

## § 16.12

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(10) To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(11) Pursuant to the order of a court of competent jurisdiction.

(b) The situations referred to in paragraph (a)(4) of this section include the following:

(1) 5 U.S.C. 552a(c)(4) requires dissemination of a corrected or amended record or notation of a disagreement statement by the Department in certain circumstances;

(2) 5 U.S.C. 552(a)(g) authorizes civil action by an individual and requires disclosure by the Department or the court;

(3) Section 5(e)(2) of the Act authorizes release of any records or information by the Department to the Privacy Protection Study Commission upon request of the Chairman; and

(4) Section 6 of the Act authorizes the Office of Management and Budget to provide the Department with continuing oversight and assistance in implementation of the Act.

(c) The Department shall make an accounting of each disclosure of any record contained in a system of records in accordance with 5 U.S.C. 552a(c) (1) and (2). Except for a disclosure made under 5 U.S.C. 552a(b)(7), the Privacy

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Act Officer shall make such accounting available to any individual, insofar as it pertains to that individual, on request submitted in accordance with §16.4. The Privacy Act Officer shall make reasonable efforts to notify any individual when any record in a system of records is disclosed to any person under compulsory legal process, promptly upon being informed that such process has become a matter of public record.

### § 16.12 Fees.

(a) The only fees to be charged to or collected from an individual under the provisions of this part are for copying records at the request of the individual.

(1) No fees shall be charged or collected for the following: Search for and retrieval of the records; review of the records; copying at the initiative of the Department without a request from the individual; transportation of records and personnel; and first class postage.

(2) It is the policy of the Department to provide an individual with one copy of each record corrected or amended pursuant to his or her request without charge as evidence of the correction or amendment.

(3) As requested by the United States Civil Service Commission in its published regulations implementing the Act, the Department will charge no fee to an individual who requests copies of a personnel record covered by that Commission's Government-wide published notice of systems of records. However, when such records are voluminous and the cost of copying would be in excess of five dollars (\$5) the Department may, in its discretion, charge a fee.

(b) The copying fees prescribed by paragraph (a) of this section are:

\$0.10 Each copy of each page, up to 8½"×14" made by photocopy or similar process.

\$0.20 Each page of computer printout without regard to the number of carbon copies concurrently printed.

(c) Payment of fees under this section shall be made in cash, or preferably by check or money order payable to the "Treasurer of the United States." Payment shall be delivered or sent to the office stated in the billing

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notice or, if none is stated, to the Privacy Act Officer processing the request. Payment may be required in the form of a certified check in appropriate circumstances. Postage stamps will not be accepted.

(d) A copying fee totaling \$1 or less shall be waived, but the copying fees for contemporaneous requests by the same individual shall be aggregated to determine the total fee. A copying fee shall not be charged or collected, or alternatively, it may be reduced when such action is determined by the Privacy Act Officer to be in the public interest.

(e) Special and additional services provided at the request of the individual, such as certification or authentication, postal insurance and special mailing arrangement costs, will be charged to the individual in accordance with other published regulations of the Department pursuant to statute (for example, 31 U.S.C. 433a).

(f) This section applies only to individuals making requests under this part. All other persons shall remain subject to fees and charges prescribed by other and appropriate authorities.

[40 FR 39729, Aug. 28, 1975, as amended at 42 FR 29479, June 9, 1977]

### § 16.13 Penalties.

(a) The Act provides, in pertinent part:

Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretences shall be guilty of a misdemeanor and fined not more than \$5,000. (5 U.S.C. 552a(i)(3))

(b) A person who falsely or fraudulently attempts to obtain records under the Act may also be subject to prosecution under such other criminal statutes as 18 U.S.C. 494, 495 and 1001.

### § 16.14 General exemptions.

(a) Individuals may not have access to records maintained by the Department but which were provided by another agency which has determined by regulation that such information is subject to general exemption under 5 U.S.C. 552a(j). If such exempt records are within a request for access, the Department will advise the individual of

their existence and of the name and address of the source agency. For any further information concerning the record and the exemption, the individual must contact that source agency.

(b) The Secretary of Housing and Urban Development has determined that the Office of the Assistant Inspector General for Investigation performs, as its principal function, activities pertaining to the enforcement of criminal laws. The records maintained by that office in a system identified as "HUD/DEPT-24, Investigation Files," primarily consist of information compiled for the purpose of criminal investigations and are associated with identifiable individuals. Therefore, the Secretary has determined that this system of records shall be exempt, consistent with 5 U.S.C. 552a(j)(2), from all requirements of the Privacy Act except 5 U.S.C. 552a (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i) unless elsewhere exempted.

[40 FR 39729, Aug. 28, 1975, as amended at 49 FR 20486, May 15, 1984]

### § 16.15 Specific exemptions.

Whenever the Secretary of Housing and Urban Development determines it to be necessary and proper, with respect to any system of records maintained by the Department, to exercise the right to promulgate rules to exempt such systems in accordance with the provisions of 5 U.S.C. 552a(k), each specific exemption, including the parts of each system to be exempted, the provisions of the Act from which they are exempted, and the justification for each exemption shall be published in the FEDERAL REGISTER as part of the Department's Notice of Systems of Records.

(a) Exempt under 5 U.S.C. 552a(k)(2) from the requirements of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), (I), and (f). This exemption allows the Department to withhold records compiled for law enforcement purposes. The reasons for adopting this exemption are to prevent individuals, who are the subjects of investigation, from frustrating the investigatory process, to ensure the integrity of the investigatory process, to ensure the integrity of law enforcement activities, to prevent disclosure