

§ 1600.22

36 CFR Ch. XVI (7-1-04 Edition)

National Environmental Policy Foundation (the "Foundation") follows under the Privacy Act of 1974, 5 U.S.C. 552a. These rules should be read together with the Privacy Act, which provides additional information about records maintained on individuals. The rules in this subpart apply to all records in systems of records maintained by the Foundation that are retrieved by an individual's name or personal identifier. They describe the procedures by which individuals may request access to records about themselves, request amendment or correction of those records, and request an accounting of disclosures of those records by the Foundation. In addition, the Foundation processes all Privacy Act requests for access to records under the Freedom of Information Act (FOIA), 5 U.S.C. 552, following the rules contained in subpart A of this part, which gives requests the benefit of both statutes.

(b) *Applicability.* This subpart applies to all Foundation programs, including the U.S. Institute for Environmental Conflict Resolution (USIECR).

(c) *Definitions.* As used in this subpart:

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

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

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

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

§ 1600.22 Requests for access to records.

(a) *How made and addressed.* You may make a request for access to a Foundation record about yourself by appearing in person or by writing to the Foundation. Your request should be sent or delivered to the Foundation's General Counsel, at 110 S. Church Avenue, Suite 3350, Tucson, AZ 85701-1650. For the quickest possible handling, you should mark both your request letter

and the envelope "Privacy Act Request."

(b) *Description of records sought.* You must describe the records that you want in enough detail to enable Foundation personnel to locate the system of records containing them with a reasonable amount of effort. Whenever possible, your request should describe the records sought, the time periods in which you believe they were compiled, and the name or identifying number of each system of records in which you believe they are kept. The Foundation publishes notices in the FEDERAL REGISTER that describe its systems of records. A description of the Foundation's systems of records also may be found as part of the "Privacy Act Compilation" published by the National Archives and Records Administration's Office of the Federal Register. This compilation is available in most large reference and university libraries. This compilation also can be accessed electronically at the Government Printing Office's World Wide Web site (which can be found at http://www.access.gpo.gov/su_docs).

(c) *Agreement to pay fees.* If you make a Privacy Act request for access to records, it shall be considered an agreement by you to pay all applicable fees charged under § 1600.29 up to \$25.00. The Foundation ordinarily will confirm this agreement in an acknowledgment letter. When making a request, you may specify a willingness to pay a greater or lesser amount.

(d) *Verification of identity.* When you make a request for access to records about yourself, you must verify your identity. You must state your full name, current address, and date and place of birth. You must sign your request and your signature must either be notarized or submitted by you under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. In order to help the identification and location of requested records, you may also, at your option, include your social security number.

(e) *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, you 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 your option, the social security number of the individual;

(2) Your own identity, as required in paragraph (d) of this section;

(3) That you are the parent or guardian of that individual, which you may prove by providing a copy of the individual's birth certificate showing your parentage or by providing a court order establishing your guardianship; and (4) That you are acting on behalf of that individual in making the request.

§ 1600.23 Responsibility for responding to requests for access to records.

(a) *In general.* In determining which records are responsive to a request, the Foundation ordinarily will include only those records in its possession as of the date the Foundation begins its search for them. If any other date is used, the Foundation will inform the requester of that date.

(b) *Authority to grant or deny requests.* The Foundation's General Counsel, or his/her designee, is authorized to grant or deny any request for access to a record of the Foundation.

(c) *Consultations and referrals.* When the Foundation receives a request for access to a record in its possession, it will determine whether another agency of the Federal Government is better able to determine whether the record is exempt from access under the Privacy Act. If the Foundation determines that it is best able to process the record in response to the request, then it will do so. If the Foundation determines that it is not best able to process the record, then it will either:

(1) Respond to the request regarding that record, after consulting with the agency best able to determine whether the record is exempt from access and with any other agency that has a substantial interest in it; or (2) Refer the responsibility for responding to the request regarding that record to another agency that originated the record (but only if that agency is subject to the Privacy Act). Ordinarily, the agency that originated a record will be pre-

sumed to be best able to determine whether it is exempt from access.

(d) *Notice of referral.* Whenever the Foundation refers all or any part of the responsibility for responding to your request to another agency, it ordinarily will notify you of the referral and inform you of the name of each agency to which the request has been referred and of the part of the request that has been referred.

(e) *Timing of responses to consultations and referrals.* All consultations and referrals shall be handled according to the date the Privacy Act access request was initially received by the Foundation, not any later date.

§ 1600.24 Responses to requests for access to records.

(a) *Acknowledgments of requests.* On receipt of your request, the Foundation ordinarily will send an acknowledgment letter, which shall confirm your agreement to pay fees under § 1600.22(c) and may provide an assigned request number for further reference.

(b) *Grants of requests for access.* Once the Foundation makes a determination to grant your request for access in whole or in part, it will notify you in writing. The Foundation will inform you in the notice of any fee charged under § 1600.29 and will disclose records to you promptly on payment of any applicable fee. If your request is made in person, the Foundation may disclose records to you directly, in a manner not unreasonably disruptive of its operations, on payment of any applicable fee and with a written record made of the grant of the request. If you are accompanied by another person when you make a request in person, you shall be required to authorize in writing any discussion of the records in the presence of the other person.

(c) *Adverse determinations of requests for access.* If the Foundation makes an adverse determination denying your request for access in any respect, it will notify you of that determination in writing. Adverse determinations, or denials of requests, consist of: a determination to withhold any requested record in whole or in part; a determination that a requested record does not exist or cannot be located; a determination that what has been requested