

(3) *Limit of service.* Not more than 10 copies of any document will be furnished.

(4) *Manual copying by requester.* No charge will be made for manual copying by the requesting party of any document made available for inspection under the provisions of this part. The PBGC shall provide facilities for such copying without charge at reasonable times during normal working hours.

(5) *Indexes.* Pursuant to paragraph (a)(2) of FOIA copies of indexes or supplements thereto which are maintained as therein provided but which have not been published will be provided on request at a cost not to exceed the direct cost of duplication.

(c) *Other charges.* The scheduled fees, set forth in paragraphs (a) and (b) of this section, for furnishing records made available for inspection and duplication represent the direct costs of furnishing the copies at the place of duplication. Upon request, single copies of the records will be mailed, postage prepaid, free of charge. Actual costs of transmitting records by special methods such as registered, certified, or special delivery mail or messenger, and of special handling or packaging, if required, will be charged in addition to the scheduled fees.

§ 4901.33 Payment of fees.

(a) *Medium of payment.* Payment of the applicable fees as provided in this subsection shall be made in cash, by U.S. postal money order, or by check payable to the PBGC. Postage stamps will not be accepted in lieu of cash, checks, or money orders as payment for fees specified in the schedule. Cash should not be sent by mail.

(b) *Advance payment or assurance of payment.* Payment or assurance of payment before work is begun or continued on a request may be required under the following rules.

(1) Where the PBGC estimates or determines that charges allowable under the rules in this subpart are likely to exceed \$250, the PBGC may require advance payment of the entire fee or assurance of payment, as follows:

(i) Where the requester has a history of prompt payment of fees under this part, the PBGC will notify the requester of the likely cost and obtain

satisfactory assurance of full payment; or

(ii) Where the requester has no history of payment for requests made pursuant to FOIA and this part, the PBGC may require the requester to make an advance payment of an amount up to the full estimated charges.

(2) Where the requester has previously failed to pay a fee charged in a timely fashion (*i.e.*, within 30 days of the date of the billing), the PBGC may require the requester to pay the full amount owed plus any applicable interest as provided in paragraph (c) of this section (or demonstrate that he has, in fact, paid the fee) and to make an advance payment of the full amount of the estimated fee.

(c) *Late payment interest charges.* The PBGC may assess late payment interest charges on any amounts unpaid by the 31st day after the date a bill is mailed to a requester. Interest will be assessed at the rate prescribed in 31 U.S.C. 3717 and will accrue from the date the bill is mailed.

§ 4901.34 Waiver or reduction of charges.

(a) The disclosure officer may waive or reduce fees otherwise applicable under this subpart when disclosure of the 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 is not primarily in the commercial interest of the requester. A fee waiver request shall set forth full and complete information upon which the request for waiver is based.

(b) The disclosure officer may reduce or waive fees applicable under this subpart when the requester has demonstrated his inability to pay such fees.

PART 4902—DISCLOSURE AND AMENDMENT OF RECORDS PERTAINING TO INDIVIDUALS UNDER THE PRIVACY ACT

Sec.

4902.1 Purpose and scope.

4902.2 Definitions.

4902.3 Procedures for determining existence of and requesting access to records.

4902.4 Disclosure of record to an individual.

§ 4902.1

4902.5 Procedures for requesting amendment of a record.

4902.6 Action on request for amendment of a record.

4902.7 Appeal of a denial of a request for amendment of a record.

4902.8 Fees.

4902.9 Specific exemptions.

AUTHORITY: 5 U.S.C. 552a.

SOURCE: 61 FR 34128, July 1, 1996, unless otherwise noted.

§ 4902.1 Purpose and scope.

This part establishes procedures whereby an individual can determine whether the PBGC maintains any system of records that contains a record pertaining to the individual, procedures to effect access to an individual's record upon his or her request, and procedures for making requests to amend records, for making the initial determinations on such requests, and for appealing denials of such requests. This part also prescribes the fees for making copies of an individual's record. Finally, this part sets forth those systems of records that are exempted from certain disclosure and other provisions of the Privacy Act (5 U.S.C. 552a).

§ 4902.2 Definitions.

In addition to terminology in part 4001 of this chapter, as used in this part:

Disclosure officer means the designated official in the Communications and Public Affairs Department, PBGC.

Record means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his or her education, financial transactions, medical history, and criminal or employment history and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

System of records means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

Working day means any weekday excepting Federal holidays.

29 CFR Ch. XL (7-1-98 Edition)

§ 4902.3 Procedures for determining existence of and requesting access to records.

(a) Any individual may submit a written request, either by mail to the Disclosure Officer, Communications and Public Affairs Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026, or in person between the hours of 9 a.m. and 4 p.m. on any working day in Suite 240 at the above address, for the purpose of—

(1) Learning whether a system of records maintained by the PBGC contains any record pertaining to the requester, or

(2) Obtaining access to such a record.

(b) Each request submitted pursuant to paragraph (a) of this section shall include the name of the system of records to which the request pertains and the requester's full name, home address and date of birth, and shall clearly state on the envelope and on the request "Privacy Act Request." If this information is insufficient to enable the PBGC to identify the record in question, the disclosure officer shall request such further identifying data as the disclosure officer deems necessary to locate the record.

(c) Unless the request is only for notification of the existence of a record and such notification is required under the Freedom of Information Act (5 U.S.C. 552), the requester shall be required to provide verification of his or her identity to the PBGC as set forth in paragraph (c)(1) or (2) of this section, as appropriate.

(1) If the request is made by mail, the requester shall submit a notarized statement establishing his or her identity.

