

estimates that the fees to be assessed in accordance with this section will exceed \$25.00, CIGIE will notify the requester of the actual or estimated amount of the fees, including a breakdown of the fees for search, review, or duplication, unless the requester has indicated a willingness to pay fees as high as those anticipated. If only a portion of the fee can be estimated readily, CIGIE will advise the requester accordingly. If the requester is a non-commercial use requester, the notice will specify that the requester is entitled to the statutory entitlements of 100 pages of duplication at no charge and, if the requester is charged search fees, two hours of search time at no charge, and will advise the requester whether those entitlements have been provided.

(2) In cases in which a requester has been notified that the actual or estimated fees exceed \$25.00, the request shall not be considered received and further work will not be completed until the requester commits in writing to pay the actual or estimated total fee, or designates some amount of fees the requester is willing to pay, or in the case of a noncommercial use requester who has not yet been provided with the requester's statutory entitlements, designates that the requester seeks only that which can be provided by the statutory entitlements. The requester must provide the commitment or designation in writing, and must, when applicable, designate an exact dollar amount the requester is willing to pay. CIGIE is not required to accept payments in installments.

(3) If the requester has indicated a willingness to pay some designated amount of fees, but CIGIE estimates that the total fee will exceed that amount, CIGIE shall toll the processing of the request when it notifies the requester of the estimated fees in excess of the amount the requester has indicated a willingness to pay. CIGIE will inquire whether the requester wishes to revise the amount of fees the requester is willing to pay or modify the request. Once the requester responds, the time to respond will resume from where it was at the date of the notification.

(4) CIGIE will make available their FOIA Public Liaison or other FOIA professional to assist any requester in reformulating a request to meet the requester's needs at a lower cost.

(f) *Charges for other services.* Although not required to provide special services, if CIGIE chooses to do so as a matter of administrative discretion, the direct costs of providing the service shall be charged. Examples of such services include certifying that records are true copies, providing multiple copies of the same document, or sending records by means other than first class mail.

(g) *Charging interest.* CIGIE may charge interest on any unpaid bill starting on the 31st day following the date of billing the requester. Interest charges shall be assessed at the rate provided in 31 U.S.C. 3717 and will accrue from the billing date until payment is received by CIGIE. CIGIE will follow the provisions of the Debt Collection Act of 1982, Public Law 97-365, 96 Stat. 1749, as amended, and its administrative procedures, including the use of consumer reporting agencies, collection agencies, and offset.

(h) *Aggregating requests.* When CIGIE reasonably believes that a requester or a group of requesters acting in concert is attempting to divide a single request into a series of requests for the purpose of avoiding fees, CIGIE may aggregate those requests and charge accordingly. CIGIE may presume that multiple requests of this type made within a 30-day period have been made to avoid fees. For requests separated by a longer period, CIGIE will aggregate them only where there is a reasonable basis for determining that aggregation is warranted in view of all the circumstances involved. Multiple requests involving unrelated matters will not be aggregated.

(i) *Advance payments.* (1) For requests other than those described in paragraph (i)(2) or (3) of this section, CIGIE will not require the requester to make an advance payment before work is commenced or continued on a request. Payment owed for work already completed (*i.e.*, payment before copies are sent to a requester) is not an advance payment.

(2) When CIGIE determines or estimates that a total fee to be charged under this section will exceed \$250.00, it may require that the requester make an advance payment up to the amount of the entire anticipated fee before beginning to process the request. CIGIE may elect to process the request prior to collecting fees when it receives a satisfactory assurance of full payment from a requester with a history of prompt payment.

(3) Where a requester has previously failed to pay a properly charged FOIA fee to CIGIE or another agency within 30 days of the billing date, CIGIE may require that the requester pay the full amount due, plus any applicable interest on that prior request, and CIGIE may require that the requester make an advance payment of the full amount of any anticipated fee before CIGIE begins to process a new request or continues to process a pending request or any pending appeal. Where CIGIE has a reasonable basis to believe that a requester has misrepresented the requester's identity to avoid paying outstanding fees, it may require that the requester provide proof of identity.

(4) In cases in which CIGIE requires advance payment, the request shall not be considered received and further work will not be completed until the required payment is received. If the requester does not pay the advance payment within 30 days after the date of CIGIE's fee determination, the request will be closed.

(j) *Other statutes specifically providing for fees.* The fee schedule of this section does not apply to fees charged under any statute that specifically requires an agency to set and collect fees for particular types of records. In instances where records responsive to a request are subject to a statutorily-based fee schedule program, CIGIE shall inform the requester of the contact information for that program.

