



## **AGENCY FOR INTERNATIONAL DEVELOPMENT**

### **Privacy Act of 1974, System of Records**

**AGENCY:** United States Agency for International Development.

**ACTION:** Altered system of records.

**SUMMARY:** Pursuant to the Privacy Act, 5 U.S.C. 552a, the United States Agency for International Development (USAID) is issuing public notice for an altered system of records entitled, “USAID-25 Freedom of Information Act, Privacy Act, and Mandatory Declassification Review Requests Records” last published at 42 FR 47386 (Sept. 20, 1977). This action is necessary to meet the requirements of the Privacy Act, 5 U.S.C. 522a(e)(4), to publish in the **Federal Register** notice of the existence and character of record systems maintained by the agency.

**DATES:** In accordance with 5 U.S.C. 522a(e)(4) and (11), the public is given a 30-day period in which to comment. Therefore, any comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Unless comments are received that would require a revision, this altered system of records will become effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments:

**Electronic:**

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions on the Web site for submitting comments.
- *E-mail:* [privacy@usaid.gov](mailto:privacy@usaid.gov).

**Paper:**

- *Fax:* (703) 666-5670.
- *Mail:* Chief Privacy Officer, United States Agency for International Development, 2733 Crystal Drive, 11th Floor, Arlington, Va. 22202.

**FOR FURTHER INFORMATION CONTACT:** The USAID Privacy Office at United States Agency for International Development, 2733 Crystal Drive, 11th Floor, Arlington, VA 22202; or via email at [privacy@usaid.gov](mailto:privacy@usaid.gov).

**SUPPLEMENTARY INFORMATION:** USAID is upgrading the information technology system (IT system) that assists with the management of Freedom of Information Act (FOIA) and Privacy Act (PA) request and administrative appeal processing. The IT system provides the ability to manage the entire lifecycle of FOIA/PA requests and administrative appeals. Components include request management, correspondence management, document management, fee/payment management, document review/redaction, and reporting. The new Public Access Link (PAL) is a public-facing web portal that complements the IT system and allows requesters to submit their FOIA and Privacy Act requests on-line; attach supporting documents; correspond with the Government Information Specialist assigned to the request; receive status updates; view the request submission history; and receive the final response letter and records.

Dated: January 10, 2014.

**William Morgan,**

*Chief Information Security Officer and Chief Privacy Officer,*

*United States Agency for International Development.*

**USAID-25**

**SYSTEM NAME:**

Freedom of Information Act, Privacy Act, and Mandatory Declassification Review Requests Records.

**SECURITY CLASSIFICATION:**

Unclassified, Sensitive but unclassified, and Classified.

**SYSTEM LOCATION:**

United States Agency for International Development (USAID), 1300 Pennsylvania Avenue, NW, Washington, DC 20523; Terremark, 50 NE 9th Street, Miami, FL 33132; U.S. Department of State COOP Beltsville (BIMC), 8101 Odell Road, Floor/Room – 173, Beltsville, MD 20705; and other USAID offices in the United States and throughout the world.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

The system encompasses all individuals who submit Freedom of Information Act (FOIA), Privacy Act, and Mandatory Declassification Review requests and administrative appeals to the United States Agency for International Development (USAID); individuals whose requests and/or records have been referred to USAID by other agencies; attorneys or other persons authorized to represent individuals submitting requests and appeals; individuals whose records are the subjects of such requests or appeals; and USAID personnel assigned to process such requests or appeals.

**CATEGORIES OF RECORDS COVERED BY THE SYSTEM:**

This system consists of records created or compiled in response to FOIA, Privacy Act, and Mandatory Declassification Review requests and administrative appeals to

USAID, including: the original requests and administrative appeals; responses to such requests and administrative appeals; all related memoranda, correspondence with the requester or requester's representative, notes, internal USAID correspondence and memoranda, and other related or supporting documentation; memoranda to or from other agencies having a substantial interest in the determination of the request; and, in some instances, copies of requested records and records under administrative appeal. These records contain names, addresses, e-mail addresses, telephone numbers; online identity verification information (username and password); copies of identity verification documents such as passports and drivers licenses; and any other information voluntarily submitted such as tracking numbers. These records may contain personal information retrieved in response to a request. These records may contain inquiries and requests regarding other USAID systems of records subject to the FOIA and PA. In addition, information about individuals from such other USAID systems of records may become part of this system of records.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The system was established and is maintained pursuant to 5 U.S.C. 301; 5 U.S.C. 552; 5 U.S.C. 552a; 44 U.S.C. 3101; and 22 CFR 212 and 215, and the applicable executive order(s) governing classified national security information.

