

Express Mail	Priority Mail Contract 8 (MC2009–25 and CP2009–32)	[Reserved for Product Description]
Outbound International Expedited Services	Priority Mail Contract 9 (MC2009–25 and CP2009–33)	Inbound Air Parcel Post
Inbound International Expedited Services	Priority Mail Contract 10 (MC2009–25 and CP2009–34)	[Reserved for Product Description]
Inbound International Expedited Services 1 (CP2008–7)	Priority Mail Contract 11 (MC2009–27 and CP2009–37)	Parcel Select
Inbound International Expedited Services 2 (MC2009–10 and CP2009–12)	Priority Mail Contract 12 (MC2009–28 and CP2009–38)	[Reserved for Group Description]
Priority Mail	Priority Mail Contract 13 (MC2009–29 and CP2009–39)	Parcel Return Service
Priority Mail	Priority Mail Contract 14 (MC2009–30 and CP2009–40)	[Reserved for Group Description]
Outbound Priority Mail International	Priority Mail Contract 15 (MC2009–35 and CP2009–54)	International
Inbound Air Parcel Post	Priority Mail Contract 16 (MC2009–36 and CP2009–55)	[Reserved for Group Description]
Royal Mail Group Inbound Air Parcel Post Agreement	Priority Mail Contract 17 (MC2009–37 and CP2009–56)	International Priority Airlift (IPA)
Parcel Select	Priority Mail Contract 18 (MC2009–42 and CP2009–63)	International Surface Airlift (ISAL)
Parcel Return Service	Priority Mail Contract 19 (MC2010–1 and CP2010–1)	International Direct Sacks—M-Bags
International	Priority Mail Contract 20 (MC2010–2 and CP2010–2)	[Reserved for Product Description]
International Priority Airlift (IPA)	Priority Mail Contract 21 (MC2010–3 and CP2010–3)	International Surface Airlift (ISAL)
International Surface Airlift (ISAL)	Priority Mail Contract 22 (MC2010–4 and CP2010–4)	[Reserved for Product Description]
International Direct Sacks—M-Bags	Outbound International	International Direct Sacks—M-Bags
Global Customized Shipping Services	Direct Entry Parcels Contracts	[Reserved for Product Description]
Inbound Surface Parcel Post (at non-UPU rates)	Direct Entry Parcels 1 (MC2009–26 and CP2009–36)	International Direct Sacks—M-Bags
Canada Post—United States Postal Service Contractual Bilateral Agreement for Inbound Competitive Services (MC2009–8 and CP2009–9)	Global Direct Contracts (MC2009–9, CP2009–10, and CP2009–11)	[Reserved for Product Description]
International Money Transfer Service	Global Expedited Package Services (GEPS) Contracts	International Money Transfer Service
International Ancillary Services	GEPS 1 (CP2008–5, CP2008–11, CP2008–12, and CP2008–13, CP2008–18, CP2008–19, CP2008–20, CP2008–21, CP2008–22, CP2008–23, and CP2008–24)	[Reserved for Product Description]
Special Services	Global Expedited Package Services 2 (CP2009–50)	Inbound Surface Parcel Post (at non-UPU rates)
Premium Forwarding Service	Global Plus Contracts	[Reserved for Product Description]
Negotiated Service Agreements	Global Plus 1 (CP2008–8, CP2008–46 and CP2009–47)	International Ancillary Services
Domestic	Global Plus 2 (MC2008–7, CP2008–48 and CP2008–49)	[Reserved for Product Description]
Express Mail Contract 1 (MC2008–5)	Inbound International	Outbound International
Express Mail Contract 2 (MC2009–3 and CP2009–4)	Inbound Direct Entry Contracts with Foreign Postal Administrations	[Reserved for Group Description]
Express Mail Contract 3 (MC2009–15 and CP2009–21)	Inbound Direct Entry Contracts with Foreign Postal Administrations (MC2008–6, CP2008–14 and MC2008–15)	Part C—Glossary of Terms and Conditions [Reserved]
Express Mail Contract 4 (MC2009–34 and CP2009–45)	Inbound Direct Entry Contracts with Foreign Postal Administrations 1 (MC2008–6 and CP2009–62)	Part D—Country Price Lists for International Mail [Reserved]
Express Mail Contract 5 (MC2010–5 and CP2010–5)	International Business Reply Service Competitive Contract 1 (MC2009–14 and CP2009–20)	[FR Doc. E9–29721 Filed 12–14–09; 8:45 am]
Express Mail & Priority Mail Contract 1 (MC2009–6 and CP2009–7)	Competitive Product Descriptions	<b>BILLING CODE 7710-FW-P</b>
Express Mail & Priority Mail Contract 2 (MC2009–12 and CP2009–14)	Express Mail	
Express Mail & Priority Mail Contract 3 (MC2009–13 and CP2009–17)	[Reserved for Group Description]	
Express Mail & Priority Mail Contract 4 (MC2009–17 and CP2009–24)	Express Mail	
Express Mail & Priority Mail Contract 5 (MC2009–18 and CP2009–25)	[Reserved for Product Description]	
Express Mail & Priority Mail Contract 6 (MC2009–31 and CP2009–42)	Outbound International Expedited Services	
Express Mail & Priority Mail Contract 7 (MC2009–32 and CP2009–43)	[Reserved for Product Description]	
Express Mail & Priority Mail Contract 8 (MC2009–33 and CP2009–44)	Inbound International Expedited Services	
Parcel Select & Parcel Return Service Contract 1 (MC2009–11 and CP2009–13)	[Reserved for Product Description]	
Parcel Select & Parcel Return Service Contract 2 (MC2009–40 and CP2009–61)	Priority	
Parcel Return Service Contract 1 (MC2009–1 and CP2009–2)	[Reserved for Product Description]	
Priority Mail Contract 1 (MC2008–8 and CP2008–26)	Priority Mail	
Priority Mail Contract 2 (MC2009–2 and CP2009–3)	[Reserved for Product Description]	
Priority Mail Contract 3 (MC2009–4 and CP2009–5)	Outbound Priority Mail International	
Priority Mail Contract 4 (MC2009–5 and CP2009–6)		
Priority Mail Contract 5 (MC2009–21 and CP2009–26)		
Priority Mail Contract 6 (MC2009–25 and CP2009–30)		
Priority Mail Contract 7 (MC2009–25 and CP2009–31)		

