

Department of State

§ 171.30

authorized holders of classified information may make such challenges. These procedures shall assure that:

(1) No retribution is taken against an authorized holder bringing a challenge in good faith;

(2) An opportunity is provided for review by an impartial official or panel; and

(3) Classification challenges shall be considered separately from FOIA or other access requests.

(g) Processing an initial written response to a challenge shall be provided within 60 days. If the Department is unable to respond to the challenge within 60 days, it must acknowledge the challenge in writing and provide a date by which it will respond. The Department's acknowledgement must state that if no response is received within 120 days, the challenger has the right to forward the challenge to the Interagency Security Classification Appeals Panel. The challenger may also forward the challenge to the Interagency Security Classification Appeals Panel if the Department has not responded to an internal appeal within 90 days after receiving the appeal. Responses to challenges denied by the Department shall also include the challenger's appeal rights to the Interagency Security Classification Appeals Panel.

§ 171.24 Access by historical researchers and former Presidential appointees.

(a) Section 4.2(a)(3) of this Executive Order 12958 restricts access to classified information to individuals who have a need-to-know the information. This may be waived for persons who are engaged in historical research projects or previously occupied policy-making positions to which they were appointed by the President. Access requests made under this provision must be submitted in writing and must include a general description of the records and the time period covered by the request.

(b) Access may be granted only if the Secretary of State or the senior agency official of the Department:

(1) Determines in writing that access is consistent with the interest of national security;

(2) Takes appropriate steps to protect classified information from unauthorized disclosure or compromise; and

(3) Ensures that the information is safeguarded in a manner consistent with the Executive Order 12958.

(c) Access granted to former Presidential appointees shall be limited to items the individual originated, reviewed, signed or received while serving as a Presidential appointee.

§ 171.25 Exemptions.

The Freedom of Information and Privacy Acts exemptions and any other exemptions under applicable law may be invoked by the Department to deny material on grounds other than classification.

Subpart D—Privacy Provisions

§ 171.30 Definitions.

As used in this subpart, the following definitions shall apply:

(a) The term *Department* means the Department of State, its offices, bureaus, divisions, field offices, and its overseas posts.

(b) The term *individual* means a citizen of the United States or an alien lawfully admitted for permanent residence.

(c) The term *maintain* includes maintain, collect, use or disseminate.

(d) The term *record* means any item, collection, or grouping of information about an individual that is maintained by the Department, including, but not limited to education, financial transactions, medical history, and criminal or employment history that contains the individual's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or photograph.

(e) The term *system of records* means a group of any records under the control of the Department from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to an individual.

(f) The term *statistical record* means a record in a system of records maintained for statistical research or reporting purposes only and not used in

§ 171.31

whole or in part in making any determination about an identifiable individual, except as provided in 13 U.S.C. 8.

(g) The term *routine use* means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

(h) The term *amend* means to make any correction to any portion of the record which the individual believes is not accurate, relevant, timely, or complete.

(i) The term *personnel record* means any personal information maintained in a system of records as defined in paragraph (e) of this section that is needed for personnel management programs or processes such as staffing, employee development, retirement, grievances, and appeals.

Rules and procedures promulgated by the Office of Personnel Management under the Privacy Act for personal records for which it has responsibility will be followed by the Department with regard to such records except when inconsistent with provisions of the Foreign Service Act.

§ 171.31 Identifying information.

All requests for access to a record or records must reasonably describe the system of records and the individual's record within the system in sufficient detail to permit identification of the requested record(s). System names, descriptions, and the identifying information required for each system are published in the Department's public notice of systems of records appearing in the FEDERAL REGISTER. As a minimum, requests should include the individual's full name (maiden name, if appropriate), present mailing address (including zip code), date and place of birth, and other information helpful in identifying the record. Helpful data includes circumstances which give the individual reason to believe that the Department of State maintains records under her/his name, as well as the approximate time period of the records. This information will facilitate the timely search of record systems and assist the Department in locating those records which actually pertain to the individual requester. In certain in-

22 CFR Ch. I (4-1-04 Edition)

stances, it may be necessary for the Department to request additional information from the requester, either to ensure a full search or to ensure that a record retrieved does in fact pertain to the individual.

§ 171.32 Exemptions.

Portions of systems of records maintained by the Department are authorized to be exempted from a limited number of provisions of the Privacy Act. In utilizing these exemptions, however, the Department contemplates exempting only those portions of systems necessary for the proper functioning of the Department and which are consistent with the Privacy Act and these regulations. The following exemptions are authorized under 5 U.S.C. 552a(j) and (k):

(a) Records specifically authorized under criteria established by an executive order to be kept secret in the interest of national defense or foreign policy and in fact, properly classified pursuant to such executive order (k)(1);

(b) Investigatory material compiled for law enforcement purposes, other than material within the scope of 5 U.S.C. 552a(j)(2): *Provided, however,* That if any individual is denied any right, privilege, or benefit for which she or he would otherwise be eligible as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the regulations, under an implied promise that the identity of the source would be held in confidence (k)(2);

(c) Records maintained in connection with providing protective services to the President of the United States or other individuals, pursuant to 18 U.S.C. 3056 and 22 U.S.C. 2666 (k)(3);

(d) Records required by statute to be maintained and used solely as statistical records (k)(4);

(e) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment,