

# ARS □ NIFA □ ERS □ NASS

## *Policies and Procedures*

**Title:** Freedom of Information Act and Privacy Act Guidelines

**Number:** 116.0

**Date:** March 24, 2010

**Originating Office:** Information Staff, OA/ARS

**This Replaces:** ARS 158.1 dated 2/23/98

**Distribution:** All REE Employees

This P&P states REE policy and procedures for implementing the FOIA, 5 U.S.C. 552, and PA, 5 U.S.C. 552a

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# 1. Introduction

This Policies and Procedures (P&P) provides instructions and information to all Research, Education, and Economics (REE) employees regarding policy and procedures for identifying and responding to requests for information pursuant to the Freedom of Information Act (FOIA), 5 USC 552, and Privacy Act (PA), 5 USC 552a. Employees should refer to this P&P for guidance whenever they receive a request for Agency records.

# 2. Statement of Policy

It is REE policy for employees to:

- Comply with the FOIA, 5 U.S.C. 552; Electronic FOIA (E-FOIA) Amendments of 1996; and Open Government Act of 2007.
- Comply with the PA, 5 U.S.C. 552a.
- Respond to all FOIA and PA requests in a timely manner and to the fullest extent possible unless disclosure is prohibited by law or would impair one of the interests protected by exemptions of the FOIA or PA. Review the documents to determine if technically exempt information can be released as a matter of discretion. Segregate and release nonexempt information.
- Proactively disclose information on Agency websites.
- Protect records contained in a PA System of Record (PA SOR) and not disclose such 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 complies with the conditions of disclosure set forth in the PA.
- Provide records in any form or format requested if the records are readily reproducible by the Agency in that form or format.
- Maintain accurate, relevant, and complete records, both in paper and electronic form, in accordance with the PA and REE P&P 251.8, “Records Management” and P&P 251.8M, “Records Management (Manual).”
- Protect the personal privacy of individuals including Personally Identifiable Information (PII).

- Collect only that information necessary to accomplish Agency objectives.
- Access only those records needed in order to perform and accomplish their duties.

### **3. Authorities**

5 USC 301, 552, and 552a  
 5 CFR Part 293 (Office of Personnel Management)  
 7 CFR Part 1, Subpart A and G (U.S. Department of Agriculture)  
 7 CFR Part 510 (Agricultural Research Service)  
 7 CFR Part 3404 (National Institute of Food and Agriculture)  
 7 CFR Part 3601 (National Agricultural Statistics Service)  
 7 CFR Part 3701 (Economic Research Service)  
 Office of Management and Budget Circular A-130

### **4. Responsibilities**

The REE Administrators and Director have overall responsibility for compliance with the FOIA and PA for their respective agencies. This authority is delegated to the FOIA/PA Officers who act on behalf of the REE Administrators and Director to carry out compliance with the FOIA and PA. Specifically, the FOIA/PA Officers will:

- Ensure that FOIA and PA policy is consistent throughout each Agency.
- Serve as an expert source of information about the FOIA and PA for REE employees.
- Provide guidance concerning policy issues.
- Through discussions with REE staff, determine whether REE maintains responsive records and whether release of the documents would impair one of the interests protected by exemptions of the FOIA or PA. Review the documents to determine whether technically exempt information can be released as a matter of discretion. Segregate and release all nonexempt information.
- Review the REE PA SORs and update as necessary.
- Provide training to REE employees as appropriate.
- Maintain the FOIA Website that includes an overview of the FOIA and PA, instructions on how to file a FOIA request, reading room material, and links to pertinent FOIA and PA sites; see <http://www.ars.usda.gov/Services/docs.htm?docid=1398>.
- Maintain the REE Reading Room; see <http://www.ars.usda.gov/is/foia/reading.htm>.

The address, telephone numbers, and e-mail address of the FOIA/PA Office are:

USDA, REE, ARS, Information Staff  
5601 Sunnyside Avenue  
Building 1-2248, Mail Stop 5128  
Beltsville, Maryland 20705-5128  
Telephone: 301-504-1655; 301-504-1640  
Facsimile: 301-504-1647  
E-mail: [REEFOIA@ars.usda.gov](mailto:REEFOIA@ars.usda.gov).

