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the actual or estimated amount of the fees, unless you have indicated a willingness to pay fees as high as those anticipated. If only a portion of the fee can be estimated readily, the Foundation will advise you that the estimated fee may be only a portion of the total fee. In cases in which you have been notified that actual or estimated fees amount to more than $25.00, the request will not be considered received and further work will not be done on it until you agree in writing to pay the anticipated total fee. A notice under this paragraph will offer you an opportunity to discuss the matter with Foundation personnel in order to reformulate the request to meet your needs at a lower cost.

(f) *Charging interest.* The Foundation may charge interest on any unpaid bill starting on the 31st day following the date of billing. Interest charges will be assessed at the rate provided in 31 U.S.C. 3717 and will accrue from the date of the billing until payment is received by the Foundation.

(g) *Aggregating requests.* Where the Foundation reasonably believes that a requester or a group of requesters acting together is attempting to divide a request into a series of requests for the purpose of avoiding fees, it may aggregate those requests and charge accordingly. The Foundation may presume that multiple requests of this type made within a 30-day period have been made in order to avoid fees. Where requests are separated by a longer period, they will be aggregated only if there exists a solid basis for determining that aggregation is warranted under all the circumstances involved. Multiple requests involving unrelated matters will not be aggregated.

(h) *Advance payments.* (1) No advance payment (that is, payment before work is begun on a request) will ordinarily be required, except as described in paragraphs (h)(2) and (3) of this section. Payment owed for work already completed (that is, a prepayment before copies are sent to you) is not considered an advance payment.

(2) Where the Foundation determines or estimates that a total fee to be charged under this section will be more than $250.00, it may require you to make an advance payment of an amount up to the amount of the entire anticipated fee before beginning to process the request, except where it receives satisfactory assurance of full payment from you and you have a history of prompt payment.

(3) If you have previously failed to pay a properly charged FOIA fee within 30 days of the date of billing, the Foundation may require you to pay the full amount due, plus any applicable interest, and to make an advance payment of the full amount of any anticipated fee, before it begins to process a new request or continues to process a pending request from you.

(4) In cases in which the Foundation requires advance payment or payment due under paragraph (h)(2) or (3) of this section, the request shall not be considered received and further work will not be done on it until the required payment is received.

(i) *Requirements for waiver or reduction of fees.* (1) Records responsive to a request will be furnished without charge or at a charge reduced below that established under paragraph (c) of this section where the Foundation determines, based on all available information, that the requester has demonstrated that:

(i) Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and

(ii) Disclosure of the information is not primarily in the commercial interest of the requester.

(2) Where only some of the records to be released satisfy the requirements for a waiver of fees, a waiver will be granted for those records.

(3) If you request a waiver or reduction of fees, your request should address the factors listed in paragraph (i)(1) of this section.

Subpart B—Protection of Privacy and Access to Individual Records Under the Privacy Act of 1974

§ 1600.21 General provisions.

(a) *Purpose and scope.* This subpart contains the rules that the Morris K. Udall Scholarship and Excellence in

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 presumed 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

is not a record subject to the Privacy Act; a determination on any disputed fee matter; and a denial of a request for expedited treatment. The notification letter shall be signed by the General Counsel, or his/her designee, and shall include:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reason(s) for the denial, including any Privacy Act exemption(s) applied by the Foundation in denying the request; and

(3) A statement that the denial may be appealed under §1600.25(a) and a description of the requirements of §1600.25(a).

§1600.25 Appeals from denials of requests for access to records.

(a) *Appeals.* If you are dissatisfied with the Foundation's response to your request for access to records, you may appeal an adverse determination denying your request in any respect to the Executive Director of the Foundation, 110 S. Church Avenue, Suite 3350, Tucson, AZ 85701–1650. You must make your appeal in writing, and it must be received within 60 days of the date of the letter denying your request. Your appeal letter may include as much or as little related information as you wish, as long as it clearly identifies the determination (including the assigned request number, if any) that you are appealing. For the quickest possible handling, you should mark both your appeal letter and the envelope ''Privacy Act Appeal.''

(b) *Responses to appeals.* The decision on your appeal will be made in writing. A decision affirming an adverse determination in whole or in part will include a brief statement of the reason(s) for the affirmance, including any Privacy Act exemption applied, and will inform you of the Privacy Act provisions for court review of the decision. If the adverse determination is reversed or modified on appeal in whole or in part, you will be notified in a written decision and your request will be reprocessed in accordance with that appeal decision.

(c) *When appeal is required.* If you wish to seek review by a court of any adverse determination or denial of a request, you must first appeal it under this section.

