

For the Record

An Employee's Guide to The
Freedom of Information Act
and The Privacy Act of 1974

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AN EMPLOYEE'S GUIDE ON THE FREEDOM OF INFORMATION ACT AND THE PRIVACY ACT OF 1974

This guide is intended to serve as an introduction to the Privacy Act of 1974 and the Freedom of Information Act (FOIA) for Postal Service™ employees.

As a Postal Service employee, you are responsible for following Postal Service policies and procedures on records information and management.

The Postal Service is mandated by the Privacy Act of 1974, and has adopted policies to protect the privacy of its customers, employees, and other individuals. The Postal Service is also required to make its records available to the public consistent with the Freedom of Information Act (FOIA) and good business practices.

Features of the Acts:

- Both FOIA and the Privacy Act make the Postal Service accountable for its information disclosure policies and practices.
- Both laws establish the right to request records and to receive a response to the request.
- Both FOIA and the Privacy Act support the disclosure of agency records.
- Both FOIA and the Privacy Act recognize the legitimate need to restrict disclosure of some information.

THE PRIVACY ACT — RIGHTS AND RESPONSIBILITIES

In order to conduct its business and provide the necessary postal services, the Postal Service has the need to collect various types of personally identifiable information about its customers, employees, and other individuals.

Information of this nature has been entrusted to the Postal Service, and the Postal Service and its employees who are handling it have a legal and ethical obligation to hold it in confidence and to actively protect it from uses other than those compatible with the purpose for which the information was collected.

In addition to holding the information as confidential, the Postal Service is required to establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of Privacy Act records.

These obligations are imposed by the Privacy Act of 1974, which is designed to protect the individual's privacy from unwarranted invasion; to make sure that personal information maintained in a system of records by the Postal Service is only used for proper purposes; and to prevent any potential misuse or unauthorized access and/or disclosure of personal information.

As a Postal Service employee, you “wear two hats” — one as a citizen entitled to the full protection and rights established by the Privacy Act, and the other as a federal employee working with records containing personal information and therefore obligated to protect those records under the Privacy Act.

COMPARING THE ACTS

	FREEDOM OF INFORMATION ACT	PRIVACY ACT (PA)
Statute	Title 5 USC 552	Title 5 USC 552a
USPS Regulations	39 CFR 265 Handbook AS-353 (Chapters 4 & 5)	39 CFR 266 and 268 Handbook AS-353 (Chapter 3 and Appendix)
Nature and Purpose of the Statute	A law that requires the Postal Service to disclose upon written request any record that is not covered by a FOIA exemption. The FOIA keeps the public informed about what our government is doing and how it operates.	A law that grants individuals a right of access to their own records and imposes fair record-keeping requirements on the Postal Service. The PA balances the government's need to know and the individual's right to privacy.
Coverage	All agency records.	All agency records covered by a Privacy Act system of records (SOR) (a group of records kept about individuals and retrieved by a personal identifier). See the Appendix in Handbook AS-353.
Access Provisions	Any person can request access to non-exempt records.	Only to the subject of the record or appropriate designee. Applies only to U.S. citizens and aliens lawfully admitted for permanent residence. Access may be granted to third parties through "exceptions" (e.g., routine uses, authorized disclosures)
Fees	Search, review and duplication fees based on identity of the requester.	Fees limited to duplication costs.
Records Searches	Reasonable search of all records created or maintained by the USPS, including those in any Privacy Act SOR.	Search is limited to records contained in a USPS SOR.

Rights:

An individual has a right to request and see records the Postal Service has about him or her (with a few exceptions listed in Handbook AS-353, *Guide to Privacy, Freedom of Information Act and Records Management*).

If an individual can show that the records are inaccurate, irrelevant, untimely, or incomplete, then he or she has a right to request that the Postal Service amend the records.

Responsibilities:

- Internal releases: Avoid disclosing information that is protected by the Privacy Act to an internal party (another postal employee)

unless the person has an official need to know to perform their job.

- External releases: Information can only be disclosed externally under one of the following conditions:
 - *Consent*: The records subject has given written consent.
 - *Statute*: The disclosure fits within one of 12 categories listed in the Privacy Act.
 - *Routine Use*: The agency has established a routine use authorizing disclosure.
 - *Public Information*: The information is publicly available.
- Account for the disclosure: Maintain a record about any external disclosure made.
- Protect: Safeguard records in a way that prevents unauthorized access and disclosure.
- Notice: Before using a form that collects information about an individual and before asking any individual to complete or sign such a form, contact the Privacy and Records Management Office to determine if the form may need a Privacy Act statement.
- When collecting records that are personally identifiable, ensure that the records are covered by a System of Records (SOR) before they are collected. See the Appendix in Handbook AS-353 or call the Privacy and Records Management Office for assistance.
- Check with field counsel before responding to a subpoena or court order requiring disclosure of records covered by the Privacy Act.