**PURPOSE(S):**

The records are collected, used, maintained, and disseminated for the purpose of processing access requests and administrative appeals made under the FOIA, access and amendment requests and administrative appeals under the Privacy Act, and requests and administrative appeals for mandatory declassification review under the applicable

executive order(s) governing national security information; for the purpose of participating in litigation regarding agency action on such requests and appeals; and for the purpose of assisting USAID in carrying out any other responsibilities related to FOIA and Privacy Act such as reporting to USAID and other federal executive officials.

**ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or portion of the records or information contained in this system may be disclosed outside of the USAID as a routine use as follows:

- (1) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when USAID is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary.
- (2) To the Department of Justice or other appropriate United States Government Agency when the records are arguably relevant to a proceeding in a court or other tribunal in which USAID or a USAID official in his or her official capacity is a party or has an interest, or when the litigation is likely to affect USAID.
- (3) To the Department of Justice for the purpose of obtaining advice as to whether or not the records or information should be disclosed.

(4) To a Federal government agency or entity that furnished the record or information for the purpose of permitting that agency or entity to make a decision as to access to or correction of the record or information, or to a federal agency entity for purposes of providing guidance or advice regarding the handling of particular requests.

(5) To appropriate agencies, for the purpose of resolving an inquiry regarding federal agency compliance with the Freedom of Information Act.

(6) In the event of an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by statute or particular program pursuant thereto, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

(7) To the Department of State and its posts abroad for the purpose of transmission of information between organizational units of the Agency, or for purposes related to the responsibilities of the Department of State in conducting United States foreign policy or protecting United States citizens, such as the assignment of employees to positions abroad, the reporting of accidents abroad, evacuation of employees and dependents, and other purposes for which officers and employees of the Department of State have a need for the records in the performance of their duties.

(8) To a foreign government or international agency in response to its request for information to facilitate the conduct of U.S. relations with that government or

agency through the issuance of such documents as visas, country clearances, identification cards, drivers' licenses, diplomatic lists, licenses to import or export personal effects, and other official documents and permits routinely required in connection with the official service or travel abroad of the individual and his or her dependents.

(9) To Federal agencies with which the Agency has entered into an agreement to provide services to assist the Agency in carrying out its functions under the Foreign Assistance Act of 1961, as amended. Such disclosures would be for the purpose of transmission of information between organizational units of the Agency; of providing to the original employing agency information concerning the services of its employee while under the supervision of the Agency, including performance evaluations, reports of conduct, awards and commendations, and information normally obtained in the course of personnel administration and employee supervision; or of providing other information directly related to the purposes of the inter-agency agreement as set forth therein, and necessary and relevant to its implementation.

(10) To appropriate officials and employees of a federal agency or entity when the information is relevant to a decision concerning the hiring, appointment, or retention of an employee; the assignment, detail or deployment of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract; or the issuance of a grant or benefit.

(11) To a Congressional Committee or Subcommittee.

(12) To the National Archives and Records Administration, Information Security Oversight Office, Interagency Security Classification Appeals Panel, for the purpose of adjudicating an appeal from a USAID denial of a request for mandatory declassification review of records, made under the applicable executive order(s) governing classification.

(13) To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures, and compliance with the Freedom of Information Act, and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

(14) To the National Archives and Records Administration for the purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

(15) To a former employee of USAID for purposes of responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable agency regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the agency requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

(16) To the Foreign Service Grievance Board in the course of the Board's consideration of matters properly before it.

(17) To appropriate agencies, entities, and persons when (1) USAID suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) USAID has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the USAID or another Agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with USAID's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

These records are not disclosed to consumer reporting agencies.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored on paper and/or electronic form; and are maintained in locked cabinets and/or user-authenticated, password-protected systems. Records that contain national security information and are classified are stored in accordance with applicable executive orders, statutes, and agency implementing regulations.

**RETRIEVABILITY:**

Records are retrieved by the name of the requester or appellant; the number assigned to the request or appeal; and in some instances, the name of the attorney

representing the requester or appellant, the name of an individual who is the subject of such a request or appeal, and/or the name of other personal identifiers.

**SAFEGUARDS:**

Information in this system is safeguarded in accordance with applicable laws, rules and policies, including the agency's automated directive system. Classified information is appropriately stored in safes and in accordance with other applicable requirements. In general, records and technical equipment are maintained in buildings with restricted access. The required use of password protection identification features and other system protection methods also restrict access. Access is limited to those officers and authorized USAID employees who have an official need to access the records in the performance of their official duties.

