

## Department of State

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days (excluding Saturdays, Sundays, and legal public holidays).

(d) In reviewing a record in response to a request to amend, the Department shall review the record to determine if it is accurate, relevant, timely, and complete.

(e) If the Department agrees with an individual's request to amend a record, it shall:

(1) Advise the individual in writing of its decision;

(2) Amend the record accordingly; and

(3) If an accounting of disclosure has been made, advise all previous recipients of the record of the amendment and its substance.

(f) If the Department denies, in whole or in part, the individual's amendment request, it shall advise the individual in writing of its decision, of the reason therefore, and of the individual's right to appeal the denial in accordance with § 171.52.

### § 171.34 Request for an accounting of record disclosures.

(a) *How made.* Except where accountings of disclosures are not required to be kept, as set forth in paragraph (b) of this section, an individual has a right to request an accounting of any disclosure that the Department has made to another person, organization, or agency of any record about an individual. This accounting shall contain the date, nature, and purpose of each disclosure as well as the name and address of the recipient of the disclosure. Any request for accounting should identify each particular record in question and may be made by writing directly to the Information and Privacy Coordinator at the address given in § 171.5.

(b) *Where accountings not required.* The Department is not required to keep an accounting of disclosures in the case of:

(1) Disclosures made to employees within the Department who have a need for the record in the performance of their duties;

(2) Disclosures required under the FOIA;

(3) Disclosures made to another agency or to an instrumentality of any governmental jurisdiction under the control of or within the United States for

authorized civil or criminal law enforcement activities pursuant to a written request from such agency or instrumentality specifying the activities for which the disclosures are sought and the portions of the records sought.

### § 171.35 Denials of requests; appeals.

If the Department denies a request for access to Privacy Act records, for amendment of such records, or for an accounting of disclosure of such records, the requester shall be informed of the reason for the denial and of the right to appeal the denial to the Appeals Review Panel in accordance with § 171.52.

### § 171.36 Exemptions.

Systems of records maintained by the Department are authorized to be exempted from certain provisions of the Privacy Act under both general and specific exemptions set forth in the Act. In utilizing these exemptions, the Department is exempting only those portions of systems that are necessary for the proper functioning of the Department and that are consistent with the Privacy Act. Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, e.g., public source materials, the applicable exemption may be waived, either partially or totally, by the Department or the OIG, in the sole discretion of the Department or the OIG, as appropriate.

(a) *General exemptions.* (1) Individuals may not have access to records maintained by the Department that were provided by another agency that has determined by regulation that such information is subject to general exemption under 5 U.S.C. 552a(j)(1). If such exempt records are the subject of an access request, the Department will advise the requester of their existence and of the name and address of the source agency, unless that information is itself exempt from disclosure.

(2) The systems of records maintained by the Bureau of Diplomatic Security (STATE-36), the Office of the Inspector General (STATE-53), and the

Information Access Program Records system (STATE-35) are subject to general exemption under 5 U.S.C. 552a(j)(2). All records contained in record system STATE-36, Security Records, are exempt from all provisions of the Privacy Act except sections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) to the extent to which they meet the criteria of section (j)(2). These exemptions are necessary to ensure the effectiveness of the investigative, judicial, and protective processes. All records contained in STATE-53, records of the Inspector General and Automated Individual Cross-Reference System, are exempt from all of the provisions of the Privacy Act except sections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) to the extent to which they meet the criteria of section (j)(2). These exemptions are necessary to ensure the proper functions of the law enforcement activity, to protect confidential sources of information, to fulfill promises of confidentiality, to prevent interference with the enforcement of criminal laws, to avoid the disclosure of investigative techniques, to avoid the endangering of the life and safety of any individual, to avoid premature disclosure of the knowledge of potential criminal activity and the evidentiary bases of possible enforcement actions, and to maintain the integrity of the law enforcement process. All records contained in the Information Access Program Records system (STATE-35) are exempt from all of the provisions of the Privacy Act except sections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) to the extent to which they meet the criteria of section (j)(2). These exemptions are necessary to ensure the protection of law enforcement information retrieved from various sources in response to information access requests.

