

24.102

System of records on individuals means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

[48 FR 42277, Sept. 19, 1983, as amended at 66 FR 2130, Jan. 10, 2001]

24.102 General.

(a) The Act requires that when an agency contracts for the design, development, or operation of a system of records on individuals on behalf of the agency to accomplish an agency function the agency must apply the requirements of the Act to the contractor and its employees working on the contract.

(b) An agency officer or employee may be criminally liable for violations of the Act. When the contract provides for operation of a system of records on individuals, contractors and their employees are considered employees of the agency for purposes of the criminal penalties of the Act.

(c) If a contract specifically provides for the design, development, or operation of a system of records on individuals on behalf of an agency to accomplish an agency function, the agency must apply the requirements of the Act to the contractor and its employees working on the contract. The system of records operated under the contract is deemed to be maintained by the agency and is subject to the Act.

(d) Agencies, which within the limits of their authorities, fail to require that systems of records on individuals operated on their behalf under contracts be operated in conformance with the Act may be civilly liable to individuals injured as a consequence of any subsequent failure to maintain records in conformance with the Act.

24.103 Procedures.

(a) The contracting officer shall review requirements to determine whether the contract will involve the design, development, or operation of a system of records on individuals to accomplish an agency function.

(b) If one or more of those tasks will be required, the contracting officer shall—

48 CFR Ch. 1 (10–1–03 Edition)

(1) Ensure that the contract work statement specifically identifies the system of records on individuals and the design, development, or operation work to be performed; and

(2) Make available, in accordance with agency procedures, agency rules and regulation implementing the Act.

24.104 Contract clauses.

When the design, development, or operation of a system of records on individuals is required to accomplish an agency function, the contracting officer shall insert the following clauses in solicitations and contracts:

(a) The clause at 52.224–1, Privacy Act Notification.

(b) The clause at 52.224–2, Privacy Act.

Subpart 24.2—Freedom of Information Act

24.201 Authority.

The Freedom of Information Act (5 U.S.C. 552, as amended) provides that information is to be made available to the public either by (a) publication in the FEDERAL REGISTER; (b) providing an opportunity to read and copy records at convenient locations; or (c) upon request, providing a copy of a reasonably described record.

24.202 Prohibitions.

(a) A proposal in the possession or control of the Government, submitted in response to a competitive solicitation, shall not be made available to any person under the Freedom of Information Act. This prohibition does not apply to a proposal, or any part of a proposal, that is set forth or incorporated by reference in a contract between the Government and the contractor that submitted the proposal. (See 10 U.S.C. 2305(g) and 41 U.S.C. 253b(m).)

(b) No agency shall disclose any information obtained pursuant to 15.403–3(b) that is exempt from disclosure under the Freedom of Information Act. (See 10 U.S.C. 2306a(d)(2)(C) and 41 U.S.C. 254b(d)(2)(C).)

(c) A dispute resolution communication that is between a neutral person and a party to alternative dispute resolution proceedings, and that may not

Federal Acquisition Regulation

Pt. 25

be disclosed under 5 U.S.C. 574, is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)(3)).

[62 FR 257, Jan. 2, 1997, as amended at 62 FR 51270, Sept. 30, 1997; 63 FR 58594, Oct. 30, 1998; 68 FR 56689, Oct. 1, 2003]

24.203 Policy.

(a) The Act specifies, among other things, how agencies shall make their records available upon public request, imposes strict time standards for agency responses, and exempts certain records from public disclosure. Each agency's implementation of these requirements is located in its respective title of the Code of Federal Regulations and referenced in subpart 24.2 of its implementing acquisition regulations.

(b) Contracting officers may receive requests for records that may be exempted from mandatory public disclosure. The exemptions most often applicable are those relating to classified information, to trade secrets and confidential commercial or financial information, to interagency or intra-agency memoranda, or to personal and medical information pertaining to an individual. Since these requests often involve complex issues requiring an in-depth knowledge of a large and increasing body of court rulings and policy guidance, contracting officers are cautioned to comply with the implementing regulations of their agency and to obtain necessary guidance from the agency officials having Freedom of Information Act responsibility. If additional assistance is needed, authorized agency officials may contact the Department of Justice, Office of Information and Privacy.

[48 FR 42277, Sept. 19, 1983, as amended at 51 FR 31426, Sept. 3, 1986. Redesignated at 62 FR 257, Jan. 2, 1997]

PART 25—FOREIGN ACQUISITION

Sec.

- 25.000 Scope of part.
- 25.001 General.
- 25.002 Applicability of subparts.
- 25.003 Definitions.

Subpart 25.1—Buy American Act—Supplies

- 25.100 Scope of subpart.

- 25.101 General.
- 25.102 Policy.
- 25.103 Exceptions.
- 25.104 Nonavailable articles.
- 25.105 Determining reasonableness of cost.

Subpart 25.2—Buy American Act—Construction Materials

- 25.200 Scope of subpart.
- 25.201 Policy.
- 25.202 Exceptions.
- 25.203 Preaward determinations.
- 25.204 Evaluating offers of foreign construction material.
- 25.205 Postaward determinations.
- 25.206 Noncompliance.

Subpart 25.3 [Reserved]

Subpart 25.4—Trade Agreements

- 25.400 Scope of subpart.
- 25.401 Exceptions.
- 25.402 General.
- 25.403 Trade Agreements Act.
- 25.404 Caribbean Basin Trade Initiative.
- 25.405 North American Free Trade Agreement (NAFTA).
- 25.406 Israeli Trade Act.
- 25.407 Agreement on Trade in Civil Aircraft.
- 25.408 Procedures.

Subpart 25.5—Evaluating Foreign Offers—Supply Contracts

- 25.501 General.
- 25.502 Application.
- 25.503 Group offers.
- 25.504 Evaluation examples.
- 25.504-1 Buy American Act.
- 25.504-2 Trade Agreements Act/Caribbean Basin Trade Initiative/NAFTA.
- 25.504-3 NAFTA/Israeli Trade Act.
- 25.504-4 Group award basis.

Subpart 25.6—Trade Sanctions

- 25.600 Scope of subpart.
- 25.601 Policy.
- 25.602 Exceptions.

Subpart 25.7—Prohibited Sources

- 25.701 Restrictions.
- 25.702 Source of further information.

Subpart 25.8—Other International Agreements and Coordination

- 25.801 General.
- 25.802 Procedures.

Subpart 25.9—Customs and Duties

- 25.900 Scope of subpart.
- 25.901 Policy.
- 25.902 Procedures.