

agency personnel to identify eligible employees and notify them of their options under these regulations and the time period within which these options must be exercised.

(b) *Agency records; procedure for reimbursement.* The agency making payments to the record keeper for all contributions and attributable breakage will obtain from prior employing agencies whatever information is necessary to make accurate payments. If a prior employing agency is ultimately chargeable under §1620.43(b) for all or part of this expense, the agency making the payments to the record keeper will determine the procedure to follow in order to collect amounts owed to it by the agency ultimately chargeable with the expense.

(c) *Payment schedule; matching contributions report.* Agencies will, with the employee's consent, prepare a payment schedule for making retroactive employee contributions which will be consistent with the procedures established at 5 CFR part 1605 for the correction of employing agency errors.

(d) *Agency automatic (1%) contributions.* Employing agencies must calculate the agency automatic (1%) contributions for all reemployed (or restored) FERS employees and report those contributions to the record keeper within 60 days of reemployment.

(e) *Forfeiture restoration.* When notified by an employee that a forfeiture of the agency automatic (1%) contributions occurred after the employee separated to perform military service, the employing agency must complete and file the appropriate paper TSP form with the TSP record keeper in accordance with the form's instructions to have those funds restored.

(f) *Thrift Savings Plan Service Computation Date.* The agencies must include the period of military service in the Thrift Savings Plan Service Computation Date (TSP-SCD) of all reemployed FERS employees. If the period of military service has not been credited, the agencies must submit an employee data record to the TSP record keeper containing the correct TSP Service Computation Date.

[64 FR 31057, June 9, 1999, as amended at 70 FR 32214, June 1, 2005]

## PART 1630—PRIVACY ACT REGULATIONS

### Sec.

- 1630.1 Purpose and scope.
- 1630.2 Definitions.
- 1630.3 Publication of systems of records maintained.
- 1630.4 Request for notification and access.
- 1630.5 Granting access to a designated individual.
- 1630.6 Action on request.
- 1630.7 Identification requirements.
- 1630.8 Access of others to records about an individual.
- 1630.9 Access to the history (accounting) of disclosures from records.
- 1630.10 Denials of access.
- 1630.11 Requirements for requests to amend records.
- 1630.12 Action on request to amend a record.
- 1630.13 Procedures for review of determination to deny access to or amendment of records.
- 1630.14 Appeals process.
- 1630.15 Exemptions.
- 1630.16 Fees.
- 1630.17 Federal agency requests.
- 1630.18 Penalties.

AUTHORITY: 5 U.S.C. 552a.

SOURCE: 55 FR 18852, May 7, 1990, unless otherwise noted.

### § 1630.1 Purpose and scope.

These regulations implement the Privacy Act of 1974, 5 U.S.C. 552a. The regulations apply to all records maintained by the Federal Retirement Thrift Investment Board that are contained in a system of records and that contain information about an individual. The regulations establish procedures that (a) authorize an individual's access to records maintained about him or her; (b) limit the access of other persons to those records; and (c) permit an individual to request the amendment or correction of records about him or her.

### § 1630.2 Definitions.

For the purposes of this part—

(a) *Account number* means the number assigned by the Agency to each participant's TSP account which serves as the primary identification mechanism for a participant's account. The participant's Social Security number will remain the identifier for the submission of data and funds from agency and uniformed services payroll offices, for the

## Federal Retirement Thrift Investment Board

## § 1630.3

submission of information to the Internal Revenue Service about distributions, and for some other administrative purposes.

(b) *Agency* means agency as defined in 5 U.S.C. 552(e);

(c) *Board* means the Federal Retirement Thrift Investment Board;

(d) *Case reference number* means the number assigned by the Agency to the recipient of a court order payment or a death benefit payment.

