

OPM/GOVT-2

System Name:

Employee Performance File System Records.

System Location:

Records maintained in this system may be located as follows:

- a. In an Employee Performance File (EPF) maintained in the agency office responsible for maintenance of the employee's Official Personnel Folder (OPF) or other agency-designated office. This includes those instances where the agency uses an envelope within the OPF in lieu of a separate EPF folder.
- b. In the EPF of Senior Executive Service (SES) appointees where the agency elects to have the file maintained by the Performance Review Boards required by 5 U.S.C. 4314(c)(1), or the administrative office supporting the Board.
- c. In any supervisor/manager's work folder maintained in the office by the employee's immediate supervisor/manager or, where agencies have determined that records management is better served, in such folders maintained for supervisors/managers in a central administrative office.
- d. In an agency's electronic personnel records system.
- e. In an agency microformed EPF.

Note 1:

Originals or copies of records covered by this system may be located in more than one location, but if they become part of an agency internal system (e.g., administrative or negotiated grievance file), those copies then would be subject to the agency's internal Privacy Act implementation guidance regarding their use within the agency's system.

Note 2:

The records in this system are 'owned' by the Office of Personnel Management (OPM) and should be provided to those Office employees who have an official need or use for those records. Therefore, if an employing agency is asked by an OPM employee for access to the records within this system, such a request should be honored.

Categories of Individuals Covered by the System:

Current and former Federal employees (including SES appointees).

Categories of Records in the System:

Records in this system, wherever they are maintained, may include any or all of the following:

- a. Annual summary performance ratings of record issued under employee appraisal systems and any document that indicates that the rating is being challenged under administrative procedures (e.g., when the employee files a grievance on the rating received).
- b. A document (either the summary rating form itself or a form affixed to it) that identifies the job elements and the standards for those elements upon which the rating is based.
- c. Supporting documentation for employee ratings of records, as required by agency rating systems or implementing instructions, and which may be filed physically with the rating of record (e.g., productivity and quality control records, records of employee counseling, individual development plans, or other such records as specified in agency issuances) and maintained, for example in a work folder by supervisors/managers at the work site.
- d. Records on SES appraisals generated by Performance Review Boards, including statements of witnesses and transcripts of hearings.
- e. Written recommendations for awards, removals, demotions, denials of within-grade increases, reassignments, training, pay increases, cash bonuses, or other performance-based actions (e.g., nominations of SES employees for Meritorious or Distinguished Executive), including supporting documentation.
- f. Statements made (letter on or appended to the performance rating document) by the employee (e.g., a statement of disagreement with the rating or recommendation), in accordance with agency performance plans and implementing instructions, regarding a rating given and any recommendations made based on them.

Note 3:

When a recommendation by a supervisor/manager or a statement made by the employee regarding the rating issued (or a copy) becomes part of another Governmentwide system or internal agency file (e.g., an SF 52 when the action is effected or when documents or statements of disagreement are placed in a grievance file), that document then becomes subject to that system's notice and appropriate OPM or employing agency Privacy Act requirements, respectively, for the system of records covering that file.

g. Records created by Executive Resource Boards regarding performance of an individual in an executive development program.

h. Records concerning performance during the supervisory or managerial probationary period, the SES appointment probationary period, or the employee's initial period of probation after appointment.

i. Notices of commendations, recommendations for training, such as an Individual Development Plan, and advice and counseling records that are based on work performance.

j. Copies of supervisory ratings used in considering employees for promotion or other position changes originated in conjunction with agency merit promotion programs when specifically authorized for retention in the EPF or work folder.

k. Performance-related material that may be maintained in the work folder to assist the supervisor/manager in accurately assessing employee performance. Such material may include transcripts of employment and training history, documentation of special licenses, certificates, or authorizations necessary in the performance of the employee duties, and other such records that agencies determine to be appropriate for retention in the work folder.

l. Standard Form 7B cards. (While the use of the SF 7B Card system was cancelled effective December 31, 1992, this system notice will cover any of those cards still in existence.)

Note 4:

To the extent that performance records covered by this system are maintained in either an EPF, supervisor/manager work folder, or an agency's electronic or microform record system, they are considered covered under this system of records. Further, when copies of records filed in the employee's OPF are maintained as general records related to performance (item k above), those records are to be considered as being covered by this system and not the OPM/GOVT-1 system.