Consequences of noncompliance:

The seriousness of this responsibility is evident from the penalties the Privacy Act imposes upon federal employees who willfully violate key sections of the law. Fines up to \$5,000 can be imposed for willfully disclosing personal information that should not be released under the Privacy Act, or for maintaining secret records on individuals. In addition to the criminal sanctions, any employee violating any provisions of the Postal Service's rules of conduct is subject to disciplinary action.

FOIA:

FOIA is a federal law that permits the public to request information from the Postal Service. The purpose of the FOIA is to ensure an informed citizenry and encourage accountability through transparency. Under the FOIA, any person may submit a request for an existing record of the Postal Service and the agency must provide such records, unless an exemption exists that protects the records from disclosure. Postal Service regulations implementing the FOIA are found in 39 CFR 265.

All FOIA requests are tracked and managed by one of four established Postal Service FOIA requester service centers (see <http://about.usps.com/who-we-are/foia/service-centers.htm>). FOIA professionals at each requester service center are available to provide procedural guidance on FOIA processing. In addition, each Headquarters department, District and Area office has an assigned FOIA coordinator to ensure FOIA requests are handled appropriately within their areas of responsibility.

Ordinarily, it is the responsibility of the records custodian (or designee) to respond to an initial FOIA request referred from a FOIA Requester Service Center (FOIA RSC). For requests received directly from a requester instead of a FOIA RSC, do not respond without first notifying the appropriate FOIA RSC and receiving appropriate guidance concerning next steps. If the Inspection Service originated the responsive records, the Chief Postal Inspector or designee must authorize disclosure. If the Office of the Inspector General originated the responsive records, then the Inspector General or designee must authorize disclosure.

Agency Responsibilities:

- Act promptly and courteously.
- Work in a spirit of cooperation with requesters.
- Respond within mandated timelines.
- Treat all agency records as subject to the FOIA (including electronic records).
- Release responsive records, or segregable portions, requested unless covered by an exemption.
- Respond in writing.
- Provide records in the format requested.
- Provide fee estimates.
- Provide appeal rights.

Alerting Other Postal Service Personnel:

- Contact media relations if the news media requests information.
- Contact field counsel if an attorney representing a party in actual or prospective litigation with the Postal Service requests information.
- Notify the appropriate management officials when deemed appropriate.
- If you receive a FOIA request directly from a requester or a referring agency, immediately notify the appropriate FOIA Requester Service Center.

Responding to Privacy Act and FOIA Requests:

- Follow the guidelines and instructions in 39 CFR 265 and 266 and USPS Handbook AS-353.
- Records custodians and other Postal Service employees should seek guidance as necessary from their FOIA coordinator, their FOIA requester service center, the Privacy and Records Management Office, or their legal office when responding to notification or access requests under the Privacy Act or disclosure requests under the FOIA.

Remedies:

Depending on the specific circumstances, requesters have the right to do as follows:

- Appeal to the General Counsel if the request is denied or the response time is not met.
- Raise service concerns with a USPS FOIA Public Liaison Office.
- Use the Office of Government Information Services (OGIS).
- Seek judicial review in Federal District Court.

Summary:

This pamphlet has touched upon the main points about your rights and responsibilities as a Postal Service employee under the FOIA and the Privacy Act. You are urged to become more familiar with USPS policies which implement these statutes and to consult your supervisor or manager when you have any questions.

Cooperation is required by every Postal Service employee who works with records containing personal or sensitive information. In the course of your work, you become a steward or custodian of the information entrusted to you. To meet the responsibilities of this stewardship, remember to do the following:

- Learn as much as possible about the requirements of the FOIA/ Privacy Act and how these requirements relate to your job. This can be accomplished through formal training, on-the job training, discussions with your supervisor, and reading to keep up with new developments, policy guidelines and operating procedures.
- Consider how you handle the information you work with, and what measures, if any, you need to take to safeguard and protect the personal and sensitive information in your possession.
- Respond promptly to requests for information and quickly refer such requests to the responsible official, when necessary.
- Take care that personal or sensitive information is not inappropriately accessed by and disclosed to anyone.
- Follow USPS policies and procedures on records and information management.

Need Help?

Consult:

- USPS Handbook AS-353, *Guide to Privacy, the Freedom of Information Act, and Records Management*
- 39 Code of Federal Regulations, Sections:
 - 265 — Production or Disclosure of Material or Information
 - 266 — Privacy of Information
 - 267 — Protection of Information
 - 268 — Privacy of Information — Employee Rules of Conduct

Visit us online at:

- <http://blue.usps.gov/uspslaw/privacy.htm>
- <http://about.usps.com/who-we-are/foia/welcome.htm>
- www.usps.com/privacypolicy

Contact us at:

Privacy Office: privacy@usps.gov

FOIA Requester Service Center — Headquarters:

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