



**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**[FRS 17207]**

**Privacy Act of 1974; System of Records.**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of a modified system of records.

**SUMMARY:** The Federal Communications Commission (FCC, Commission, or Agency) has modified an existing system of records, FCC/OMD-3, Federal Advisory Committee Act (FACA) Membership Files, subject to the Privacy Act of 1974, as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records maintained by the Agency. The FCC uses this information to manage its Federal Advisory Committees (“advisory committees” or “committees”), which provide expertise and advice on a broad range of issues affecting policies and programs.

**DATES:** This action will become effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Written comments on the system’s routine uses are due by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The routine uses in this action will become effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, unless written comments are received that require a contrary determination.

**ADDRESSES:** Send comments to Privacy Team, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554, or [Privacy@fcc.gov](mailto:Privacy@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:**

Ms. Margaret Drake, Privacy Team, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554, 202-418-1707, or [Privacy@fcc.gov](mailto:Privacy@fcc.gov) (and to obtain a copy of the Narrative Statement and the Supplementary Documentation, which includes details of the modifications to this system of records).

**SUPPLEMENTARY INFORMATION:** FCC/OMD-3 helps the FCC manage Federal Advisory Committees, which provide expertise and advice on a broad range of issues affecting policies and programs. This notice serves to modify FCC/OMD-3 as a result of various necessary changes and updates, which include format changes required by OMB Circular A-108 since its previous publication. The substantive changes and modification to the previously published version of FCC/OMD-3 system of records include:

1. Updating the Security Classification to be consistent with FCC policies and Executive Order 13556.
2. Updating/revising the language in the Categories of Individuals to include applicants/nominees for membership to FCC Federal Advisory Committees.
3. Updating/revising the Categories of Records to include information collected from applicants/nominees for membership to FCC Federal Advisory Committees.
4. Updating/revising the Records Source Categories to include applicants/nominees for membership to FCC Federal Advisory Committees.
5. Updating and/or revising language in seven Routine Uses: (1) Committee Communication and Reporting; (2) Public Access; (3) Adjudication and Litigation, (4) Law Enforcement and Investigation, (5) Congressional Inquiries, (6) Government-wide Program Management and Oversight, and (7) Breach Notification.
6. Adding two new Routine Uses: (8) Assistance to Federal Agencies and Entities, to allow the FCC to provide assistance to other Federal agencies in their data breach situations, as required by OMB Memorandum M-17-12; and (9) Contract Services, Grants, or Cooperative Agreements, to allow contractors performing or working on a contract for the Federal Government access to information in this system.
7. Adding two new sections: Reporting to a Consumer Reporting Agency, to address valid and overdue debts owed by individuals to the FCC under the Debt Collection Act, as recommended by OMB; and a History section referencing the previous publication of this SORN in the Federal Register, as required by OMB Circular A-108.

8. Updating the Policies and Practices for Retention and Disposal of Records in this system to state that the records in this system are covered by the National Archives and Records Administration's (NARA) General Records Schedule (GRS) DAA-GRS-2015-0001 (GRS 6.2) Federal Advisory Committee Records.

The system of records is also updated to reflect various administrative changes related to the policy and practices for storage and retrieval of the information; administrative, technical, and physical safeguards; and updated notification, records access, and procedures to contest records.

**SYSTEM NAME AND NUMBER:**

**FCC/OMD-3, Federal Advisory Committee Act (FACA) Membership Files.**

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

1. General Files (stored electronically): Associate Managing Director—Performance Evaluation and Records Management (PERM), Office of Managing Director (OMD), Federal Communications Commission (FCC), Washington, DC 20554; (202) 418-7044.
2. Financial Disclosure Files (i.e., OGE Form 450 and FCC Form A54A): Office of General Counsel (OGC), Federal Communications Commission (FCC), Washington, DC 20554; (202) 418-1720.
3. Committee-Specific Files: Information concerning the FCC's current FACA Committees may be found at: <https://fcc.gov/about-fcc/advisory-committees-fcc>.<sup>1</sup>

**SYSTEM MANAGER(S) AND ADDRESS:**

Associate Managing Director, Performance Evaluation and Records Management (PERM), Office of Managing Director (OMD), Federal Communications Commission (FCC), Washington, DC 20554.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix 2; 5 U.S.C. App. ("Ethics in Government

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<sup>1</sup> The list of FACAs covered by the system of records is subject to change, as reflected on the Commission's website.

Act”); and Executive Order (E.O.) 12674 (as modified by E.O. 12731).

**PURPOSE(S) OF THE SYSTEM:**

This system includes the personally identifiable information (PII) of applicants/nominees and members of the FCC’s Federal Advisory Committee ACT (FACA) committees, including but not limited to, their contact data. The information in this system includes, but is not limited to, information that is used to:

1. Communicate effectively and promptly with the FCC’s FACA committee applicants, members, individual participants, and administrative assistants;
2. Complete mandatory reports to Congress and the General Services Administration (GSA) about FACA advisory committee matters; and
3. Ensure compliance with all ethical and conflict-of-interest requirements concerning the applicants/nominees and members of the FCC’s FACA advisory committees, including the requirements in OGE Form 450.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

The categories of individuals in this system include, but are not limited to:

1. Applicants/Nominees to FACA committees sponsored or co-sponsored by FCC;
2. Members of FACA committees sponsored or co-sponsored by the FCC;
3. Individual participants in FACA working groups/subcommittees (who are not necessarily appointed members of the advisory committee); and
4. Administrative Assistant(s) or other similar contact(s) within the organization that an advisory committee member represents.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The categories of records in this system include, but are not limited to:

1. FACA Committee Applicants/Nominees and Members:  
Applicant/Nominee/Member’s full name, home address(es), organization represented, home e-mail address(es), home telephone and personal cellphone number(s), fax number(s), resume (e.g., which includes, but is not limited to the full name, home address, home, cell, and other telephone numbers,

home fax number(s), home e-mail address(es), work experience, educational attainment, and references), nominee's qualifications statement, and/or letters of recommendation (e.g., which includes, but is not limited to the reference's name, address, telephone numbers(s), e-mail address(es), and personal evaluation/recommendation of their colleague's job performance, skills, abilities, and related information), Federal lobbyist status (yes/no), area(s) of expertise, and occupation (or title), and tribal, (non-English speaking) linguistic, disability, elderly, and related group affiliation(s), which, are kept with the applicant/nominee/member's respective advisory committee.

2. Individual participants in FACA working groups/subcommittees (who are not necessarily members of the advisory committee):

Participant's full name, home address(es), organization represented, home e-mail address(es), home telephone and personal cellphone number(s), fax number(s), resume (e.g., which includes, but is not limited to the full name, home address, home, cell, and other telephone numbers, home fax number(s), home e-mail address(es), work experience, educational attainment, and references), nominee's qualifications statement, and/or letters of recommendation (e.g., which includes, but is not limited to the reference's name, address, telephone numbers(s), e-mail address(es), and personal evaluation/recommendation of their colleague's job performance, skills, abilities, and related information), Federal lobbyist status (yes/no), area(s) of expertise, and occupation (or title), and tribal, (non-English speaking) linguistic, disability, elderly, and related group affiliation(s), which, are kept with the participant's respective advisory committee.

3. Committee Members' assistants or organizational contacts:

Assistant/organizational contact's full name, home address(es), organization represented, home e-mail address(es), home telephone and personal cellphone number(s), fax number(s), resume (e.g., which includes, but is not limited to the full name, home address, home, cell, and other telephone numbers, home fax number(s), home e-mail address(es), and related information), Federal lobbyist status (yes/no), area(s) of expertise, and occupation (or title), and tribal, (non-English speaking)

linguistic, disability, elderly, and related group affiliation(s), which are kept with the respective advisory committee.

4. Originals or copies of the financial disclosure form, OGE Form 450,<sup>2</sup> and associated vetting documentation, which the FACA committee applicants/nominees and members may be required to file in accordance with the requirements of the Ethics in Government Act of 1978 and the Ethics Reform Act of 1989, as amended, and E.O. 12674, as modified.

