



## OFFICE OF MANAGEMENT AND BUDGET

### Privacy Act of 1974; System of Records

**AGENCY:** Office of Management and Budget.

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

**SUMMARY:** Pursuant to the Privacy Act of 1974 and Office of Management and Budget Circular No. A-108, Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act, notice is hereby given that the Office of Management and Budget (OMB) is establishing the following new system of records: “OMB Freedom of Information Act and Privacy Act Requests System of Records, OMB/FOIAPA/01.” This system covers all information pertaining to Freedom of Information (FOIA) or Privacy Act requests and information relating to other agencies’ FOIA or Privacy Act requests received through the National FOIA Portal ([www.foia.gov](http://www.foia.gov)), email, hardcopy communications, and other authorized means, including OMB’s FOIA and Privacy Act tracking, management, reporting, and e-Discovery software and tools. This system also covers information pertaining to any administrative appeals or litigation relating to FOIA or Privacy Act requests to OMB or to another agency.

**DATES:** In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records notice (SORN) is effective upon its publication in today’s Federal Register, with the exception of the routine uses, which are subject to a 30-day comment period, and will be effective [**INSERT 30 DAYS AFTER DATE OF FR PUBLICATION**]. Please submit any comments on or before [**INSERT DATE 30 DAYS AFTER DATE OF FR PUBLICATION**].

**ADDRESSES:** You may submit comments by:

*Email:* [SORN@omb.eop.gov](mailto:SORN@omb.eop.gov).

**Instructions:** All submissions must contain the subject heading “OMB FOIA/PA Requests System.”

**Privacy Act Statement:** Submission of comments is voluntary. The information will be used to inform sound decision making. Please note that all comments received in response to this notice may be posted or released in their entirety, including any personal and business confidential information provided. Do not include any information you would not like to be made publicly available. Additionally, the OMB System of Records Notice, OMB Public Input System of Records, OMB/INPUT/01 includes a list of routine uses associated with the collection of this information.

**FOR FURTHER INFORMATION CONTACT:** For general questions and privacy issues, please contact Shraddha A. Upadhyaya by email at *SORN@omb.eop.gov* or by phone at (202) 395-9225. You must include “OMB FOIA/PA Requests System” in the subject line.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

In accordance with the Privacy Act of 1974, 5 U.S.C. 552, and the Office of Management and Budget (OMB), Circular No. A-108, OMB proposes to create a new system of records for OMB titled, “OMB Freedom of Information Act and Privacy Act Requests System of Records, OMB/FOIAPA/01” (OMB FOIA/PA Requests System).”

The OMB FOIA/PA Requests System covers all information related to Freedom of Information Act (FOIA) or Privacy Act requests and information relating to other agencies’ FOIA or Privacy Act requests received through the National FOIA Portal ([www.foia.gov](http://www.foia.gov)), email, hardcopy communications, and other authorized means. This system also covers information pertaining to any administrative appeals or litigation relating to FOIA or Privacy Act requests to OMB or to another agency.

## **II. Privacy Act**

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. Additionally, the Judicial Redress Act of 2015 (JRA), 5 U.S.C. 552a note, provides citizens of designated foreign countries with certain rights of redress for intentional or willful disclosures of covered records, as defined by the JRA, except as otherwise permitted by the Privacy Act.

Under the Privacy Act, 5 U.S.C. 552a, OMB receives requests from individuals for access to their own records or information pertaining to them, as well as requests from individuals to amend records pertaining to them, requests from individuals for notification if a record pertains to them, or requests from individuals for an accounting of disclosures of records pertaining to them. OMB's Privacy Act Procedures can be found at 5 CFR 1302.

## **III. Freedom of Information Act**

The FOIA provides a right of access to certain records and information Federal agencies maintain and control. Any agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person. The FOIA does not apply to information that satisfies one of nine exemptions under 5 U.S.C. 552(b), unless disclosure is warranted under the foreseeable harm standard. Additionally, any reasonably segregable portion of a record shall be provided after deletion of the portions which are exempt under 5 U.S.C. 552(b).

Under the FOIA, 5 U.S.C. 552, OMB receives requests for records from “any person” within the meaning of the statute. OMB makes available records in accordance with OMB’s FOIA Procedures which can be found at 5 CFR 1303.