## GENERAL SERVICES ADMINISTRATION

### 41 CFR Part 105–64

[GSPMR Amendment 2009–01; GSPMR Case 2009–105–1; Docket Number 2009–0018 Sequence 1]

RIN 3090–AJ00

### General Services Administration Property Management Regulations; GSA Privacy Act Rules

**AGENCY:** Office of the Chief Human Capital Officer, General Services Administration (GSA).

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration (GSA) is revising its Privacy Act rules to reflect organizational changes and to update policies and procedures. This revision

informs individuals of procedures for obtaining personal information in GSA's systems of records, provides current organizational titles and addresses of offices to contact about the GSA Privacy Program, the systems of records that are maintained by GSA, how to file a privacy complaint, how GSA collects personal information from the public, and how often GSA reviews its systems that collect and store Personally Identifiable Information.

**DATES:** Effective December 15, 2009.

**FOR FURTHER INFORMATION CONTACT:** GSA Privacy Act Officer, General Services Administration, Office of the Chief Human Capital Officer, 1800 F Street, NW., Washington, DC 20405, telephone (202) 208-1317, or e-mail at [gsa.privacyact@gsa.gov](mailto:gsa.privacyact@gsa.gov).

**ADDRESSES:** GSA Privacy Act Officer (CIB), General Services Administration, 1800 F Street, NW., Washington, DC 20405.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

GSA focused on making sure that all GSA Privacy Act Rules are still relevant, necessary, and covered by a legal or regulatory authority and that the GSA regulations implementing the Privacy Act Rules reflect the current GSA organization, policies, standards, and practices. As a result of this review GSA is publishing updated Privacy Act Rules. Nothing in the final rule indicates a change in authorities or practices regarding the collection and maintenance of information. The changes do not impact individuals' rights to access or amend their records in the systems of records.

**B. Executive Order 12866**

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

**C. Regulatory Flexibility Act**

The Regulatory Flexibility Act does not apply to this final rule. It is not expected to have a significant economic impact on small business entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

**D. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the rule imposes no recordkeeping or information collection requirements nor the collection of information from offerors, contractors, or members of the public that would

require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. Chapter 35, *et seq.*; and the rule is exempt from Congressional review under 5 U.S.C. 801.

**List of Subjects in 41 CFR Part 105-64**

Privacy.

Dated: October 29, 2009.

**Cheryl M. Paige,**

*Director, Office of Information Management, Office of the Chief Human Capital Officer.*

■ Therefore, GSA revises 41 CFR part 105-64 to read as follows:

**PART 105-64—GSA PRIVACY ACT RULES**

Sec.

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105-64.105 When may Social Security Numbers (SSNs) be collected?

105-64.106 What is GSA's policy on information accuracy in a system of records?

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105-64.601 Procedures for establishing system of records.

**Subpart 105-64.7—Assistance and Referrals**

105-64.701 Submittal of requests for assistance and referrals.

