



FEDERAL COMMUNICATIONS COMMISSION

[FR ID: 181592]

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 or Commission or Agency) has modified an existing system of records, FCC/OMD-17, Freedom of Information Act (FOIA) and Privacy Act Requests, 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's Office of the Managing Director (OMD) will use the FCC FOIA Case Management Solution, an online portal, to accept, manage, and track Freedom of Information Act (FOIA) requests and appeals, and manage and track Privacy Act requests and appeals through their lifecycles. The FCC FOIA Case Management Solution permits members of the public to file and appeal FOIA requests and to search various fields of data (as designated by the FCC) concerning requests, appeals, and responsive records. The FCC FOIA Case Management Solution is not usable by members of the public to file and appeal Privacy Act requests, but the FCC uses it to manage and track such requests and appeals that the agency receives through other channels. The FCC began transitioning from FOIAonline, its prior FOIA and Privacy Act case management system, to the FCC FOIA Case Management Solution in October 2023.

DATES: This modified system of records will become effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Written comments on the 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

comments are received that require a contrary determination.

ADDRESSES: Send comments to Brendan McTaggart, Attorney-Advisor, Office of General Counsel, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554, or to privacy@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Brendan McTaggart, (202) 418-1738, or privacy@fcc.gov (and to obtain a copy of the Narrative Statement and the Supplementary Document, which includes details of the modifications to this system of records).

SUPPLEMENTARY INFORMATION: This notice serves to update and modify FCC/OMD-17, Freedom of Information Act (FOIA) and Privacy Act Requests, as a result of various necessary changes and updates. The substantive changes and modifications to the previously published version of the FCC/OMD-17 system of records include:

1. Updating references throughout to reflect the FCC's transition from the FOIAonline case management system to the FCC FOIA Case Management Solution;
2. Updating and/or revising language in the following routine uses (listed by routine use number provided in this notice): (1) Public Access; (3) Litigation and (4) Adjudication (formerly a single routine use); (5) Law Enforcement and Investigation; (6) Congressional Inquiries; (7) Government-wide Program Management and Oversight; (9) Breach Notification, the revision of which is as required by OMB Memorandum No. M-17-12; and (11) Non-Federal Personnel; and
3. Adding one new routine use: (10) Assistance to Federal Agencies and Entities Related to Breaches, the addition of which is required by OMB Memorandum No. M-17-12.

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

SYSTEM NAME AND NUMBER: FCC/OMD-17, Freedom of Information Act (FOIA) and Privacy Act Requests.

SECURITY CLASSIFICATION: No information in the system is classified.

SYSTEM LOCATION: Office of the Managing Director (OMD), Federal Communications Commission (FCC), 45 L Street, NE, Washington, DC 20554.

SYSTEM MANAGER(S): Office of the Managing Director (OMD), Federal Communications Commission (FCC), 45 L Street, NE, Washington, DC 20554.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 5 U.S.C. 552 and 5 U.S.C. 552a.

PURPOSE(S) OF THE SYSTEM: The Commission's Performance & Program Management (PPM) staff of the Office of Managing Director will collect and maintain the information in this system primarily through the FCC FOIA Case Management Solution, an online portal for filing, managing, and tracking FOIA requests and appeals and managing and tracking Privacy Act requests and appeals. Maintaining these records permits the Commission to effectively, efficiently, and appropriately process and respond to such requests and appeals. These records are also necessary for defending Commission action in litigation challenging FOIA and Privacy Act responses by the agency; for compiling mandatory reports and responses to inquiries from Congress, the Department of Justice (DOJ), the Office of Government Information Services (OGIS) of the National Archives and Records Administration (NARA), the Office of Management and Budget (OMB), the General Services Administration (GSA), and the Government Accountability Office (GAO). The records are also used to respond to congressional inquiries from both Congressional committees and from individual members of Congress inquiring on behalf of a constituent.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: The categories of individuals covered by this system include, but are not limited to individuals who submit FOIA and Privacy Act requests, or administrative appeals; FCC staff who respond to FOIA and Privacy Act requests and appeals; and individuals who are the subject of FOIA and Privacy Act requests

and appeals or whose personally identifiable information is contained in records covered by this system.

CATEGORIES OF RECORDS IN THE SYSTEM: The categories of records in this system include identifying information provided by FOIA and Privacy Act requesters when making FOIA or Privacy Act requests or appeals, including requesters' names, home addresses, email addresses, and telephone numbers, as well as other identifying information that may be provided by requesters in the description of their FOIA or Privacy Act requests or appeals; and the names of certain FCC staff responding to FOIA and Privacy Act requests and appeals. This system does not include any records of internal communications between FCC staff, nor any communications between the FCC and other federal agencies, nor does it contain draft correspondence to requesters or folders of documents that are responsive or potentially responsive to FOIA and Privacy Act requests.