(e) *Individual* means a citizen of the United States or an alien lawfully admitted for permanent residence;

(f) *Maintain* means to collect, use, or distribute;

(g) *Privacy Act Officer* means the Board's General Counsel or his or her designee;

(h) *Record* means any item, collection, or grouping of information about an individual that is maintained by the Board or the record keeper, including but not limited to education, financial transactions, medical history, and criminal or employment history and that contains the individual's name, identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

(i) *Record keeper* means the entity that is engaged by the Board to perform record keeping services for the TSP;

(j) *Routine use* means, with respect to the disclosure of a record, the use of that record for a purpose which is compatible with the purpose for which it was collected;

(k) *System manager* means the official of the Board who is responsible for the maintenance, collection, use, distribution, or disposal of information contained in a system of records;

(l) *System of records* means a group of any records under the control of the Board from which information is retrieved by the name of the individual or other identifying particular assigned to the individual;

(m) *Statistical record* means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by 13 U.S.C. 8;

(n) *Subject individual* means the individual by whose name or other identifying particular a record is maintained or retrieved;

(o) *TSP* means the Thrift Savings Plan which is administered by the Board pursuant to 5 U.S.C. 8351 and chapter 84 (subchapters III and VII);

(p) *TSP participant* means any individual for whom a TSP account has been established. This includes former participants, *i.e.*, participants whose accounts have been closed;

(q) *TSP records* means those records maintained by the record keeper;

(r) *VRS* (Voice Response System) means the fully automated telephone information system for TSP account records;

(s) *Work days* as used in calculating the date when a response is due, includes those days when the Board is open for the conduct of Government business and does not include Saturdays, Sundays and Federal holidays.

[55 FR 18852, May 7, 1990, as amended at 64 FR 67693, 67695, Dec. 3, 1999; 72 FR 51353, Sept. 7, 2007; 79 FR 68094, Nov. 14, 2014]

### § 1630.3 Publication of systems of records maintained.

(a) Prior to the establishment or revision of a system of records, the Board will publish in the FEDERAL REGISTER notice of any new or intended use of the information in a system or proposed system and provide interested persons with a period within which to comment on the new or revised system. Technical or typographical corrections are not considered to be revisions of a system.

(b) When a system of records is established or revised, the Board will publish in the FEDERAL REGISTER a notice about the system. The notice shall include:

- (1) The system name,
- (2) The system location,
- (3) The categories of individuals covered by the system,
- (4) The categories of records in the system,
- (5) The Board's authority to maintain the system,
- (6) The routine uses of the system,
- (7) The Board's policies and practices for maintenance of the system,
- (8) The system manager,

§ 1630.4

- (9) The procedures for notification, access to and correction of records in the system, and
- (10) The sources of information for the system.

**§ 1630.4 Request for notification and access.**

(a) Within 20 work days of receiving the request for review, the Executive Director will make a final determination on appeal. A participant or a spouse, former spouse, or beneficiary of a participant must make his or her inquiry in accordance with the chart set forth in this paragraph. The mailing address of the Thrift Savings Plan is provided at <http://www.tsp.gov>. Telephone inquiries are subject to the verification procedures set forth in § 1630.7. A written inquiry from a participant must include the participant's name and the participant's account number or Social Security number. A written inquiry from a spouse or former spouse or a beneficiary of the participant must include the inquiring party's name and Social Security number or, if available, the case reference number as well as the name and Social Security number or account number of the participant. Other third party inquiries (e.g., from other Federal agencies authorized to obtain information about the participant's account) must include, at a minimum, the participant's name and Social Security number.

To obtain information about or gain access to TSP records about you

If you want:	If you are a participant who is a current Federal employee:	If you are a participant who has separated from Federal employment or a spouse, former spouse, or beneficiary:
To make inquiry as to whether you are a subject of this system of records.	Call or write to your employing agency in accordance with agency procedures for personnel or payroll records.	Call or write to TSP record keeper.