**Subpart 105-64.8—Privacy Complaints**

105-64.801 How to file a privacy complaint.

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Appendix A to Part 105-64—Addresses for Geographically Dispersed Records

Authority: 5 U.S.C. 552a.

**§ 105-64.000 What is the purpose of this part?**

This part implements the General Services Administration (GSA) rules under the Privacy Act of 1974, 5 U.S.C. 552a, as amended. The rules cover the GSA systems of records from which information is retrieved by an individual's name or personal identifier. These rules set forth GSA's policies and procedures for accessing, reviewing, amending, and disclosing records covered by the Privacy Act. GSA will comply with all existing and future privacy laws.

**§ 105–64.001 What terms are defined in this part?**

GSA defines the following terms to ensure consistency of use and understanding of their meaning under this part:

*Agency* means any organization covered by the Privacy Act as defined in 5 U.S.C. 551(1) and 5 U.S.C. 552a (a)(1). GSA is such an agency.

*Computer matching program* means the computerized comparison of two or more Federal personnel or payroll systems of records, or systems of records used to establish or verify an individual's eligibility for Federal benefits or to recoup delinquent debts.

*Disclosure of information* means providing a record or the information in a record to someone other than the individual of record.

*Exempt records* means records exempted from access by an individual under the Privacy Act, subsections (j)(1), Central Intelligence Agency, (j)(2) and (k)(2), law enforcement, (k)(1), Section 552 (b)(1), (k)(3), protective services to the President, (k)(4), statistical records, (k)(5), employee background investigations, (k)(6), federal service disclosure, and (k)(7), promotion in armed services.

*Individual* means a citizen of the United States or a legal resident alien on whom GSA maintains Privacy Act records. An individual may be addressed as *you* when information is provided for the individual's use.

*Personally Identifiable Information* (PII) means information about a person that contains some unique identifier, including but not limited to name or Social Security Number, from which the identity of the person can be determined. In OMB Circular M–06–19, the term “Personally Identifiable Information” is defined 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 can be linked to an individual.

*Record* means any item, collection, or grouping of information about an individual within a system of records which contains the individual's name or any other personal identifier such as number or symbol, fingerprint, voiceprint, or photograph. The information may relate to education, financial transactions, medical

conditions, employment, or criminal history collected in connection with an individual's interaction with GSA.

*Request for access* means a request by an individual to obtain or review his or her record or information in the record.

*Routine use* means disclosure of a record outside GSA for the purpose for which it is intended, as specified in the systems of records notices.

*Solicitation* means a request by an officer or employee of GSA for an individual to provide information about himself or herself for a specified purpose.

*System of records* means a group of records from which information is retrieved by the name of an individual, or by any number, symbol, or other identifier assigned to that individual.

*System manager* means the GSA associate responsible for a system of records and the information in it, as noted in the **Federal Register** systems of records notices.

**Subpart 105–64.1—Policies and Responsibilities****§ 105–64.101 Who is responsible for enforcing these rules?**

GSA Heads of Services and Staff Offices and Regional Administrators are responsible for ensuring that all systems of records under their jurisdiction meet the provisions of the Privacy Act and these rules. System managers are responsible for the system(s) of records assigned to them. The GSA Privacy Act Officer oversees the GSA Privacy Program and establishes privacy-related policy and procedures for the agency under the direction of the GSA Senior Agency Official for Privacy.

**§ 105–64.102 What is GSA's policy on disclosure of information in a system of records?**

No information contained in a Privacy Act system of records will be disclosed to third parties without the written consent of you, the individual of record, except under the conditions cited in § 105–64.501.

**§ 105–64.103 What is GSA's policy on collecting and using information in a system of records?**

System managers must collect information that is used to determine your rights, benefits, or privileges under GSA programs directly from you whenever practical, and use the information only for the intended purpose(s).

**§ 105–64.104 What must the system manager tell me when soliciting personal information?**

When soliciting information from you or a third party for a system of records,

system managers must: Cite the authority for collecting the information; say whether providing the information is mandatory or voluntary; give the purpose for which the information will be used; state the routine uses of the information; and describe the effect on you, if any, of not providing the information. This information is found in the Privacy Act Statement. Any form that asks for personal information will contain this statement.

**§ 105–64.105 When may Social Security Numbers (SSNs) be collected?**

(a) Statutory or regulatory authority must exist for collecting Social Security Numbers for record systems that use the SSNs as a method of identification. Systems without statutory or regulatory authority implemented after January 1, 1975, will not collect Social Security Numbers.

(b) In compliance with OMB M–07–16 (Safeguarding Against and Responding to the Breach of Personally Identifiable Information) collection and storage of SSN will be limited to systems where no other identifier is currently available. While GSA will strive to reduce the collection and storage of SSN and other PII we recognize that some systems continue to need to collect this information.