**RETENTION AND DISPOSAL:**

Records are retained and disposed of in accordance with the National Archives Records Administration's General Records Disposition Schedules and the agency's approved disposition schedules.

**SYSTEM MANAGER(S) AND ADDRESS:**

USAID FOIA Public Liaison Officer, United States Agency for International Development, Bureau for Management, Office of Management Services, Information and Records Division (M/MS/IRD), 1300 Pennsylvania Avenue, NW, Room 2.7-C, Washington, DC 20523.

**NOTIFICATION PROCEDURES:**

Same as Record Access Procedures.

**RECORD ACCESS PROCEDURES:**

Under the Privacy Act, individuals may request access to records about themselves. If an agency or a person, who is not the individual who is the subject of the records, requests access to records about an individual, the written consent of the individual who is the subject of the records is required.

Requesters may submit requests for records under the Privacy Act in the following four ways: 1) by mail to the USAID FOIA Office, Bureau for Management, Office of Management Services, Information and Records Division, 1300 Pennsylvania Avenue, NW, Room 2.07C – RRB, Washington, DC 20523-2701; 2) via email to foia@usaid.gov; 3) on the USAID Web site at <http://www.usaid.gov/foia-requests>; or 4) by completing the USAID Form 508-2, Privacy Request Form, which is available: a) by writing to the USAID FOIA Office, Bureau for Management, Office of Management Services, Information and Records Division, 1300 Pennsylvania Avenue, NW, Room 2.07C – RRB, Washington, DC 20523-2701; b) via email to foia@usaid.gov; or c) on the USAID Web site at <http://www.usaid.gov/foia-requests>.

Requesters must provide the information that is necessary to identify the records, including the following: Requester's full name; present mailing address; home telephone; work telephone; name of subject, if other than requester; requester relationship to subject; description of type of information or specific records; and purpose of requesting information. Requesters should provide the system of record identification name and number, if known; and, to facilitate the retrieval of records contained in those systems of records which are retrieved by Social Security Numbers, the Social Security Number of the individual to whom the record pertains.

In addition, requesters must include proof of identity information by providing copies of two (2) source documents that must be notarized by a valid (un-expired) notary public. Acceptable proof-of-identity source documents include: an unexpired United States passport; Social Security Card (both sides); unexpired driver's license or identification card issued by a state or United States possession, provided that it contain a photograph; certificate of United States citizenship; certificate of naturalization; card showing permanent residence in the United States; United States alien registration receipt card with photograph; United States military card or draft record; or United States military dependent's identification card.

Requesters must also provide a signed and notarized statement that they are the person named in the request; that they understand that any falsification of their statement is punishable under the provision of 18 USC 1001 by a fine, or by imprisonment of not more than five years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisonment of not more than eight years, or both; and that requesting or obtaining records under false pretenses is punishable under the provisions of 5 USC 552a(i)(3) as a misdemeanor and by a fine of not more than \$5,000. The notarized statement with an embossed notary seal must be submitted in the original paper to the USAID FOIA Office, Bureau for Management, Office of Management Services, Information and Records Division, 1300 Pennsylvania Avenue, NW, Room 2.07C – RRB, Washington, DC 20523-2701.

**CONTESTING RECORD PROCEDURES:**

Individuals seeking to contest or amend records maintained on himself or herself must clearly and concisely state that information is being contested, and the proposed

amendment to the information sought. Requests to amend a record must follow the Record Access Procedures above.

**RECORD SOURCE CATEGORIES:**

Individuals and organizations submitting initial requests and administrative appeals pursuant to the FOIA and Privacy Act, or other applicable executive order(s) governing classified national security information; the agency records searched in the process of responding to such requests and appeals; USAID personnel assigned to handle such requests and appeals; agency records searched in the process of responding to such requests and appeals; other agencies that refer to, search for and provide the records and related correspondence that are maintained in the case files; and submitters or subject of records or information that have provided assistance to USAID in making access or amendment determinations.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

USAID has claimed exemptions for several of its other systems of records under 5 U.S.C. 552a(j)(2) and (k). Additional exemptions are delineated in 22 CFR 215.13 and 215.14. During the processing of FOIA and Privacy Act requests and administrative appeals, exempt records from these other systems of records may become part of the case record in this system of records. To the extent that exempt records from other USAID systems of records are entered or become part of this system, USAID has claimed the same exemptions. In addition, any such records compiled in this system of records from any other system of records continues to be subject to any exemption(s) applicable for the records as they have in the primary systems of records of which they are a part.

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