If you want:	If you are a participant who is a current Federal employee:	If you are a participant who has separated from Federal employment or a spouse, former spouse, or beneficiary:
To gain access to a record about you.	Call or write to your employing agency to request access to personnel and payroll records regarding the agency's and the participant's contributions, and adjustments to contributions. Call or write to the TSP record keeper to gain access to loan status and repayments, earnings, contributions allocation elections, interfund transfers, and withdrawal records.	Call or write to TSP record keeper.
To learn the history of disclosures of records about you to entities other than the participant's employing agency or the Board or auditors see § 1630.4 (a)(4).	Write to TSP record keeper.	Write to TSP record keeper.

(2) Participants may also inquire whether this system contains records about them and access certain records through the account access section of the TSP website and the ThriftLine (the TSP's automated telephone system). The TSP website is [www.tsp.gov](http://www.tsp.gov). To use the TSP ThriftLine, the participant must have a touch-tone telephone and call (877) 968-3778. Information such as account balance and transaction status is available on the TSP website and the ThriftLine. To access these features, the participant may be required to verify his or her identity by providing identifying particulars.

(3) A Privacy Act request which is incorrectly submitted to the Board will not be considered received until received by the record keeper. The Board will submit such a Privacy Act request to the record keeper within three workdays. A Privacy Act request which is incorrectly submitted to the record keeper will not be considered received until received by the employing agency. The record keeper will submit such

## Federal Retirement Thrift Investment Board

## § 1630.6

a Privacy Act request to the employing agency within three workdays.

(4) No disclosure history will be made when the Board contracts for an audit of TSP financial statements (which includes the review and sampling of TSP account balances).

(5) No disclosure history will be made when the Department of Labor or the General Accounting Office audits TSP financial statements (which includes the review and sampling of TSP account balances) in accordance with their responsibilities under chapter 84 of title 5 of the U.S. Code. Rather, a requester will be advised that these agencies have statutory obligations to audit TSP activities and that in the course of such audits they randomly sample individual TSP accounts to test for account accuracy.

(b) *Non-TSP Board records.* An individual who wishes to know if a specific system of records maintained by the Board contains a record pertaining to him or her, or who wishes access to such records, shall address a written request to the Privacy Act Officer, Federal Retirement Thrift Investment Board, 77 K Street, NE., Suite 1000, Washington, DC 20002. The request letter should contain the complete name and identifying number of the pertinent system as published in the annual FEDERAL REGISTER notice describing the Board's Systems of Records; the full name and address of the subject individual; the subject's Social Security number if a Board employee; a brief description of the nature, time, place, and circumstances of the individual's prior association with the Board; and any other information the individual believes would help the Privacy Act Officer determine whether the information about the individual is included in the system of records. In instances where the information is insufficient to ensure disclosure to the subject individual to whom the record pertains, the Board reserves the right to ask the requester for additional identifying information. The words "PRIVACY ACT

REQUEST" should be printed on both the letter and the envelope.

[55 FR 18852, May 7, 1990, as amended at 59 FR 55331, Nov. 7, 1994; 64 FR 67693, 67695, Dec. 3, 1999; 71 FR 50319, Aug. 25, 2006; 72 FR 51353, Sept. 7, 2007; 77 FR 11384, Feb. 27, 2012; 79 FR 68094, Nov. 14, 2014; 85 FR 12431, Mar. 3, 2020]

### § 1630.5 Granting access to a designated individual.

(a) An individual who wishes to have a person of his or her choosing review a record or obtain a copy of a record from the Board or the TSP record keeper shall submit a signed statement authorizing the disclosure of his or her record before the record will be disclosed. The authorization shall be maintained with the record.

(b) The Board or the TSP record keeper will honor any Privacy Act request (e.g., a request to have access or to amend a record) which is accompanied by a valid power of attorney from the subject of the record.