**§ 105–64.106 What is GSA's policy on information accuracy in a system of records?**

System managers will ensure that all Privacy Act records are accurate, relevant, necessary, timely, and complete. All GSA systems are reviewed annually. Those systems that contain Personally Identifiable Information (PII) are reviewed to ensure they are relevant, necessary, accurate, up-to-date, and covered by the appropriate legal or regulatory authority. A listing of GSA Privacy Act Systems can be found at the following link ([http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentType=GSA\\_BASIC&contentId=21567](http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentType=GSA_BASIC&contentId=21567)).

**§ 105–64.107 What standards of conduct apply to employees with privacy-related responsibilities?**

(a) Employees who design, develop, operate, or maintain Privacy Act record systems will protect system security, avoid unauthorized disclosure of information, both verbal and written, and ensure that no system of records is maintained without public notice. All such employees will follow the standards of conduct in 5 CFR part 2635, 5 CFR part 6701, 5 CFR part 735, and 5 CFR part 2634 to protect personal information.

(b) Employees who have access to privacy act records will avoid unauthorized disclosure of personal information, both written and verbal, and ensure they have met privacy training requirements. All such employees will follow GSA orders HCO 9297.1 GSA Data Release Policy, HCO 9297.2A GSA Information Breach Notification Policy, HCO 2180.1 GSA Rules of Behavior for Handling Personally Identifiable Information (PII), CIO P 2100.1E CIO P GSA Information Technology (IT) Security Policy, and CIO 2104.1 GSA Information Technology (IT) General Rules of Behavior.

**§ 105–64.108 How does GSA safeguard personal information?**

(a) System managers will establish administrative, technical, and physical safeguards to ensure the security and confidentiality of records, protect the records against possible threats or hazards, and permit access only to authorized persons. Automated systems will incorporate security controls such as password protection, verification of identity of authorized users, detection of break-in attempts, firewalls, or encryption, as appropriate.

(b) System managers will ensure that employees and contractors who have access to personal information in their system will have the proper background investigation and meet all privacy training requirements.

**§ 105–64.109 How does GSA handle other agencies' records?**

In cases where GSA has either permanent or temporary custody of other agencies' records, system managers will coordinate with those agencies on any release of information. Office of Personnel Management (OPM) records that are in GSA's custody are subject to OPM's Privacy Act rules.

**§ 105–64.110 When may GSA establish computer matching programs?**

(a) System managers will establish computer matching programs or agreements for sharing information with other agencies only with the consent and under the direction of the GSA Data Integrity Board that will be established when and if computer matching programs are used at GSA.

(b) GSA will designate which positions comprise the Data Integrity Board and develop a policy that defines the roles and responsibilities of these positions.

**§ 105–64.111 What is GSA's policy on directives that may conflict with this part?**

These rules take precedence over any GSA directive that may conflict with the

requirements stated here. GSA officials will ensure that no such conflict exists in new or existing directives.

**Subpart 105–64.2—Access to Records**

**§ 105–64.201 How do I get access to my records?**

You may request access to your record in person or by writing to the system manager or, in the case of geographically dispersed records, to the office maintaining the records (*see* Appendix A to this part). Parents or guardians may obtain access to records of minors or when a court has determined that the individual of record is incompetent.

**§ 105–64.202 How do I request access in person?**

If appearing in person, you must properly identify yourself through photographic identification such as an agency identification badge, passport, or driver's license. Records will be available during normal business hours at the offices where the records are maintained. You may examine the record and be provided a copy on request. If you want someone else to accompany you when reviewing a record, you must first sign a statement authorizing the disclosure of the record; the statement will be maintained with your record.

**§ 105–64.203 How do I request access in writing?**

If you request access in writing, mark both the envelope and the request letter "Privacy Act Request". Include in the request your full name and address; a description of the records you seek; the title and number of the system of records as published in the **Federal Register**; a brief description of the nature, time, and place of your association with GSA; and any other information you believe will help in locating the record.

**§ 105–64.204 Can parents and guardians obtain access to records?**

If you are the parent or guardian of a minor, or of a person judicially determined to be incompetent, you must provide full information about the individual of record. You also must properly identify yourself and provide a copy of the birth certificate of the individual, or a court order establishing guardianship, whichever applies.

**§ 105–64.205 Who will provide access to my record?**

The system manager will make a record available to you on request, unless special conditions apply, such as

for medical, law enforcement, and security records.

