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Privacy Act in a Nutshell

PURPOSE

The purpose of the Privacy Act is to balance the Government's need to maintain information about individuals with the rights of individuals to be protected against unwarranted invasions of privacy. [return to top of page](#)

OBJECTIVES

Objectives of the Privacy Act --

- It limits the disclosure of personal information.
- It gives individuals access to their records.
- It allows individuals to correct their records.
- It limits the collection and use of personal information.

REQUIREMENTS

Following are the general requirements of the Privacy Act and suggestions about how to fulfill the requirements:

Do not disclose records in a system of records unless the subject of the record agrees or disclosure is specifically permitted by the Privacy Act.

Have written authorization from the subject of the record. NOTE: This doesn't apply to "access" to records by an individual for his or her own record. This provision applies only to "disclosure" requests by persons other than the individual about whom the record relates. If no written authorization, see whether any of the 12 conditions of disclosure applies.

Maintain only personal information that is relevant and necessary to accomplish a legal purpose of the agency.

We should not keep anything in an individual's file unless a law or an executive order allows it. At Public Debt, an individual has the right to any information in a file retrieved by his/her name or other identifier. Follow records disposition schedules.

Collect personal information to the greatest extent practicable directly from the subject.

Do not ask a third party for information that is readily available from the individual.

Inform each individual asked to supply personal information of the authority for the request, the principal purpose the information will be used for, routine ways the information may be disclosed, consequences of failing to provide the requested information, and whether disclosure is mandatory or voluntary.

When new forms are being developed, discuss with Privacy Act Officer whether a Privacy Act Statement is needed on the form.

Maintain records with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness when information is disseminated.

Records must be maintained in an accurate, relevant, timely, and complete way so that the individual is not adversely affected.

Concerning "memory joggers," do not keep, circulate, or act on records about an employee or another individual, such as a prospective employee, without the knowledge of that person. However, "memory joggers" addressing an employee's conduct or performance may be maintained, but only under the following conditions:

- The notes are not circulated and no one else has access to them.

- They are not shared with another supervisor, not even with the person reviewing how you have rated the employee's performance. They may not be handed down to another supervisor.
- The notes must be kept under your sole control.
- Memory joggers should not be kept with other official personnel records you maintain.
- Dispose of memory joggers promptly and properly.

Maintain no records describing how an individual exercises First Amendment rights unless expressly authorized by statute or unless records are pertinent to authorized law enforcement activities.

We should not keep any records referring to an individual's religious or political beliefs or anything about freedom of speech, press, assembly and petition unless it is expressly authorized.

Make reasonable efforts to serve notice on an individual when any record on that individual is made available under a compulsory legal process when such process becomes a matter of public record.

The operating offices do this, with the legal staff's guidance.

Keep a record of the date, nature, and purpose of each disclosure and the name and address of the person or agency to whom disclosure is made.

The copy of the document disclosing the requested information should be filed in the individual's case file or employee's personnel file.

Establish rules for the maintenance of any system of records, and publish notice in the Federal Register of new or revised systems, including how an individual may access records and request amendment. Contact the Privacy Act Officer if --

You are considering keeping records that will be retrieved by an individual's name or other identifier, other than those systems we have already established.

- You've already published a system of records, but the number of individuals on whom you're keeping records increases significantly.
- You are making a change that expands the types or categories of information maintained.
- You are making a change that alters the purpose for which the information is used.
- You are making a change that creates substantially greater access to records in the system of records.
- You are considering adding a routine use to a system of records.

Assure that contractors operating a system of records comply with the Privacy Act.

This is handled by the Procurement Office or the Franchising Office.

Establish appropriate administrative, technical, and physical safeguards to ensure security and confidentiality of records. Keep information in locked cabinets or locked rooms during nonworking hours.

- Make sure information about a person is not in view of others who might enter your working area.
- Position your computer monitor so that others who should not see information cannot.
- Do not discuss information you have access to unless it is with a Public Debt employee who has an official need to know it.
- Maintain the confidentiality of information even if you leave Public Debt or even if the subject of the information leaves Public Debt.
- Keep electronic records in a password-controlled computer.
- Dispose of records properly and timely.
- Treat copies with the same care as originals.
- Use information received in an official need-to-know capacity for that purpose only.
- Do not leave papers at photocopiers, wastepaper baskets, etc.

Do not sell or rent mailing lists unless specifically authorized by law.

Refer any such requests to the Privacy Act Officer.

If engaging in matching programs, follow rules set out in the Privacy Act.

If any Federal or State agency requests our participation in a computer match, check with the Privacy Act Officer.

When Privacy Act Information Can Be Disclosed

The only way information covered by the Privacy Act can be disclosed is if it falls under Section 552a(b) of Title 5 of the U.S. Code. Here's what it says:

No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains unless disclosure of the record would be

To those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

EXPLANATION: This allows disclosure to another Public Debt employee who needs to see a record to perform official duties.

Required under section 552 of this title;

EXPLANATION: This is the Freedom of Information Act.

For a routine use;

EXPLANATION: Routine uses are found in the applicable Privacy Act system of record published in the Federal Register.

To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13;

EXPLANATION: Public Debt would not likely receive this type of request. If you do, contact the Privacy Act Officer.

To a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

EXPLANATION: If such a request is received, contact the Privacy Act Officer.

To the National Archive and Records Administration as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or the designee of the Archivist to determine whether the record has such value;

EXPLANATION: This would be an agency-initiated disclosure. Coordinate such disclosures with the Records Management Officer and Privacy Act Officer.

To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

EXPLANATION: Check with the Legal Staff on requests of this type.

To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

EXPLANATION: Check with the Legal Staff or Privacy Act Officer if you get a request like this.

To either House of Congress, or, to the extent of matters within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

EXPLANATION: This allows disclosures to Congress as a body, or to a committee or subcommittee. Note that this is not the provision allowing disclosure to an individual Member of Congress at the request of the subject of the record. Those are routine use disclosures.

To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office;

EXPLANATION: Coordinate requests of this type with your Assistant Commissioner.

Pursuant to the order of a court of competent jurisdiction;

EXPLANATION: Refer requests of this type to the Legal Staff.

To a consumer reporting agency in accordance with section 3711(f) of title 31;

EXPLANATION: This section allows an agency to initiate a disclosure. This is handled by employees working in debt collection.

PENALTIES

Following are penalties that can be imposed for not complying with the Privacy Act --

Any employee of Public Debt can be guilty of a misdemeanor and fined up to \$5,000 for willfully doing the following:

- Disclosing information to any person or agency not entitled to receive it when it is known that the Privacy Act or regulations and rules issued under the Privacy Act prohibit the disclosure.
- Maintaining a system of records when notice has not been published in the Federal Register.

Any person who knowingly and willfully requests or obtains any record concerning an individual under false pretenses can be guilty of a misdemeanor and fined up to \$5,000.

The Privacy Act provides civil remedies when failure, willfully and intentionally, to comply with its provisions causes an adverse effect on an individual. The United States can be liable to the individual for damages and attorney's fees and costs.

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