[55 FR 18852, May 7, 1990, as amended at 59 FR 26409, May 20, 1994; 64 FR 67694, Dec. 3, 1999]

### § 1630.6 Action on request.

(a) For TSP records, the record keeper designee, and for non-TSP records, the Privacy Act Officer will answer or acknowledge the inquiry within 10 work days of the date it is received. When the answer cannot be made within 10 work days, the record keeper or Privacy Act Officer will provide the requester with the date when a response may be expected and, whenever possible, the specific reasons for the delay.

(b) At a minimum, the acknowledgment to a request for access shall include:

(1) When and where the records will be available;

(2) Name, title and telephone number of the official who will make the records available;

(3) Whether access will be granted only by providing a copy of the record through the mail, or only by examination of the record in person if the Privacy Act Officer after consulting with the appropriate system manager has determined the requester's access would not be unduly impeded;

(4) Fee, if any, charged for copies (See § 1630.16); and

## § 1630.7

(5) If necessary, documentation required to verify the identity of the requester (See § 1630.7).

[55 FR 18852, May 7, 1990, as amended at 67694, 67695, Dec. 3, 1999]

### § 1630.7 Identification requirements.

(a) *In person.* An individual should be prepared to identify himself or herself by signature, *i.e.*, to note by signature the date of access, Social Security number, and to produce one photographic form of identification (driver's license, employee identification, annuitant card, passport, etc.). If an individual is unable to produce adequate identification, the individual must sign a statement asserting his or her identity and acknowledging that knowingly or willfully seeking or obtaining access to records about another person under false pretenses may result in a fine of up to \$5,000 (see § 1630.18). In addition, depending upon the sensitivity of the records, the Privacy Act Officer or record keeper designee after consulting with the appropriate system manager may require further reasonable assurances, such as statements of other individuals who can attest to the identity of the requester.

(b) *In writing.* A participant shall provide his or her name, date of birth, and account number or Social Security number and shall sign the request. Most other individuals shall provide the participant's account number or Social Security number, shall provide a statement of relationship to the participant unless it is clearly identified in the nature of the correspondence, and shall sign the request. If a request for access is granted by mail and, in the opinion of the Privacy Act Officer or record keeper designee after consulting with the appropriate system manager, the disclosure of the records through the mail may result in harm or embarrassment (if a person other than the subject individual were to receive the records), a notarized statement of identity or some other similar assurance of identity will be required.

(c) *By telephone.* (1) Telephone identification procedures apply only to requests from participants and spouses, former spouses, or beneficiaries of participants for information in FRTIB-1, Thrift Savings Plan Records, which is

## 5 CFR Ch. VI (1-1-21 Edition)

retrieved by their respective account numbers (or case reference numbers) or Social Security numbers.

(2) A participant or a spouse, former spouse, or beneficiary of a participant must identify himself or herself by providing to the record keeper designee his or her name, account number (or case reference number) or Social Security number, and any other information requested. If the record keeper designee determines that any of the information provided by telephone is incorrect, the requester will be required to submit a request in writing.

(3) A participant may also access the TSP website or call the TSP ThriftLine to obtain account information. These systems may require identity and account verification information and may require the participant to verify his or her identity by providing identifying particulars.

[55 FR 18852, May 7, 1990, as amended at 64 FR 67694, Dec. 3, 1999; 72 FR 51354, Sept. 7, 2007; 85 FR 12431, Mar. 3, 2020]

### § 1630.8 Access of others to records about an individual.

(a) The Privacy Act provides for access to records in systems of records in those situations enumerated in 5 U.S.C. 552a(b) and are set forth in paragraph (b) of this section.