**§ 105–64.206 How long will it take to get my record?**

The system manager will make a record available within 10 workdays after receipt of your request. If a delay of more than 10 workdays is expected, the system manager will notify you in writing of the reason for the delay and when the record will be available. The system manager may ask you for additional information to clarify your request. The system manager will have an additional 10 workdays after receipt of the new information to provide the record to you, or provide another acknowledgment letter if a delay in locating the record is expected.

**§ 105–64.207 Are there any fees?**

No fees are charged for records when the total fee is less than \$25. The system manager may waive the fee above this amount if providing records without charge is customary or in the public interest. When the cost exceeds \$25, the fee for a paper copy is 10 cents per page, and the fee for materials other than paper copies is the actual cost of reproduction. For fees above \$250, advance payment is required. You should pay by check or money order made payable to the General Services Administration, and provide it to the system manager.

**§ 105–64.208 What special conditions apply to release of medical records?**

Medical records containing information that may have an adverse effect upon a person will be released only to a physician designated in writing by you, or by your guardian or conservator. Medical records in an Official Personnel Folder (OPF) fall under the jurisdiction of the Office of Personnel Management (OPM) and will be referred to OPM for a response.

**§ 105–64.209 What special conditions apply to accessing law enforcement and security records?**

Law enforcement and security records are generally exempt from disclosure to individuals except when the system manager, in consultation with legal counsel and the Head of the Service or Staff Office or Regional Administrator or their representatives, determines that information in a record has been used or is being used to deny you any right, privilege, or benefit for which you are eligible or entitled under Federal law. If so, the system manager will notify you of the existence of the record and disclose the information, but only to the extent that the information does not identify a confidential source. If

disclosure of information could reasonably be expected to identify a confidential source, the record will not be disclosed to you unless it is possible to delete all such information. A confidential source is a person or persons who furnished information during Federal investigations with the understanding that his or her identity would remain confidential.

### **Subpart 105–64.3—Denial of Access to Records**

#### **§ 105–64.301 Under what conditions will I be denied access to a record?**

The system manager will deny access to a record that is being compiled in the reasonable anticipation of a civil action or proceeding or to records that are specifically exempted from disclosure by GSA in its system of records notices, published in the **Federal Register**. Exempted systems include the Investigation Case Files, Internal Evaluation Case Files, and Security Files. These systems are exempted to maintain the effectiveness and integrity of investigations conducted by the Office of Inspector General, and others, as part of their duties and responsibilities involving Federal employment, contracts, and security.

#### **§ 105–64.302 How will I be denied access?**

If you request access to a record in an exempt system of records, the system manager will consult with the Head of Service or Staff Office or Regional Administrator or their representatives, legal counsel, and other officials as appropriate, to determine if all or part of the record may be disclosed. If the decision is to deny access, the system manager will provide a written notice to you giving the reason for the denial and your appeal rights.

#### **§ 105–64.303 How do I appeal a denial to access a record?**

If you are denied access to a record in whole or in part, you may file an administrative appeal within 30 days of the denial. The appeal should be in writing and addressed to: GSA Privacy Act Officer (CIB), General Services Administration, 1800 F Street, NW., Washington, DC 20405. Mark both the envelope and the appeal letter “Privacy Act Appeal”.

#### **§ 105–64.304 How are administrative appeal decisions made?**

The GSA Privacy Act Officer will conduct a review of your appeal by consulting with legal counsel and appropriate officials. The Privacy Act Officer may grant record access if the appeal is granted. If the decision is to reject the appeal, the Privacy Act Officer

will provide all pertinent information about the case to the Deputy Administrator and ask for a final administrative decision. The Deputy Administrator may grant access to a record, in which case the Privacy Act Officer will notify you in writing, and the system manager will make the record available to you. If the Deputy Administrator denies the appeal, he or she will notify you in writing of the reason for rejection and of your right to a judicial review. The administrative appeal review will take no longer than 30 workdays after the Privacy Act Officer receives the appeal. The Deputy Administrator may extend the time limit by notifying you in writing of the extension and the reason for it before the 30 days are up.

#### **§ 105–64.305 What is my recourse to an appeal denial?**

You may file a civil action to have the GSA administrative decision overturned within two years after the decision is made. You may file in a Federal District Court where you live or have a principal place of business, where the records are maintained, or in the District of Columbia.

### **Subpart 105–64.4—Amending Records**

#### **§ 105–64.401 Can I amend my record?**

You may request to amend your record by writing to the system manager with the proposed amendment. Mark both the envelope and the letter “Privacy Act Request to Amend Record”.

#### **§ 105–64.402 What records are not subject to amendment?**

You may not amend the following records under the law:

(a) Transcripts of testimony given under oath or written statements made under oath.

(b) Transcripts of grand jury proceedings, judicial proceedings, or quasi-judicial proceedings which constitute the official record of the proceedings.

