

# ADS Chapter 508 - PRIVACY ACT - 1974

## Table of Contents

<a href="#"><u>508.1</u></a>	<a href="#"><u>Authority</u></a> .....	<a href="#"><u>2</u></a>
<a href="#"><u>508.2</u></a>	<a href="#"><u>Objective</u></a> .....	<a href="#"><u>2</u></a>
<a href="#"><u>508.3</u></a>	<a href="#"><u>Responsibility</u></a> .....	<a href="#"><u>2</u></a>
<a href="#"><u>508.4</u></a>	<a href="#"><u>Definitions</u></a> .....	<a href="#"><u>5</u></a>
<a href="#"><u>508.5</u></a>	<a href="#"><u>POLICY</u></a> .....	<a href="#"><u>6</u></a>
<a href="#"><u>508.5.1</u></a>	<a href="#"><u>GENERAL</u></a> .....	<a href="#"><u>6</u></a>
<a href="#"><u>E508.5.1</u></a>	<a href="#"><u>General N/A</u></a> .....	<a href="#"><u>6</u></a>
<a href="#"><u>508.5.2</u></a>	<a href="#"><u>CONDITIONS OF DISCLOSURE</u></a> .....	<a href="#"><u>6</u></a>
<a href="#"><u>E508.5.2</u></a>	<a href="#"><u>Conditions of Disclosure</u></a> .....	<a href="#"><u>8</u></a>
<a href="#"><u>508.5.3</u></a>	<a href="#"><u>ACCOUNTING OF CERTAIN DISCLOSURES</u></a> .....	<a href="#"><u>8</u></a>
<a href="#"><u>E508.5.3</u></a>	<a href="#"><u>Accounting of Certain Disclosures</u></a> .....	<a href="#"><u>8</u></a>
<a href="#"><u>508.5.4</u></a>	<a href="#"><u>ACCESS TO RECORDS</u></a> .....	<a href="#"><u>8</u></a>
<a href="#"><u>E508.5.4</u></a>	<a href="#"><u>Access to Records</u></a> .....	<a href="#"><u>9</u></a>
<a href="#"><u>508.5.5</u></a>	<a href="#"><u>AMENDING RECORDS</u></a> .....	<a href="#"><u>9</u></a>
<a href="#"><u>E508.5.5</u></a>	<a href="#"><u>Amending Records</u></a> .....	<a href="#"><u>10</u></a>
<a href="#"><u>508.5.6</u></a>	<a href="#"><u>PUBLIC RULES AND NOTICES OF SYSTEMS OF RECORDS</u></a> .....	<a href="#"><u>10</u></a>
<a href="#"><u>E508.5.6</u></a>	<a href="#"><u>Public Rules and Notices of Systems of Records</u></a> .....	<a href="#"><u>11</u></a>
<a href="#"><u>508.5.7</u></a>	<a href="#"><u>PENALTIES, CIVIL REMEDIES, AND SANCTIONS</u></a> .....	<a href="#"><u>11</u></a>
<a href="#"><u>E508.5.7</u></a>	<a href="#"><u>Penalties, Civil Remedies, and Sanctions N/A</u></a> .....	<a href="#"><u>11</u></a>

## **Functional Series 500: Management Services**

### **ADS Chapter 508 - Privacy Act - 1974**

This chapter supersedes Chapter 12 of HB 18, Part III

#### **508.1 Authority**

1. Privacy Act of 1974
2. [P.L. 93-579](#)
3. [22 CFR 215, 215.1 through 14](#)

#### **508.2 Objective**

The object of this chapter is to present the [Agency's](#) policy for safeguarding [individual](#) privacy and ensuring access by individuals to records about themselves. It also establishes policy for the disclosure of personal information and assigns responsibility within the agency for various actions necessary to fulfill the requirements of the Privacy Act of 1974, hereafter known as the Act.

#### **508.3 Responsibility**

General

##### 1) Employee Responsibilities

All USAID employees must be aware of the public trust placed in them to ensure confidentiality of personal information and to safeguard personal information from willful or negligent disclosure. This public trust involves physical and procedural protection, as well as the responsibility to report any known unauthorized disclosures. All employees of the Agency, including contract employees, who operate the Agency's systems of records, have personal responsibility for observing the provisions of the Privacy Act.

