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28 CFR Ch. I (7-1-23 Edition)

found at http://www.access.gpo.gov/su_docs). If you cannot determine where within the Department to send your request, you may send it to the FOIA/PA Mail Referral Unit, Justice Management Division, U.S. Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530-0001, and that office will forward it to the component(s) it believes most likely to have the records that you seek. For the quickest possible handling, you should mark both your request letter and the envelope “Privacy Act Request.”

(b) *Description of records sought.* You must describe the records that you want in enough detail to enable Department personnel to locate the system of records containing them with a reasonable amount of effort. Whenever possible, your request should describe the records sought, the time periods in which you believe they were compiled, and the name or identifying number of each system of records in which you believe they are kept. The Department publishes notices in the FEDERAL REGISTER that describe its components’ systems of records. A description of the Department’s systems of records also may be found as part of the “Privacy Act Compilation” published by the National Archives and Records Administration’s Office of the Federal Register. This compilation is available in most large reference and university libraries. This compilation also can be accessed electronically at the Government Printing Office’s World Wide Web site (which can be found at http://www.access.gpo.gov/su_docs).

(c) *Agreement to pay fees.* If you make a Privacy Act request for access to records, it shall be considered an agreement by you to pay all applicable fees charged under § 16.49, up to \$25.00. The component responsible for responding to your request ordinarily shall confirm this agreement in an acknowledgement letter. When making a request, you may specify a willingness to pay a greater or lesser amount.

(d) *Verification of identity.* When you make a request for access to records about yourself, you must verify your identity. You must state your full name, current address, and date and place of birth. You must sign your request and your signature must either

be notarized or submitted by you under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the FOIA/PA Mail Referral Unit, Justice Management Division, U.S. Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530-0001. In order to help the identification and location of requested records, you may also, at your option, include your social security number.

(e) *Verification of guardianship.* When making a request as the parent or guardian of a minor or as the guardian of someone determined by a court to be incompetent, for access to records about that individual, you must establish:

(1) The identity of the individual who is the subject of the record, by stating the name, current address, date and place of birth, and, at your option, the social security number of the individual;

(2) Your own identity, as required in paragraph (d) of this section;

(3) That you are the parent or guardian of that individual, which you may prove by providing a copy of the individual’s birth certificate showing your parentage or by providing a court order establishing your guardianship; and

(4) That you are acting on behalf of that individual in making the request.

[Order No. 2156-98, 63 FR 29600, June 1, 1998; 63 FR 34965, June 26, 1998; 63 FR 51401, Sept. 25, 1998]

§ 16.42 Responsibility for responding to requests for access to records.

(a) *In general.* Except as stated in paragraphs (c), (d), and (e) of this section, the component that first receives a request for access to a record, and has possession of that record, is the component responsible for responding to the request. In determining which records are responsive to a request, a component ordinarily shall include only those records in its possession as of the date the component begins its search for them. If any other date is used, the component shall inform the requester of that date.

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(b) *Authority to grant or deny requests.* The head of a component, or the component head's designee, is authorized to grant or deny any request for access to a record of that component.

(c) *Consultations and referrals.* When a component receives a request for access to a record in its possession, it shall determine whether another component, or another agency of the Federal Government, is better able to determine whether the record is exempt from access under the Privacy Act. If the receiving component determines that it is best able to process the record in response to the request, then it shall do so. If the receiving component determines that it is not best able to process the record, then it shall either:

(1) Respond to the request regarding that record, after consulting with the component or agency best able to determine whether the record is exempt from access and with any other component or agency that has a substantial interest in it; or

(2) Refer the responsibility for responding to the request regarding that record to the component best able to determine whether it is exempt from access, or to another agency that originated the record (but only if that agency is subject to the Privacy Act). Ordinarily, the component or agency that originated a record will be presumed to be best able to determine whether it is exempt from access.

(d) *Law enforcement information.* Whenever a request is made for access to a record containing information that relates to an investigation of a possible violation of law and that was originated by another component or agency, the receiving component shall either refer the responsibility for responding to the request regarding that information to that other component or agency or shall consult with that other component or agency.

(e) *Classified information.* Whenever a request is made for access to a record containing information that has been classified by or may be appropriate for classification by another component or agency under Executive Order 12958 or any other executive order concerning the classification of records, the receiving component shall refer the re-

sponsibility for responding to the request regarding that information to the component or agency that classified the information, should consider the information for classification, or has the primary interest in it, as appropriate. Whenever a record contains information that has been derivatively classified by a component because it contains information classified by another component or agency, the component shall refer the responsibility for responding to the request regarding that information to the component or agency that classified the underlying information.

(f) *Notice of referral.* Whenever a component refers all or any part of the responsibility for responding to a request to another component or agency, it ordinarily shall notify the requester of the referral and inform the requester of the name of each component or agency to which the request has been referred and of the part of the request that has been referred.

(g) *Timing of responses to consultations and referrals.* All consultations and referrals shall be handled according to the date the Privacy Act access request was initially received by the first component or agency, not any later date.

(h) *Agreements regarding consultations and referrals.* Components may make agreements with other components or agencies to eliminate the need for consultations or referrals for particular types of records.

[Order No. 2156-98, 63 FR 29600, June 1, 1998; 63 FR 34965, June 26, 1998; 63 FR 51401, Sept. 25, 1998]

§ 16.43 Responses to requests for access to records.

(a) *Acknowledgements of requests.* On receipt of a request, a component ordinarily shall send an acknowledgement letter to the requester which shall confirm the requester's agreement to pay fees under § 16.41(c) and provide an assigned request number for further reference.

(b) *Grants of requests for access.* Once a component makes a determination to grant a request for access in whole or in part, it shall notify the requester in writing. The component shall inform the requester in the notice of any fee charged under § 16.49 and shall disclose