## **5. FOIA Requirements and Procedures**

The FOIA is a disclosure statute designed to allow ease of access to documents held by the Federal Government. Each Agency has the responsibility to release information as prescribed by the FOIA. A FOIA request should be submitted when a person, attorney, or business is requesting records not routinely made available to the public.

### **Responding to Requests**

FOIA requesters should submit requests for paper or electronic documents to the REE FOIA Office. In cases where FOIA requests are submitted directly to the program office or location, the request should be forwarded to the REE FOIA Office upon receipt. Each request for information should fully describe the records sought to enable Agency personnel to locate them with reasonable effort.

The FOIA requires a determination within 20 working days after receipt of a proper request. Therefore, it is important that Agency offices respond promptly to the FOIA Officers' instructions. In cases where a FOIA request is received directly from a requester, the office receiving the request should promptly forward the request to the FOIA Officers to be logged in and processed. The FOIA Officers may extend the deadline an additional 10 working days under the following circumstances:

- In cases where there is a need to search for and collect the requested records from field offices or other establishments that are separate from the office processing the request.
- When there is a need to examine voluminous records required by the request.
- When there is a need to consult with another agency or agency component having a substantial interest in the determination of the response.

E-FOIA directs agencies to provide requesters the opportunity to modify the timeframe or scope of requests where unusual circumstances prevent the Agency from responding within 20 working days.

E-FOIA authorizes agencies to promulgate regulations providing for multi-track processing of FOIA requests. This allows agencies to establish different tracks for processing requests and permits them to process requests on a first-in, first-out basis within each of the tracks. This allows Agencies to respond to relatively simple requests more quickly than requests involving complex and/or voluminous records.

The FOIA Officers provide a copy of the request to the appropriate Agency office(s) to review, search for and compile responsive documents, and forward all responsive documents along with any concerns regarding release of the records to the FOIA Officers for review, final determination, and response to the requester.

The REE agencies are obligated to provide copies of all responsive documents, either in paper or electronic form. Agencies are required to provide records in any form or format requested, if the records are readily reproducible in that form or format.

## **Exemptions**

The REE Agencies are required to respond to requests for information to the fullest extent possible without infringing on the nine exemptions stated in the Act. The office maintaining responsive documents should advise the FOIA Officers of any concerns about disclosing the information requested. All nonexempt information will be segregated and released to the requester. In cases where exemptions apply, the documents will be reviewed to determine if technically exempt information can be released as a matter of discretion.

The FOIA contains nine exemptions; however, the REE agencies generally use the following exemptions, 5 U.S.C. 552:

- (b)(2) Related solely to the internal personnel rules and practices of an agency. This includes (a) internal matters of a relatively trivial nature—often referred to as “low 2” information and (b) more substantial internal matters, the disclosure of which would risk circumvention of a legal requirement—often referred to as “high 2” information. Certain types of information that may warrant high 2 protection include sensitive information related to America’s homeland security, i.e., vulnerability assessments and evaluations of items of critical infrastructure that are internal to the Federal Government.
- (b)(3) Specifically exempted from disclosure by statute. This incorporates the disclosure prohibitions that are contained in various other Federal Statutes.
- (b)(4) Trade secrets and commercial or financial information obtained from a person that is privileged or confidential.

- (b)(5) Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency. Incorporated within Exemption 5 are the deliberative process privilege, attorney work-product privilege, and attorney-client privilege.
- (b)(6) Personnel and medical files and similar files when the disclosure of such information would constitute a clearly unwarranted invasion of personal privacy.

## **Information Submitted by Private Businesses or Persons**

Executive Order 12600 requires the Agency to notify submitters of records containing confidential commercial information when those records are requested under the FOIA if the Agency determines that it may be required to disclose the records.

