

## § 2.27

### **§ 2.27 How will a bureau handle a request for information that is contained in a Privacy Act system of records? (See DOI's Privacy Act regulations (Subpart G of this part) for additional information.)**

(a) When you request information pertaining to yourself that is contained in a Privacy Act system of records applicable to you (*i.e.*, the information contained in the system of records is retrieved by the bureau using your name or other personal identifier), the request will be processed under both the FOIA and the Privacy Act. If you request information about yourself, you must submit certain identifying information, usually an original signature (see the appropriate Privacy Act system notice and, Subpart G of this part) before the bureau will process your request. (Note: If you request information about yourself that is not covered by the Privacy Act, *e.g.*, the information may be filed under another subject, such as an organization, activity, event, or an investigation not retrievable by a name or personal identifier, the request will be treated only as a FOIA request.)

(b) The Privacy Act never prohibits disclosure of material that the FOIA requires to be released. Both a Privacy Act and a FOIA exemption must apply to withhold information from you if the information you seek is contained in a Privacy Act system of records applicable to you.

(c) Sometimes a request for Privacy Act information is submitted by a "third party" (an individual other than the person who is the subject of the Privacy Act record). If you request Privacy Act information about another individual, the material will not be disclosed without prior written approval by that individual unless—

(1) The release is provided for under one of the Privacy Act conditions of disclosure (5 U.S.C. 552a(b)), one of which is that Privacy Act information is releasable if it is required to be released under the FOIA, or

(2) In most circumstances, if the individual is deceased. See § 2.8(d)(4).

(d) In handling a request covered by paragraph (a) of this section, the fee provisions and time limits under the FOIA will apply, except that with re-

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gard to information that is subject to the Privacy Act, the bureau will charge only for duplication and not for search and review time (see Appendix C to this part). There will be no charge if the fee for processing the request is \$30 or less.

### **Subpart D—FOIA Appeals**

SOURCE: 67 FR 64530, Oct. 21, 2002, unless otherwise noted.

### **§ 2.28 When may I file an appeal?**

(a) You may file an appeal when:

(1) Records or parts of records have been withheld;

(2) The bureau informs you that you have not adequately described the records you are seeking, or that it does not possess responsive records and you have reason to believe it does or you question the adequacy of the bureau's search for responsive records;

(3) A decision has not been made on your request within the time limits provided in § 2.12;

(4) The bureau did not address all aspects of your request for records;

(5) You believe there is a procedural deficiency (*e.g.*, fees are improperly calculated);

(6) A fee waiver has been denied; or

(7) A request for expedited processing has been denied or not responded to on time. (Special procedures apply to this type of appeal (see §§ 2.14, 2.29(c), and 2.32(b)). An appeal of this type relates only to the request for expedited processing and does not constitute an appeal of your underlying request for records.

(b) Before filing an appeal, you may wish to communicate with the contact person listed in the FOIA response or the bureau's FOIA Officer to see if the issue can be resolved informally. Informal resolution of your concerns may be appropriate where the bureau has not responded to your request or where you believe the search conducted was not adequate. In this latter instance, you may be able to provide additional information that may assist the bureau in locating records. However, if you wish to file an appeal, it must be received by the FOIA Appeals Officer within the time limits in § 2.29.