

Frequently Asked Questions (FAQs)

I. Frequently Asked Questions – Records

What is a Record?

Record means all information under the control of the Department, including information created, stored, and retrievable by electronic means, regardless of physical form or characteristics, made in or received by the Department and preserved as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the Department or because of the informational value of the data contained therein. It includes records of other Government agencies that have been expressly placed under the control of the Department upon termination of those agencies. It does not include personal records created primarily for the personal convenience of an individual and not used to conduct Department business and not integrated into the Department's record keeping system or files. It does not include records that are not already in existence and that would have to be created specifically to meet a request (see 22 Code of Federal Regulations (CFR), section 171.11(e)).

What kinds of records can I obtain from the U.S. Department of State?

Through the FOIA and Executive Order 12958 as amended, you may request access to records that are both created or obtained by the Department and also under the Department's control at the time a request for these records is submitted. Department of State records document (1) the formulation and execution of U.S. **foreign** policy and (2) the administration and operations of the Department of State and its missions abroad. For information on Department of State records go to:

**Foreign Affairs Manual (FAM),
Department of State Records Disposition Schedule, and
Government Information Locator Service (GILS)**

Also, through the Privacy Act, you may request access to records about yourself, if you are a U.S. Citizen or permanent resident alien, that are kept in name-retrievable form by the Department of State. These records include, for example, visa, consular, passport, and – for current or former employees of the Department of State – personnel, medical, security, and administrative records. For information on name-retrievable records, see Privacy Act Issuances.

Does the Department of State keep all of its Records?

No. Records no longer needed by an office, are destroyed or retired in accordance with a Records Disposition Schedule approved by the National Archives and Records Administration (NARA).

Permanent records are records appraised by NARA as having sufficient historical or other value to warrant continued preservation beyond the time they are needed for administrative, legal, or fiscal purposes. These records are retired to the Department's records storage facility

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and transferred to the Federal Records Center and eventually transferred to NARA, which is responsible for providing access to the public.

Temporary records are approved by NARA for disposal, either immediately or after a specified retention period. These records are destroyed either in the office or after they have been retired. By law, no records can be destroyed without an approved Records Disposition Schedule.

What is a Records Disposition Schedule?

A records disposition schedule identifies categories of records created and maintained by the Department, whose final disposition has been approved by NARA. The schedule provides mandatory instructions for what to do with records (and non-record materials) no longer needed for current business.

When are Department of State records transferred to the National Archives?

Permanent records must generally be reviewed, declassified (if appropriate under Executive Order 12958, as amended) and transferred to the National Archives when 25 years of age. These records then become the property of the National Archives and Records Administration (NARA).

Are all records released when they become 25 years old?

No. Certain categories of information may be protected from disclosure beyond 25 years, for example, information which would cause an unwarranted invasion of personal privacy, privileged information, trade secrets, commercial and financial information, and national security information required to be kept classified.

What is "classified" information?

Information about the national defense or foreign relations of the United States which requires protection against unauthorized disclosure may be "classified" under the terms of **Executive Order 12958, as amended**. The Executive Order provides general restrictions on access to classified information, including the general requirement of security clearance and a need to know the information.

How are Department of State records organized?

Department of State records are organized into three basic file series: the Central Foreign Policy file, Post files, and Lot files. The Central Foreign Policy file contains all telegrams sent or received by the Department of State and selected internal memoranda, written correspondence, diplomatic notes, congressional correspondence, memorandums of conversations and documents from other agencies. Post files are the records of U.S. Embassies, consulates and other diplomatic missions abroad. Lot files are collections of records generated by offices in the Department of State.

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What is the official filing system for Department of State's records?

The Department's official filing system, called Traffic Analyses by Geography and Subject (TAGS) and Terms, provides an easy to use, subject-oriented means to store and find information.

Can the Department provide FOIA documents in electronic format?

The Department of State's FOIA casework system operates on the Department's Secret network. As a result, we are unable to move unclassified/declassified information in electronic format from the Department's FOIA system to unclassified electronic media or e-mail. Accordingly, at this time, our only approved output format is paper.

What are the impediments to releasing documents in electronic format?

There are two. First, we need a system that ensures protection of redaction information. (There have been cases where Federal agencies posted electronic documents on the Internet and the public was able to remove the electronic redactions.) The Office of Information Programs and Services (IPS) is piloting a new FOIA COTS system that, when implemented, will overcome this impediment. Second, IPS needs the ability to send PDF images from the classified network to the unclassified network. It is expected that the Department's new State Messaging and Archive Retrieval Toolset (SMART) will include the ability to send messages from the classified network to the unclassified network. SMART is currently being piloted in several overseas posts and is scheduled for full deployment by 2009.

II. Frequently Asked Questions – FOIA

Are all records releasable under the FOIA?

The FOIA gives a person the right to request access to Federal records. However, some records may be protected from release, including but not limited to:

- a. National security records which have been lawfully classified on national security grounds, and remain classified;
- b. Records the disclosure of which would constitute an unwarranted invasion of an individual's personal privacy;
- c. Records compiled for law enforcement purposes;
- d. Records protected from release by statutes other than FOIA.

For the complete list of FOIA exemptions, go to the **Text of the FOIA**, as amended in 2002.

Will I be charged for making a FOIA request?

The Department of State is entitled to charge a fee to recover the costs of document search, duplication and, in commercial cases, review. Under certain conditions, documents may be furnished without charge or at a reduced charge.

What happens when the Department of State receives my FOIA request?