When a request is received for records containing confidential commercial information submitted by a person or entity, the office that maintains the records is required to notify the submitter of the information. A submitter notification form is provided by the FOIA Office. The submitter is given a reasonable period of time to review the information and prepare a justification for nondisclosure. The submitter must state all grounds for nondisclosure, including how disclosure of such information could reasonably be expected to cause substantial competitive harm if released. If the Agency does not agree with the submitter and confidential commercial information is to be disclosed, the submitter of the information will be notified before releasing the information so that the submitter may consider possible judicial intervention.

## **Denial of Information and Appeals**

The FOIA Officers make the final decision to deny information and provide the requester with appeal rights. Any concerns about the disclosure of information should be conveyed to the FOIA Officers.

The FOIA allows a person to appeal the denial of information, a no records response, or the denial of a fee waiver within 45 days of the date of the denial letter. The appeal is addressed to the appropriate REE Administrator or Director and is forwarded to the FOIA office for review and determination. The initial FOIA file is reviewed to determine whether the Agency will continue to deny the information or will provide the records. The appeal response is coordinated with the Office of the General Counsel (OGC). If the information is denied in full or part, it is signed by the appropriate REE Administrator or Director. If the information is released, the response is signed by one of the FOIA Officers. The Agency has 20 working days to process an appeal and respond to the requester as to the decision. An extension of this time may be applicable in certain circumstances and an additional 10 days allowed.

If the requester is not satisfied with the decision, or if the Agency fails to respond within the statutory deadlines, the requester may file a complaint in a U.S. District Court compelling the Agency to release the records.

## **Charges and Collections**

The FOIA Officers may charge for search, review, and duplication costs in accordance with the fee schedule appended to the Department's FOIA Regulations (7 C.F.R. 1.1-1.23). The regulations place requesters into three categories for the purpose of assessing fees: (1) commercial requesters, (2) educational or noncommercial scientific institutions and representatives of the news media, and (3) all other requesters, which apply to all requesters who do not fall within either of the preceding two fee levels. Depending on how the requester is categorized, the requester can be assessed charges that recover the full direct costs of searching for and reviewing records responsive to the request, along with all applicable duplication costs.

A fee waiver or reduction may be granted if disclosure of the information is deemed to be in the public interest. Information is deemed in the public interest if it is likely to contribute significantly to public understanding of the operations or activities of the Government and is not primarily in the commercial interest of the requester. Fees are also waived if the total charges for processing the information are less than \$25.

All fees are assessed and collected by the FOIA Officers and processed in accordance with P&P 326.0, "Collections." The fees collected are forwarded to the Treasurer of the United States.

## **Records Maintenance and Security**

In maintaining files, proper safeguards must be taken to limit access to all government records. Records should be maintained, disposed of, and archived in accordance with P&P 251.8, "Records Management," and P&P 251.8M, "Records Management (Manual)."

Advice concerning security requirements for automated data processing equipment can be obtained from each Agency's Cybersecurity Staff.

## **Subpoena Duces Tecum**

Subpoena duces tecum for USDA records in judicial or administrative proceedings should be forwarded to the Branch Chief, Employee Relations Branch, Human Resources Division, for review and consultation with OGC. See P&P 461.6, "Appearances of REE Employees as Witnesses in Judicial or Administrative Proceedings" and P&P 411.7, "Releasing Information About REE Employees." In most cases, the subpoena duces tecum will be forwarded to the FOIA Office for response in compliance with the FOIA. USDA guidance for subpoena duces tecum is addressed in 7 CFR 1.215, "Subpoenas duces tecum for USDA records in judicial or administrative proceedings in which the United States is not a party."



## **REE Reading Room**

The FOIA requires that agencies maintain a reading room that is accessible to members of the public to allow inspection of documents that are routinely made available to the public. These types of documents include final opinions and orders made in adjudicating cases; final statements of policy and interpretations that have not been published in the Federal Register; administrative staff manuals and instructions to staff that affect members of the public; any records processed or disclosed in response to a FOIA request that are likely to become the subject of subsequent requests for substantially the same records; and a general index of the records that are likely to become the subject of subsequent requests. The REE Reading Room is located at the FOIA Office in Building 1, Room 2248, 5601 Sunnyside Avenue, Beltsville, Maryland 20705-5128. The link for the Electronic REE Reading Room is: <http://www.ars.usda.gov/is/foia/reading.htm>.