(k) *Requirements for waiver or reduction of fees.* (1) Requesters may seek a waiver of fees by submitting a written application demonstrating how disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not

primarily in the commercial interest of the requester.

(2) CIGIE will furnish records responsive to a request without charge or at a reduced rate when it determines, based on all available information, that disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. In deciding whether this standard is satisfied CIGIE will consider the factors described in paragraphs (k)(2)(i) through (iii) of this section.

(i) Disclosure of the requested information would shed light on the operations or activities of the government. The subject of the request must concern identifiable operations or activities of the Federal Government with a connection that is direct and clear, not remote or attenuated.

(ii) Disclosure of the requested information would be likely to contribute significantly to public understanding of those operations or activities. This factor is satisfied when the following criteria are met:

(A) Disclosure of the requested records must be meaningfully informative about government operations or activities. The disclosure of information that already is in the public domain, in either the same or a substantially identical form, would not be meaningfully informative if nothing new would be added to the public's understanding.

(B) The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area as well as the requester's ability and intention to effectively convey information to the public must be considered. CIGIE will presume that a representative of the news media will satisfy this consideration.

(iii) The disclosure must not be primarily in the commercial interest of the requester. To determine whether disclosure of the requested information is primarily in the commercial interest

§ 9800.110

of the requester, CIGIE will consider the following criteria:

(A) CIGIE must identify whether the requester has any commercial interest that would be furthered by the requested disclosure. A commercial interest includes any commercial, trade, or profit interest. Requesters must be given an opportunity to provide explanatory information regarding this consideration.

(B) If there is an identified commercial interest, CIGIE must determine whether that is the primary interest furthered by the request. A waiver or reduction of fees is justified when the requirements of paragraphs (k)(2)(i) and (ii) of this section are satisfied and any commercial interest is not the primary interest furthered by the request. CIGIE ordinarily will presume that when a news media requester has satisfied the requirements of paragraphs (k)(2)(i) and (ii) of this section, the request is not primarily in the commercial interest of the requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return will not be presumed to primarily serve the public interest.

(3) Where only some of the records to be released satisfy the requirements for a waiver of fees, a waiver will be granted for those records.

(4) Requests for a waiver or reduction of fees should be made when the request is first submitted to CIGIE and should address the criteria referenced above. A requester may submit a fee waiver request at a later time so long as the underlying record request is pending or on administrative appeal. When a requester who has committed to pay fees subsequently asks for a waiver of those fees and that waiver is denied, the requester shall be required to pay any costs incurred up to the date the fee waiver request was received.

§ 9800.110 Public reading room.

CIGIE maintains an electronic public reading room on its website, <http://www.ignet.gov>, which contains the records that FOIA requires be regularly made available for public inspection and copying, as well as additional records of interest to the public. CIGIE

5 CFR Ch. XCVIII (1–1–25 Edition)

is responsible for determining which of its records must be made publicly available, for identifying additional records of interest to the public that are appropriate for public disclosure, and for posting and indexing such records. CIGIE must ensure that its website of posted records and indices is reviewed and updated on an ongoing basis. CIGIE's FOIA Public Liaison can assist individuals in locating records at CIGIE.

§ 9800.111 Other rights and services.

Nothing in this part shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under FOIA.

PART 9801—PRIVACY ACT REGULATIONS

Subpart A—General Provisions

Sec.	
9801.101	Purpose and scope.
9801.102	CIGIE organization.
9801.103	Definitions.
9801.104	Rules for determining if an individual is the subject of a record.
9801.105	Employee standards of conduct.
9801.106	Use and collection of social security numbers.
9801.107	Other rights and services.

Subpart B—Access to Records and Accounting of Disclosures

9801.201	Requests for access.
9801.202	Response to requests.
9801.203	Granting access.
9801.204	Special procedures: Medical records.
9801.205	Appeals from denials of requests for access to records.
9801.206	Response to appeal of a denial of access.
9801.207	Fees.
9801.208	Requests for accounting of record disclosures.

Subpart C—Amendment of Records

9801.301	Requests for amendment of record.
9801.302	Response to requests.
9801.303	Appeal from adverse determination on amendment.
9801.304	Response to appeal of adverse determination on amendment; disagreement statements.
9801.305	Assistance in preparing request to amend a record or to appeal an initial adverse determination.