(c) Pre-sentence reports that are maintained within a system of records but are the property of the courts.

(d) Records exempted from amendment by notice published in the **Federal Register**.

#### **§ 105–64.403 What happens when I submit a request to amend a record?**

The system manager will consult with the Head of Service or Staff Office or Regional Administrator or their representatives, and legal counsel. They will determine whether to amend an existing record by comparing its accuracy, relevance, timeliness, and

completeness with the amendment you propose. The system manager will notify you within 10 workdays whether your proposed amendment is approved or denied. In case of an expected delay, the system manager will acknowledge receipt of your request in writing and provide an estimate of when you may expect a decision. If your request to amend is approved, the system manager will amend the record and send an amended copy to you and to anyone who had previously received the record. If your request to amend is denied, the system manager will advise you in writing, giving the reason for denial, a proposed alternative amendment if possible, and your appeal rights. The system manager also will notify the GSA Privacy Act Officer of any request for amendment and its disposition. Any amendment to a record may involve a person’s Official Personnel Folder (OPF). OPF regulations are governed by OPM regulations, including alternate amendments and appeals of denials, and not GSA regulations.

#### **§ 105–64.404 What must I do if I agree to an alternative amendment?**

If you agree to the alternative amendment proposed by the system manager, you must notify the manager in writing of your concurrence. The system manager will amend the record and send an amended copy to you and to anyone else who had previously received the record.

#### **§ 105–64.405 Can I appeal a denial to amend a record?**

You may file an appeal within 30 workdays of a denial to amend your record by writing to the: GSA Privacy Act Officer (CIB), General Services Administration, 1800 F Street, NW., Washington, DC 20405. Mark both the envelope and the appeal letter “Privacy Act Amendment Appeal.” Appeals to amend records in a GSA employee’s official personnel file will be sent to the Office of Personnel Management, Washington, DC 20415.

#### **§ 105–64.406 How will my appeal be handled?**

The GSA Privacy Act Officer will consult with legal counsel and appropriate GSA officials concerning your appeal. If they decide to reject your appeal, the Privacy Act Officer will provide the Deputy Administrator with all pertinent information about the case and request a final administrative decision. The Deputy Administrator may approve your amendment, in which case the Privacy Act Officer will notify you in writing, and the system manager will amend the record and send an amended copy to you and

anyone who had previously been provided with the record. If the Deputy Administrator denies the appeal, he or she will notify you in writing of the reason for denial, of your right to a judicial review, and of your right to file a Statement of Disagreement. The amendment appeal review will be made within 30 workdays after the Privacy Act Officer receives your appeal. The Deputy Administrator may extend the time limit by notifying you in writing of the reason for the extension before the 30 days are up.

**§ 105–64.407 How do I file a Statement of Disagreement?**

You may file a Statement of Disagreement with the system manager within 30 days of the denial to amend a record. The statement should explain why you believe the record to be inaccurate, irrelevant, untimely, or incomplete. The system manager will file the statement with your record, provide a copy to anyone who had previously received the record, and include a copy of it in any future disclosure.

**§ 105–64.408 What is my recourse to a denial decision?**

You may file a civil action to have the GSA decision overturned within two years after denial of an amendment appeal. You may file the civil action in a Federal District Court where you live or have a principal place of business, where the records are maintained, or in the District of Columbia.

**Subpart 105–64.5—Disclosure of Records**

**§ 105–64.501 Under what conditions may a record be disclosed without my consent?**

A system manager may disclose your record without your consent under the Privacy Act when the disclosure is: To GSA officials or employees in the performance of their official duties; required by the Freedom of Information Act; for a routine use stated in a **Federal Register** notice; to the Bureau of the Census for use in fulfilling its duties; for statistical research or reporting, and only when the record is not individually identifiable; to the National Archives and Records Administration (NARA) when the record has been determined to be of historical or other value that warrants permanent retention; to a U.S. law enforcement agency or instrumentality for a civil or criminal law enforcement purpose; under compelling circumstances affecting an individual's health and safety, and upon disclosure a notification will be sent to the individual; to Congress or its committees and subcommittees when

the record material falls within their jurisdiction; to the Comptroller General or an authorized representative in the performance of the duties of the Government Accountability Office (GAO); under a court order; or to a consumer reporting agency under the Federal Claims Collection Act of 1966, 31 U.S.C. 3711.

**§ 105–64.502 How do I find out if my record has been disclosed?**

You may request an accounting of the persons or agencies to whom your record has been disclosed, including the date and purpose of each disclosure, by writing to the system manager. Mark both the envelope and the letter “Privacy Act Accounting Request”. The system manager will provide the requested information in the same way as that for granting access to records; see Subpart 105–64.2, providing no restrictions to disclosure or accounting of disclosures applies.