#### **IV. Other Agencies**

OMB also engages in inter-agency consultations of these requests when necessary to comply with OMB’s legal obligations under FOIA and the Privacy Act. Inter-agency consultations include requests for consultation between OMB and other agencies and entities, which include requests for consultation from other agencies to OMB and from OMB to other agencies and entities.

In accordance with 5 U.S.C. 552a(r), OMB has provided a report of this system of records to OMB and to Congress.

Below is the description of the OMB FOIA/PA Requests System.

**SYSTEM NAME AND NUMBER:** OMB Freedom of Information Act and Privacy Act Requests System of Records, OMB/FOIAPA/01

**SECURITY CLASSIFICATION:** The system may contain classified information, but only to the extent the FOIA or Privacy Act request requires review of classified information. Any classified information will be maintained on systems rated to store such information, in accordance with E.O. 12958, 60 FR 19825 (Apr. 20, 1995) and applicable executive order(s) governing classified information, 32 CFR 2001, and 5 CFR 1312.

**SYSTEM LOCATION:** Records are maintained at OMB, 725 17th Street NW, Washington, DC, 20503.

**SYSTEM MANAGER(S):** OMB FOIA Officer, 725 17th Street NW, Washington, DC;  
OMBFOIA@omb.eop.gov.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:** Freedom of Information Act, 5 U.S.C. 552; Privacy Act, 5 U.S.C. 552a; 44 U.S.C. 3101; 5 U.S.C. 301; and E.O. 12598 and applicable executive order(s) governing classified information.

**PURPOSE(S) OF THE SYSTEM:** OMB receives requests pursuant to FOIA and the Privacy Act, including inter-agency consultations. OMB also adjudicates administrative appeals and handles litigation relating to these requests. The purpose of this system of records is:

- To fulfill obligations under the FOIA, and related policy and guidance, and to assist other agencies in doing the same.
- To fulfill obligations under the Privacy Act, and related policy and guidance, and to assist other agencies in doing the same.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:** This system includes all individuals who submit FOIA or Privacy Act requests and administrative appeals to OMB; individuals whose requests for records have been referred to OMB by other agencies or entities; attorneys or other persons representing individuals submitting such requests and appeals; individuals who are the subject of such requests and appeals or whose information may appear in records required for processing requests and appeals; and individuals who file litigation based on their requests.

**CATEGORIES OF RECORDS IN THE SYSTEM:** This system includes records created, compiled, or received in response to FOIA and Privacy Act requests and administrative appeals and includes: The original requests and administrative appeals; responses to such requests and administrative appeals; all related memoranda, correspondence, notes, and other related or supporting documentation; and, in some instances, copies of requested records and records under administrative appeal.

**RECORD SOURCE CATEGORIES:** OMB receives records from members of the public, including representatives of Federal, State, or local governments, non-government organizations, and the private sector, as well as from other federal agencies and entities.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING**

**CATEGORIES OF USERS AND PURPOSES OF SUCH USES:** In addition to those disclosures generally permitted under the Privacy Act, 5 U.S.C. 552a(b), all or a portion of the records or information contained therein may be disclosed outside of OMB as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To a federal, state, local, tribal, or foreign agency or entity for the purpose of consulting with that agency or entity to enable OMB to make a determination as to the propriety of access to, accounting of, or amendment of information, or for the purpose of verifying the identity of an individual or the accuracy of information submitted by an individual who has requested access to, accounting of, or amendment of information.

B. To any agency or entity that furnished the record or information for the purpose of permitting that agency or entity to make a decision as to access to or amendment of the record or information, or to a federal agency or entity for purposes of providing guidance or advice regarding the handling of particular requests.

C. To a submitter or subject of a record or information in order to obtain assistance to OMB in making a determination as to access, amendment, or accounting.

D. To appropriate agencies and entities, for the purpose of resolving an inquiry regarding compliance with the Freedom of Information Act.

