

DFAS 5400.8-H
Defense Finance and Accounting Service



**FREEDOM OF INFORMATION ACT
PRIVACY ACT HANDBOOK**

SEPTEMBER 2003

OFFICE OF GENERAL COUNSEL

INTRODUCTION

The Freedom of Information Act (FOIA), 5 U.S.C. § 552, is a law that provides the public access to Government records. The FOIA is only applicable to documents held by administrative agencies of the executive branch of the Federal Government.

The executive branch includes executive departments and offices, military departments, Government corporations, Government-controlled corporations, and independent regulatory agencies. All records in possession of these entities must be released unless the information falls within one of the nine specific and narrowly drawn, exemption categories.

The Privacy Act (PA) of 1974, as amended, 5 U.S.C. § 552a, was enacted for the protection of privacy in administrative processes of Federal executive agencies. This law safeguards the personal privacy of American citizens and lawfully admitted aliens; and establishes procedures to allow them access to records about themselves. It applies to all agencies that maintain systems of records with personal information about individuals.

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LIST OF REFERENCES

1. United States Code, Title 5, section 552, The Freedom of Information Act. <http://uscode.house.gov/download.htm>
2. United States Code, Title 5, section 552a, The Privacy Act of 1974. <http://uscode.house.gov/download.htm>
3. United States Code, Title 18, section 1001, Computer Fraud and Abuse Act of 1986. <http://uscode.house.gov/download.htm>
4. United States Code, Title 18, section 1030, National Information Infrastructure Protection Act of 1996. <http://uscode.house.gov/download.htm>
5. DoD 5400.7-R, DoD Freedom of Information Act Program, September 1998. www.dtic.mil/whs/directives/corres/publ.html
- *6. DFAS 5400.7-R, Freedom of Information Act Program, January 1995. No web site available at this time.
7. DoD 5400.11-R, Privacy Program, August 1983. www.dtic.mil/whs/directives/corres/publ.html
- *8. DFAS 5400.11-R, Privacy Program Regulation, October 1995. No web site available at this time.
9. Department of Justice (DoJ) www.usdoj.gov/04foia
10. Department of Defense (DoD) Privacy Office <http://www.Defenselink.mil/privacy/>

INFORMATION

Defense Finance and Accounting Service (DFAS) personnel and DFAS contractors must comply with the DoD and DFAS FOIA and PA programs. Strict adherence is necessary to ensure uniformity in the implementation of the Program and to create conditions that foster public trust. Personal information contained in any Privacy Act system of records maintained by a DFAS organization will be safeguarded.

Privacy Act information will be made available to the individual to whom it pertains, to the maximum extent practicable. DFAS policy specifically requires that DFAS personnel:

- a. Collect, maintain, use, and disseminate personal information, only when it is relevant, and necessary to achieve a purpose, required by statute, or Executive Order.
- b. Collect personal information directly from the individual to whom it pertains, whenever possible.
- c. Inform individuals who are asked to supply personal information for inclusion in any PA system of record.
- d. Ensure that records used in making determinations about individuals, and those containing personal information are accurate, relevant, timely, and complete for the purposes for which they are being maintained. These records should be kept for the minimum period of time necessary to protect individuals, and the Government.
- e. Keep no record that describes how individuals exercise their rights guaranteed by the First Amendment to the U.S. Constitution, unless expressly authorized by statute, or by the individual to whom the records pertain. (Exception: Records of this type may be maintained if they are pertinent to, and within the scope of, an authorized law enforcement activity.)
- f. Notify individuals whenever records pertaining to them are made available under compulsory legal processes, if such a process is a matter of public record.
- g. Establish safeguards to ensure the security of personal information, and to protect this information from threats or

hazards that might result in substantial embarrassment, inconvenience, or unfairness to the individual.

h. Establish rules of conduct for DFAS personnel, including DFAS contractors, involved in the design, development, operation, or maintenance of any PA system of record, and train them in these rules of conduct.

i. When required, assist individuals in determining what records pertaining to them are being collected, maintained, used, or disseminated.

j. Permit individuals access to information pertaining to themselves that is maintained in any PA system of records, and permit them to correct or amend that information, unless an exemption for the system has been properly established.

k. Advise individuals of their rights to appeal any refusal to grant access to or amend any record pertaining to themselves, and file a statement of disagreement with the record in the event an amendment is refused.

l. Provide on request an accounting of all disclosures of the information pertaining to the requesting individual, except for the following disclosures:

1. To DoD personnel in the course of their official duties.
2. Pursuant to the FOIA.
3. To another agency or instrumentality under the control of the United States conducting law enforcement activities authorized by law.

FOIA/PA HANDBOOK

This online handbook is intended to assist you in making Freedom of Information Act (FOIA) and Privacy Act (PA) requests for records maintained by the Defense Finance and Accounting Service (DFAS). It shows you: how and where to make a FOIA request; a FOIA appeal; a PA request; a PA appeal; and how to submit a FOIA Online Inquiry.

HOW TO MAKE A FOIA REQUEST

This web page helps you through the DFAS FOIA request process. You can submit your request via the following formats: written, electronic, or via fax.

Step 1: Preparing Your Request

a. If you submit a written request, label the envelope "FREEDOM OF INFORMATION ACT REQUEST."

b. Describe the specific record(s) you are seeking with enough detail so that a knowledgeable official of the activity can locate the record with a reasonable amount of effort. Such detail should include, but is not limited to, descriptive information about the document, time frame to be searched, and type of document or report. The more information provided, the better opportunity there is to determine if the records exist, and where they would be located. The FOIA clearly states that records must exist at the time the request is submitted for the request to be considered a valid FOIA request.

c. State your willingness to pay all FOIA fees, or those up to a specified amount, or provide a justification to support a fee waiver. Unless you specify a specific amount you are willing to pay in the agreement, we consider the agreement to be approval to pay up to \$250. If the fees are estimated to be over the amount you agree to pay, we will contact you with an estimated cost prior to searching for the documents. Once you approve the fee, we begin the search for the documents. Currently, we charge search, review (for commercial requesters only), and duplication costs. See DD Form 2086, Record of FOIA Processing Costs to see how FOIA fees are estimated. This form can be found at www.Defenselink.mil/pubs/foia.

d. Include your complete postal service mailing address on your request so we can respond to you. A phone number where you can be contacted would be helpful, but is not required.

Step 2: Submitting Your Request

The next step in submitting your request is deciding where to send the request. DFAS records are decentralized; therefore, you get a faster response, if you send your request directly to the DFAS field site holding the record(s) you are seeking.

Please consult our Where to Send a Request web page for help in obtaining addresses, or check the DFAS PA systems notices that are published in the Federal Register, see <http://www.defenselink>. Once you have an address, you may submit your request in one of the above-mentioned formats to that DFAS field site.

If, after consulting this list or the Federal Register, you are not sure which activity may hold the records you seek, you may call the DFAS FOIA/PA Program Manager, at (303) 676-7514 for assistance.

a. Submit your request in writing to the appropriate DFAS field site or to:

DFAS-GA/DE
ATTN: FOIA/PA Program Manager
6760 East Irvington Place
Denver CO 80279-8000

b. Submit your electronic request to cde-foia-pa-requests@dfas.mil.

c. Submit your request via FAX to 303-676-7730.

Step 3: Processing Your Request

You should receive a response to your request within 20-workdays. Please keep in mind that the 20-workday time limit begins when the FOIA officer at the activity holding the record(s) receives your request, and it does not include Saturdays, Sundays, or legal holidays. Due to the number and complexity of certain requests, and the need for clarification and legal review, some DFAS field sites may not be able to respond to your FOIA request within 20-workdays.

In limited instances, information requested under the FOIA may be withheld from disclosure if it is:

- a. Currently and properly classified in the interest of national defense or foreign policy.
- b. Related solely to internal personnel rules and practices, the release of which would allow circumvention of a statute or rule.
- c. Protected by a statute that specifically exempts the information from release.
- d. Trade secrets and commercial or financial information obtained from a private source, which would cause substantial competitive harm to the source if released.
- e. Pre-decisional opinions and recommendations, and inter-agency or intra-agency memoranda or letters that show foreseeable harm, if released.
- f. Attorney work-product privilege, which protects documents and other memoranda prepared by an attorney in contemplation of litigation.
- g. Attorney-client privilege, which protects confidential communications between an attorney, and his client relating to a legal matter for which the client has sought professional advice.
- h. Personnel and medical information, the release of which would result in a clearly unwarranted invasion of personal privacy.
- i. Investigative records or information compiled for law enforcement purposes, which (a) could reasonably be expected to interfere with enforcement proceedings, (b) would deprive a person of a right to a fair trial or an impartial adjudication, (c) could reasonably be expected to constitute a clearly unwarranted invasion of personal privacy, (d) could reasonably be expected to disclose the identity of a confidential source, (e) would disclose investigative techniques, and/or (f) could reasonably be expected to endanger the life or physical safety of any individual.

WHERE TO SEND A FOIA/PA REQUEST

THE DFAS FOIA/PA PROGRAM MANAGER IS LOCATED AT THE DFAS DENVER FIELD SITE. OTHER FOIA/PA OFFICERS ARE LOCATED AT THE SITES LISTED BELOW.

FOIA/PA Program Manager (303) 676-7514
DFAS-GA/DE
6760 E. Irvington Place
Denver, CO 80279-8000
Office FAX (303) 676-7730

Cleveland:

DFAS-GA/CL (216) 522-5396
1240 E. Ninth Street
P.O. Box 998006
Cleveland, OH 44199-8006
Office FAX (216) 522-6530

Columbus:

DFAS-GA/CO (614) 693-8089
3990 E. Broad Street
Columbus, OH 43213-1152
Office FAX (614) 693-8031

Denver:

DFAS-GA/DE (303) 676-6045
6760 E. Irvington Place
Denver, CO 80279-8000
Office FAX (303) 676-7730

Kansas City:

DFAS-GA/KC (816) 926-7103
1500 E. 95th St.
Kansas City, MO 64197-0001
Office FAX (816) 926-1209

Indianapolis:

DFAS-GA/IN (317) 510-7365
8899 E. 56th Street
Indianapolis, IN 46249-0100
Office FAX (317) 510-7369

HOW AND WHERE TO SEND A FOIA APPEAL

If your FOIA request was initially denied in whole or in part, the letter advising you of this denial informs you of your right to appeal the determination to the Agency appellate authority within 60 calendar days. If you wish to make an appeal, you must file your appeal with Assistant General Counsel, Office of General Counsel, DFAS Denver, by sending it to:

DFAS-GA/DE
ATTN: FOIA/PA Program Manager
6760 E. Irvington Place
Denver, CO 80279-8000

Clearly mark "FOIA APPEAL" on your letter and envelope, and send it to the address listed above, along with a copy of the initial denial letter. Your appeal should include the basis for your disagreement with the initial denial determination.

HOW TO MAKE A PA REQUEST

This information helps you through the DFAS PA request process. A PA request can only be submitted in writing or via fax, and it must be signed by the requester.

Step 1: Preparing Your Request

The request can only be made by the individual to whom the record pertains, or that individual's designated agent or legal guardian. The information requested must also be maintained within a PA system of record. Indicate in your request that your inquiry is being made under the PA.

Describe the specific record(s) you are seeking with enough detail so that a knowledgeable official of the activity may locate the record with a reasonable amount of effort. Such detail should include, but is not limited to, descriptive information about the document, form number, and time frame to be searched. The more information provided, the better opportunity there is to determine if the records exist, and where they would be located.

Include on any request your complete postal service mailing address and other identifying information, such as Social Security number, so we can locate and positively identify the record that relates to you and your request. If you do not provide your SSN, we may not be able to process your request.

Step 2: Where to Send a PA Request

DFAS records are decentralized at our field sites. You get the fastest response by sending your request directly to the DFAS field site holding the record(s) you seek.

See DoD PA systems of records notices published in the Federal Register for addresses of where to send your PA request. The notices are located at the www.Defenselink.mil/privacy/notices web site. These notices include a complete description of all personal data maintained in the PA system of record, and where it is located. Once you have an address, you may submit your request directly to the DFAS field site responsible for the records. If you cannot determine where your records may be located, you should contact the FOIA/PA Program Manager, at(303) 676-7514 for assistance.

HOW AND WHERE TO SEND A PA APPEAL

If your PA request was initially denied, in whole or in part, the letter advising you of the denial of your request also advises you of your right to appeal the determination to the Agency appellate authority within 60 calendar days. If you wish to make an appeal, you must file your appeal with Assistant General Counsel, Office of General Counsel, DFAS Denver by sending it to:

DFAS-GA/DE
ATTN: FOIA/PA Program Manager
6760 E. Irvington Place
Denver, CO 80279-8000

If your request was denied for non-compliance with PA requirements, the denial letter explains what you must do to comply in order to obtain access to the records. If the records are not releasable because of permitted exemptions, this will be explained to you in the letter.