This notice does not cover these records (or copies) when they become part of a grievance file or a 5 CFR parts 432, 752, or 754 file (documents maintained in these files are covered by the OPM/GOVT-3 system of records, while grievance records are covered under an agency-specific system), or when they become part of an appeal or discrimination complaint file as such documents are considered to be part of either the system of appeal records under the control of the Merit Systems Protection Board (MSPB) or discrimination complaints files under the control of the Equal Employment Opportunity Commission (EEOC).

When an agency retains copies of records from this system in another system of records, not covered by this or another OPM, MSPB, or EEOC Government-wide system notice, the agency is solely responsible for responding to any Privacy Act issues raised concerning these documents.

The Office has adopted a position that when supervisors/managers retain personal "supervisory" notes, i.e., information on employees that the agency exercises no control and does not require or specifically describe in its performance system, which remain solely for the personal use of the author and are not provided to any other person, and which are retained or discarded at the author's sole discretion, such notes are not subject to the Privacy Act and are, therefore, not considered part of this system. Should an agency choose to adopt a position that such notes are subject to the Act, that agency is solely responsible for dealing with Privacy Act matters, including the requisite system notice, concerning them.

Authority for Maintenance of the System:

Sections 1104, 3321, 4305, and 5405 of title 5, U.S. Code, and Executive Order 12107.

Purpose:

These records are maintained to ensure that all appropriate records on an employee's performance are retained and are available (1) To agency officials having a need for the information; (2) to employees; (3) to support actions based on the records; (4) for use by the OPM in connection with its personnel management evaluation role in the executive branch; and (5) to identify individuals for personnel research.

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purpose of Such Uses:

a. To disclose information to the Merit Systems Protection Board or the Office of Special Counsel in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations

of alleged or possible prohibited personnel practices, and other functions as promulgated in 5 U.S.C. chapter 12, or for such other functions as may be authorized by law.

b. To disclose information to the EEOC when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal Affirmative Action programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission.

c. To disclose information to the Federal Labor Relations Authority (including its General Counsel) when requested in connection with the investigation and resolution of allegations of unfair labor practices, in connection with the resolution of exceptions to arbitrator's awards where a question of material fact is raised, and matters before the Federal Service Impasses Panel.

d. To consider and select employees for incentive awards, quality-step increases, merit increases and performance awards, or other pay bonuses, and other honors and to publicize those granted. This may include disclosure to public and private organizations, including news media, which grant or publicize employee awards or honors.

e. To disclose information to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation.

f. To disclose to an agency in the executive, legislative, or judicial branch, or to the District of Columbia's government in response to its request, or at the initiation of the agency maintaining the records, information in connection with hiring or retaining of an employee; issuing a security clearance; conducting a security or suitability investigation of an individual; classifying jobs; letting a contract; issuing a license, grant, or other benefits by the requesting agency; or the lawful statutory, administrative, or investigative purposes of the agency to the extent that the information is relevant and necessary to the decision on the matter.

g. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

h. To disclose information to a congressional office from the record or an individual in response to an inquiry from that congressional office made at the request of the individual.

i. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding.

j. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear, when:

1. The agency, or any component thereof; or

2. Any employee of the agency in his or her official capacity; or

3. Any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee; or

4. The United States, when the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the agency is deemed by the agency to be relevant and necessary to the litigation, provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

k. By the National Archives and Records Administration in records management inspections and its role as Archivist.

l. By the OPM or employing agency to locate individuals for personnel research or survey response and in producing summary descriptive statistics and analytical studies to support the function for which the records are collected and maintained, or for related workforce studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

m. To disclose pertinent information to the appropriate Federal, State, or local government agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the agency maintaining the record becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

- n. To disclose information to any member of an agency's Performance Review Board or other board or panel when the member is not an official of the employing agency. The information would then be used for approving or recommending performance awards, nominating for meritorious and distinguished executive ranks, and removal, reduction-in-grade, and other personnel actions based on performance.
- o. To disclose to Federal, State, local, and professional licensing boards or Boards of Medical Examiners, when such records reflect on the qualifications of individuals seeking to be licensed.
- p. To disclose to contractors, grantees, or volunteers performing or working on a contract, service, grant, cooperative agreement, or job for the Federal Government.
- q. To disclose records on former Panama Canal Commission employees to the Republic of Panama for use in employment matters.

Policies and Practices for Storing, Retrieving, Safeguarding, Retaining and Disposing of Records in the System:

Storage:

Records are maintained in file folders, envelopes, and on magnetic tapes, disks, microfilm, or microfiche.