##### 2) Director, Office of Administrative Services (M/AS)

The Director is responsible for assuring that the spirit as well as the letter of the Act is followed by:

- a) Approving the publication in the Federal Register of (1) Agency regulations implementing the Act, (2) notices of existence and character of the systems of records maintained by the Agency, (3) rules and notices that identify general or specific exemptions, and (4) notices of routine uses.

b) Receiving appeals under the [Act](#) for review of refusal by the Agency to [amend](#) a [record](#) and conducting the review, either in person or through a designee.

3) General Counsel

The General Counsel for Ethics/Administration (GC/E&A) advises the Director, M/AS and other Agency officials on all matters involving interpretation of the provisions of the Act.

4) Privacy Officer

The Chief, Office of Customer Outreach and Oversight Staff (M/AS/COOS) serves as USAID Privacy Officer (PO) and is responsible for:

a) All administrative actions, policy decisions, and operations required for effective implementation of the Act in the Agency.

b) Issuing Agency directives and procedures to apprise employees of their responsibilities under the Act and to train them in procedures established by the Agency to implement the Act.

c) Reviewing all decisions of refusal to amend records. Only the Chief or designee may deny any request for records, or requests to amend records.

d) Representing the Agency in a civil action brought against the Agency in matters relating to the Act.

e) Managing a reception office and reading room where requesters may be given access to the Agency records about them and examine records made available in response to a request.

5) Privacy Act Implementation Officer

The Privacy Act Implementation Officer (PIO) is responsible to the Privacy Officer for:

a) Recommending to the PO appropriate action on requests for access, amendment of records and

disclosure of information, which action offices wish to refuse in whole or in part.

b) Preparing reports and advance notices pertaining to the Act for transmittal to the Office of Management and Budget (OMB), the Privacy Protection Study Commission and elsewhere as may be required.

c) Preparing the annual notice of systems of records and such revision of the Agency's regulations, as required, for publication in the Federal Register. Considering proposals for the establishment of any new systems of records to assure consistency with the provisions of the Act, and recommending appropriate action to the PO.

d) Providing guidance to and interpretation of the Act and Office of Management and Budget (OMB) regulations for the Privacy Coordination Officers and reviewing their operations as necessary to ensure effective implementation of the Act.

e) Establishing a program for the periodic review of the Agency's record keeping policies and practices to assure compliance with the Act.

f) Reporting any potential violations of the law to the PO with recommendation for appropriate action.

g) Receiving (as designee) requests made under the Act by individuals in person or in writing and to verify the identity of such individuals.

h) Recording all requests made under the Act received in USAID/W, assigning action to appropriate offices within USAID/W and overseas posts, reviewing their actions in responding to such requests, billing the requesters for services rendered as required, and maintaining a file system of correspondence and documents generated by the Act.

i) Examining records received from file custodians prior to release to the individual to determine whether they contain any documents not normally releasable to the individual, such as (1) classified material, (2) records

wholly or partially exempt from access by the requester under the provisions of the PA, and (3) records containing personal information concerning an individual other than the requester. The PIO makes the record available to the requester only after deletion of any portions exempted from disclosure for the above reasons.

6) Privacy Coordination Officers

Bureaus and offices in USAID/W are to appoint a coordination officer to provide a bridge between the PIO, the System Managers and the many records custodians in the bureau or office. Coordination Officers are to:

a) Assure that records custodians and supervisors are aware of the follow through on their responsibilities under the Act and under Agency's directives with regard to the disclosure of records and the accounting of disclosures.

b) Assist the systems manager or file custodian to assure that records are accurate, timely, complete, and relevant to the Agency's functions they serve;

7) Privacy Liaison Officers (Missions)

The Privacy Liaison Officers (PLO) are located in USAID Missions and offices abroad. The PLO is designated by the Mission Director or head of the office, and is usually the principal administrative officer (Executive Officer or equivalent). The PLO processes requests for access to records and to amend records. The PLO's functions are governed by the rules and procedures set forth in this chapter and the responsibilities are similar to those of the PIO in USAID/W. The PLO also approves local forms, establishes procedures as necessary and assists file custodians in disclosure and amendment procedures.