Subpart D—Exemptions

9801.401 Exemptions.

AUTHORITY: Section 11 of the Inspector General Act of 1978, as amended, 5 U.S.C. app.; 5 U.S.C. 301, 552a; 31 U.S.C. 9701; Sec. 15010, Pub. L. 116-136, 134 Stat. 281.

SOURCE: 81 FR 86563, Dec. 1, 2016, unless otherwise noted.

Subpart A—General Provisions

§ 9801.101 Purpose and scope.

This part contains the regulations of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) implementing the Privacy Act of 1974, 5 U.S.C. 552a. This part sets forth the basic responsibilities of CIGIE with regard to CIGIE's compliance with the requirements of the Privacy Act and offers guidance to members of the public who wish to exercise any of the rights established by the Privacy Act with regard to records maintained by CIGIE. These regulations should be read in conjunction with the Privacy Act, which explains in more detail individuals' rights.

§ 9801.102 CIGIE organization.

(a) *Centralized program.* CIGIE has a centralized Privacy Act program, with one office receiving and coordinating the processing of all Privacy Act requests to CIGIE.

(b) *Acceptance of requests and appeals.* CIGIE will accept initial requests or appeals regarding CIGIE records.

[82 FR 51333, Nov. 6, 2017]

§ 9801.103 Definitions.

(a) For purposes of this part the terms *individual*, *maintain*, *record*, *routine use*, and *system of records*, shall have the meanings set forth in 5 U.S.C. 552a(a).

(b) *CIGIE* means the Council of the Inspectors General on Integrity and Efficiency and includes its predecessor entities, the Executive Council on Integrity and Efficiency and the President's Council on Integrity and Efficiency.

(c) *Days*, unless stated as "calendar days," are working days and do not include Saturdays, Sundays, or Federal holidays.

(d) *IC* means the CIGIE Integrity Committee established under section 11(d) of the Inspector General Act of 1978, as amended, 5 U.S.C. app. (Inspector General Act).

(e) *Request for access* to a record means a request made under Privacy Act subsection (d)(1).

(f) *Request for amendment* of a record means a request made under Privacy Act subsection (d)(2).

(g) *Request for an accounting* means a request made under Privacy Act subsection (c)(3).

(h) *Requester* means an individual who makes a request for access, a request for amendment, or a request for an accounting under the Privacy Act.

(i) *PRAC* means the Pandemic Response Accountability Committee established under Section 15010 of the Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136, 134 Stat. 281.

[81 FR 86563, Dec. 1, 2016, as amended at 86 FR 26649, May 17, 2021]

§ 9801.104 Rules for determining if an individual is the subject of a record.

An individual seeking to determine if a specific CIGIE system of records contains a record pertaining to the individual must follow the procedures set forth for access to records in § 9801.201(a), (b)(1) and (2), (c), and (d). A request to determine if an individual is the subject of a record will ordinarily be responded to within 10 days, except when CIGIE determines otherwise, in which case the request will be acknowledged within 10 days and the individual will be informed of the reasons for the delay and an estimated date by which a response will be issued.

§ 9801.105 Employee standards of conduct.

CIGIE will inform its employees involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, of the provisions of the Privacy Act, including the Act's civil liability and criminal penalty provisions. Unless otherwise permitted by law, an employee of CIGIE shall:

§ 9801.106

(a) Collect from individuals only the information that is relevant and necessary to discharge the responsibilities of CIGIE;

(b) Collect information about an individual directly from that individual whenever practicable when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs;

(c) Inform each individual from whom information is collected of:

(1) The legal authority to collect the information and whether providing it is mandatory or voluntary;

(2) The principal purpose for which CIGIE intends to use the information;

(3) The routine uses CIGIE may make of the information; and

(4) The effects on the individual, if any, of not providing the information;

(d) Maintain no system of records without public notice and notify appropriate CIGIE officials of the existence or development of any system of records that is not the subject of a current or planned public notice;

(e) Maintain all records that are used by CIGIE in making any determination about an individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to ensure fairness to the individual in the determination;

(f) Except as to disclosures made to an agency or made under the Freedom of Information Act, 5 U.S.C. 552 (FOIA), make reasonable efforts, prior to disseminating any record about an individual, to ensure that the record is accurate, relevant, timely, and complete;

(g) Maintain no record describing how an individual exercises his or her First Amendment rights, unless it is expressly authorized by statute or by the individual about whom the record is maintained, or is pertinent to and within the scope of an authorized law enforcement activity;

(h) When required by the Privacy Act, maintain an accounting in the specified form of all disclosures of records by CIGIE to persons, organizations, or agencies;

(i) Maintain and use records with care to prevent the unauthorized or inadvertent disclosure of a record to anyone. No record contained in a CIGIE

5 CFR Ch. XCVIII (1–1–25 Edition)

system of records shall be disclosed to another person, or to another agency outside CIGIE, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless the disclosure is otherwise authorized by the Privacy Act; and

(j) Notify the appropriate CIGIE official of any record that contains information that the Privacy Act does not permit CIGIE to maintain.