(b) No official or employee of the Board, or any contractor of the Board or other Federal agency operating a Board system of records under an interagency agreement, shall disclose any record to any person or to another agency without the express written consent of the subject individual, unless the disclosure is:

(1) To officers or employees (including contract employees) of the Board or the record keeper who need the information to perform their official duties;

(2) Pursuant to the requirements of the Freedom of Information Act, 5 U.S.C. 552;

(3) For a routine use that has been published in a notice in the FEDERAL REGISTER (routine uses for the Board's systems of records are published separately in the FEDERAL REGISTER and are available from the Board's Privacy Act Officer);

(4) To the Bureau of the Census for uses under title 13 of the United States Code;

(5) To a person or agency which has given the Board or the record keeper advance written notice of the purpose of the request and certification that the record will be used only for statistical purposes. (In addition to deleting personal identifying information from records released for statistical purposes, the Privacy Act Officer or record keeper designee shall ensure that the identity of the individual cannot reasonably be deduced by combining various statistical records);

(6) To the National Archives of the United States if a record 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;

(7) In response to a written request that identifies the record and the purpose of the request made by another agency or instrumentality of any Government jurisdiction within or under the control of the United States for civil or criminal law enforcement activity, if that activity is authorized by law;

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

(9) To either House of Congress, or to a Congressional committee or subcommittee if the subject matter is within its jurisdiction;

(10) To the Comptroller General, or an authorized representative, in the course of the performance of the duties of the General Accounting Office;

(11) Pursuant to the order of a court of competent jurisdiction; or

(12) To a consumer reporting agency in accordance with section 3711(f) of Title 31.

[55 FR 18852, May 7, 1990, as amended at 64 FR 67694, Dec. 3, 1999]

**§ 1630.9 Access to the history (accounting) of disclosures from records.**

Rules governing access to the accounting of disclosures are the same as those for granting access to the records as set forth in §1630.4.

**§ 1630.10 Denials of access.**

(a) The Privacy Act Officer or the record keeper designee for records covered by system FRTIB-1, may deny an individual access to his or her record if:

(1) In the opinion of the Privacy Act Officer or the record keeper designee, the individual seeking access has not provided proper identification to permit access; or

(2) The Board has published rules in the FEDERAL REGISTER exempting the pertinent system of records from the access requirement.

(b) If access is denied, the requester shall be informed of the reasons for denial and the procedures for obtaining a review of the denial.

[55 FR 18852, May 7, 1990, as amended at 64 FR 67695, Dec. 3, 1999]

**§ 1630.11 Requirements for requests to amend records.**

(a) *TSP records.* (1) A spouse, former spouse or beneficiary of a TSP participant who wants to correct or amend his or her record must write to the TSP record keeper. A participant in the TSP who wants to correct or amend a TSP record pertaining to him or her shall submit a written request in accordance with the following chart:

To correct or amend a TSP record		
If the type of record is:	If you are a participant who is a current Federal employee write to:	If you are a participant who has separated from Federal employment write to:
Personnel or personal records (e.g., age, address, Social Security number, date of birth).	Write to your employing agency.	Write to TSP record keeper.
The agency's and the participant's contributions, and adjustments to contributions.	Write to your employing agency.	Write to your former employing agency.
Earnings, investment allocation, interfund transfers, loans, loan repayments, and withdrawals.	Write to TSP record keeper.	Write to TSP record keeper.

## § 1630.12

## 5 CFR Ch. VI (1–1–21 Edition)

(2) The address of the record keeper is listed in § 1630.4(a).

(3) Requests for amendments which are claims for money because of administrative error will be processed in accordance with the Board's Error Correction regulations found at 5 CFR part 1605. Sections 1630.12(b)–1630.14 of this part do not apply to such money claim amendments to TSP records as the Error Correction regulations are an equivalent substitute. Non-money claim TSP record appeals are covered by §§ 1630.12–1630.14, or if covered by the above chart the employing, or former employing, agency's Privacy Act procedures.

(4) Corrections to TSP account records which are made by the Board, its recordkeeper or the employing agency or the former employing agency on its own motion because of a detected administrative error will be effected without reference to Privacy Act procedures.