(b) *Specific exemptions.* Portions of the following systems of records are exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), and (4), (G), (H), and (I), and (f). The names of the systems correspond to those published in the FEDERAL REGISTER by the Department.

(1) *Exempt under 5 U.S.C. 552a(k)(1).* The reason for invoking this exemption

is to protect material required to be kept secret in the interest of national defense and foreign policy.

Board of Appellate Review Records. STATE-02.

Congressional Correspondence. STATE-43.

Congressional Travel Records. STATE-44.

Coordinator for the Combating of Terrorism Records. STATE-06.

External Research Records. STATE-10.

Extradition Records. STATE-11.

Foreign Assistance Inspection Records. STATE-48.

Human Resources Records. STATE-31.

Information Access Programs Records. STATE-35.

Intelligence and Research Records. STATE-15.

International Organizations Records. STATE-17.

Law of the Sea Records. STATE-19.

Legal Case Management Records. STATE-21.

Munitions Control Records. STATE-42.

Overseas Citizens Services Records. STATE-05.

Overseas Records. STATE-25.

Passport Records. STATE-26.

Personality Cross-Reference Index to the Secretariat Automated Data Index Records. STATE-28.

Personality Index to the Central Foreign Policy Records. STATE-29.

Personnel Payroll Records. STATE-30.

Records of the Inspector General and Automated Individual Cross-Reference System. STATE-53.

Records of the Office of the Assistant Legal Adviser for International Claims and Investment Disputes. STATE-54.

Rover Records. STATE-41.

Records of Domestic Accounts Receivable. STATE-23.

Records of the Office of White House Liaison. STATE-34.

Board of Appellate Review Records. STATE-02.

Refugee Records. STATE-59.

Refugee Data Center Processing Records. STATE-60.

Security Records. STATE-36.

Visa Records. STATE-39.

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(2) *Exempt under 5 U.S.C. 552(a)(k)(2)*. The reasons for invoking this exemption are to prevent individuals that are the subject of investigation from frustrating the investigatory process, to ensure the proper functioning and integrity of law enforcement activities, to prevent disclosure of investigative techniques, to maintain the confidence of foreign governments in the integrity of the procedures under which privileged or confidential information may be provided, and to fulfill commitments made to sources to protect their identities and the confidentiality of information and to avoid endangering these sources and law enforcement personnel.

Board of Appellate Review Records. STATE-02.

Coordinator for the Combating of Terrorism Records. STATE-06.

Extradition Records. STATE-11.

Foreign Assistance Inspection Records. STATE-48.

Garnishment of Wages Records. STATE-61.

Information Access Program Records. STATE-35.

Intelligence and Research Records. STATE-15.

Munitions Control Records. STATE-42.

Overseas Citizens Services Records. STATE-05.

Overseas Records. STATE-25.

Passport Records. STATE-26.

Personality Cross Reference Index to the Secretariat Automated Data Index. STATE-28.

Personality Index to the Central Foreign Policy Records. STATE-29.

Records of the Inspector General and Automated Individual Cross-Reference System. STATE-53.

Security Records. STATE-36.

Visa Records. STATE-39.

(3) *Exempt under 5 U.S.C. 552(a)(k)(3)*. The reason for invoking this exemption is to preclude impairment of the Department's effective performance in carrying out its lawful protective responsibilities under 18 U.S.C. 3056 and 22 U.S.C. 4802.

Extradition Records. STATE-11.

Information Access Programs Records. STATE-35.

Intelligence and Research Records. STATE-15.

Overseas Citizens Services Records. STATE-05.

Overseas Records. STATE-25.

Passport Records. STATE-26.

Personality Cross-Reference Index to the Secretariat Automated Data Index. STATE-28.

Personality Index to the Central Foreign Policy Records. STATE-29.

Security Records. STATE-36.

Visa Records. STATE-39.

(4) *Exempt under 5 U.S.C. 552a(k)(4)*. The reason for invoking this exemption is to avoid needless review of records that are used solely for statistical purposes and from which no individual determinations are made.

Foreign Service Institute Records. STATE-14.

Human Resources Records. STATE-31.

Information Access Programs Records. STATE-35.