[81 FR 86563, Dec. 1, 2016, as amended at 82 FR 51333, Nov. 6, 2017]

§ 9801.106 Use and collection of social security numbers.

(a) *No denial of right, benefit, or privilege.* Individuals may not be denied any right, benefit, or privilege as a result of refusing to provide their social security numbers, unless the collection is required by Federal statute; and

(b) *Notification to individual.* Individuals requested to provide their social security numbers must be informed of:

(1) Whether providing social security numbers is mandatory or voluntary;

(2) The statutory or regulatory authority that authorizes the collection of social security numbers; and

(3) The uses that will be made of the numbers.

§ 9801.107 Other rights and services.

Nothing in this part shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the Privacy Act.

Subpart B—Access to Records and Accounting of Disclosures

§ 9801.201 Requests for access.

(a) *How addressed.* A requester seeking access to records pertaining to the requester in a CIGIE system of records should submit a written request that includes the words “Privacy Act Request” on both the envelope and at the top of the request letter to the Executive Director, Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW., Suite 825, Washington, DC 20006.

(b) *Description of records sought.* (1) A request should contain a specific reference to the CIGIE system of records from which access to the records is sought. Notices of CIGIE systems of records subject to the Privacy Act are published in the FEDERAL REGISTER, and copies of the notices are available on CIGIE's Web site at *www.ignet.gov*, or upon request from CIGIE's Office of General Counsel.

(2) If the written inquiry does not refer to a specific system of records, it must describe the records that are sought in enough detail to enable CIGIE personnel to locate the system of records containing them with a reasonable amount of effort.

(3) The request should state whether the requester wants a copy of the record or wants to examine the record in person.

(c) *Verification of identity.* A requester seeking access to records pertaining to the requester must verify their identity in their request. The request must state the requester's full name, current address, and date and place of birth. The requester must sign the request and the signature must either be notarized or state, "Under penalty of perjury, I hereby declare that I am the person named above and I understand that any falsification of this statement is punishable under the provisions of Title 18, United States Code (U.S.C.), Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years, or both; and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of Title 5, U.S.C., Section 552a(i)(3) as a misdemeanor and by a fine of not more than \$5,000." In order to help the identification and location of requested records, the requester may optionally include their social security number. No identification shall be required if the records are required by 5 U.S.C. 552 to be released.

(d) *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, the requester 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 the requester's option, the social security number of the individual;

(2) The requester's identity, as required in paragraph (c) of this section;

(3) That the requester is the parent or guardian of that individual, which may be established by providing a copy of the individual's birth certificate showing the requester's parentage or by providing a court order establishing the requester's guardianship; and

(4) That the requester is acting on behalf of that individual in making the request.

§ 9801.202 Response to requests.

A request for access will ordinarily be responded to within 10 days, except when CIGIE determines otherwise, in which case the request will be acknowledged within 10 days and the requester will be informed of the reasons for the delay and an estimated date by which a response will be issued. A response to a request for access should include the following:

(a) A statement that there is a record or records as requested or a statement that there is not a record in the system of records;

(b) The method of access (if a copy of all the records requested is not provided with the response);

(c) The amount of any fees to be charged for copies of records under § 9801.207, if applicable;

(d) The name and title of the official responsible for the response; and

(e) If the request is denied in whole or in part, or no record is found in the system, a statement of the reasons for the denial, or a statement that no record has been found, and notice of the procedures for appealing the denial or no record finding.

§ 9801.203 Granting access.

(a) *Means of access.* (1) The methods for allowing access to records, when such access has been granted by CIGIE, are:

(i) Examination in person in a designated office during the hours specified by CIGIE; or

(ii) Providing copies of the records.

(2) When a requester has not indicated whether he wants a copy of the

§ 9801.204

record or wants to examine the record in person, CIGIE may choose the means of granting access. However, the means chosen should not unduly impede the requester's right of access. A requester may elect to receive a copy of the records after having examined them.