(5) A participant in the TSP who is currently employed by a Federal agency should be aware that the employing agency provides to the Board personal and payroll records on the participant, such as his or her date of birth, Social Security number, retirement code, address, loan repayments, the amount of participant's contribution, amount of the Government's contribution, if the participant is covered by the Federal Employees' Retirement System Act (FERSA, 5 U.S.C. Chapter 84), and adjustments to contributions. Requests submitted to the Board, or its recordkeeper, to correct information provided by the employing Federal agency will be referred to the employing agency. The reason for this referral is that the Board receives information periodically for the TSP accounts; if the employing agency does not resolve the alleged error, the Board will continue to receive the uncorrected information periodically regardless of a one-time Board correction. The employing agency also has custody of the election form (which is maintained in the Official Personnel Folder). Requests for amendment or correction of records described in this paragraph should be made to the employing agency.

(b) *Non-TSP records.* (1) Any other individual who wants to correct or

amend a record pertaining to him or her shall submit a written request to the Board's Privacy Act Officer whose address is listed in § 1630.4. The words "Privacy Act—Request to Amend Record" should be written on the letter and the envelope.

(2) The request for amendment or correction of the record should, if possible, state the exact name of the system of records as published in the FEDERAL REGISTER; a precise description of the record proposed for amendment; a brief statement describing the information the requester believes to be inaccurate or incomplete, and why; and the amendment or correction desired. If the request to amend the record is the result of the individual's having gained access to the record in accordance with §§ 1630.4, 1630.5, 1630.6 or § 1630.7, copies of previous correspondence between the requester and the Board should be attached, if possible.

(3) If the individual's identity has not been previously verified, the Board may require documentation of identification as described in § 1630.7.

[55 FR 18852, May 7, 1990, as amended at 64 FR 67694, 67695, Dec. 3, 1999]

### § 1630.12 Action on request to amend a record.

(a) For TSP records, the record keeper will acknowledge a request for amendment of a record, which is to be decided by that office in accordance with the chart in § 1630.11, within 10 work days. Requests received by the record keeper which are to be decided by the current or former employing agency will be sent to that agency by the record keeper within 3 work days of the date of receipt. A copy of the transmittal letter will be sent to the requester.

(b) For non-TSP records, the Privacy Act Officer will acknowledge a request for amendment of a record within 10 work days of the date the Board receives it. If a decision cannot be made within this time, the requester will be informed by mail of the reasons for the delay and the date when a reply can be expected, normally within 30 work days from receipt of the request.

(c) The final response will include the decision whether to grant or deny the

## Federal Retirement Thrift Investment Board

## § 1630.15

request. If the request is denied, the response will include:

- (1) The reasons for the decision;
- (2) The name and address of the official to whom an appeal should be directed;
- (3) The name and address of the official designated to assist the individual in preparing the appeal;
- (4) A description of the appeal process with the Board; and
- (5) A description of any other procedures which may be required of the individual in order to process the appeal.

[55 FR 18852, May 7, 1990, as amended at 64 FR 67695, Dec. 3, 1999]

### § 1630.13 Procedures for review of determination to deny access to or amendment of records.

(a) Individuals who disagree with the refusal to grant them access to or to amend a record about them should submit a written request for review to the Executive Director, Federal Retirement Thrift Investment Board, 77 K Street, NE., Suite 1000, Washington, DC 20002. The words "PRIVACY ACT—APPEAL" should be written on the letter and the envelope. Individuals who need assistance preparing their appeal should contact the Board's Privacy Act Officer.

(b) The appeal letter must be received by the Board within 30 calendar days from the date the requester received the notice of denial. At a minimum, the appeal letter should identify:

- (1) The records involved;
- (2) The date of the initial request for access to or amendment of the record;
- (3) The date of the Board's denial of that request; and
- (4) The reasons supporting the request for reversal of the Board's decision.

Copies of previous correspondence from the Board denying the request to access to or amend the record should also be attached, if possible.