## **Proactive Disclosure**

To create “an unprecedented level of openness,” agencies should exercise discretion to make a broader range of records available beyond the minimum required by the FOIA, which includes material maintained in the REE Reading Room. Agencies are directed to “take affirmative steps to make information public” without waiting for specific requests and to “use modern technology to inform citizens about what is known and done by their government.” All proactively disclosable records should be posted online on Agency websites.

## **Open Government Act of 2007**

The “Openness Promotes Effectiveness in our National Government Act of 2007,” also referred to as the OPEN Government Act of 2007, amended several procedural aspects of the FOIA, setting forth new Agency requirements and statutorily mandating existing practices that assist requesters and facilitate the processing of FOIA requests.

This new legislation amends the FOIA in a number of significant ways:

- Restores the “catalyst theory” for assessment of attorney fees in litigation in those instances in which an agency unilaterally changes its position by releasing records absent a court order, including pursuant to a settlement agreement. Under the catalyst theory, a requester is eligible for fees if the agency releases documents after a suit is filed in the absence of a court order.
- Requires agencies to pay attorney fees to a prevailing party from agency appropriations rather than the Judgment Fund, 31 U.S.C. 1304. Any attorney fees due to FOIA requesters who litigate agency tardiness or withholding will come from agency appropriations.
- Prohibits agencies from charging and collecting search and duplication fees if the strict

20 day, plus 10 days in unusual circumstances, FOIA deadlines are not met, unless there are exceptional circumstances.

- Clarifies for the purpose of fees who is a “representative of the news media,” recognizing electronic media, and permitting agencies to consider the past publication records of a requester who is seeking fee limitation by asserting status as a representative of the news media. This includes bloggers to some extent.
- Directs the Attorney General to report to the Special Counsel any judicial findings of arbitrary and capricious withholding by an agency.
- Makes clear that “date of receipt” for a FOIA request is no later than 10 days after the request is first received by any component of the Department, even though the request might not have reached the Department agency responsible for answering it.
- Clarifies and limits current agency practice by providing that the 20 day clock for responding to a FOIA request is stopped (1) for one reasonable request by the agency for additional information from the requester about the request or (2) if necessary to clarify with the requester issues regarding fee assessment. The clock restarts once the agency receives the requester’s response to a request for information or clarification.
- Mandates that whenever a record is released in part, the exemption claimed for any redactions are written in the record where the redaction has been made.
- Redefines the term “records” specifically to include information maintained for the government by a government contractor for the purpose of records management.
- Enacts into law some requirements that already have been implemented under Executive Order 13392, Improving Agency Disclosure of Information, including provisions requiring agencies to appoint a Chief FOIA Officer, appoint a FOIA public liaison, assign an individualized tracking number to each request, and provide a telephone line or internet service that will provide information to a requester concerning status of a request.
- Establishes an Office of Government Information Services within the National Archives and Records Administration to review agency FOIA policies, procedures, and compliance; to recommend policy changes to the President and Congress; and to offer mediation services to agencies and FOIA requesters.
- Adds additional FOIA statistics that agencies must report in their annual FOIA reports.

## **FOIA Service Center and Public Liaisons**

Executive Order 13392 required Agencies to establish FOIA Service Centers and FOIA Public Liaisons. The FOIA Service Center is the first place FOIA requesters can contact to seek

information concerning the status of their FOIA request and information about the Agency's FOIA response. Any concerns about the service a requester has received from the Service Center can be addressed to the REE FOIA Public Liaisons at 301-504-1743.