(b) *Accompanying individual.* If the requester is granted in person access to examine the records, the requester may be accompanied by another individual of the requester's choice during the course of the examination of the records. CIGIE may require the requester to submit a signed statement authorizing the accompanying individual's access to the records.

(c) *Certified copies.* CIGIE will not furnish certified copies of records. When copies are to be furnished, they may be provided as determined by CIGIE.

(d) *Original records.* When the requester seeks to obtain original documentation, CIGIE reserves the right to limit the request to copies of the original records.

§ 9801.204 Special procedures: Medical records.

In the event CIGIE receives a request pursuant to § 9801.201 for access to medical records (including psychological records) whose disclosure CIGIE determines would be harmful to the individual to whom they relate, it may refuse to disclose the records directly to the requester but shall transmit them to a physician designated by the requester.

§ 9801.205 Appeals from denials of requests for access to records.

(a) *How addressed.* A requester may submit a written appeal of the decision by CIGIE to deny an initial request for access to records or a no record response to the Chairperson, Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW., Suite 825, Washington, DC 20006. The words "Privacy Act Appeal" should be included on the envelope and at the top of the letter of appeal.

(b) *Deadline and content.* The appeal must be received by CIGIE within 60 days of the date of the letter denying the access request or reflecting the no record finding and should contain a brief description of the records in-

5 CFR Ch. XCVIII (1-1-25 Edition)

involved or copies of the relevant correspondence from CIGIE. The appeal should attempt to refute the reasons given by CIGIE in support of its decision to deny the initial request for access or no record finding.

§ 9801.206 Response to appeal of a denial of access.

(a) *Access granted.* If the Chairperson or the Chairperson's designee determines that access to the records should be granted, the response will state how access will be provided if the records are not included with the response.

(b) *Denial affirmed.* Any decision that either partially or fully affirms the initial decision to deny access or no record finding shall inform the requester of the right to seek judicial review of the decision in accordance with the Privacy Act (5 U.S.C. 552a(g)).

(c) *When appeal is required.* If a requester wishes to seek review by a court of any adverse determination or denial of a request, the requester must first appeal it under § 9801.205.

§ 9801.207 Fees.

(a) *No fees for most services.* Services for which fees will not be charged:

- (1) The search and review time expended by CIGIE to produce a record;
- (2) The first copy of the records provided; and
- (3) CIGIE making the records available to be personally reviewed by the requester.

(b) *Fees for additional copies.* When a requester requests additional copies of records, CIGIE will assess the requester a fee of \$.20 per page. CIGIE will bill requester in arrears for such fees, except as follows:

(1) If the total fee for additional copies amounts to more than \$25.00, the requester will be notified of the fee amount. Except as specified in paragraph (b)(2) of this section, upon requester's written agreement to pay the assessed fees, CIGIE will provide the additional copies without prepayment of such fees (*i.e.*, payment will be accepted in arrears).

(2) An advance payment before additional copies of the records are made will be required if:

(i) CIGIE determines that the total fee to be assessed under this section exceeds \$250.00. When such a determination is made, the requester will be notified of the determination and will be required to submit an advance payment of an amount up to the total fee. The amount of the advanced payment will be at the sole discretion of CIGIE and will be based, in part, on whether requester has a history of prompt payment of Privacy Act fees. If the required advanced payment is an amount less than the total fee, requester will be required to submit a written agreement to pay any fees not paid in advance; or

(ii) The requester has previously failed to pay a previously assessed Privacy Act fee in a timely fashion (*i.e.*, within 30 days of the date of the billing). In such cases, the requester will be required to pay the full amount outstanding plus any applicable interest as provided by paragraph (c) of this section and to make an advance payment of the full amount of the determined fee before CIGIE begins to process a new request for additional copies.

(c) *Interest charges.* For additional copies provided to requester that result in fees assessed, CIGIE will begin levying interest charges on an unpaid balance starting on the 31st day following the day on which the billing was sent. Interest will be assessed at the rate prescribed under 31 U.S.C. 3717 and will accrue from the date of the billing.

(d) *Payment address.* Payment of fees should be made by either a personal check, bank draft or a money order that is payable to the Department of the Treasury of the United States and mailed or delivered to: Privacy Officer, Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW., Suite 825, Washington, DC 20006.

§ 9801.208 Requests for accounting of record disclosures.

(a) *How made and addressed.* Except where accountings of disclosures are not required to be kept (as stated in paragraph (b) of this section), a requester may request an accounting of any disclosure that has been made by CIGIE to another person, organization, or agency of any record about the requester. This accounting contains the

date, nature, and purpose of each disclosure, as well as the name and address of the person, organization, or agency to which the disclosure was made. A requester seeking an accounting of record disclosures must follow the procedures set forth for access to records in § 9801.201(a), (b)(1) and (2), (c), and (d).

