



## OFFICE of GOVERNMENT INFORMATION SERVICES

Date

Agency Chief FOIA Officer  
Address

Dear Chief Privacy Officer:

I write to inform you of and ask for your assistance with a Privacy Act issue that affects how the Office of Government Information Services (OGIS) carries out its statutory duties.

Created by the OPEN Government Act of 2007 and opened in September 2009 as the Freedom of Information Act (FOIA) Ombudsman, OGIS has the statutory mandate to review FOIA policies, procedures and compliance of administrative agencies, and to offer mediation services to resolve disputes between FOIA requesters and agencies. 5 U.S.C. § 552(h)(1)-(3). We advocate for neither the requester nor the agency, but for the FOIA process to work as intended.

As you know, the Privacy Act of 1974 protects FOIA and Privacy Act request and appeal files, prohibiting agencies from sharing information contained in those files without prior written consent of the requester or the existence of a routine use allowing such disclosure. Before OGIS facilitators can contact your agency FOIA units to discuss a FOIA or Privacy Act request or appeal, we must first obtain a signed and dated consent from the requester authorizing OGIS and any Federal department, agency or component to share with one another information and records related to the request.

Since opening three years ago, OGIS has obtained the consents of more than several thousand requesters. However, that step increases the time between the receipt of a request for assistance and our contacting the agency to try to begin facilitating a resolution to a dispute.

Moreover, requiring consent can be an obstacle when it is an agency seeking OGIS assistance. The situation places agencies in the position of obtaining requester consent for the sole purpose of discussing an issue with OGIS in an attempt to prevent or resolve a dispute or to ask OGIS for help with difficult requests or requesters. Consent also may not be feasible when records are relevant to an OGIS review of an agency's policies, procedures or compliance.



Seven cabinet-level departments and six agencies have revised their Privacy Act system of records notices (SORNs) to include an OGIS routine use: the Department of Defense, Education, Homeland Security, Justice, State, Transportation, Treasury, the Securities and Exchange Commission, the Consumer Financial Protection Bureau, the Privacy and Civil Liberties Oversight Board, the U.S. Agency for International Development, the Office of Special Counsel and the U.S. Postal Service.

I write to request that you do the same by adding a routine use to your SORN. OGIS worked with the Department of Justice (DOJ) to develop a model routine use (copy of DOJ SORN is attached for reference) that agencies can use for this purpose:

*To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. § 552(h), to review administrative agency policies, procedures and compliance with the Freedom of Information Act (FOIA), and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.*

OGIS has observed that when an agency's Privacy Act SORN contains a routine use allowing the agency and OGIS to share information, efficiencies are built into the FOIA administrative process.

I would be happy to discuss this matter and answer any questions. I can be reached at [James.Holzer@nara.gov](mailto:James.Holzer@nara.gov) and at 202-741-5772.

Sincerely,

/S/

Dr. James V.M.L. Holzer  
Director