular assigned to the individual;

(5) the term "system of records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(6) the term "statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or part in making any determination about an identifiable individual except as provided by section 5 or rule 17;

# FOR THE RECORD

EMPLOYEE GUIDE TO  
THE FREEDOM OF INFORMATION ACT  
AND  
THE PRIVACY ACT

# COMPARING THE ACTS

FEATURES	FREEDOM OF INFORMATION ACT	PRIVACY ACT
Purpose	To keep the public informed about what our government is doing	To balance the government's need to know and the individual's right to privacy
Nature of Statute	A law that requires an agency to disclose upon written request any record that is not covered by an exemption	A law that gives individuals a right of access to their own records and imposes fair record-keeping requirements on federal agencies
Coverage	All agency records	All agency records covered by a Privacy Act system of records (a group of records kept about individuals and retrieved by a personal identifier)  <i>See Administrative Support Manual (ASM) Appendix</i>
Cite for Laws	5 U.S.C. 552	5 U.S.C. 552a
Cite for Postal Service Regulations	Part 265 of Title 39, <i>Code of Federal Regulations</i>  ASM 352	Part 266 of Title 39, <i>Code of Federal Regulations</i>  ASM 353 and Appendix
<b>Post Offices:</b> Use the <i>Administrative Support Manual (ASM)</i> .		

# YOUR RIGHTS AND RESPONSIBILITIES

## THE FREEDOM OF INFORMATION ACT

### Responding to an FOIA Request

A records custodian (a head of a facility, a postmaster) must send all requested records or parts of records not subject to an exemption. He or she must:

- Follow the instructions in the *Administrative Support Manual* (ASM) 352.
- Respond within 20 working days of receipt of the request. If unable to respond within that time, write a letter citing one of the reasons in ASM 352.525. If still unable to respond within the additional 10 working days provided at ASM 352.525, give the requester an opportunity to narrow the request and/or arrange a time frame for processing (ASM 352.527).
- Give a complete written response whether denying the request or sending the requested information.
  - a. Locate *all* records that are responsive to the request, including those in storage. If the post office receiving the request does not have the records, send the request immediately to the office that does.
  - b. If no exemption applies, withhold no record nor part of a record. The FOIA requires that parts of records be released if they are not exempt. If unsure about an exemption, contact field counsel or the office of Administration and FOIA.
  - c. Provide the records in the format requested, if they can be readily reproduced in that format.
  - d. Complete PS Form 8170, *Freedom of Information Act and Privacy Act Request Report*, and send it to the FOIA office coordinator (ASM 352.8).

**Note:** *If the Inspection Service originated the responsive records, then the chief postal inspector must authorize disclosure.*

### Denying a Request

When denying a request, write a letter containing:

- A statement of the reason for the denial.
- A citation to the exemptions (ASM 352.42 and 352.431) applied in making the denial.
- An estimate of the number of pages or records withheld, if providing such estimate would not harm an interest protected by an exemption.
- A statement of the requester's right to appeal the denial.
- A reproduced copy of ASM 352.55, giving the appeal procedures.

### Alerting Other Postal Service Personnel

Upon written request, anyone is entitled to see records that are not exempt, no matter who requests the information or how he or she will use the records. In responding to a request, be sure to:

- Contact media relations if the news media requests information.
- Contact field counsel if an attorney representing a party in actual or prospective litigation with the Postal Service requests information.

### Calculating Fees

Calculate fees according to ASM 352.7. Whether fees may be assessed for search, review, and duplication depends on the category of the requester and the number of pages involved. Advance notice and advance payment of costs depend on the amount of estimated costs.

# YOUR RIGHTS AND RESPONSIBILITIES

## THE PRIVACY ACT

### Knowing Your Rights

An individual has a right to see records the Postal Service keeps about him or her upon request (with a few exceptions in ASM 353.324).

If an individual can show that the records are inaccurate, irrelevant, untimely, or incomplete, he or she has a right to request that the records be amended.

### Responding to a Privacy Act Request

To respond to a Privacy Act request, a records custodian must:

- Follow the instructions in ASM 353.
- Disclose records within a system of records to a requesting records subject, except in the situations in ASM 353.324.
- Avoid disclosing information that is protected by the Privacy Act to an external third party, including a spouse, unless one of the following statements is true:
  - a. The records subject has given written consent.
  - b. Routine use authority exists (see ASM Appendix).
  - c. A situation in ASM 353.325 is met.
- Charge only for duplication costs in excess of 100 pages when giving copies to a records subject.

### Other Privacy Act Requirements

Under the Privacy Act an employee must:

- Avoid disclosing information that is protected by the Privacy Act to an internal third party (another postal employee) unless the person has an official need to know.
- Safeguard records in a way that prevents unauthorized access:
  - a. Keep records that are protected by the Privacy Act in a restricted area.
  - b. Protect computer information about individuals by using password access and by not leaving information on screens.
  - c. Keep paper records in locked containers.
  - d. Dispose of paper records by shredding or burning them and computer records by erasing or degaussing them.
  - e. Do not discuss protected information in public areas or with another employee who does not have a need to know.
- If originating a form that collects information about an individual and the form is to be completed or signed by that individual, then contact the office of Administration and FOIA. The form may need a Privacy Act statement.
- When collecting records that are personally identifiable, ensure that the records are covered by a system of records *before they are collected*. See the ASM Appendix or call the office of Administration and FOIA.
- Check with field counsel before responding to a subpoena or court order requiring disclosure of records covered by the Privacy Act.

## **NEED HELP?**

Consult the *Administrative Support Manual (ASM)* first.

## **QUESTIONS ABOUT GENERAL PROCEDURE?**

Call your FOIA office coordinator located in the finance office of your area or district.

## **QUESTIONS ABOUT RELEASING A DOCUMENT?**

Call field counsel or the office of Administration and FOIA (202) 268-2608.



Recycled  
Paper

Publication 550, May 1999

PSN 7610-03-000-5910