**508.4 Definitions (See [ADS GLOSSARY](#))**

See [22 CFR Part 215.2](#)

ACT  
AGENCY  
AMEND  
INDIVIDUAL  
MAINTAIN  
RECORD  
ROUTINE USE

STATISTICAL RECORD  
SYSTEM OF RECORDS

**508.5 POLICY**

The following are the official Agency policies and corresponding essential procedures:

**508.5.1 GENERAL**

a) USAID shall deal with all employees and members of the public in an open manner, respecting their right to privacy, observing due process, and limiting collection, use or disclosure of information about individuals to those lawful purposes which contribute to USAID's conduct of its authorized functions.

b) USAID shall refer to the individual directly in verifying personnel records and personal information; to provide to individuals convenient access to records about them, consistent with the law and the need to protect the right of all individuals to privacy; to assure that records about individuals are accurate, complete, and up to date and to correct them when necessary or appropriate. The principles of openness, fairness, and discretion in dealing with individuals or information about them must be observed by all officers and employees of the Agency.

c) USAID shall give full meaning to the spirit of the Act in carrying out its provisions.

d) USAID officers and employees shall request to review records containing personal information only on a "need-to-know" basis and for official purposes of USAID. Under the Privacy Act USAID must protect personal information when it is stored, when it is in transit, and when it is being processed.

**E508.5.1 General N/A**

**508.5.2 CONDITIONS OF DISCLOSURE**

a) USAID shall not disclose any record, which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be:

1. to those officers and employees of USAID which maintain the record who have a need for the record in the performance of their duties;
2. required under the Privacy Act of 1974;
3. for routine use compatible with the purpose for its collection;

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;

5. to a recipient who has provided USAID with advance adequate 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 and Records Administration as a record which has sufficient historical or other value to warrant its continued preservation by the United States or the designee of the Archivist 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 if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to USAID specifying the particular portion desired and the law enforcement activity for which the record is sought;

8. to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

9. to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee or Congress or subcommittee of any such joint committee;

10. to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office;

11. pursuant to the order of a court of competent jurisdiction, and;

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

b) Financial and Credit Inquiries

The Notice of Systems of Records concerning personnel records (Systems USAID-01 and 02) establishes the routine use of information "to Financial and Credit Institutions for loan and credit reference purposes solely to verify the employee's name, employment with USAID, dates of employment and pay grade." USAID employees shall only verify the above information when it is read to them by a member of the financial or credit institution and are not to volunteer any additional information. Individuals (who are employed by USAID) seeking credit must themselves provide

personal information directly to credit institutions. USAID is not required to provide any information unless specifically requested to do so in writing by the individual seeking credit.

#### **E508.5.2 Conditions of Disclosure**

The Agency shall adhere to the policies and essential procedures for Conditions of Disclosures found in 22 CFR Part 215. (**See Mandatory Reference [22 CFR 215](#)**)

#### **508.5.3 ACCOUNTING OF CERTAIN DISCLOSURES**

Except for disclosures made under policy sections 508.5.1 paragraph a) points 1. and 2. (above), USAID shall maintain a record of disclosure which will keep an accurate accounting of the following disclosure information:

- a) date of disclosure
- b) nature and purpose of disclosure
- c) the name and address of the person or agency to whom the disclosure was made.

Records of disclosure shall be retained for at least five years after disclosure, or the life of the record, whichever is longer.

Except for disclosure made under policy 508.5.1. paragraph a) point 7 (above), records of disclosure shall be made available to the individual named in the record, if requested.

#### **E508.5.3 Accounting of Certain Disclosures**

- a) Maintaining Record of Disclosure

USAID Form 490-4, Accounting for Disclosure, will be used to record disclosures and is to be maintained as part of the system of records (but may be filed in a folder adjacent to the records for convenience). Disclosures covering law enforcement activities are to be entered on separate forms USAID 490-4 to avoid their being combined with disclosure records to which the individual may have access.

- b) Retention of the Record of Disclosure

Bureaus, Offices and Missions using USAID Form 490-4 or another document which serves as a record of disclosures will maintain them in active file status as a part of the system of records.

#### **508.5.4 ACCESS TO RECORDS**



Upon written request by any individual to gain access to their records or to any information pertaining to them which is contained in the system, USAID shall permit them to review the record and have a copy made of all or any portion of the record. USAID must provide a response to access to records requests within 10 business days, and provide the requested records within 30 business days.