§1600.26 Requests for amendment or correction of records.

(a) *How made and addressed.* You may make a request for amendment or correction of a Foundation record about yourself by following the procedures in §1600.22. Your request should identify each particular record in question, state the amendment or correction that you want, and state why you believe that the record is not accurate, relevant, timely, or complete. You may submit any documentation that you think would be helpful.

(b) *Foundation responses.* Within 10 working days of receiving your request for amendment or correction of records, the Foundation will send you a written acknowledgment of its receipt of your request, and it will promptly notify you whether your request is granted or denied. If the Foundation grants your request in whole or in part, it will describe the amendment or correction made and advise you of your right to obtain a copy of the corrected or amended record. If the Foundation denies your request in whole or in part, it will send you a letter stating:

(1) The reason(s) for the denial; and

(2) The procedure for appeal of the denial under paragraph (c) of this section, including the name and business address of the official who will act on your appeal.

(c) *Appeals.* You may appeal a denial of a request for amendment or correction to the Executive Director in the same manner as a denial of a request for access to records (see §1600.25), and the same procedures will be followed. If your appeal is denied, you will be advised of your right to file a Statement of Disagreement as described in paragraph (d) of this section and of your right under the Privacy Act for court review of the decision.

(d) *Statements of Disagreement.* If your appeal under this section is denied in whole or in part, you have the right to file a Statement of Disagreement that states your reason(s) for disagreeing with the Foundation's denial of your request for amendment or correction. Statements of Disagreement must be concise, must clearly identify each

part of any record that is disputed, and should be no longer than one typed page for each fact disputed. Your Statement of Disagreement must be sent to the Foundation, which will place it in the system of records in which the disputed record is maintained and will mark the disputed record to indicate that a Statement of Disagreement has been filed and where in the system of records it may be found.

(e) *Notification of amendment/correction or disagreement*. Within 30 working days of the amendment or correction of a record, the Foundation shall notify all persons, organizations, or agencies to which it previously disclosed the record, if an accounting of that disclosure was made, that the record has been amended or corrected. If an individual has filed a Statement of Disagreement, the Foundation will attach a copy of it to the disputed record whenever the record is disclosed and may also attach a concise statement of its reason(s) for denying the request to amend or correct the record.

§ 1600.27 Requests for an accounting of record disclosures.

(a) *How made and addressed*. Except where accountings of disclosures are not required to be kept (as stated in paragraph (b) of this section), you may make a request for an accounting of any disclosure that has been made by the Foundation to another person, organization, or agency of any record about you. This accounting contains the date, nature, and purpose of each disclosure, as well as the name and address of the person, organization, or agency to which the disclosure was made. Your request for an accounting should identify each particular record in question and should be made by writing to the Foundation, following the procedures in § 1600.22.

(b) *Where accountings are not required*. The Foundation is not required to provide accountings to you where they relate to disclosures for which accountings are not required to be kept—in other words, disclosures that are made to employees within the agency and disclosures that are made under the FOIA.

(c) *Appeals*. You may appeal a denial of a request for an accounting to the Foundation Executive Director in the same manner as a denial of a request for access to records (see § 1600.25) and the same procedures will be followed.

§ 1600.28 Preservation of records.

The Foundation will preserve all correspondence pertaining to the requests that it receives under this subpart, as well as copies of all requested records, until disposition or destruction is authorized by title 44 of the United States Code or the National Archives and Records Administration's General Records Schedule 14. Records will not be disposed of while they are the subject of a pending request, appeal, or lawsuit under the Act.

§ 1600.29 Fees.

The Foundation will charge fees for duplication of records under the Privacy Act in the same way in which it charges duplication fees under § 1600.10. No search or review fee will be charged for any record.

§ 1600.30 Notice of court-ordered and emergency disclosures.

(a) *Court-ordered disclosures*. When a record pertaining to an individual is required to be disclosed by a court order, the Foundation will make reasonable efforts to provide notice of this to the individual. Notice will be given within a reasonable time after the Foundation's receipt of the order—except that in a case in which the order is not a matter of public record, the notice will be given only after the order becomes public. This notice will be mailed to the individual's last known address and will contain a copy of the order and a description of the information disclosed.

(b) *Emergency disclosures*. Upon disclosing a record pertaining to an individual made under compelling circumstances affecting health or safety, the Foundation will notify that individual of the disclosure. This notice will be mailed to the individual's last known address and will state the nature of the information disclosed; the person, organization, or agency to

which it was disclosed; the date of disclosure; and the compelling circumstances justifying the disclosure.