## **6. PA Requirements and Procedures**

The PA protects individuals against clearly unwarranted invasion of their personal privacy. The PA informs individuals as to what information is maintained on them and where the information is stored. The PA allows individuals to access documents maintained in a PA SOR (records retrievable by an individual's name or other personal identifier assigned to that individual) and to request an amendments of the records. Documents maintained in a PA SOR are available to a first-party requester (individual that the record pertains to) or his/her representative, unless the records fall within the exemptions of both the PA and the FOIA. An individual submitting a PA request is required to provide proof of identity, i.e., photo identification or a notarized statement confirming his/her identity. The PA only applies to U.S. citizens or lawful permanent resident aliens. The PA does not apply to deceased persons.

As directed by the Office of Personnel Management, the following information about most present and former Federal employees is available to the public:

- Name, present and past position titles, and occupational series.
- Present and past grades.
- Present and past annual salary rates (including performance awards or bonuses, incentive awards, merit pay amount, Meritorious or Distinguished Executive Ranks, and allowances and differentials.)
- Present and past duty stations (includes room numbers, stop designations, or other identifying information regarding buildings or places of employment.)
- Position descriptions, identification of job elements and those performance standards that the release of which would not interfere with law enforcement programs or severely inhibit agency effectiveness.

For additional guidance on releasing personal information outside of the FOIA or without obtaining a waiver from the individual, see REE P&P 411.7, "Releasing Information on REE Employees."

## **Responding to Requests**

PA requests should be submitted to the appropriate system manager published in the PA SOR. It is the system manager's responsibility to inform the FOIA/PA Officers of requests received. The PA SOR is published in the PA Issuances Compilation as a supplement to the Code of Federal Regulations; links are available on the REE FOIA Website. The request should contain the name of the individual submitting the request, the PA SOR in which the records are maintained, and whether the individual wants to inspect the records personally or be supplied with copies by mail. The individual submitting a PA request will be asked to provide proof of identity, i.e., photo identification or a notarized statement confirming his/her identity. Agencies are required to acknowledge a PA request for access to records within 10 working days. If access will be granted, the agency should provide access within 30 working days. The PA contains exemptions that may be applicable to the records.

## **Responding to Requests for Correction or Amendment of a Record**

The PA allows for the correction or amendment of records contained in a PA SOR. An individual should contact the system manager listed in the PA SOR who will review the request and take appropriate action. When a system manager receives a request for correction or amendment, he/she must promptly either correct any portion of the file the individual believes is not accurate, relevant, timely, and/or complete, or inform the individual of the refusal to amend the record, the reason for the refusal, and the procedures the individual needs to follow in order to request a review by the appropriate REE Administrator or Director. Agencies are required to acknowledge a PA request to correct or amend a record within 10 working days.

## **Review of the Refusal**

The PA allows individuals to request a review of the Agency's refusal to amend their records. The appeal is addressed to the appropriate REE Administrator or Director and is forwarded to the FOIA/PA Officers for response. The appeal response is coordinated with OGC. The Agency must complete the review and make a final determination within 30 working days from the date the individual requested the review. This period may be extended for 30 days for good cause.

Whenever the appropriate REE Administrator or Director refuses to amend the disputed record(s), the individual must be permitted to file a concise statement setting forth reasons for disagreeing with the Agency's refusal. The FOIA/PA Officers or the system manager must also make these statements of disagreements available to anyone to whom they later disclose the record, as well as to prior recipients of the disputed record. The requester must be informed of their right to seek judicial review of the Agency's determination.

## **Conditions of Disclosure**

Employees may not disclose any record contained in a PA SOR to any person or to another Agency unless the FOIA/PA Officers have received a written request by, or have obtained the prior consent of, the individual to whom the record pertains, unless, one or more of the following apply:

- Disclosure to officers and employees of the agency that maintains the record who have a need for it in the performance of their duties.
- Disclosure is required under the FOIA.
- Disclosure for a routine use that has been published in the Federal Register.
- Disclosure to the Bureau of the Census for a census or a survey.
- Disclosure to a recipient who has provided the agency with advance, adequate written assurance that the record will be used solely as a statistical research or reporting record.
- Transfer of permanent PA records to National Archives and Records Administration.
- Disclosure to another agency for a civil or criminal law enforcement activity that is authorized by law.
- Disclosure to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual.
- Disclosure to Congress.
- Disclosure to the Government Accountability Office.
- Disclosure pursuant to an order of a court.
- Disclosure to a consumer reporting agency in accordance with the Debt Collection Act of 1982.

