

§ 10.31

the location of records, are incurred if the number is not provided.

Subpart D—Availability of Records

§ 10.31 Requests for records.

(a) Ordinarily, each person desiring to determine whether a record pertaining to him/her is contained in a system of records covered by this part or desiring access to a record covered by this part, or to obtain a copy of such a record, shall make a request in writing addressed to the system manager. The “Privacy Act Issuances” published by the Office of the Federal Register, National Archives and Records Administration, describes the systems of records maintained by all Federal agencies, including the Department and its components. In exceptional cases oral requests are accepted. A description of DOT Privacy Act systems notices is available through the Internet free of charge at http://www.access.gpo.gov/su_docs/aces/PrivacyAct.shtml?desc015.html. See § 10.13(b) regarding inquiries concerning Privacy Act matters or requests for assistance.

(b) Each request shall specify the name of the requesting individual and the system of records in which the subject record is located or thought to be located. If assistance is required to determine the system of records identification number assigned in the systems notices, such assistance may be obtained from the appropriate Privacy Act officer or his assistant. Refer to § 10.13 for procedures for requesting assistance.

[45 FR 8993, Feb. 11, 1980, as amended at 62 FR 23667, May 1, 1997]

§ 10.33 Acknowledgment and access.

(a) Requests by an individual to determine whether he or she is the subject of a record in a system of records, or requesting access to a record in a system of records, should be acknowledged within 10 working days, where the request is by mail. For requests in person, an immediate response is given, either granting access or informing such individual when notification or access may be expected.

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(b) If the response granting access or copies of the record is made within 10 working days, separate acknowledgment is not required.

(c) Although requests for access to a record are normally in writing, *e.g.*, by filing a written form or letter, it is the option of the individual to mail or present the request form in person.

§ 10.35 Conditions of disclosure.

(a) No record that is contained within a system of records of the Department is disclosed by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be:

(1) To those officers and employees of the Department who have a need for the record in the performance of their duties;

(2) Required under part 7 of this title which implements the Freedom of Information Act;

(3) For a routine use as defined in § 10.5 and described pursuant to § 10.21(d)(4);

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13, United States Code;

(5) To a recipient who has provided the Department with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(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 U.S. 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 the Congress, or to the extent of matters within its jurisdiction, any committee or subcommittee thereof, any joint committee of the Congress or subcommittee of any such joint committee;

(10) To the Comptroller General, or any 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.

(12) To a consumer reporting agency in accordance with 31 U.S.C. 3711(f).

(b) Any individual requesting access to his or her record or to any information pertaining to that individual which is contained within a system of records within the Department has access to that record or information unless the system of records within which the record or information is contained is exempted from disclosure in accordance with subpart G, provided, however, that nothing in this part is deemed to require that an individual be given access to any information compiled in reasonable anticipation of a civil action or proceeding. No exemption contained in subpart G of part 7 of the regulations of the Office of the Secretary is relied upon to withhold from an individual any record which is otherwise accessible to such individual under the provisions of this part. Any individual who is given access to a record or information pertaining to him is permitted to have a person of his or her own choosing accompany him and to have a copy made of all or any portion of the record or information in a form comprehensible to the individual. When deemed appropriate, the individual may be required to furnish a written statement authorizing discussion of his record in the accompanying person's presence.

(c) *Medical records.* Where requests are for access to medical records, in-

cluding psychological records, the decision to release directly to the individual, or to withhold direct release, shall be made by a medical practitioner. Where the medical practitioner has ruled that direct release will do harm to the individual who is requesting access, normal release through the individual's chosen medical practitioner will be recommended. Final review and decision on appeals of disapprovals of direct release will rest with the General Counsel.

(d) Any person requesting access to records or to any information pertaining to other individuals is not granted such access unless that person can show that he or she has obtained permission for such access from the individual to whom the record pertains, unless the request comes within one of the exceptions of paragraph (a) of this section.

[45 FR 8993, Feb. 11, 1980, as amended at 62 FR 23667, May 1, 1997]

§ 10.37 Identification of individual making request.

No record or information contained in a system of records is disclosed to an individual nor is any correction of a record in accordance with subpart E made at the request of an individual unless that individual demonstrates that he or she is who he or she claims to be. Normally, identity can be proven for individuals who appear in person by the presentation of an identifying document issued by a recognized organization (*e.g.*, a driver's license or a credit card) and which contains a means of verification such as a photograph or a signature. For requests by mail, the unique identifier used in the system should be included if known. Responses to mail requests are normally sent only to the name and address listed in the system of records. In the case of particularly sensitive records, additional identification requirements may be imposed. In such cases, these additional requirements are listed in the public notice for the system.

[45 FR 8993, Feb. 11, 1980, as amended at 62 FR 23667, May 1, 1997]