Retrievability:

Records are retrieved by the name and social security number of the individual on whom they are maintained.

Safeguards:

Records are maintained in file folders or envelopes, on electronic media, magnetic tape, disks, or microforms and are stored in locked desks, metal filing cabinets, or in a secured room with access limited to those whose official duties require access. Additional safeguarding procedures include the use of sign-out sheets and restrictions on the number of employees able to access electronic records through use of access codes and logs.

Retention and Disposal:

Records on former non-SES employees will generally be retained no longer than 1 year after the employee leaves his or her employing agency. Records on former SES employees may be retained up to 5 years under 5 U.S.C. 4314.

- a. Summary performance appraisals (and related records as the agency prescribes) on SES appointees are retained for 5 years and ratings of record on other employees for 4 years, except as shown in paragraph b. below, and are disposed of by shredding, burning, erasing of disks, or in accordance with agency procedures regarding destruction of personnel records, including giving them to the individual. When a non-SES employee transfers to another agency or leaves Federal employment, ratings of record and subsequent ratings (4 years old or less) are to be filed on the temporary side of the OPF and forwarded with the OPF.
- b. Ratings of unacceptable performance and related documents, pursuant to 5 U.S.C. 4303(d), are destroyed after the employee completes 1 year of acceptable performance from the date of the proposed removal or reduction-in-grade notice. (Destruction to be no later than 30 days after the year is up.)
- c. When a career appointee in the SES accepts a Presidential appointment pursuant to 5 U.S.C. 3392(c), the employee's performance folder remains active so long as the employee remains employed under the Presidential appointment and elects to have certain provisions of 5 U.S.C. relating to the Service apply.
- d. When an incumbent of the SES transfers to another position in the Service, ratings and plans 5 years old or less shall be forwarded to the gaining agency with the individual's OPF.
- e. Some performance-related records (e.g., documents maintained to assist rating officials in appraising performance or recommending remedial actions or to show that the employee is currently licensed or certified) may be destroyed after 1 year.
- f. Where any of these documents are needed in connection with administrative or negotiated grievance procedures, or quasi-judicial or judicial proceedings, they may be retained as needed beyond the retention schedules identified above.
- g. Generally, agencies retain records on former employees for no longer than 1 year after the employee leaves.

Note 5:

When an agency retains an electronic or microform version of any of the above documents, retention of such records longer than shown is permitted (except for those records subject to 5 U.S.C. 4303(d)) for agency use or for historical or

statistical analysis, but only so long as the record is not used in a determination directly affecting the individual about whom the record pertains (after the manual record has been or should have been destroyed).

System Manager(s) and Address:

- a. Deputy Associate Director, Center for HR Systems Requirements and Strategies, Room 6H31, U.S. Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415.
- b. For current Federal employees, OPM has delegated to the employing agency the Privacy Act responsibilities concerning access, amendment, and disclosure of the record within this system notice.

Notification Procedure:

Individuals wishing to inquire whether this system contains information about them should contact their servicing personnel office, supervisor/manager, Performance Review Board office, or other agency designated office maintaining their performance-related records where they are or were employed. Individuals must furnish the following information for their records to be located and identified:

- a. Full name(s).
- b. Social Security number.
- c. Position occupied and unit where employed.

Records Access Procedure:

Individuals wishing access to their records should contact the appropriate office indicated in the Notification Procedure section where they are or were employed. Individuals must furnish the following information for their records to be located and identified:

- a. Full name(s).
- b. Social security number.
- c. Position occupied and unit where employed.

Individuals requesting access to records must also comply with the OPM's Privacy Act regulations on verification of identity and access to records (5 CFR part 297).

Contesting Record Procedure:

Individuals wishing to request amendment to their records should contact the appropriate office indicated in the Notification Procedure section where they are or were employed. Individuals must furnish the following information for their records to be located and identified:

- a. Full name(s).
- b. Social security number.
- c. Position occupied and unit where employed.

Individuals requesting amendment must also comply with the OPM's Privacy Act regulations on verification of identity and amendment of records (5 CFR part 297).

Records Source Categories:

Records in this system are obtained from:

- a. Supervisors/managers.
- b. Performance Review Boards.
- c. Executive Resource Boards.
- d. Other individuals or agency officials.
- e. Other agency records.
- f. The individual to whom the records pertain.