



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-3000

MEMORANDUM FOR: Distribution

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FROM: LaDonne White, Chief Privacy Officer (CPO), AHFC

SUBJECT: Privacy Office Memorandum 03-00, Privacy Act Disclosures and Amendments Procedures

Summary

This memorandum establishes guidance for processing information disclosure and amendment requests and maintaining accounting of such requests as governed by the Privacy Act of 1974.

About the Privacy Act at HUD

The U.S. Department of Housing and Urban Development (HUD) gathers information on employees, individuals applying for HUD programs, business partners, contractors and clients. Pursuant to the Privacy Act of 1974, which established controls over what personal information is collected by the federal government and how it is used, US citizens and legal permanent residents have the right to: see records about themselves; correct an inaccurate, irrelevant, untimely, or incomplete record; and find out about disclosures of their records to other agencies or persons.

The Privacy Act only applies to records about individuals kept in a system of records maintained by executive branch agencies. Personnel involved in Privacy Act activities fall into two categories: (1) those who process and disclose information and (2) those who make decisions concerning the disclosure of the information.

HUD's Privacy Act Process

HUD follows their Freedom of Information Act (FOIA) process for Privacy Act requests. Upon receiving a request, a HUD FOIA specialist determines whether the request is related to PII and / or the Privacy Act. These requests are processed under the FOIA B(6) exemption. FOIA specialists enter the request into FOIAXpress and share the request with the relevant program office(s), who then have up to 10 days to deliver the necessary information back. From there, the assigned FOIA specialist analyzes the information to determine whether any PII would be included in the release or whether the request has any Privacy Act implications, then determines the next steps for the request. These may include granting the request, making redactions to the request, or sending the request to the Office of the Inspector General (OIG).

Procedure for Accounting HUD Privacy Act Disclosures

Privacy Liaison Officers (PLO) are responsible for handling all Privacy Act requests in their respective Program Offices, including tracking progress, coordinating with the HUD Privacy Office throughout, and accounting of disclosures in accordance with federal and HUD requirements. The Privacy Act requires agencies keep accurate accounts of when and to whom personal records are disclosed. These accounts should include information on the date and nature of the disclosure as well as information on the recipient.

The Program Office PLO is responsible for ensuring the accounting of disclosures is kept for five years after the disclosure or the life of the record, whichever is longer. Accountings are not required for intra-agency (need-to-know) disclosures. Unless records are shared for law enforcement purposes, the PLO should make accounts of the disclosure available to the data subject upon request. If the agency makes corrections or notations of dispute to any record, the relevant PLO must inform any person or agency to whom it has disclosed the original information, including the Program Manager and Chief Privacy Officer, if an accounting of disclosures was made.

Disclosure Accountings

The PLO is responsible for maintaining an accurate record of all disclosures made from any system of records in the Privacy SharePoint, except disclosures to HUD personnel for use in the performance in their official duties or under 5 U.S.C. 552, the FOIA. In all other cases, the PLO and RMLO are required to maintain a disclosure accounting in the Privacy SharePoint, even if the individual has consented to the disclosure of the information.

Contents & Method of Disclosure Accountings

At a minimum, the disclosure accounting in the Privacy SharePoint should contain:

- The date of the disclosure.
- A description of the information released.
- The purpose of the disclosure.
- The name and address of the person or agency to whom the disclosure was made.

The assigned PLO is to use the Privacy SharePoint as the system of disclosure accounting. When numerous similar records are released as part of mass disclosures, the PLO(s) and, if necessary, Records Management Liaison Officers (RMLOs) identify the category of records disclosed and include the data required in the list above.

Make available to the individual to whom the record pertains all disclosure accountings except when the disclosure has been made to a law enforcement activity and the law enforcement activity has requested that disclosure not be made; or the system of records has been exempted from the requirement to furnish the disclosure accounting.

If disclosure accountings are not maintained with the record and the individual requests access to the accounting, the PLO and RMLO are to prepare a listing of all disclosures and provide this to the individual upon request.

See guidance below for detailed steps regarding procedures for disclosures, corrections and amendments, and accounting.

Disclosure Processing and Accounting Guidance

The following provides steps for processing requests and managing disclosure accounting.

- 1) If an individual requests access to a record that is kept about them, then the individual should be allowed to:**
 - a. View and review the record.
 - b. Bring one person of their choice to accompany them when reviewing the record.
 - i. If the requesting individual brings a person with them, the requesting individual must sign a written statement authorizing the fact the person accompanying them will be present during any discussion or viewing of the record.
 - c. Make copies of the entire record or a portion of the record.

- 2) If an individual request to correct or amend a record kept about them, then the agency should:**
 - a. Within 10 days (not including weekends and public holidays)
 - i. Make the correction or amendment.
 - ii. Or inform the individual the agency refuses to amend the record.
 1. **If the agency refuses**, the agency must notify the individual of:
 - a. The reason why it was refused.
 - b. The agency procedures for how the individual can request a review of the refusal by the head of the agency.
 - c. Provide the name and business address of the head who reviews such decisions.

 - b. **If the individual wants the decision of refusal to amend to be reviewed, then the agency should:**
 - i. Review the decision within 30 days (not including weekends and holidays) of when the individual submits the request for review. If you are not the agency head in charge of review, ensure that requests for review are promptly sent to the person in charge of reviewing.
 - ii. The agency head can extend the 30 day period if there is a showing of good cause.

- 3) If the agency head refuses to amend the record, then:**
 - a. The individual is:
 - i. Permitted to file a statement of disagreement with the agency that details the reason why the individual believes they should have been allowed to amend the record.
 - b. The agency should:
 - i. Make a record of justification explaining the reason for refusal.
 - ii. Create a notice of dispute that identifies the portions of the record which have been disputed.

- iii. Notify the individual of the provisions for judicial review of the agency head's refusal to amend or correct the record.
- c. Include the following documents with the record if the record is ever disclosed to other persons or agencies:
 - i. Individual's statement of disagreement.
 - ii. Agency's record of justification for refusal.
 - iii. General notice of dispute.

Cancellations

This memorandum does not rescind, modify, or replace another Directive or Memorandum.

Please direct all questions and inquiries to the Privacy Office at privacy@hud.gov.

FOR DISTRIBUTION:

- All HUD PLOs