#### **E508.5.4 Access to Records**

The Agency shall adhere to the policies and essential procedures for Access to Records in Sections 215.3, 215.6 and 215.11 of 22 CFR Part 215. (See Mandatory Reference [22 CFR 215.3.6, and .11](#))

Exemptions from Access to Records:

There are two categories of exemptions...General Exemptions and Specific Exemptions. The only system of records covered under the General Exemption is System USAID 9, Criminal Law Enforcement Records maintained by the Office of the Inspector General/Investigations (IG/I). The effect of a specific exemption is that the source of information may be deleted or otherwise made unrecognizable but the substance of the information in a record must be supplied if it would adversely affect an individual. A description of exempted systems, including the reasons for their exemption, can be found in Section 215.4 of 22 CFR 215. (**See Mandatory Reference [22 CFR 215, section 215.4](#)**)

#### **508.5.5 AMENDING RECORDS**

Individuals may request amendments of records pertaining to them. The request must be in writing. Within 10 business days after receipt of a request to amend a record, USAID shall provide a written acknowledgement and promptly, either:

- a) make any correction of any portion which the individual believes is not accurate, relevant, timely, or complete; or,
- b) inform the individual of its refusal to amend the record as requested, the reason for the refusal, and provide information on USAID procedures for the individual to request a review of the refusal.
- c) USAID shall respond to a request for review within 30 business days from the date the written request is submitted. However, the head of the Agency may extend the 30-day period.
- d) After the Agency has completed its review, if the reviewing official also refuses to amend the record in accordance with the request, USAID shall:
  1. permit the individual to file with the agency a concise statement setting forth the reasons for their disagreement with the refusal of the agency, and;

2. notify the individual of the provisions for judicial review of the reviewing official's determination.

e) When a record is not amended and the individual files a statement of disagreement, USAID shall do the following for any disclosure occurring after the filing of the statement:

1. clearly note any portion of the record which is disputed; and,
2. provide copies of the statement of disagreement.

f) Nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

#### **E508.5.5 Amending Records**

The Agency shall adhere to the Amending Records policies and essential procedures found in Section 215.7 of 22 CFR. (**See Mandatory Reference [22 CFR 215.7](#)**)

##### Submission of Request

The individual may mail or deliver the request to the PO at the following address

M/AS/COOS  
Room 1101 SA-16  
Agency for International Development  
Washington, DC 20523-1608

#### **508.5.6 PUBLIC RULES AND NOTICES OF SYSTEMS OF RECORDS**

a) USAID shall publish in the Federal Register a description of each system of records it maintains. All systems of records must be reviewed annually for necessity and relevance of the information they contain and their existence and character published.

b) USAID/W Bureaus and Offices and USAID offices abroad are responsible for assuring that each USAID form placed in use which requires the addition of such a statement have attached a sheet specifically designed for the form which will be available from the USAID Distribution Branch, M/AS/ISS, USAID/W.

##### c) Exempted USAID Systems of Records

The Privacy Act permits agency heads to exempt certain information from some of the provisions of the Act. The existence and nature of the exempted record must,

however, be made public and the reasons for the exemptions set forth in the published description of each exempted system of records.

#### **E508.5.6 Public Rules and Notices of Systems of Records**

The Agency shall adhere to the Public Rules and Notices of Systems of Records policies and essential procedures found in sections 215.8 and 215.9 of 22 CFR Part 215. (See Mandatory Reference [22 CFR 215.8 and 215.9](#))

M/AS/ISS in its normal forms analysis and design function provides assistance to USAID/W offices in determining whether a given USAID form requires the addition of such a statement and, if so, in drafting the statement. The PLO in Missions reviews all forms requesting personal information and assists drafters in preparing an adequate statement to be included on the locally designed form. Should additional guidance be needed, M/AS/ISS also assists to the extent assistance can be provided by correspondence.

#### **508.5.7 PENALTIES, CIVIL REMEDIES, AND SANCTIONS**

The Agency shall adhere to the Penalties, Civil Remedies, and Sanctions policies and essential procedures found in section 215.12 of 22 CFR 215. (See Mandatory Reference [22 CFR 215.12](#))

#### **E508.5.7 Penalties, Civil Remedies, and Sanctions N/A**

508\_w101502