

# Subpart 24.1 - Protection of Individual Privacy

**Parent topic:** [Part 24 - Protection of Privacy and Freedom of Information](#)

## 24.101 Definitions.

As used in this subpart-

*Agency* means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory *agency*.

*Individual* means a citizen of the *United States* or an alien lawfully admitted for permanent residence.

*Maintain* means *maintain*, collect, use, or disseminate.

*Operation of a system of records* means performance of any of the activities associated with maintaining the system of *records*, including the collection, use, and dissemination of *records*.

*Personally identifiable information* means information that can be used to distinguish or trace an *individual's* identity, either alone or when combined with other information that is linked or linkable to a specific *individual*. (See Office of Management and Budget (OMB) Circular No. A-130, Managing Federal Information as a Strategic Resource).

*Record* means any item, collection, or grouping of information about an *individual* that is maintained by an *agency*, including, but not limited to, education, financial transactions, medical history, and criminal or employment history, and that contains the *individual's* name, or the identifying number, symbol, or other identifying particular assigned to the *individual*, such as a fingerprint or voiceprint or a photograph.

*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*.

## 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*-

(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.