

that it is the agency best able to process the record in response to the request, then it will do so. If it 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 that is 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 the agency that is best able to determine whether it is exempt from access, or 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.

(c) *Notice of referral.* When the agency refers all or any part of the responsibility for responding to a request to another agency, it ordinarily will notify the requester of the referral and inform the requester of the name of the agency to which the request has been referred and of the part of the request that has been referred.

(d) *Timing of responses to consultations and referrals.* All consultations and referrals will be handled according to the date upon which the Privacy Act access request was initially received by the first agency, not any later date.

(e) *Agreements regarding consultations and referrals.* The agency may make agreements with other agencies designed to eliminate the need for consultations or referrals for particular types of records.

§ 304.23 Responses to requests for access to records.

(a) *Acknowledgments of requests.* On receipt of a request, the agency ordinarily will send an acknowledgment letter to the requester that will confirm the requester's agreement to pay fees under § 304.21(c) and provide an assigned request number for further reference. In some cases, the agency may seek further information or clarification from the requester.

(b) *Grants of requests for access.* Once the agency makes a determination to grant a request for access in whole or

in part, it will notify the requester in writing. The agency will inform the requester in the notice of any fee charged under § 304.27 and will disclose records to the requester promptly on payment of any applicable fee. If a request is made in person, the agency may disclose records to the requester 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 a requester is accompanied by another person, the requester will 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.* Upon making an adverse determination denying a request for access in any respect, the agency will notify the requester 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 will 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 in denying the request; and

(3) A statement that the denial may be appealed under § 304.24(a) and a description of the requirements of § 304.24(a).

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

(a) *Appeals.* If you are dissatisfied with the response to your request, you may appeal an adverse determination denying your request, in any respect, to the Chairman of the agency. You must make your appeal in writing, by e-mail or letter, and it must be received by the agency within 60 days of the date of the denial of your request. Your appeal letter should provide reasons and supporting information as to