**§ 105–64.503 What is an accounting of disclosures?**

The system manager maintains an account of each record disclosure for five years or for the life of the record, whichever is longer. The accounting of disclosure information includes the name of the person or agency to whom your record has been provided, the date, the type of information disclosed, and the reason for disclosure. Other pertinent information, such as justifications for disclosure and any written consent that you may have provided, is also included. No accounting needs to be maintained for disclosures to GSA officials or employees in the performance of their duties, or disclosures under the Freedom of Information Act.

**§ 105–64.504 Under what conditions will I be denied an accounting of disclosures?**

The system manager will deny your request for an accounting of disclosures when the disclosures are to GSA officials or employees in the performance of their duties or disclosures under the Freedom of Information Act, for which no accounting is required; law enforcement agencies for law enforcement activities; and systems of records exempted by notice in the **Federal Register**. You may appeal a denial using the same procedures as those for denial of access to records, *see* Subpart 105–64.3.

**Subpart 105–64.6—Establishing or Revising Systems of Records in GSA**

**§ 105–64.601 Procedures for establishing system of records.**

The following procedures apply to any proposed new or revised system of records:

(a) Before establishing a new or revising an existing system of records, the system manager, with the concurrence of the appropriate Head of Service or Staff Office, will provide to the GSA Privacy Act Officer a proposal describing and justifying the new system or revision.

(b) A Privacy Impact Assessment (PIA) will be filled out to determine if a system notice needs to be completed.

(c) The GSA Privacy Act Officer will work with the program office to create the draft system of notice document.

(d) The GSA Privacy Office will work with various offices to take the draft system notice through the concurrence process.

(e) The GSA Privacy Act Officer will publish in the **Federal Register** a notice of intent to establish or revise the system of records at least 30 calendar days before the planned system establishment or revision date.

(f) The new or revised system becomes effective 30 days after the notice is published in the **Federal Register** unless submitted comments result in a revision to the notice, in which case, a new revised notice will be issued.

(g) When publishing a new system notice letters will be sent to the Chairman, Committee on Homeland Security and Governmental Affairs, Chairman, Committee on Oversight and Government Reform, and the Docket Library Office of Information and Regulatory Affairs, Office of Management and Budget.

**Subpart 105–64.7—Assistance and Referrals**

**§ 105–64.701 Submittal of requests for assistance and referrals.**

Address requests for assistance involving GSA Privacy Act rules and procedures, or for referrals to system managers or GSA officials responsible for implementing these rules to: GSA Privacy Act Officer (CIB), General Services Administration, 1800 F Street, NW., Washington, DC 20405.

**Subpart 105–64.8—Privacy Complaints**

**§ 105–64.801 How to file a privacy complaint.**

E-mail your complaint to [gsa.privacyact@gsa.gov](mailto:gsa.privacyact@gsa.gov) or send to: GSA Privacy Act Officer (CIB), General

Services Administration, 1800 F Street NW., Washington, DC 20405. Please provide as much details about the complaint in the communication. Provide contact information where you prefer all communication to be sent. The Privacy Officer will conduct an investigation and consult with appropriate GSA officials and legal counsel to render a decision within 30 workdays of the complaint being received by the privacy office. The decision will be sent by the method the complaint was received.

#### **§ 105–64.802 Can I appeal a decision to a privacy complaint?**

You may file an appeal within 30 workdays of a denial of a privacy complaint by writing to: GSA Privacy Act Officer (CIB), General Services Administration, 1800 F Street NW., Washington, DC 20405. Mark both the envelope and appeal letter “Privacy Act Complaint appeal”.

#### **§ 105–64.803 How will my appeal be handled?**

The Privacy Act Officer will consult with legal counsel and the appropriate GSA officials concerning your appeal. The decision will be made by the Senior Agency Official for Privacy. The decision will be sent within 30 workdays of the appeal being received by the privacy office. The decision provided in the appeal letter is the final recourse.

#### **Appendix A to Part 105–64—Addresses for Geographically Dispersed Records**

Address requests for physically dispersed records, as noted in the system of records notices, to the Regional Privacy Act Coordinator, General Services Administration, at the appropriate regional GSA office, as follows:

*Great Lakes Region* (includes Illinois, Indiana, Michigan, Ohio, Minnesota, and Wisconsin), 230 South Dearborn Street, Chicago, IL 60604–1696.

*Greater Southwest Region* (includes Arkansas, Louisiana, Oklahoma, New Mexico, and Texas), 819 Taylor Street, Fort Worth, TX 76102.