(c) The Board reserves the right to dispose of correspondence concerning the request to access or amend a record if no request for review of the Board's decision is received within 180 days of the decision date. Therefore, a request for review received after 180 days may, at the discretion of the Privacy Act Of-

ficer, be treated as an initial request to access or amend a record.

[55 FR 18852, May 7, 1990, as amended at 59 FR 55331, Nov. 7, 1994; 77 FR 11384, Feb. 27, 2012]

### § 1630.14 Appeals process.

(a) Within 20 work days of receiving the request for review, the Executive Director will make a final determination on appeal. If a final decision cannot be made in 20 work days, the Privacy Act Officer will inform the requester of the reasons for the delay and the date on which a final decision can be expected. Such extensions are unusual, and should not exceed an additional 30 work days.

(b) If the original request was for access and the initial determination is reversed, the procedures in § 1630.7 will be followed. If the initial determination is upheld, the requester will be so informed and advised of the right to judicial review pursuant to 5 U.S.C. 552a(g).

(c) If the initial denial of a request to amend a record is reversed, the Board or the record keeper will correct the record as requested and inform the individual of the correction. If the original decision is upheld, the requester will be informed and notified in writing of the right to judicial review pursuant to 5 U.S.C. 552a(g) and the right to file a concise statement of disagreement with the Executive Director. The statement of disagreement should include an explanation of why the requester believes the record is inaccurate, irrelevant, untimely, or incomplete. The Executive Director shall maintain the statement of disagreement with the disputed record, and shall include a copy of the statement of disagreement to any person or agency to whom the record has been disclosed, if the disclosure was made pursuant to § 1630.9.

[55 FR 18852, May 7, 1990, as amended at 64 FR 67695, Dec. 3, 1999; 79 FR 68094, Nov. 14, 2014]

### § 1630.15 Exemptions.

(a) Pursuant to subsection (k) of the Privacy Act, 5 U.S.C. 552a, the Board may exempt certain portions of records within designated systems of records from the requirements of the Privacy Act, (including access to and review of



**§ 1630.16**

**5 CFR Ch. VI (1-1-21 Edition)**

such records pursuant to this part) if such portions are:

(1) Subject to the provisions of section 552(b)(1) of the Freedom of Information Act, 5 U.S.C. 552;

(2) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of the Privacy Act, 5 U.S.C. 552a: Provided, however, that if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the Privacy Act, 5 U.S.C. 552a, under an implied promise that the identity of the source would be held in confidence;

(3) Maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18 of the United States Code;

(4) Required by statute to be maintained and used solely as statistical records;

(5) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosures of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the Privacy Act, 5 U.S.C. 552a, under an implied promise that the identity of the source would be held in confidence;

(6) Test or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7) Evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material be held in confidence, or, prior to the effective date of the Privacy Act, 5 U.S.C. 552a, under an implied promise that the identity of the source would be held in confidence.

(b) Those designated systems of records which are exempt from the requirements of this part or any other requirements of the Privacy Act, 5 U.S.C. 552a, will be indicated in the notice of designated systems of records published by the Board.

(c) Nothing in this part will allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

**§ 1630.16 Fees.**

(a) Individuals will not be charged for:

(1) The search and review of the record; and

(2) Copies of ten (10) or fewer pages of a requested record.

(b) Records of more than 10 pages will be photocopied for 15 cents a page. If the record is larger than 8½ × 14 inches, the fee will be the cost of reproducing the record through Government or commercial sources.

(c) Fees must be paid in full before requested records are disclosed. Payment shall be by personal check or money order payable to the Federal Retirement Thrift Investment Board, and mailed or delivered to the record keeper or to the Privacy Act Officer, depending upon the nature of the request, at the address listed in §1630.4.

(d) The Executive Director or the Privacy Act Officer may waive the fee if:

(1) The cost of collecting the fee exceeds the amount to be collected; or

(2) The production of the copies at no charge is in the best interest of the Board.

(e) A receipt will be furnished on request.