**RECORD SOURCE CATEGORIES:**

The sources for the information in this system include, but are not limited to, the information that is supplied by individuals applying for membership to the FCC's FACA committees, members of the FCC's FACA committees, individual participants in the FCC's FACA committee working groups/subcommittees, and advisory committee members' administrative assistants or organizational contacts.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside the FCC as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows. In each of these cases, the FCC will determine whether disclosure of the records is compatible with the purpose(s) for which the records were collected:

1. Committee Communication and Reporting – Records in this system may be disclosed to the Chair (or Vice Chair) of the advisory committee for purposes of determining membership on appropriate subcommittees or assignment of tasks to achieve the committee's goals, and/or used to distribute information to the FACA committee members, their assistants, and other participants for the purposes

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<sup>2</sup> The PII contained in OGC Form 450 is covered by the Office of Government Ethics' government-wide system of records, OGE/GOVT-2, Executive Branch Confidential Financial Disclosure Report. See 84 FR 47301.

of conducting meetings, general committee business, and/or preparing reports on the membership and work of the committee.

2. Public Access – The public can access information about the FCC’s Federal Advisory Committee Act (FACA) committees at: <https://www.fcc.gov/about-fcc/advisory-committees-fcc>, as well as in the searchable database found on the General Services Administration's (GSA) website at <https://www.facadatabase.gov/FACA/FACAPublicPage>.
3. Adjudication and Litigation – To disclose information to the Department of Justice (DOJ), or to other administrative or adjudicative bodies before which the FCC is authorized to appear, when: (a) the FCC or any component thereof; or (b) any employee of the FCC in his or her official capacity; or (c) any employee of the FCC in his or her individual capacity where the DOJ or the FCC have agreed to represent the employee; or (d) the United States is a party to litigation or has an interest in such litigation, and the use of such records by the DOJ or the FCC is deemed by the FCC to be relevant and necessary to the litigation.
4. Law Enforcement and Investigation – To disclose pertinent information to the appropriate Federal, State, local, or tribal agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the FCC becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.
5. Congressional Inquiries – To provide information to a Congressional office from the record of an individual in response to an inquiry from that Congressional office made at the written request of that individual.
6. Government-wide Program Management and Oversight – To provide information to the General Services Administration (GSA) and/or the Government Accountability Office (GAO) for oversight purposes; to the National Archives and Records Administration (NARA) for use in its records management inspections; to the Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or to the Office of

Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.

7. Breach Notification – To appropriate agencies, entities, and persons when: (a) the Commission suspects or has confirmed that there has been a breach of data maintained in the system of records; (b) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.
8. Assistance to Federal Agencies and Entities – To another Federal agency or Federal entity, when the Commission determines that information from this system is reasonably necessary to assist the recipient agency or entity in: (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, program, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.
9. Contract Services, Grants, or Cooperative Agreements – To disclose information to FCC contractors, grantees, or volunteers who have been engaged to assist the FCC in the performance of a contract service, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform their activity.

#### **REPORTING TO CONSUMER REPORTING AGENCIES:**

In addition to the routine uses listed above, the Commission may share information from this system of records with a consumer reporting agency regarding an individual who has not paid a valid and overdue debt owed to the Commission, following the procedures set out in the Debt Collection Act, 31 U.S.C. 3701(e).

#### **POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

The information in this system includes:

1. Paper documents, records, and files (except OGE Form 450 files) that are maintained in file folders in file cabinets in the office suites of the Designated Federal Officers (DFOs) in the Bureaus and Offices (B/Os); these records are generally received electronically, and the DFOs are directed to scan, verify, and electronically file hard copies when received.
2. Electronic data, records, and files that are stored in the FCC's computer network databases; and
3. Original and any copies (paper format) of OGE Form 450 files, documents, and records are maintained in file folders in file cabinets in the OGC office suite.

#### **POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

1. The FACA records (except OGE Form 450 files and associated vetting documents) are grouped primarily by the name of the FACA committee or subcommittee. Under this filing hierarchy, records are then retrieved by an individual's name; and
2. OGE Form 450 files and associated vetting documents are retrieved by the individual's name or other programmatic identifier assigned to the individual on whom they are maintained.

