

§ 5.89

direct personal knowledge of a material fact not known to the witness made available by the Agency) require the attendance and testimony of named FEMA personnel.

§ 5.89 Waiver.

The General Counsel (or, as to employees of the Office of Inspector General, the Inspector General) may grant, in writing, a waiver of any policy or procedure prescribed by this subpart, where waiver is considered necessary to promote a significant interest of the Agency or for other good cause. In granting such waiver, the General Counsel (or Inspector General) shall attach to the waiver such reasonable conditions and limitations as are deemed appropriate in order that a response in strict compliance with the terms of a subpoena duces tecum or the providing of testimony will not interfere with the duties of the employee and will otherwise conform to the policies of this part. The Director may, in his or her discretion, review any decision to authorize a waiver of any policy or procedure prescribed by this subpart.

PART 6—IMPLEMENTATION OF THE PRIVACY ACT OF 1974

Subpart A—General

Sec.

- 6.1 Purpose and scope of part.
- 6.2 Definitions.
- 6.3 Collection and use of information (Privacy Act statements).
- 6.4 Standards of accuracy.
- 6.5 Rules of conduct.
- 6.6 Safeguarding systems of records.
- 6.7 Records of other agencies.
- 6.8 Subpoena and other legal demands.
- 6.9 Inconsistent issuances of FEMA and/or its predecessor agencies superseded.
- 6.10 Assistance and referrals.

Subpart B—Disclosure of Records

- 6.20 Conditions of disclosure.
- 6.21 Procedures for disclosure.
- 6.22 Accounting of disclosures.

Subpart C—Individual Access to Records

- 6.30 Form of requests.
- 6.31 Special requirements for medical records.
- 6.32 Granting access.
- 6.33 Denials of access.

44 CFR Ch. I (10–1–03 Edition)

- 6.34 Appeal of denial of access within FEMA.

Subpart D—Requests To Amend Records

- 6.50 Submission of requests to amend records.
- 6.51 Review of requests to amend records.
- 6.52 Approval of requests to amend records.
- 6.53 Denial of requests to amend records.
- 6.54 Agreement to alternative amendments.
- 6.55 Appeal of denial of request to amend a record.
- 6.56 Statement of disagreement.
- 6.57 Judicial review.

Subpart E—Report on New Systems and Alterations of Existing Systems

- 6.70 Reporting requirement.
- 6.71 Federal Register notice of establishment of new system or alteration of existing system.
- 6.72 Effective date of new system of records or alteration of an existing system of records.

Subpart F—Fees

- 6.80 Records available at fee.
- 6.81 Additional copies.
- 6.82 Waiver of fee.
- 6.83 Prepayment of fees.
- 6.84 Form of payment.
- 6.85 Reproduction fees.

Subpart G—Exempt Systems of Records

- 6.86 General exemptions.
- 6.87 Specific exemptions.

AUTHORITY: 5 U.S.C. 552a; Reorganization Plan No. 3 of 1978; and E.O. 12127.

SOURCE: 44 FR 50293, Aug. 27, 1979, unless otherwise noted.

Subpart A—General

§ 6.1 Purpose and scope of part.

This part sets forth policies and procedures concerning the collection, use and dissemination of records maintained by the Federal Emergency Management Agency (FEMA) which are subject to the provision of 5 U.S.C. 552a, popularly known as the “Privacy Act of 1974” (hereinafter referred to as the Act). These policies and procedures govern only those records as defined in § 6.2. Policies and procedures governing the disclosure and availability of records in general are in part 5 of this chapter. This part also covers: (a) Procedures for notification to individuals

of a FEMA system of records pertaining to them; (b) guidance to individuals in obtaining information, including inspections of, and disagreement with, the content of records; (c) accounting of disclosure; (d) special requirements for medical records; and (e) fees.

§ 6.2 Definitions.

For the purpose of this part:

(a) *Agency* includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency (see 5 U.S.C. 552(e)).

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

(c) *Maintain* includes maintain, collect, use, and disseminate.

(d) *Record* means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to those concerning education, financial transactions, medical history, and criminal or employment history, and that contains the name or other identifying particular assigned to the individual, such as a fingerprint, voiceprint, or photograph.

(e) *System of records* means a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identification assigned to that individual.

(f) *Statistical record* means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by 13 U.S.C. 8.

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

(h) *System manager* means the employee of FEMA who is responsible for the maintenance of a system of records

and for the collection, use, and dissemination of information therein.

(i) *Subject individual* means the individual named or discussed in a record of the individual to whom a record otherwise pertains.

(j) *Disclosure* means a transfer of a record, a copy of a record, or any or all of the information contained in a record to a recipient other than the subject individual, or the review of a record by someone other than the subject individual.

(k) *Access* means a transfer of a record, a copy of a record, or the information in a record to the subject individual, or the review of a record by the subject individual.

(l) *Solicitation* means a request by an officer or employee of FEMA that an individual provide information about himself or herself.

(m) *Director* means the Director, FEMA.

(n) *Deputy Director* means the Deputy Director, FEMA, or, in the case of the absence of the Deputy Director, or a vacancy in that office, a person designated by the Director to perform the functions under this regulation of the Deputy Director.

(o) *Privacy Appeals Officer* means the FOIA/Privacy Act Specialist or his/her designee.

[44 FR 50293, Aug. 27, 1979, as amended at 45 FR 17152, Mar. 18, 1980; 51 FR 34604, Sept. 30, 1986]

§ 6.3 Collection and use of information (Privacy Act statements).

(a) *General.* Any information used in whole or in part in making a determination about an individual's rights, benefits, or privileges under FEMA programs will be collected directly from the subject individual to the extent practicable. The system manager also shall ensure that information collected is used only in conformance with the provisions of the Act and these regulations.

(b) *Solicitation of information.* System managers shall ensure that at the time information is solicited the solicited individual is informed of the authority for collecting that information, whether providing the information is mandatory or voluntary, the purpose for which the information will be used, the