

## § 2.48

### § 2.48 Standards for maintenance of records subject to the Act.

(a) *Content of records.* Records subject to the Act shall contain only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or Executive Order of the President.

(b) *Standards of accuracy.* Records subject to the Act which are used in making any determination about any individual shall be maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in making the determination.

(c) *Collection of information.* (1) Information which may be used in making determinations about an individual's rights, benefits, and privileges under Federal programs shall, to the greatest extent practicable, be collected directly from that individual.

(2) In deciding whether collection of information from an individual, as opposed to a third party source, is practicable, the following factors, among others, may be considered:

(i) Whether the nature of the information sought is such that it can only be obtained from a third party;

(ii) Whether the cost of collecting the information from the individual is unreasonable when compared with the cost of collecting it from a third party;

(iii) Whether there is a risk that information collected from third parties, if inaccurate, could result in an adverse determination to the individual concerned;

(iv) Whether the information, if supplied by the individual, would have to be verified by a third party; or

(v) Whether provisions can be made for verification, by the individual, of information collected from third parties.

(d) *Advice to individuals concerning uses of information.* (1) Each individual who is asked to supply information about him or herself which will be added to a system of records shall be informed of the basis for requesting the information, how it may be used, and what the consequences, if any, are of not supplying the information.

(2) At a minimum, the notice to the individual must state:

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(i) The authority (whether granted by statute or Executive Order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(ii) The principal purpose or purposes for which the information is intended to be used;

(iii) The routine uses which may be made of the information; and

(iv) The effects on the individual, if any, of not providing all or any part of the requested information.

(3)(i) When information is collected on a standard form, the notice to the individual shall be provided on the form, on a tear-off sheet attached to the form, or on a separate sheet, whichever is most practical.

(ii) When information is collected by an interviewer, the interviewer shall provide the individual with a written notice which the individual may retain. If the interview is conducted by telephone, however, the interviewer may summarize the notice for the individual and need not provide a copy to the individual unless the individual requests a copy.

(iii) An individual may be asked to acknowledge, in writing, that the notice required by this section has been provided.

(e) *Records concerning activity protected by the First Amendment.* No record may be maintained describing how any individual exercises rights guaranteed by the First Amendment to the Constitution unless the maintenance of the record is (1) expressly authorized by statute or by the individual about whom the record is maintained or (2) pertinent to and within the scope of an authorized law enforcement activity.

[40 FR 44505, Sept. 26, 1975, as amended at 48 FR 56583, Dec. 22, 1983]

### § 2.49 [Reserved]

### § 2.50 Federal Register notices describing systems of records.

(a) The Privacy Act requires publication of a notice in the FEDERAL REGISTER describing each system of records subject to the Act. Such notice will be published prior to the establishment or a revision of the system of records. 5 U.S.C. 552a(e)(4).

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(b) Each bureau shall notify the Departmental Privacy Act Officer promptly of any modifications or amendments which are required in the then-current notice describing a system of records for which it is responsible.

(c) A bureau desiring to establish a new system of records or a new use for an existing system of records shall notify the Departmental Privacy Act Officer, no fewer than ninety (90) calendar days in advance.

[48 FR 56583, Dec. 22, 1983]

### § 2.51 Assuring integrity of records.

(a) *Statutory requirement.* The Privacy Act requires that records subject to the Act be maintained with appropriate administrative, technical and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained, 5 U.S.C. 552a(e)(10).

(b) *Records maintained in manual form.* When maintained in manual form, records subject to the Privacy Act shall be maintained in a manner commensurate with the sensitivity of the information contained in the system of records. The following minimum safeguards, or safeguards affording comparable protection, are applicable to Privacy Act systems of records containing sensitive information:

(1) Areas in which the records are maintained or regularly used shall be posted with an appropriate warning stating that access to the records is limited to authorized persons. The warning also shall summarize the requirements of § 2.52 and state that the Privacy Act contains a criminal penalty for the unauthorized disclosure of records to which it applies.

(2) During working hours, (i) the area in which the records are maintained or regularly used shall be occupied by authorized personnel or (ii) access to the records shall be restricted by their storage in locked metal file cabinets or a locked room.

(3) During non-working hours, access to the records shall be restricted by

their storage in locked metal file cabinets or a locked room.

(4) Where a locked room is the method of security provided for a system, the bureau responsible for the system shall supplement that security by (i) providing lockable file cabinets or containers for the records or (ii) changing the lock or locks for the room so that they may not be opened with a master key. For the purposes of this paragraph, a master key is a key which may be used to open rooms other than the room containing records subject to the Privacy Act, unless those rooms are utilized by officials or employees authorized to have access to the records subject to the Privacy Act.

(c) *Records maintained in computerized form.* When maintained in computerized form, records subject to the Privacy Act shall be maintained, at a minimum, subject to safeguards based on those recommended in the National Bureau of Standard's booklet "Computer Security Guidelines for Implementing the Privacy Act of 1974" (May 30, 1975), and any supplements thereto, which are adequate and appropriate to assuring the integrity of records in the system.

(d) *Office of Personnel Management personnel records.* A system of records made up of Office of Personnel Management personnel records shall be maintained under the security requirements set out in 5 CFR 293.106 and 293.107.

(e) *Bureau responsibility.* (1) The bureau responsible for a system of records shall be responsible for assuring that specific procedures are developed to assure that the records in the system are maintained with security meeting the requirements of the Act and this section.

(2) These procedures shall be in writing and shall be posted or otherwise periodically brought to the attention of employees working with the records contained in the system.

[40 FR 44505, Sept. 26, 1975, as amended at 48 FR 56583, Dec. 22, 1983]

### § 2.52 Conduct of employees.

(a) *Handling of records subject to the Act.* Employees whose duties require handling of records subject to the Privacy Act shall, at all times, take care