## **Charges and Collections**

Duplication charges are \$0.20 per page. Fees cannot be charged for search or review time. Fees less than \$25.00 are waived. Whenever charges are involved, the system manager should contact the FOIA/PA Officers for guidance in assessing fees. All collections will be forwarded to the FOIA/PA Officers and processed in accordance with P&P 326.0, "Collections." Fees collected are forwarded to the Treasurer of the United States.

## **Collecting Personal Information**

Any personal information collected should be obtained directly from the subject individual when possible and should include only what is relevant and necessary to accomplish the purpose for which it was collected. Therefore, personal information should not be collected if the Agency purpose can be accomplished without it.

Forms that collect personal information must include a PA statement that specifies:

- The authority, whether granted by statute or by executive order of the President, which authorizes the solicitation of the information.
- The principal purpose or purposes for which the information is intended to be used.
- Routine uses of the information.
- Whether the disclosure of the information is mandatory or voluntary and the effects on the individual for not providing all or any part of the requested information.

## **Records Maintenance and Security**

Information contained in PA SOR should be accurate, complete, up-to-date, and relevant to Agency purposes. Prior to disclosing any personal information, a reasonable effort should be made to see that information is correct and up-to-date.

Records maintained in a PA SOR must be safeguarded against unauthorized access. Only REE employees who need information in order to carry out an Agency function may have access to such records. Records should be maintained, disposed of, and archived in accordance with P&P 251.8, "Records Management," and P&P 251.8M, "Records Management (Manual)."

Advice concerning security requirements for automated data processing equipment can be obtained from each of the REE Agency's Cybersecurity Staff.

## **Personally Identifiable Information**

PII is information that can be used to uniquely identify an individual. OMB defines PII as any information about an individual maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and information which can be used to distinguish or trace an individual's identity, such as their name, social security number, date and place of birth, mother's maiden name, biometric records, including any other personal information which is linked or linkable to an individual. Proper safeguards must be taken to protect against unauthorized access to PII.

## Privacy Impact Assessment

The E-Government Act requires that agencies conduct Privacy Impact Assessments (PIA) for electronic information systems and collections and, in general, make them publicly available.

A PIA is an analysis of how information is handled: (1) to ensure handling conforms to applicable legal, regulatory, and policy requirements regarding privacy, (2) to determine the risks and effects of collecting, maintaining, and disseminating information in identifiable form in an electronic information system, and (3) to examine and evaluate protections and alternative processes for handling information to mitigate potential privacy risks. For guidance and assistance related to a PIA, contact your Agency's Cybersecurity Staff.

## Federal Register Notices

The FOIA/PA Officers will provide assistance and guidance to system managers in preparing the Federal Register notices for each new PA SOR. These notices must include the following sections:

- Agency name, unique system number, system name, security classification, system location.
- Categories of individuals covered by the system; categories of records in the system, authority for maintenance of the system, and Agency official responsible for the system.
- Purpose of the system.
- Routine uses of the records contained in the system, including the categories of users and the purposes of such uses.
- Disclosure to consumer reporting agencies, if applicable.
- Policies and practices of the Agency regarding storage, retrievability, access controls, retention, and disposal of the records.
- System manager(s) and address(es).
- Notification procedures, records access procedures, and contesting record procedures.
- Record source categories.
- Exemptions claimed for the system, if applicable.

The FOIA/PA Officers should be notified when a significant change in the use or operation of one of the REE PA SOR is being considered if such a change will:

- Increase the types of individuals on whom records are maintained.
- Expand the types or amounts of information maintained.
- Increase the number or categories of agencies or other people who may have access to the records.
- Add a new routine use or change an existing one.
- Alter the manner in which the records are organized, changing the nature or scope of those records (for example, combining two or more existing systems).
- Change the manner in which the information is maintained (for example, computerizing the information).

