

the records are exempt from specific provisions of 5 U.S.C. 552a.

[68 FR 28757, May 27, 2003, as amended at 69 FR 62408, Oct. 26, 2004; 74 FR 55779 and 55780, Oct. 29, 2009; 76 FR 22615, 22616, Apr. 22, 2011; 77 FR 15596, 15597, Mar. 16, 2012; 77 FR 19095, Mar. 30, 2012]

## PART 323—DEFENSE LOGISTICS AGENCY PRIVACY PROGRAM

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AUTHORITY: Privacy Act of 1974, Pub. L. 93–579, Stat. 1896 (5 U.S.C. 552a).

SOURCE: 78 FR 25854, May 3, 2013, unless otherwise noted.

### § 323.1 Purpose.

This part sets out Defense Logistics Agency policy, assigns responsibilities, and prescribes procedures for the effective administration of the DLA Privacy Program.

### § 323.2 Applicability.

This part:

(a) Applies to Defense Logistics Agency Headquarters (DLA HQ) and all other organizational entities within the Defense Logistics Agency (hereafter referred to as “DLA Components”).

(b) Shall be made applicable by contract or other legally binding action to U.S. Government contractors whenever a DLA contract requires the performance of any activities associated with maintaining a system of records, including the collection, use, and dissemination of records on behalf of DLA.

### § 323.3 Policy.

DLA adopts and supplements the DoD Privacy Program policy and procedures codified at 32 CFR 310.4 through 310.53, and appendices A through H of 32 CFR part 310.

### § 323.4 Responsibilities.

(a) *General Counsel.* The General Counsel, DLA, under the authority of

the Director, Defense Logistics Agency:

(1) Implements the DLA Privacy Program and is hereby designated as the Component Senior Official for Privacy.

(2) Serves as the DLA Final Denial Appellate Authority.

(3) Provides advice and assistance on all legal matters arising out of, or incident to, the implementation and administration of the DLA Privacy Program.

(4) Serves as the DLA focal point on Privacy Act litigation with the Department of Justice; and will advise the Defense Privacy and Civil Liberties Office on the status of DLA privacy litigation. This responsibility may be delegated.

(5) Serves as a member of the Defense Privacy Board Legal Committee. This responsibility may be delegated.

(6) Supervises and administers the DLA FOIA and Privacy Act Office (DGA) and assigned staff. This responsibility may be delegated.

(7) May exempt DLA systems of records.

(b) *Initial Denial Authority (IDA) at Headquarters DLA.* By this part, the DLA Director designates the Head of each Headquarters DLA Component as an IDA. Each Head may further delegate this responsibility to their Deputy. For the DLA General Counsel’s Office, the Deputy General Counsel shall serve as the Initial Denial Authority (IDA).

(c) *DLA Privacy Act Office.* The DLA Privacy Act Office (DGA) staff:

(1) Formulates policies, procedures, and standards necessary for a uniform DLA Privacy Program.

(2) Serves as the DLA representative on the Defense Privacy Board and the Defense Data Integrity Board.

(3) Provides advice and assistance on privacy matters.

(4) Develops or compiles the rules, notices, and reports required under 32 CFR part 310.

(5) Assesses the impact of technology on the privacy of personal information.

(6) Conducts Privacy training for personnel assigned, employed, and detailed, including contractor personnel and individuals having primary responsibility for implementing the DLA Privacy Program.

(7) Develops forms used within the DLA Privacy Program. This part serves as the prescribing document for forms developed for the DLA Privacy Program.

(d) *DLA Components Heads*. The DLA Components Heads:

(1) Designate an individual as the point of contact for Privacy matters for their DLA Component and advise DGA of the name of official so designated. This individual also will serve as the Privacy Officer for the co-located tenant DLA organizations.

(2) Designate an official to serve as the initial denial authority for initial requests for access to an individual's records or amendments to records, and will advise DGA of the names of the officials so designated.

(e) *DLA Acquisition Management Directorate (J-7)*. The DLA Acquisition Management Directorate (J-7) shall be responsible for:

(1) Developing the specific DLA policies and procedures to be followed when soliciting bids, awarding contracts or administering contracts that are subject to 32 CFR 310.12.

(2) Establishing an appropriate contract surveillance program to ensure contractors comply with the procedures established in accordance with 32 CFR 310.12.

#### § 323.5 Access to systems of records information.

(a) Individuals who wish to gain access to records contained in a system of records about themselves will submit their request in writing to the DLA FOIA/Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060-6221. Any written request must:

(1) Identify the particular "system(s) of records" to be searched;

(2) Contain the information listed under the "Notification procedure" or "Record access procedures" elements of the applicable system of records notice;

(3) Verify identity when the information sought is of a sensitive nature by submitting an unsworn declaration in accordance with 28 U.S.C. 1746 or notarized signature;

(4) Adequately explain a request for expedited processing, if applicable;

(5) State whether they agree to pay fees associated with the processing of your request; and

(6) Contain a written release authority if records are to be released to a third party. Third parties could be, but are not limited to, a law firm, a Congressman's office, a union official, or a private entity.

(b) Amendment and/or Access denials will be processed in accordance with 32 CFR 310.18 and 310.19.

(c) If an individual disagrees with the initial agency determination regarding notification, access, or amendment, he may appeal by writing to the General Counsel, Defense Logistics Agency, ATTN: DGA, Suite 1644, 8725 John J. Kingman Road, Fort Belvoir, VA 22060-6221 or by emailing the appeal to [hq-foia@dla.mil](mailto:hq-foia@dla.mil) or by faxing the appeal to (703) 767-6091.

#### § 323.6 Exemption rules.

(a) The Director, DLA or designee may claim an exemption from any provision of the Privacy Act from which an exemption is allowed.

(b) An individual is not entitled to access information that is compiled in reasonable anticipation of a civil action or proceeding. The term "civil action or proceeding" is intended to include court proceedings, preliminary judicial steps, and quasi-judicial administrative hearings or proceedings (i.e., adversarial proceedings that are subject to rules of evidence). Any information prepared in anticipation of such actions or proceedings, to include information prepared to advise DLA officials of the possible legal or other consequences of a given course of action, is protected. The exemption is similar to the attorney work-product privilege except that it applies even when the information is prepared by non-attorneys. The exemption does not apply to information compiled in anticipation of criminal actions or proceedings.

(c) Exempt Records Systems. All systems of records maintained by the Defense Logistics Agency will be exempt from the access provisions of 5 U.S.C. 552a(d) and the notification of access