RECORD SOURCE CATEGORIES: The sources for information in this system are FOIA and Privacy requesters; attorneys or other representatives of the requesters and the subjects of the requests; and FCC staff responding to FOIA and Privacy Act requests.

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. Public Access—The FCC provides public access to FOIA requests and appeals through the FCC FOIA Case Management Solution, limited to the names of FOIA requesters, dates related to the processing of the request, and a description of the records sought by the requester (excluding

any other personally identifiable information contained in the description of the records request, such as telephone numbers, home or email addresses, and Social Security Numbers). The information that will routinely be made public also may be used to create a publicly available log of requests.

2. Determinations on Access—To assist the FCC in making an access determination, a record from the system may be shared with (a) the person or entity that originally submitted the record to the agency or is the subject of the record or information; or (b) another Federal entity.

3. Litigation—To disclose records to DOJ when: (a) the FCC or any component thereof; (b) any employee of the FCC in his or her official capacity; (c) any employee of the FCC in his or her individual capacity where the DOJ or the FCC has agreed to represent the employee; or (d) the United States Government is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and the use of such records by the DOJ is for a purpose that is compatible with the purpose for which the FCC collected the records.

4. Adjudication—To disclose records in a proceeding before a court or adjudicative body, 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; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and that the use of such records is for a purpose that is compatible with the purpose for which the agency collected the records.

5. Law Enforcement and Investigation—When the FCC becomes aware of an indication of a violation or potential violation of a civil or criminal statute, law, regulation, order, or other requirement, to disclose pertinent information to appropriate Federal, State, local, Tribal, international, or multinational agencies, or a component of such an agency, responsible for

investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, order, or other requirement.

6. 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.

7. Government-wide Program Management and Oversight—To provide information to DOJ to obtain that department's advice regarding disclosure obligations under the FOIA; or to OMB to obtain that office's advice regarding obligations under the Privacy Act.

8. National Archives and Records Administration—To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures, and compliance with the FOIA, and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

9. Breach Notification—To appropriate agencies, entities, and persons when: (a) The Commission suspects or has confirmed that there has been a breach of 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.

10. Assistance to Federal Agencies and Entities Related to Breaches—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.

11. For Non-Federal Personnel—To disclose information to non-Federal personnel, including contractors, other vendors (*e.g.*, identity verification services), grantees, and 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.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: Information in this system includes both paper and electronic records. The paper records, documents, and files are maintained in file cabinets that are located in the OMD FOIA Public Liaison’s office suite, the OMD central file room, the Office of General Counsel, and in the bureaus and offices of the FCC staff who provide the responses to FOIA/Privacy Act requests. Paper files are kept locked and access to the file room is restricted. FOIA and Privacy Act requests that are received via postal mail are scanned and are stored as electronic records by the OMD FOIA office. The electronic records, files, and data are stored in the FCC FOIA Case Management Solution and in the FCC’s or a vendor’s computer network.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Records in this system of records are most often retrieved by the control number for the request, but may be retrieved by an individual’s name, organization, or request description.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS: Records are retained and disposed of in accordance with the National Archives and Records Administration’s General Records Schedule 4.2, Items 020, 040, 050, 070, and 090.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: The electronic records, files, and data are stored within FCC or a vendor’s accreditation boundaries and maintained in a database housed in the FCC’s or vendor’s computer network databases. Access to the electronic files is restricted to authorized employees and contractors; and to IT staff,

contractors, and vendors who maintain the IT networks and services. Other employees and contractors may be granted access on a need-to-know basis. The electronic files and records are protected by the FCC and third-party privacy safeguards, a comprehensive and dynamic set of IT safety and security protocols and features that are designed to meet all Federal privacy standards, including those required by the Federal Information Security Modernization Act of 2014 (FISMA), OMB, and the National Institute of Standards and Technology (NIST).

Paper records in this system are maintained in file cabinets in the FOIA Public Liaison's office, in the Office of General Counsel, and in the bureaus and offices of the FCC staff who provide the responses to FOIA/Privacy Act requests. The file cabinets are locked at the end of the business day and access is restricted to authorized supervisors and staff who are responsible for responding to the FOIA or Privacy Act requests or appeals.

RECORD ACCESS PROCEDURES: Individuals wishing to request access to and/or amendment of records about themselves should follow the Notification Procedures below

CONTESTING RECORD PROCEDURES: Individuals wishing to contest information pertaining to him or her in the system of records should follow the Notification Procedures below.

NOTIFICATION PROCEDURES: Individuals wishing to determine whether this system of records contains information about themselves may do so by writing to privacy@fcc.gov.

Individuals requesting record access or amendment must also comply with the FCC's Privacy Act regulations regarding verification of identity as required under 47 CFR part 0, subpart E.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: None.

HISTORY: 81 FR 58930 (August 26, 2016).

Federal Communications Commission.

Marlene Dortch,

Secretary.