The FOIA/PA Officers should be notified if personal information is collected for a new or expanded purpose.

The Agency must provide at least 30 days advance notice of all new or changed routine uses in existing PA SOR. The Agency must provide 60 days advance notice to OMB, Congress, and the general public (Federal Register) of any new PA SOR and alterations to existing systems that expand the coverage of individuals, the information maintained, or access by third parties, or that significantly change the organization of records, system operations, or equipment configuration.

Information that will be maintained in compliance with a new or amended PA SOR cannot be compiled until the new PA SOR or amendments has been published in the Federal Register.

## **7. Summary of Responsibilities**

### **REE Administrators and Director**

- Responsible for compliance with the FOIA and PA for their respective Agencies.
- Delegate authority to the FOIA Officers who will act for the REE Administrators and Director to carry out compliance with the FOIA and PA.
- Make final decisions regarding FOIA appeals where information is withheld.



- Make PA reviews of refusals to amend records.

## **FOIA/PA Officers**

- Administer the FOIA and PA programs for REE.
- Ensure that FOIA policies and procedures are consistent throughout REE.
- Determine whether specific records are exempt from any provisions of the FOIA and PA.
- Process FOIA and PA requests in compliance with the FOIA/PA laws and regulations.
- Develop and implement policies, procedures, and instructions to administer FOIA/PA programs.
- Provide advice and guidance on FOIA and PA related matters and issues.
- Provide oversight and guidance related to REE PA SORs.
- Ensure REE PA SORs are reviewed and updated.

## **REE Employees**

- Respond promptly to requests for information from the FOIA/PA Officers.
- Promptly notify the FOIA/PA Officers when a FOIA and/or PA request for records is received.
- Maintain records in an electronic format that are easily reproducible.
- Maintain records in accordance with P&P 251.8, “Records Management,” and P&P 251.8M, “Records Management (Manual).”
- Maintain records in compliance with the PA allowing first party access to such records for access, correction, or amendment.
- In compliance with the PA, maintain only those records that are required to carry out one’s function and duty.

## **8. Glossary**

**Agency records.** Documents that are (1) created or obtained by an agency and (2) under agency

control. Documents include all printed and electronic books, papers, maps, photographs, and machine-readable materials, regardless of physical form or characteristics, that are preserved or appropriate for preservation as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them. Reference materials, library materials preserved solely for reference or exhibition purposes, and extra copies of publications are not agency records.

**E-FOIA.** Electronic Freedom of Information Act Amendments of 1996. Amendments to the FOIA, setting forth new agency requirements related to electronic records and the creation of Electronic Reading Rooms.

**Electronic Reading Room.** A requirement under the E-FOIA to allow access to information electronically from an agency's website.

**FOIA.** Freedom of Information Act, 5 U.S.C. 552.

**Individual (as defined by the PA).** A citizen of the United States or an alien lawfully admitted for permanent residence.

**OGC.** Office of the General Counsel.

**OPEN Government Act.** Amendments to the FOIA, setting forth new agency requirements and statutorily mandating existing practices that assist requesters and facilitate the processing of FOIA requests.

**OMB.** Office of Management and Budget.

**PA.** Privacy Act, 5 U.S.C. 552a.

**PA SOR.** Privacy Act System of Record. Group of records under the control of an agency from which information is retrieved by the name of the individual or by some other identifying number, symbol, or other identifying particular assigned to the individual.

**PIA.** Privacy Impact Assessment. As required by the E-FOIA, is an analysis of how information is handled.

**PII.** Personally Identifiable Information. Information that can be used to uniquely identify an individual.

**Proactive Disclosure.** Where agencies make their records publicly available without waiting for specific requests from the public.

**Routine Use.** With respect to the disclosure of a record covered by a PA SOR, a use that is compatible with the purpose for which the record was collected.

**Subpoena Duces Tecum.** A writ commanding a person to produce in court certain designated documents or other evidence.

**System Manager.** The Agency official who is responsible for a PA SOR.

EDWARD B. KNIPLING  
Administrator  
Agricultural Research Service