[55 FR 18852, May 7, 1990, as amended at 64 FR 67695, Dec. 3, 1999; 79 FR 68094, Nov. 14, 2014]

## Federal Retirement Thrift Investment Board

## § 1631.1

### § 1630.17 Federal agency requests.

Employing agencies needing automated data processing services from the Board in order to reconcile agency TSP records for TSP purposes may be charged rates based upon the factors of:

- (a) Fair market value;
- (b) Cost to the TSP; and
- (c) Interests of the participants and beneficiaries.

### § 1630.18 Penalties.

(a) Title 18, U.S.C. 1001, Crimes and Criminal Procedures, makes it a criminal offense, subject to a maximum fine of \$10,000 or imprisonment for not more than five years, or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representation in any matter within the jurisdiction of any agency of the United States. Section (i)(3) of the Privacy Act, 5 U.S.C. 552a(i)(3), makes it a misdemeanor, subject to a maximum fine of \$5,000 to knowingly and willfully request or obtain any record concerning an individual under false pretenses. Sections (i) (1) and (2) of 5 U.S.C. 552a provide penalties for violations by agency employees of the Privacy Act or regulations established thereunder.

- (b) [Reserved]

## PART 1631—AVAILABILITY OF RECORDS

### Subpart A—Production or Disclosure of Records Under the Freedom of Information Act, 5 U.S.C. 552

- Sec.
- 1631.1 Definitions.
  - 1631.2 Purpose and scope.
  - 1631.3 Organization and functions.
  - 1631.4 Proactive disclosure of Board records.
  - 1631.5 Records of other agencies.
  - 1631.6 How to request records—form and content.
  - 1631.7 Initial determination.
  - 1631.8 Prompt response.
  - 1631.9 Responses—form and content.
  - 1631.10 Appeals to the General Counsel from initial denials.
  - 1631.11 Fees to be charged—categories of requesters.
  - 1631.12 Waiver or reduction of fees.
  - 1631.13 Prepayment of fees over \$250.
  - 1631.14 Fee schedule.
  - 1631.15 Information to be disclosed.

- 1631.16 Exemptions.
- 1631.17 Deletion of exempted information.
- 1631.18 Annual report.
- 1631.19 Preservation of records.

### Subpart B—Production in Response to Subpoenas or Demands of Courts or Other Authorities

- 1631.30 Applicability.
- 1631.31 Definitions.
- 1631.32 General prohibition.
- 1631.33 Factors the General Counsel will consider.
- 1631.34 Filing requirements for demands or requests for testimony.
- 1631.35 Certification (authentication) of copies of records.
- 1631.36 Fees.

### Subpart C—Administrative Subpoenas

- 1631.40 Subpoena authority.
- 1631.41 Production of records.
- 1631.42 Service.
- 1631.43 Enforcement.

SOURCE: 55 FR 41052, Oct. 9, 1990, unless otherwise noted.

### Subpart A—Production or Disclosure of Records Under the Freedom of Information Act, 5 U.S.C. 552

AUTHORITY: 5 U.S.C. 552.

### § 1631.1 Definitions.

- (a) *Board* means the Federal Retirement Thrift Investment Board.
- (b) *Agency* means agency as defined in 5 U.S.C. 552(e).
- (c) *Executive Director* means the Executive Director of the Federal Retirement Thrift Investment Board, as defined in 5 U.S.C. 8401(13) and as further described in 5 U.S.C. 8474.
- (d) *FOIA* means Freedom of Information Act, 5 U.S.C. 552, as amended.
- (e) *FOIA Officer* means the Board's General Counsel or his or her designee.
- (f) *General Counsel* means the General Counsel of the Federal Retirement Thrift Investment Board.
- (g) *Working days* or *workdays* means those days when the Board is open for the conduct of Government business, and does not include Saturdays, Sundays, and Federal holidays.
- (h) *Requester* means a person making a FOIA request.