Personnel Payroll Records. STATE-30.

Security Records. STATE-36.

(5) *Exempt under 5 U.S.C. 552a(k)(5)*. The reasons for invoking this exemption are to ensure the proper functioning of the investigatory process, to ensure effective determination of suitability, eligibility, and qualification for employment and to protect the confidentiality of sources of information.

Equal Employment Opportunity Records. STATE-09.

Foreign Assistance Inspection Records. STATE-48.

Foreign Service Grievance Board Records. STATE-13.

Human Resources Records. STATE-31.

Information Access Programs Records. STATE-35.

Legal Adviser Attorney Employment Application Records. STATE-20.

Overseas Records. STATE-25.

Personality Cross-Reference Index to the Secretariat Automated Data Index Records. STATE-28.

Records of the Inspector General and Automated Individual Cross-Reference System. STATE-53.

Records of the Office of White House Liaison. STATE-34.

Rover Records. STATE-41.

Security Records. STATE-36.

Senior Personnel Appointments Records. STATE-47.

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(6) *Exempt under 5 U.S.C. 552(k)(6)*. The reasons for invoking this exemption are to prevent the compromise of testing or evaluation material used solely to determine individual qualifications for employment or promotion and to avoid giving unfair advantage to individuals by virtue of their having access to such material.

Foreign Service Institute Records. STATE-14.

Human Resources Records. STATE-31.

Information Access Programs Records. STATE-35.

Security Records. STATE-36.

(7) *Exempt under 5 U.S.C. 552a(k)(7)*. The reason for invoking this exemption is to prevent access to material maintained from time to time by the Department in connection with various military personnel exchange programs.

Overseas Records. STATE-25.

Human Resources Records. STATE-31.

Information Access Programs Records. STATE-35.

Personality Cross-Reference Index to the Secretariat Automated Data Index Records. STATE-28.

Personality Index to the Central Foreign Policy Records. STATE-29.

### Subpart E—Ethics in Government Act Provisions

#### § 171.40 Purpose and scope.

This subpart sets forth the regulations under which persons may request access to the public financial disclosure reports of employees of the Department as well as limits to such requests and use of such information. The Ethics in Government Act 1978, as amended, and the Office of Government Ethics implementing regulations, 5 CFR part 2634, require that high-level Federal officials disclose publicly their personal financial interests.

#### § 171.41 Covered employees.

(a) Officers and employees (including special Government employees as defined in 18 U.S.C. 202) whose positions are classified at grades GS-16 and above of the General Schedule, or the rate of basic pay for which is fixed, other than under the General Schedule, at a rate equal to or greater than the

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120% of the minimum rate of basic pay for GS-15 of the General Schedule;

(b) Officers or employees in any other positions determined by the Director of the Office of Government Ethics to be of equal classification to GS-16;

(c) Employees in the excepted service in positions that are of a confidential or policy-making character, unless by regulation their positions have been excluded by the Director of the Office of Government Ethics;

(d) The designated agency official who acts as the Department's Ethics Officer;

(e) Incumbent officials holding positions referred to above if they have served 61 days or more in the position during the preceding calendar year.

(f) Officials who have terminated employment from a position referred to above and who have not accepted another such position within 30 days of such termination.

#### § 171.42 Requests and identifying information.

Requests for access to public financial disclosure reports of covered employees should be made in writing to the Information and Privacy Coordinator at the address given in § 171.5 setting forth:

(a) The name and/or position title of the Department of State official who is the subject of the request,

(b) The time period covered by the report requested,

(c) A completed Office of Government Ethics request form, OGE Form 201, October, 1999. This form may be obtained by writing to the Information and Privacy Coordinator or by visiting the Public Reading Room described in § 171.3 or <http://www.usoge.gov>.

#### § 171.43 Time limits and fees.

(a) Reports shall be made available within thirty (30) days from receipt of a request by the Department. The Department does not charge a fee for a single copy of a public financial report. However, the Department will charge for additional copies of a report at a rate of 15 cents per page plus the actual direct cost of mailing the reports. However, the Department will not charge for individual requests if the total charge would be \$10.00 or less.