

## Small Business Administration

## § 102.49

(b) Your request is granted and you may view your record, in which case the time and date for you to review your records in the presence of an SBA employee will be set forth; or

(c) Your request is granted and, unless you object, SBA will mail you a copy of your record. SBA will mail you your record only if it determines that there are no other reasonable means for you to obtain access to your record.

### § 102.42 How can I get SBA to amend a record kept on me?

You can petition to have records kept on you amended by writing to the Systems Manager who oversees the system of records in which the record you wish amended is kept. If you are unable to determine who that Systems Manager is, you may send your petition to the PA Officer, who will forward it to the right Systems Manager. See § 102.30.

### § 102.43 What should my petition say?

Your petition should include the following:

- (a) In what system of records the record you want amended is kept.
- (b) What record you want amended.
- (c) What specific information in that record you want amended.
- (d) Why you want the record amended.
- (e) Any information you have, including copies of evidence, which you think will persuade the Systems Manager to amend the record.
- (f) What the record should say.

### § 102.44 For what reasons will SBA amend my record?

SBA seeks to maintain only accurate, complete, and up-to-date records which are relevant to accomplish some purpose required by law, regulation, or Executive Order of the President. There are four grounds for amending a record. They are:

- (a) The record is not accurate.
- (b) The record is not relevant to any legitimate SBA concern.
- (c) The record is out-of-date. For example, there may have been events since the date of the record which have affected some of the information contained in the record.

(d) The record is incomplete. There may be additional information relevant to the material contained in the record.

### § 102.45 Will SBA ask me for more information after I make my request?

Perhaps, in which case the procedures of § 102.34(c) shall apply.

### § 102.46 When will SBA respond to my request?

The Systems Manager will acknowledge receipt of your request within 10 working days and issue a written response within 30 working days.

### § 102.47 How will SBA respond to my request?

The Systems Manager will:

- (a) Make the amendment you request, and send all individuals who had previously received a copy of that record a copy of the amended record; or
- (b) Amend the record, in a different manner, sending all individuals who had previously received a copy of that record a copy of the amended record and, in addition, telling you why your request was not granted in full and what appeal rights you have; or
- (c) Decline to amend the record, explaining why your request was not granted and telling you of your appeal rights.

### § 102.48 How do I appeal a refusal to amend a record kept on me?

Your appeal should be in writing and include the following:

- (a) All of the information contained in your original request to amend the record;
- (b) Any response of the Systems Manager, including any reasons for denying your request; and
- (c) Any information you wish to submit in response to the Systems Manager's findings.

### § 102.49 To whom should I address my appeal?

- (a) *Personnel file*. Address your appeal to the Office of Personnel Management, 1900 E Street NW., Washington, DC 20006.
- (b) *Equal Employment Opportunity Complaint File*. Address your appeal to the Equal Employment Opportunity

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Commission, 1801 L Street NW., Washington, DC 20036.

(c) *All other appeals.* Address your appeal to the PA Officer. See §102.30.

### § 102.50 By when must I submit my appeal?

Your appeal must be received by the PA Officer within 30 calendar days of the date the Systems Manager declined to amend your records, or within 90 calendar days of the date the Systems Manager should have responded under §102.46 if the Systems Manager did not so respond.

### § 102.51 By what standards will the Privacy Act Officer review my appeal?

The PA Officer will decide your appeal using the criteria of accuracy, relevance, timeliness, and completeness described in §102.44. The PA Officer will review all relevant information and may seek the views of other SBA personnel. The PA Officer may review information not available to or not used by the Systems Manager.

### § 102.52 When will SBA respond to my appeal?

The PA Officer will respond to your appeal within 30 working days of its receipt, unless the Administrator determines that unusual circumstances exist, in which case the PA Officer will notify you of the presence of these unusual circumstances within 30 working days of the date upon which he or she received your appeal, and will respond to your appeal within 60 working days of the date of receipt.

### § 102.53 How will SBA respond to my appeal?

The PA Officer will:

- (a) Make the amendment you request, sending all individuals who had previously received a copy of that record a copy of the amended record; or
- (b) Amend the record in a different manner; or decline to amend it at all:
  - (1) Sending all individuals who had previously received a copy of that record a copy of the amended record;
  - (2) Telling you why your request was not granted in full and that you can seek judicial review; and

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(3) Marking the areas of dispute, including your statement of disagreement in the file, and, if appropriate, a concise statement of why SBA refused to amend the record as you requested, sending this material to all individuals who had previously received a copy of that record.

### § 102.54 How can I obtain judicial review of an SBA Privacy Act decision?

You may bring a civil action against SBA in a United States district court if the SBA:

- (a) Makes a final determination not to provide you with access to or to amend your record in accordance with your request;
- (b) Fails to maintain your records with such accuracy, relevance, timeliness and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, opportunities of, or benefits to you that may be made on the basis of such records, and consequently a determination is made which harms you; or
- (c) Fails to comply with any other provisions of the PA (5 U.S.C. 552a) or the implementing regulations in this subpart, in such a way as to cause harm to you.

### § 102.55 What must SBA tell the individuals from whom it collects information?

When SBA collects information from an individual, it must, either on the form which collects the information or on a separate form which the individual may keep, state:

- (a) Whether disclosure of the information is voluntary or mandatory;
- (b) By what authority SBA is collecting the information;
- (c) For what principal purpose or purposes SBA is collecting the information;
- (d) What routine uses might be made of that information; and
- (e) What will happen if the information isn't supplied.

### § 102.56 Will SBA release my name or address?

No, unless compelled to by law.