(b) *Where accountings are not required.* CIGIE is not required to provide accountings to requesters where they relate to:

(1) Disclosures for which accountings are not required to be kept, including disclosures that are made to officers and employees of CIGIE and disclosures that are made under the FOIA. For purposes of this part, officers and employees of CIGIE includes, in part, CIGIE's membership, as addressed in section 11 of the Inspector General Act, when such members are acting in their capacity as CIGIE members;

(2) Disclosures made to law enforcement agencies for authorized law enforcement activities in response to written requests from those law enforcement agencies specifying the law enforcement activities for which the disclosures are sought; or

(3) Disclosures made from law enforcement systems of records that have been exempted from accounting requirements.

Subpart C—Amendment of Records

§ 9801.301 Requests for amendment of record.

(a) *How addressed.* A requester seeking to amend a record or records pertaining to requester in a CIGIE system of records should submit a written request that includes the words "Privacy Act Amendment Request" on both the envelope and at the top of the request letter to the Executive Director, Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW., Suite 825, Washington, DC 20006. Records not subject to the Privacy Act will not be amended in accordance with these provisions.

(b) *Contents of request.* A request to amend a record in a CIGIE system of records must include:

§ 9801.302

(1) The name of the system of records and a brief description of the record proposed for amendment. In the event the request to amend the record is the result of the requester having gained access to the record in accordance with the provisions concerning access to records as set forth in subpart B of this part, copies of previous correspondence between the requester and CIGIE will serve in lieu of a separate description of the record.

(2) The exact portion of the record the requester seeks to have amended should be indicated clearly. If possible, proposed alternative language should be set forth, or, at a minimum, the reasons why the requester believes the record is not accurate, relevant, timely, or complete should be set forth with enough particularity to permit CIGIE to not only understand the requester's basis for the request, but also to make an appropriate amendment to the record.

(c) *Burden of proof.* The requester has the burden of proof when seeking the amendment of a record. The requester must furnish sufficient facts to persuade the appropriate system manager of the inaccuracy, irrelevance, untimeliness, or incompleteness of the record.

(d) *Identification requirement.* When the requester's identity has been previously verified pursuant to § 9801.201, further verification of identity is not required as long as the communication does not suggest a need for verification. If the requester's identity has not been previously verified, the appropriate system manager may require identification validation as described in § 9801.201.

[81 FR 86563, Dec. 1, 2016, as amended at 82 FR 51334, Nov. 6, 2017]

§ 9801.302 Response to requests.

(a) *Time limit for acknowledging a request for amendment.* To the extent possible, CIGIE will acknowledge receipt of a request to amend a record or records within 10 working days.

(b) *Determination on an amendment request.* The decision of CIGIE in response to a request for amendment of a record in a system of records may grant in whole or deny any part of the request to amend the record.

5 CFR Ch. XCVIII (1–1–25 Edition)

(1) If CIGIE grants the request, the appropriate system manager will amend the record(s) and provide a copy of the amended record(s) to the requester. To the extent an accounting of disclosure has been maintained, the system manager shall advise all previous recipients of the record that an amendment has been made and give the substance of the amendment. Where practicable, the system manager shall send a copy of the amended record to previous recipients.

(2) If CIGIE denies the request in whole or in part, the reasons for the denial will be stated in the response letter. In addition, the response letter will state:

(i) The name and address of the official with whom an appeal of the denial may be lodged; and

(ii) A description of any other procedures which may be required of the requester in order to process the appeal.

§ 9801.303 Appeal from adverse determination on amendment.

(a) *How addressed.* A requester may submit a written appeal of the decision by CIGIE to deny an initial request to amend a record in a CIGIE system of records to the Chairperson, Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW., Suite 825, Washington, DC 20006. The words "Privacy Act Appeal" should be included on the envelope and at the top of the letter of appeal.

(b) *Deadline and content.* The appeal must be received by CIGIE within 60 days of the date of the letter denying the request and should contain a brief description of the record(s) involved or copies of the correspondence from CIGIE and the reasons why the requester believes that the disputed information should be amended.

§ 9801.304 Response to appeal of adverse determination on amendment; disagreement statements.

(a) *Response timing.* The Chairperson should make a final determination in writing not later than 30 days from the date the appeal was received. The 30-day period may be extended for good cause. Notice of the extension and the reasons therefor will be sent to the requester within the 30-day period.