*Mid-Atlantic Region* (includes Delaware, Maryland, Pennsylvania, Virginia, and West Virginia, but excludes the National Capital Region), The Strawbridge Building, 20 North 8th Street, Philadelphia, PA 19107–3191.

*National Capital Region* (includes the District of Columbia; the counties of Montgomery and Prince George’s in Maryland; the city of Alexandria, Virginia; and the counties of Arlington, Fairfax, Loudoun, and Prince William in Virginia), 7th and D Streets, SW., Washington, DC 20407.

*New England Region* (includes Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont), 10 Causeway Street, Boston, MA 02222.

*Northeast and Caribbean Region* (includes New Jersey, New York, Puerto Rico, and Virgin Islands), 26 Federal Plaza, New York, NY 10278.

*Northwest/Arctic Region* (includes Alaska, Idaho, Oregon, and Washington), 400 15th Street, SW., Auburn, WA 98001–6599.

*Pacific Rim Region* (includes Arizona, California, Hawaii, and Nevada), 450 Golden Gate Avenue, San Francisco, CA 94102–3400.

*Rocky Mountain Region* (includes Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming), U.S. General Services Administration, DFC, Bldg. 41, Rm. 210, P.O. Box 25006, Denver, CO 80225–0006.

*Southeast-Sunbelt Region* (includes Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee), Office of the Regional Administrator (4A), 77 Forsyth Street, Atlanta, GA 30303.

*The Heartland Region* (includes Iowa, Kansas, Missouri, and Nebraska), 1500 East Bannister Road, Kansas City, MO 64131–3088.

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## **GENERAL SERVICES ADMINISTRATION**

### **48 CFR Parts 501, 511, and 552**

**[GSAR Amendment 2009–14; GSAR Case 2007–G507 (Change 42) Docket 2008–0007; Sequence 9]**

**RIN 3090–AI74**

### **General Services Administration Acquisition Regulation; GSAR Case 2007–G507, Describing Agency Needs**

**AGENCIES:** Office of Acquisition Policy, General Services Administration (GSA).

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration (GSA) is amending the GSA Acquisition Regulation (GSAR) to revise language that provide requirements for describing agency needs.

**DATES:** *Effective Date:* January 14, 2010.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Ms. Beverly Cromer, Procurement Analyst, at (202) 501–1448. For information pertaining to status or publication schedules, contact the Regulatory Secretariat (MVPR), Room 4041, 1800 F Street, NW., Washington, DC 20405, (202) 501–4755. Please cite Amendment 2005–14, GSAR case 2007–G507 (Change 42).

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Background**

The GSA is amending the GSAR to update the text addressing GSAR part

511, Describing Agency Needs. This rule is a result of the GSA Acquisition Manual (GSAM) Rewrite initiative undertaken by GSA to revise the GSAM to maintain consistency with the Federal Acquisition Regulation (FAR) and implement streamlined and innovative acquisition procedures that contractors, offerors, and GSA contracting personnel can utilize when entering into and administering contractual relationships. The GSAM incorporates the GSAR as well as internal agency acquisition policy.

The GSA is rewriting each part of the GSAR and GSAM, and as each GSAR part is rewritten, is publishing it in the **Federal Register**.

This rule covers the rewrite of GSAR part 511, entitled “Describing Agency Needs”. Due to scheduling requirements, a proposed rule was published concurrently with the internal GSA comment process. The proposed rule was published in the **Federal Register** at 73 FR 59590 on October 9, 2008.

#### *Discussion*

The current GSAR part 511 contains—

- Instructions (that are not a solicitation provision) at GSAR 511.104–70 on information to be included after a brand name or equal item description;
- Prescriptions for seven solicitation provisions and contract clauses for GSAR subpart 511.2, entitled “Using and Maintaining Requirements Documents”;
- Prescriptions for eight solicitation provisions and contract clauses for GSAR subpart 511.4, entitled “Delivery or Performance Schedules”;
- A clause prescription at GSAR 511.503; and
- GSAR subpart 511.6, entitled “Priorities and Allocations”, implementing the Defense Priorities and Allocations System (DPAS) for GSA. There is one clause associated with GSAR subpart 511.6.

In addition to changes made in response to the two public comments received in response to the proposed rule (see section C below), a number of additional changes have been made to the final rule as a result of the GSA internal comment process.

In GSAR subpart 511.1, the instructions at GSAR 511.104–70 have been deleted because they are redundant to instructions in the FAR for use of the FAR clause at 52.211–6, Brand Name or Equal, at FAR 11.104(b) and 11.107(a).

In GSAR subpart 511.2, the solicitation provisions and contract clauses at GSAR 511.204 have been