E. To the Department of Justice (DOJ) when any of the following is a party to litigation before any court, adjudicative, or administrative body or has an interest in such litigation, and the use of such records by DOJ is deemed by OMB to be relevant and necessary to the litigation:

(1) OMB, or any component thereof;

(2) any employee or former employee of OMB in the employee's official capacity;

(3) any employee or former of employee of OMB in the employee's individual capacity where DOJ has agreed to represent the employee; or

(4) a Federal agency, a Federal entity, a Federal official, or the United States, where OMB determines that litigation is likely to affect OMB or any of its components.

F. In a proceeding before a court or adjudicative body before which OMB is authorized to appear, when OMB determines that the records are relevant and necessary to the litigation; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

G. To a congressional office in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

H. To any agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

I. To the National Archives and Records Administration (NARA) for purposes of records management and mail processing inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

J. To NARA, Office of Government Information Services (OGIS), to the extent necessary to fulfil its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures, and compliance with the Freedom of Information Act, and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

K. To appropriate officials and employees of a federal agency or entity when the information is relevant to a decision concerning the hiring, appointment, or retention of an employee; the assignment, detail, or deployment of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract; or the issuance of a grant or benefit.

L. To appropriate agencies, entities, and persons when

(1) OMB suspects or has confirmed that there has been a breach of the system of records;

(2) OMB has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, OMB (including its information systems, programs, and operations), the Federal Government, or national security; and

(3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OMB's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

M. To another Federal agency or Federal entity, when OMB determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in

(1) responding to a suspected or confirmed breach; or

(2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

N. Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate Federal, state, local, territorial, tribal, international, or

foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

O. To contractors and their agents, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for OMB, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same requirements and limitations on disclosure as are applicable to OMB officers and employees.

P. To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:** Records in this system are stored in electronic or paper form in secure facilities. The records may be stored on magnetic disc, tape, and digital media.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:** Records may be retrieved by full-text search or by individuals' FOIA/PA case number, name, title, or organization.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:** These records will be retired and destroyed in accordance with published records schedules of the Office of Management and Budget and the General Records Schedules as approved by NARA.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:** All electronic records are maintained in secure systems which require multi-factor authentication and that use security hardware and software to include multiple firewalls, encryption, identification, and authentication of users. All security controls are reviewed on a periodic basis by external assessors. The controls themselves include measures for access control, security awareness

training, audits, configuration management, contingency planning, incident response, and maintenance. Access to the information technology systems containing the records in this system is limited to those individuals who need the information for the performance of their official duties and who have appropriate clearances or permissions.

**RECORD ACCESS PROCEDURES:** Individuals' requests for access to records in this system of records may be sent to OMB's Privacy Officer, by mail to Office of Management and Budget, 725 17th Street NW, Room 9268, Washington, DC 20503, or by email to [OMBPA@omb.eop.gov](mailto:OMBPA@omb.eop.gov), and should be made in accordance with OMB's Privacy Act Procedures which can be found at 5 CFR 1302.

**CONTESTING RECORD PROCEDURES:** Individuals' requests for amendment of a record in this system of records may be sent to OMB's Privacy Officer, by mail to Office of Management and Budget, 725 17th Street NW, Room 9268, Washington, DC 20503, or by email to [OMBPA@omb.eop.gov](mailto:OMBPA@omb.eop.gov), and should be made in accordance with OMB's Privacy Act Procedures, which can be found at 5 CFR 1302.

**NOTIFICATION PROCEDURES:** Individuals' requests for notification as to whether this system of records contains a record pertaining to them may be sent to OMB's Privacy Officer, by mail to Office of Management and Budget, 725 17th Street NW, Room 9268, Washington, DC 20503, or by email to [OMBPA@omb.eop.gov](mailto:OMBPA@omb.eop.gov), and should be made in accordance with OMB's Privacy Act Procedures, which can be found at 5 CFR 1302.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:** During the course of a FOIA or a PA action, exempt materials from other systems of records may in turn become part of the case records in this system. To the extent that copies of exempt records from those other systems of records are maintained in the OMB FOIA/PA Requests System, OMB hereby claims the same exemptions for the records from those other systems that are entered into this system, as claimed for the original primary systems of records of which they are a part.

**HISTORY:** None.

**Shraddha A. Upadhyaya,**

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*Office of Management and Budget.*

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