Clearly mark "PRIVACY ACT APPEAL" on your letter and envelope, and send it to the address listed above, along with a copy of initial denial letter. Your appeal should include the basis for your disagreement with the initial denial determination.

**U.S. GOVERNMENT COMPUTER SYSTEM
PRIVACY AND SECURITY NOTICE**

Thank you for visiting the Defense Finance and Accounting Service (DFAS) web site and reviewing our privacy policy. Our privacy policy is clear: "We do not collect personal information unless it is provided directly by the customer we are assisting." Immediately after resolving the customer's concerns, the privacy information is purged.

a. www.dfas.mil is provided as a public service by the Defense Finance and Accounting Service.

b. Information presented at the www.dfas.mil website is considered public information, and may be distributed or copied. Use of appropriate by-line/photo/image credits is requested.

c. For site management, information is only collected for statistical purposes. This Government computer system uses software programs to create summary statistics, which are used for such purposes as assessing what information is of most and least interest, determining technical design specifications, and identifying system performance or problem areas.

d. For site security purposes, and to ensure that this service remains available to all users, this Government computer system employs software programs to monitor network traffic to identify unauthorized attempts to upload or change information, or otherwise cause damage.

e. Except for authorized law enforcement investigations, no other attempts are made to identify individual users or their usage habits. Raw data logs are used for no other purposes and scheduled for regular destruction in accordance with records disposition schedules governing the investigatory function of the law enforcement body.

f. Unauthorized attempts to upload information or change information on this service are strictly prohibited and may be punishable under the Computer Fraud and Abuse Act of 1986, as amended in 1994 and 1996, and the National Information Infrastructure Protection Act of 1996.

g. Questions or comments about the information presented here should be forwarded to ASKDFAS.

SAMPLE INQUIRY AND REQUEST LETTERS

SAMPLE FOIA REQUEST LETTER

DFAS FOIA OFFICE

Address

City, State, Zip Code

Click here to see the "Where to Send A FOIA/PA Request" Link

Dear:

This is a request under the Freedom of Information Act (5 U.S.C. § 552). I request that a copy of the following document(s) be provided to me (identify the documents as specifically as possible).

In order to help you determine my status for the purpose of assessing fees, you should know that I am (insert one of the descriptions below).

a. a representative of the news media affiliated with the _____ newspaper (magazine, television station, etc.), and this request is made as part of news gathering and not for a commercial use.

b. affiliated with an educational or noncommercial scientific institution, and this request is made for a scholarly or scientific purpose and not for a commercial use.

c. affiliated with a private business and am seeking information for use in the company's business.

d. an individual seeking information for personal use and not for a commercial use.

(Please select one of the two following paragraphs)

a. I am willing to pay fees for this request up to a maximum of \$_____. If you estimate that the fees exceed this limit, please inform me first.

b. I request a waiver of fees for this request because disclosure of the requested information to me is in the public interest it is likely to contribute significantly to public understanding of the operations or activities of DFAS and is not primarily in my commercial interest. (Include details about how the requested information contributes significantly to the

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public understanding of the DFAS operations, and how it will be disseminated by you to the general public).

I can be contacted at (area code & telephone number) to discuss any aspect of my request.

Sincerely,

Name

Address

City, State, Zip Code

Telephone number (optional)

SAMPLE PA REQUEST LETTER

DFAS PA OFFICE

Address

City, State, Zip Code

Click here to see the "Where to Send A FOIA/PA Request" Link

Dear:

This is a request under the Privacy Act (5 U.S.C. § 552). I request that I be provided with a copy of (identify the documents as specifically as possible, including branch of service, rank, and any other pertinent information that assist us in obtaining the record(s) you request). (Example: I request a copy of my active duty payroll records for the period January 1992 thru December 1994. During this time I was a CPT in the US Army stationed at Ft. Dix, NJ. My social security number is 000-00-0000.)

The following information is provided so that you may respond to my request.

Name: John D. Doe
Address: 123 1st Street
City: Anywhere
State: CO
ZIP Code: 00000-0000
Phone Number: (000) 123-4567

(Please list a phone number where you can be reached Monday through Friday during the hours of 8 a.m. to 4 p.m., mountain standard time, if you wish to be contacted by telephone if we have questions relating to your request.)

Please feel free to contact me to discuss any aspect of my request.

Sincerely,

NOTE: Although the disclosure of the information listed above is voluntary, please note that no reply can be given, unless it is provided. Your social security number is required so we can correctly identify you and your payroll records.