(b) *Amendment granted.* If the Chairperson determines that the record(s) should be amended in accordance with the requester's request, the Chairperson will take the necessary steps to advise the requester and to direct the appropriate system manager:

(1) To amend the record(s); and

(2) To notify previous recipients of the record(s) for which there is an accounting of disclosure that the record(s) have been amended.

(c) *Denial affirmed.* If the appeal decision does not grant in full the request for amendment, the decision letter will notify the requester that the requester may:

(1) Obtain judicial review of the decision in accordance with the terms of the Privacy Act at 5 U.S.C. 552a(g); and

(2) File a statement setting forth their reasons for disagreeing with the decision.

(d) *Requester's disagreement statement.* A requester's disagreement statement must be concise. CIGIE has the authority to determine the "conciseness" of the statement, taking into account the scope of the disagreement and the complexity of the issues.

(e) *Provision of requester's disagreement statement.* In any disclosure of information about which an individual has filed a proper statement of disagreement, CIGIE will clearly note any disputed portion(s) of the record(s) and will provide a copy of the statement to persons or other agencies to whom the disputed record or records has been disclosed and for whom an accounting of disclosure has been maintained. A concise statement of the reasons for not making the amendments requested may also be provided.

§ 9801.305 Assistance in preparing request to amend a record or to appeal an initial adverse determination.

Requesters may seek assistance in preparing a request to amend a record or an appeal of an initial adverse determination, or to learn further of the provisions for judicial review, by contacting CIGIE's Privacy Officer by email at *privacy@cigie.gov* or by mail at Privacy Officer, Council of the Inspectors General on Integrity and Effic-

ciency, 1717 H Street NW., Suite 825, Washington, DC 20006.

Subpart D—Exemptions

SOURCE: 82 FR 51334, Nov. 6, 2017, unless otherwise noted.

§ 9801.401 Exemptions.

(a) *General policy.* Systems of records maintained by CIGIE are authorized to be exempted from certain provisions of the Privacy Act under the general and specific exemptions set forth in the Privacy Act. In utilizing these exemptions, CIGIE is exempting only those portions of systems that are necessary for the proper functioning of CIGIE and that are consistent with the Privacy Act. Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, e.g., public source materials, the applicable exemption may be waived, either partially or totally, by CIGIE, at the sole discretion of CIGIE, as appropriate.

(b) *Specific system of records exempted under (j)(2), (k)(1), and (k)(2).* The system of records maintained in connection with CIGIE's Integrity Committee, the Integrity Committee Management System (CIGIE-04), is subject to general exemption under 5 U.S.C. 552a(j)(2) and the specific exemptions under 5 U.S.C. 552a(k)(1) and (2). These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2), (k)(1) and (k)(2). Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, e.g., public source materials, the applicable exemption may be waived, either partially or totally, by CIGIE, at the sole discretion of CIGIE, as appropriate.

(1) Pursuant to the provisions of 5 U.S.C. 552a(j)(2), CIGIE-04 is exempt from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3) and (c)(4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G)-(H), (e)(5), and (e)(8); (f); and (g).

§ 9801.401

5 CFR Ch. XCVIII (1–1–25 Edition)

(2) Pursuant to the provisions of 5 U.S.C. 552a(k)(1) and (2), CIGIE-04 is exempt from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d); (e)(1) and (e)(4)(G)–(H); and (f).

(3) Exemptions from the particular subsections are justified for the following reasons:

(i) From subsection (c)(3) because release of disclosure accounting could alert the subjects of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation and the fact that they are subjects of the investigation, and reveal investigative interest by not only CIGIE, through the IC, but also by external agencies such as the Public Integrity Section of the Department of Justice. Because release of such information to the subjects of an investigation would provide them with significant information concerning the nature of the investigation, release could result in the destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation. In addition, accounting for each disclosure could result in the release of properly classified information which would compromise the national defense or disrupt foreign policy.

(ii) From subsection (c)(4) because this system is exempt from the access provisions of subsection (d) pursuant to subsections (j) and (k) of the Privacy Act.

