

## Department of State

## § 215.11

### § 215.10 Disclosure of record to person other than the individual to whom it pertains.

(a) Subject to the conditions of paragraphs (b) and (c) of this section, the Agency shall not disclose any record which is contained in a system of records by any means of communication to any person or other agency who is not the individual to whom the record pertains.

(b) Upon written request or with prior written consent of the individual to whom the record pertains, the Agency may disclose any such record to a person or to another agency as requested or authorized.

(c) Notwithstanding the absence of written consent from the individual to whom the record pertains, the Agency may disclose any such record provided such disclosure is:

(1) To those officers and employees of the Agency who have a need for the record in the performance of their duties;

(2) Required under the Freedom of Information Act (5 U.S.C. 552);

(3) For a routine use as defined in § 215.2;

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13 of the United States Code;

(5) To a recipient who has provided the Agency with adequate advance written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his or her designee, to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity authorized by law: Provided, The head of the agency or instrumentality has made a prior written request to the Assistant

Administrator of Administration or the Privacy Liaison Officer, specifying the particular record and the law enforcement activity for which it is sought;

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

(9) To either House of Congress, or, to the extent of a matter within its jurisdiction, any committee or subcommittee, or joint committee of Congress, or subcommittee of such joint committee;

(10) To the Comptroller General, or any of his/her authorized representatives, in the course of the performance of the duties of the General Accounting Office;

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

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

### § 215.11 Fees.

(a) The only fees to be charged to or collected from an individual under the provisions of this part are for copying records at the request of the individual.

(b) No fees shall be charged or collected for the following: Search for and retrieval of the records; review of the records; copying at the initiative of the Agency without a request from the individual; the first 100 pages; and first-class postage. However if special handling or other than first-class mail is requested or required, the costs shall be added to the basic fee.

(c) The copying fees prescribed in paragraph (a) of this section are:

Ten (10) cents per page. Twenty (20) cents per page of computer printout.

(d) Payment may be in the form of a check, bank draft on a bank in the United States, or postal money order payable to the Treasurer of the United States.

(e) A receipt for fees paid will be given only upon request.

(f) A copying fee totaling \$15.00 or less shall be waived but the copying

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fees for contemporaneous requests by the same individual shall be aggregated to determine the total fee.

(g) A fee may be reduced or waived by the Privacy Liaison Officer.

### §215.12 Penalties and remedies.

The provisions of the Act relating to penalties and remedies are summarized below:

(a) An individual may bring a civil action against the Agency when the Agency:

(1) Makes a determination not to amend a record in accordance with the individual's request;

(2) Refuses to comply with an individual's request pursuant to 5 U.S.C. 552a (d)(1);

(3) Fails to maintain a record concerning an individual with such accuracy, relevance, timeliness and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities of, or benefits to the individual that may be made on the basis of such record, and as a result thereof a determination is made which is adverse to the individual; or

(4) Fails to comply with any other provision of section (d) of the Act in such a way as to have an adverse effect on an individual.

(b) The court may order the correction or amendment of the records, may enjoin the Agency from withholding the records, may order the Agency to produce any records improperly withheld, and may assess attorney's fees and costs.

(c) Where a court of competent jurisdiction makes a determination that the Agency action was willful or intentional with respect to 5 U.S.C. 552a (g)(1) (c) or (d), the United States shall be liable for actual damages of no less than \$1,000, the costs of the action, and attorneys' fees.

(d) Criminal penalties may be imposed against an officer or employee of the Agency who willfully discloses material which he or she knows is prohibited from disclosure, or who maintains a system of records without complying with the notice requirements.

(e) Criminal penalties may be imposed against any person who knowingly and willfully requests or obtains

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any record concerning an individual from an agency under false pretenses. The offenses enumerated in paragraphs (d) and (e) of this section are misdemeanors, with fines not to exceed \$5,000.

### §215.13 General exemptions.

(a) Pursuant to 5 U.S.C. 552a (j)(2), the Director or the Administrator may, where there is a compelling reason to do so, exempt a system of records within the Agency from any part of the Act, except subsections (b), (c) (1) and (2), (e)(4)(A) through (F), (e) (6), (7), (9), (10), and (11), and (i) thereof, if the system of records is maintained by the Agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of:

(1) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status;

(2) Information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or

(3) Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

(b) Each notice of a system of records that is the subject of an exemption under this section will include a statement that the system has been exempted, the reasons therefore, and a reference to the FEDERAL REGISTER, volume and page, where the exemption rule can be found.

(c) The systems of records to be exempted under section (j)(2) of the Act, the provisions of the Act from which they are being exempted, and the justification for the exemptions, are set forth below: