

§ 105-64.101

(a) *Agency* means agency as defined in 5 U.S.C. 552(e);

(b) *Individual* means a citizen of the United States or a legal alien admitted for permanent residence;

(c) *Maintain* means keep, collect, use, and disseminate;

(d) *A record* means any item, collection, or grouping of information an agency maintains about a person, including, but not limited to, his or her educational background, financial transactions, medical history, and employment or criminal history, and that contains his or her name or other identifying number of symbols such as a fingerprint, voiceprint, or photograph;

(e) *A system of records* means any group of records under the control of the agency from which information is retrieved by a person's name or by an identifying number, symbols, or other identifiers assigned to that individual;

(f) *A statistical record* means an item of information maintained for statistical research or reporting purposes that is not used in making any determination about an identifiable person, except as provided by Section 8 of Title 13 U.S.C.;

(g) *Routine use* means using a record for the purpose for which it was intended;

(h) *System manager* means the GSA employee who maintains a system of records and who collects, uses, and disseminates the information in it;

(i) *The subject individual* means the person named or discussed in a record or the person to whom a record refers;

(j) *Disclosure* means transferring a record, a copy of a record, or the information contained in a record to someone other than the subject individual, or the reviewing of a record by someone other than the subject individual;

(k) *Access* means a transfer of a record, a copy of a record, or the information in a record to the subject individual, or the review of a record by the subject individual; and

(l) *Solicitation* means a request by an officer or employee of GSA for a person to provide information about himself or herself.

41 CFR Ch. 105 (7-1-03 Edition)

**Subpart 105-64.1—General Policy**

**§ 105-64.101 Maintenance of records.**

**§ 105-64.101-1 Collection and use.**

(a) *General.* The system manager (also called the manager) should collect information used for determining an individual's rights, benefits, or privileges under GSA programs directly from the subject individual if practical. The system manager should ensure that information collected is used only as intended by the Act and these regulations.

(b) *Soliciting information.* Manager must ensure that when information is solicited, the person is informed of the authority for collecting it; whether providing it is mandatory or voluntary; the purpose for which it will be used; routine uses of the information; and the effect on the individual, if any, of not providing the information. Heads of Services and Staff Offices and Regional Administrators must ensure that forms used to solicit information comply with the Act and these regulations.

(c) *Soliciting a social security number.* Before requesting a person to disclose his or her social security number, ensure either:

(1) The disclosure is required by Federal statute, or;

(2) Disclosure is required under a statute or regulation adopted before January 1, 1975, to verify the person's identity, and that it was part of a system of records in existence before January 1, 1975.

If soliciting a social security number is authorized under paragraph (c) (1) or (2) of this section, inform the person beforehand whether the disclosure is mandatory or voluntary, by what legal or other authority the number is requested, and the use that is to be made of it.

(d) *Soliciting information from third parties.* Officers or employees must inform third parties requested to provide information about another person of the reason for collecting the information.

**§ 105-64.101-2 Standards of accuracy.**

Managers should ensure that the records used by the Agency to make

## General Services Administration

## § 105-64.201

determinations about an individual are maintained with the accuracy, relevance, timeliness, and completeness needed to ensure fairness to the individual.

### § 105-64.101-3 Rules of conduct.

Those who design, develop, operate, or maintain a system of records, or any record, must review 5 U.S.C. 552a and the regulations in this part and follow 41 CFR part 105-735, Standards of Conduct, for protecting personal information.

### § 105-64.101-4 Safeguarding systems of records.

Managers must ensure that administrative, technical, and physical safeguards are established to ensure the security and confidentiality of records and to protect against possible threats or hazards which could be harmful, embarrassing, inconvenient, or unfair to any individual. They must protect personnel information contained in manual and automated systems of records by using the following safeguards:

(a) Storing official personnel folders and work folders in a lockable filing cabinet when not in use. The system manager may use an alternative storage system if it provides the same security as a locked cabinet.

(b) Designating other sensitive records that need safeguards similar to those described in paragraph (a) of this section.

(c) Permitting access to and use of automated or manual personnel records only to persons whose official duties require it, or to a subject individual or to his or her representative.

### § 105-64.101-5 Inconsistent directives of GSA superseded.

This part 105-64 applies or takes precedence when any GSA directive disagrees with it.

### § 105-64.102 Records of other agencies.

If a GSA employee receives a request to review records that are the primary responsibility of another agency, but are maintained by or in the temporary possession of GSA, the employee should consult with the other agency before releasing the records. Records in the custody of GSA that are the re-

sponsibility of the Office of Personnel Management (OPM) are governed by rules issued by OPM under the Privacy Act.

### § 105-64.103 Subpoenas and other legal demands.

Access to systems of records by subpoena or other legal process must meet the provisions of uppart 105-60.6 of this chapter.

## Subpart 105-64.2—Disclosure of Records

### § 105-64.201 Conditions of disclosure.

GSA employees may not disclose any record to a person or another agency without the express written consent of the subject individual unless the disclosure is:

(a) To GSA officials or employees who need the information to perform their official duties;

(b) Required by the Freedom of Information Act;

(c) For a routine use identified in the FEDERAL REGISTER;

(d) For Bureau of the Census use under Title 13 of the United States Code;

(e) To someone who has assured GSA in writing that the record is to be used solely for statistical research or reporting, and if it does not identify an individual;

(f) To the National Archives of the United States as a record that has historical or other value warranting permanent retention;

(g) To another agency or instrumentality under the jurisdiction or control of the United States for a civil or criminal law enforcement activity, if the head of the agency or instrumentality or the designated representative has made a written request to GSA specifying the part needed and the law enforcement agency seeking it;

(h) To a person showing compelling circumstances affecting someone's health and safety not necessarily the subject individual (Upon disclosure, a notification must be sent to the subject individual's last known address);

(i) To either House of Congress or to a committee or subcommittee (joint or of either House), to the extent that the matter falls within its jurisdiction;