The Department of State's initial response will advise you of the date the Department received your request, the case number assigned to your request, and whether or not the records you are seeking are under the Department's control. Whenever possible, the records requested will be furnished within 20 working days. In general, requests are sorted according to the amount of work or time involved in responding to them, so that relatively simpler requests may be processed more quickly. If a request presents unusual circumstances -- such as the volume of the records sought -- you will be notified and offered an opportunity to limit the scope of your request in order to facilitate its processing. You will receive a substantive response when your request is fulfilled, denied in part or denied in full. If your request is complex, you may receive more than one substantive response.

If I do not specify a time frame, what is the date range of the records I will receive?

In order to achieve maximum access to records, the Department has established that, unless a different date range is specified in the FOIA request, the cutoff date for retrieving records is the date that searches are initiated within the Department of State for responsive records. Only records that were created on or before the date of search initiation will be retrieved. The Department of State consists of numerous bureaus, offices and overseas posts. Many requests require searches by personnel at multiple locations, and searches are conducted on a first-come, first-served basis at each location. Depending on the material requested and the need to search several components the actual date(s) that a search is initiated can vary. Notice of this procedure is sent to each requester in the Department's acknowledgement letter.

Will I receive all the records I've asked for?

It is the Department of State's policy to release information to the maximum extent possible. If some information must be deleted from a record which is released in part, the amount of information deleted will be indicated at the place where the deletion is made. If an entire record is withheld, you will be informed of the volume -- number of documents, for example -- which has not been released.

Can I appeal a decision of denial of access?

Yes, you may file an appeal of any adverse determination. For a description of the appeals process, go to *Appealing a FOIA or Privacy Act Decision* (page 14 of the "How to Make a Request for Department of State Records").

Can I appeal a decision not to waive or reduce fees?

Yes, you may appeal the Department's decision not to waive or reduce fees. For a description of the appeals process, go to *Appealing a FOIA or Privacy Act Decision* (page 14 of the "How to Make a Request for Department of State Records").

What is 22 CFR Part 171, and how does it affect my FOIA request?

The Code of Federal Regulations (CFR) is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government. **22 CFR Part 171** codifies the access procedures and guidelines for the availability of Department of State information and records to the public.

III. Frequently Asked Questions – Privacy Act

What is the purpose of the Privacy Act?

The Privacy Act is a records management act that provides safeguards against invasion of personal privacy through the misuse of records by Federal agencies. Congress passed the Act in 1974 to establish controls over the collection, maintenance, use and dissemination of personal information by the Federal government. The Act applies to records about individuals maintained by agencies in the executive branch of the Federal government and guarantees three primary rights: 1) the right to see records about oneself, unless the information is subject to a Privacy Act exemption; 2) the right to request the amendment of records that are not accurate, relevant, timely or complete; and 3) the right of individuals to be protected against unwarranted invasion of their privacy resulting from the collection, maintenance, use, and disclosure of personal information.

What records can be requested under the Privacy Act?

The Privacy Act is concerned essentially with name-retrievable records systems. Examples of such systems would include passport, medical, and employment records. For a description of Department of State systems of records maintained on individuals, go to the Government Printing Office's **Privacy Act Issuances**.

Who can request records under the Privacy Act?

You must be a United States citizen or an alien lawfully admitted for permanent residence to the U.S. to make a request for Privacy Act records.

How do I request my own records?

You do not need a special form but your request must include an **original, notarized signature or a statement under penalty of perjury** using the following statement:

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"I [declare, certify, verify, of state] under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct."

Make your request in writing and provide your full name and date and place of birth. Provide other names you have used. Describe the records you believe the Department of State maintains about you and why. Give an approximate time period if you are asking about a specific event. Sign and date the letter, and mail it (do not fax it) to:

Margaret P. Grafeld, Information & Privacy Coordinator
U.S. Department of State
A/ISS/IPS
Washington, D.C. 20522-8100

Will there be a charge for documents obtained under the Privacy Act?

No. The Department of State does not charge for initial release of documents under the Privacy Act request. However, the Department may charge \$0.15 per page for subsequent copies.

May I request records pertaining to another individual?

Yes, you may request records concerning another person. These "third party" requests for Privacy Act records pertaining to someone else are processed under the FOIA, whether or not the request is made with the permission of the subject of the records. If you do not have the written permission of the other person, you are unlikely to receive many records because their disclosure would be barred by the privacy exemption of the FOIA. The consent of person to whom the records pertain requires that person's signature, either notarized or made under penalty of perjury in the following form:

"I [declare, certify, verify, of state] under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct."

This statement is then signed by the person to whom the records pertain, and it must be a signed original and not a copy or fax. The request must include the individual's date and place of birth, full name and any aliases, type of records being requested, and an approximate time frame for search.

What if I want the records of a deceased individual?

You may request the records of a deceased person if you can provide proof of death. You should provide the person's date and place of birth and a copy of the death certificate or a newspaper obituary. You should explain the type of material you seek and why you think that the Department of State would have records on the deceased. Your request will be processed under provisions of the FOIA.

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What if I am not a US citizen or permanent resident alien and I want records about myself?

You may request records concerning yourself, even if you are not a US citizen, but your request will be processed under the Freedom of Information Act --not the Privacy Act.

How do I decide which Act - the Freedom of Information Act or the Privacy Act - pertains to the records I want?

You do not have to make that decision. When a request is received at the Department of State, the Freedom of Information and Privacy Act staff members will process your request according to the act that assures you the greatest access to records.

What is 22CFR171, and how does it affect my Privacy request?

22 CFR 171.30-36 contains the Department's published regulations concerning the access procedures and guidelines for requesting information under the Privacy Act.