#### **POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

The information in this system is maintained and disposed of in accordance with the National Archives and Records Administration (NARA) General Records Schedule DAA-GRS-2015-0001 (GRS 6.2)

Federal Advisory Committee Records:

- Substantive Committee Records
  - Records documenting the establishment and formation of committees and their significant actions and decisions. Refer to agency administrative procedures to ascertain if these records are held by the CMO, or DFO. Only one copy of each record is considered permanent. These are Permanent records and will be transferred to the National Archives at the time that related permanent records are transferred (DAA-GRS-2015-0001-0001).
- Substantive Audiovisual Records
  - Records include audiotapes, videotapes, and/or other recordings of meetings and hearings not fully transcribed; captioned formal and informal analog or digital photographs, and any related

finding aids, of committee members and staff, meetings, or hearings; and posters (2 copies) produced by or for the committee. These are Permanent records and will be transferred to the National Archives at the time that related permanent records are transferred (DAA-GRS-2015-0001-0002).

- Committee Accountability Records
  - Records that document financial and ethics accountability, such as records documenting financial expenditures associated with the functioning of the committee and financial disclosure and conflict of interest documents. These are Temporary records that do not contain unique information of historical value and are destroyed or deleted when six years old or when no longer required for business purposes (DAA-GRS-2015-0001-0004).
- Non-substantive Committee Records
  - Records related to specific committees that are of an administrative nature or are duplicative of information maintained elsewhere. These are Temporary records to be destroyed when superseded, obsolete, no longer needed, or upon termination of the committee, whichever is sooner. (DAA-GRS-2015-0001-0005).
- Committee Management Records
  - Records created and/or maintained by Committee Management Officers (CMOs) and their staff related to the overall management of committees for an agency. These records may pertain to specific committees or to the committee management function in general. These are Temporary records to be destroyed when 3 years old, 3 years after submission of report, or 3 years after superseded or obsolete, as appropriate. Longer retention is authorized if required for business use. (DAA-GRS-2015-0001-0006).

The FCC disposes of the paper documents by shredding. The electronic records, files, and data are destroyed either by physical destruction of the electronic storage media or by erasure of the data.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

1. FACA paper records documents, records, and files (except OGE Form 450 files) are maintained in file cabinets in the office suites of the DFO's Bureau or Office (B/O). These file cabinets are locked at the end of each business day. Access to each office suite is through a card-coded main door. Access to these files is restricted to the PERM supervisors and staff and to the DFO's authorized supervisors and staff in each Bureau or Office;
2. Paper copies of OGE Form 450 files, documents, and records are maintained in file cabinets in the OGC office suite. These file cabinets are locked at the end of each business day. Access to the OGC office suite is through a card-coded main door. Access to these files is restricted to OGC supervisors and staff; and
3. Access to non-public FACA electronic records, files, and data, which are housed in the FCC's computer network databases, is restricted to authorized PERM supervisors and staff; to the supervisors and staff in each DFO's Bureau/Office; to the OGC supervisors and staff for OGE Form 450 files and associated vetting documentation; and to the Information Technology (IT) staff and contractors, who maintain the FCC's computer network. Other FCC employees and contractors may be granted access only on a "need-to-know" basis. The records in the FCC's computer network are protected by the FCC's security protocols, which include controlled access, passwords, and other IT safety and security features.

**RECORDS ACCESS PROCEDURES:**

Individuals wishing to request access to and/or amendment of records about themselves should follow the Notification Procedure below.

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to request an amendment of records about themselves should follow the Notification Procedure below.

**NOTIFICATION PROCEDURE:**

Individuals wishing to determine whether this system of records contains information about themselves

may do so by writing to Privacy Team, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554, or *Privacy@fcc.gov*.

Individuals requesting access must also comply with the FCC's Privacy Act regulations regarding verification of identity to gain access to the records (47 CFR Part 0, Subpart E).

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

**HISTORY:**

The FCC last gave full notice of this system of records, FCC/OMD-3, Federal Advisory Committee Act (FACA) Membership Files, by publication in the **Federal Register** on October 13, 2013 (78 FR 63196).

Federal Communications Commission.

**Cecilia Sigmund,**

*Federal Register Liaison Officer.*

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