

§ 16.9

person at the office of, or by mail addressed to, the Privacy Act Officer who processed the individual's request for access to the record. Although an oral request may be honored, a requester may be asked to submit his or her request in writing. The envelope containing the request and the letter itself should both clearly indicate that the subject is a PRIVACY ACT REQUEST FOR CORRECTION OR AMENDMENT.

(b) When a request for correction or amendment is misdirected by the requester, or not addressed as specified in paragraph (a) of this section, the Department official receiving same shall make reasonable effort to identify, and promptly refer it to, the appropriate Privacy Act Officer and the time of receipt for processing purposes will be the time when it is received by the appropriate official.

(c) When a request for correction or amendment fails to provide necessary information as set forth in paragraph (e) of this section, the requester shall be given reasonable opportunity to answer the request and shall be advised that the time of receipt for processing purposes will be the time when the additional necessary information is received by the appropriate official.

(d) Since the request, in all cases, will follow a request for access under §16.4, the individual's identity will be established by his or her signature on the request.

(e) A request for correction or amendment should include the following:

(1) A specific identification of the record sought to be corrected or amended (for example, description, title, date, paragraph, sentence, line and words);

(2) The specific wording to be deleted, if any;

(3) The specific wording to be inserted or added, if any, and the exact place at which it is to be inserted or added; and

(4) A statement of the basis for the requested correction or amendment, with all available supporting documents and materials which substantiate the statement.

(f) The provisions of §16.3(b) (2) and (3) apply to the information obtained under paragraph (e) of this section.

24 CFR Subtitle A (4-1-02 Edition)

§ 16.9 Agency procedures upon request for correction or amendment of record.

(a)(1) Not later than ten days (excluding Saturdays, Sundays and holidays) after receipt of a request to correct or amend a record, the Privacy Act Officer shall send an acknowledgment providing an estimate of time within which action will be taken on the request and asking for such further information as may be necessary to process the request. The estimate of time may take into account unusual circumstances as described in §16.5(a). No acknowledgment will be sent if the request can be reviewed, processed, and the individual notified of the results of review (either compliance or denial) within the ten days. Requests filed in person will be acknowledged at the time submitted.

(2) Promptly after acknowledging receipt of a request, or after receiving such further information as might have been requested, or after arriving at a decision within the time prescribed in §16.9(a)(1), the Privacy Act Officer shall either:

(i) Make the requested correction or amendment and advise the individual in writing of such action, providing either a copy of the corrected or amended record or a statement as to the means whereby the correction or amendment was effected in cases where a copy cannot be provided; or,

(ii) Inform the individual in writing that his or her request is denied and provide the following information:

(A) The Privacy Act Officer's name and title and position;

(B) The date of the denial;

(C) The reasons for the denial, including citation to the appropriate sections of the Act and this part; and,

(D) The procedures for appeal of the denial as set forth in §16.10, including the name and address of the Privacy Appeals Officer. The term *promptly* in this §16.9 means within thirty days (excluding Saturdays, Sundays and holidays). If the Privacy Act Officer cannot make the determination within thirty days, the individual will be advised in writing of the reason therefor and of the estimated date by which the determination will be made.

(b) Whenever an individual's record is corrected or amended pursuant to a request by that individual, the Privacy Act Officer shall see to the notification of all persons and agencies to which the corrected or amended portion of the record had been disclosed prior to its correction or amendment, if an accounting of such disclosure was made as required by the Act. The notification shall require a recipient agency maintaining the record to acknowledge receipt of the notification, to correct or amend the record and to appraise any agency or person to which it had disclosed the record of the substance of the correction or amendment.

(c) The following criteria will be considered by the Privacy Act Officer in reviewing a request for correction or amendment:

(1) The sufficiency of the evidence submitted by the individual;

(2) The factual accuracy of the information;

(3) The relevance and necessity of the information in terms of the purpose for which it was collected;

(4) The timeliness and currency of the information in terms of the purpose for which it was collected;

(5) The completeness of the information in terms of the purpose for which it was collected;

(6) The possibility that denial of the request could unfairly result in determinations adverse to the individual;

(7) The character of the record sought to be corrected or amended; and

(8) The propriety and feasibility of complying with the specific means of correction or amendment requested by the individual.

(d) The Department will not undertake to gather evidence for the individual, but does reserve the right to verify the evidence which the individual submits.

(e) Correction or amendment of a record requested by an individual will be denied only upon a determination by the Privacy Act Officer that:

(1) There has been a failure to establish, by the evidence presented, the propriety of the correction or amendment in light of the criteria set forth in paragraph (c) of this section;

(2) The record sought to be corrected or amended was compiled in a termi-

nated judicial, quasi-judicial, legislative or quasi-legislative proceeding to which the individual was a party or participant;

(3) The information in the record sought to be corrected or amended, or the record sought to be corrected or amended, is the subject of a pending judicial, quasi-judicial or quasi-legislative proceeding to which the individual is a party or participant;

(4) The correction or amendment would violate a duly enacted statute or promulgated regulation; or,

(5) The individual unreasonably has failed to comply with the procedural requirements of this part.

(f) If a request is partially granted and partially denied, the Privacy Act Officer shall follow the appropriate procedures of this section as to the records within the grant and the records within the denial.

§ 16.10 Appeal of initial adverse agency determination on correction or amendment.

(a) Appeal shall be available only from a written denial of a request for correction or amendment of a record issued under §16.9, and only if a written appeal is filed within thirty calendar days after the issuance of the written denial.

(b) Each appeal shall be addressed to the Privacy Appeals Officer identified in the written denial. The envelope containing the appeal and the letter itself should both clearly indicate that the subject is PRIVACY ACT APPEAL.

(c) When an appeal is misdirected by the requester, or not addressed as specified in paragraph (b) of this section, the Department official receiving same shall promptly refer it to the appropriate Privacy Appeals Officer and the time of receipt for processing purposes will be the time when it is received by the appropriate official.

(d) When an appeal fails to provide the necessary information as set forth in paragraph (e) of this section, the requester shall be advised that the time for receipt for processing purposes will be the time when the additional necessary information is received by the appropriate official.

(e) The individual's appeal papers shall include the following: A copy of