(iii) From the access and amendment provisions of subsection (d) because access to the records contained in this system of records could inform the subjects of an investigation of an actual or potential criminal, civil, or regulatory violation of the existence of that investigation and of the nature and scope of the information and evidence obtained as to their activities. Such awareness by the subjects could prevent the successful completion of an investigation and/or lead to the improper influencing of witnesses, the destruction of evidence, or fabricated testimony. In addition, granting access to such information could disclose security-sensitive or confidential business information or information that would constitute an unwarranted invasion of the personal privacy of third parties. Finally, access

to the records could result in the release of classified information which would compromise the national defense or disrupt foreign policy. Amendment of the records would interfere with ongoing investigations and law enforcement activities and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated.

(iv) From subsection (e)(1) because the application of this provision could impair investigations and interfere with the law enforcement responsibilities of CIGIE through the IC for the following reasons:

(A) It is not possible to detect relevance or necessity of specific information in the early stages of a civil, criminal, or other law enforcement investigation, case, or matter, including investigations in which use is made of classified information. Relevance and necessity are questions of judgment and timing, and it is only after the information is evaluated that the relevance and necessity of such information can be established.

(B) During the course of any investigation, CIGIE, through the IC, may obtain information concerning actual or potential violations of laws other than those within the scope of its jurisdiction. In the interest of effective law enforcement, CIGIE should retain this information, as it may aid in establishing patterns of criminal activity and can provide valuable leads for Federal and other law enforcement agencies.

(C) In interviewing individuals or obtaining other forms of evidence during an investigation, information may be supplied to an investigator that relates to matters incidental to the primary purpose of the investigation but which may relate also to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

(v) From subsection (e)(2) because, in some instances, the application of this provision would present a serious impediment to law enforcement for the following reasons:

(A) The subjects of an investigation would be placed on notice as to the existence of an investigation and would therefore be able to avoid detection or

apprehension, to improperly influence witnesses, to destroy evidence, or to fabricate testimony.

(B) In certain circumstances the subjects of an investigation cannot be required to provide information to investigators, and information relating to their illegal acts, violations of rules of conduct, or any other misconduct must be obtained from other sources.

(C) In any investigation it is necessary to obtain evidence from a variety of sources other than the subjects of the investigation.

(vi) From subsection (e)(3) because the application of this provision would provide the subjects of an investigation with substantial information which could impede or compromise the investigation.

(vii) From subsection (e)(4)(G)–(I) because this system of records is exempt from the access provisions of subsection (d).

(viii) From subsection (e)(5) because the application of this provision may prevent the collection of any data not shown to be accurate, relevant, timely, and complete at the moment it is collected. In the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Material which may seem unrelated, irrelevant, or incomplete when collected may take on added meaning or significance as an investigation progresses. The restrictions of this provision could interfere with the preparation of a complete investigative report, and thereby impede effective law enforcement.

(ix) From subsection (e)(8) because the application of this provision could prematurely reveal an ongoing criminal investigation to the subjects of an investigation and could reveal investigative techniques, procedures, or evidence.

(x) From subsection (f) because CIGIE's rules are inapplicable to those portions of the system that are exempt and would place the burden on CIGIE of either confirming or denying the existence of a record pertaining to a requesting individual, which might in itself provide an answer to that individual relating to an ongoing investigation. The conduct of a successful

investigation leading to the indictment of a criminal offender precludes the applicability of established agency rules relating to verification of record, disclosure of the record to that individual, and record amendment procedures for this record system.

(xi) From subsection (g) to the extent that this system is exempt from the access and amendment provisions of subsection (d) pursuant to subsections (j)(2), (k)(1), and (k)(2) of the Privacy Act.

(c) *Specific system of records exempted under (j)(2), (k)(1), and (k)(2).* The system of records maintained in connection with PRAC Accountability Data System (CIGIE-6), is subject to general exemption under 5 U.S.C. 552a(j)(2) and the specific exemptions under 5 U.S.C. 552a(k)(1) and (2). These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2), (k)(1) and (k)(2). Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, e.g., public source materials, the applicable exemption may be waived, either partially or totally, by CIGIE, at the sole discretion of CIGIE, as appropriate.

(1) Pursuant to the provisions of 5 U.S.C. 552a(j)(2), CIGIE-6 is exempt from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3) and (c)(4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G)–(H), (e)(5), and (e)(8); (f); and (g).

(2) Pursuant to the provisions of 5 U.S.C. 552a(k)(1) and (2), CIGIE-6 is exempt from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d); (e)(1) and (e)(4)(G)–(H); and (f).

(3) Exemptions from the particular subsections are justified for the following reasons:

(i) From subsection (c)(3) because release of disclosure accounting could alert the subjects of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation and the fact that they are subjects of the investigation, and reveal investigative interest by not only CIGIE, through the PRAC, but