(2) If the request is made in person, the requester shall show identification satisfactory to the disclosure officer, such as a driver's license, employee identification, annuitant identification or Medicare card.

(d) The disclosure officer shall respond to the request in writing within 10 working days after receipt of the request or of such additional information as may be required under paragraph (b) of this section. If a request for access to a record is granted, the response

Pension Benefit Guaranty Corporation

shall state when the record will be made available.

§ 4902.4 Disclosure of record to an individual.

(a) When the disclosure officer grants a request for access to records under § 4902.3, such records shall be made available when the requester is advised of the determination or as promptly thereafter as possible. At the requester's option, the record will be made available for the requester's inspection and copying at the Communications and Public Affairs Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026, between the hours of 9 a.m. and 4 p.m. on any working day, or a copy of the record will be mailed to the requester.

(b) If the requester desires to be accompanied by another individual during the inspection and/or copying of the record, the requester shall, either when the record is made available or at any earlier time, submit to the disclosure officer a signed statement identifying such other individual and authorizing such other individual to be present during the inspection and/or copying of the record.

§ 4902.5 Procedures for requesting amendment of a record.

(a) Any individual about whom the PBGC maintains a record contained in a system of records may request that the record be amended. Such a request shall be submitted in the same manner described in § 4902.3(a).

(b) Each request submitted under paragraph (a) of this section shall include the information described in § 4902.3(b) and a statement specifying the changes to be made in the record and the justification therefor. The disclosure officer may request further identifying data as described in § 4902.3(b).

(c) An individual who desires assistance in the preparation of a request for amendment of a record shall submit such request for assistance in writing to the Deputy General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026. The Deputy General Counsel

§ 4902.7

shall respond to such request as promptly as possible.

§ 4902.6 Action on request for amendment of a record.

(a) Within 20 working days after receipt by the PBGC of a request for amendment of a record under § 4902.5, unless for good cause shown the Executive Director of the PBGC extends such 20-day period, the disclosure officer shall notify the requester in writing whether and to what extent the request shall be granted. To the extent that the request is granted, the disclosure officer shall cause the requested amendment to be made promptly.

(b) When a request for amendment of a record is denied in whole or in part, the denial shall include a statement of the reasons therefor, the procedures for appealing such denial, and a notice that the requester has a right to assistance in preparing an appeal of the denial.

(c) An individual who desires assistance in preparing an appeal of a denial under this section shall submit a request in writing to the Deputy General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026. The Deputy General Counsel shall respond to the request as promptly as possible, but in no event more than 30 days after receipt.

§ 4902.7 Appeal of a denial of a request for amendment of a record.

(a) An appeal from a denial of a request for amendment of a record under § 4902.6 shall be submitted, within 45 days of receipt of the denial, to the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026, unless the record subject to such request is one maintained by the Office of the General Counsel, in which event the appeal shall be submitted to the Deputy Executive Director at the same address. The appeal shall state in detail the basis on which it is made and both the envelope and the appeal shall clearly state "Privacy Act Request".

(b) Within 30 working days after the receipt of the appeal, unless for good cause shown the Executive Director of the PBGC extends such 30-day period,

the General Counsel or, where appropriate, the Deputy Executive Director, shall issue a decision in writing granting or denying the appeal in whole or in part. To the extent that the appeal is granted, the General Counsel or, where appropriate, the Deputy Executive Director, shall cause the requested amendment to be made promptly. To the extent that the appeal is denied, the decision shall include the reasons for the denial and a notice of the requester's right to submit a brief statement setting forth reasons for disputing the denial of appeal, to seek judicial review of the denial pursuant to 5 U.S.C. 552a(g)(1)(A), and to obtain further information concerning the provisions for judicial review under that section.

(c) An individual whose appeal has been denied in whole or in part may submit a brief summary statement setting forth reasons for disputing such denial. Such statement shall be submitted within 30 days of receipt of the denial of the appeal to the Disclosure Officer. Any such statement shall be made available by the PBGC to anyone to whom the record is subsequently furnished and may also be accompanied, at the discretion of the PBGC, by a brief statement summarizing the PBGC's reasons for refusing to amend the record. The PBGC shall also provide copies of the individual's statement of dispute to all prior recipients of the record with respect to whom an accounting of the disclosure of the record was maintained pursuant to 5 U.S.C. 552a(c)(1).

(d) To request further information concerning the provisions for judicial review, an individual shall submit such request in writing to the Deputy General Counsel, who shall respond to such request as promptly as possible.

§ 4902.8 Fees.

When an individual requests a copy of his or her record under § 4902.4, charges for the copying shall be made according to the following fee schedule:

(a) *Standard copying fee.* There shall be a charge of \$0.15 per page of record copies furnished. Where the copying fee is less than \$1.50, it shall not be assessed.

(b) *Voluminous material.* If the volume of page copy desired by the requester is such that the reproduction charge at the standard page rate would be in excess of \$50, the individual desiring reproduction may request a special rate quotation from the PBGC.

(c) *Manual copying by requester.* No charge will be made for manual copying by the requester of any document made available for inspection under § 4902.4. The PBGC shall provide facilities for such copying without charge between the hours of 9 a.m. and 4 p.m. on any working day.

§ 4902.9 Specific exemptions.

(a) Under the authority granted by 5 U.S.C. 552a(k)(5), the PBGC hereby exempts the system of records entitled "Personnel Security Investigation Records—PBGC" from the provisions of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f), to the extent that the disclosure of such material would reveal the identity of a source who furnished information to PBGC under an express promise of confidentiality or, before September 27, 1975, under an implied promise of confidentiality.

(b) The reasons for asserting this exemption are to insure the gaining of information essential to determining suitability and fitness for PBGC employment, access to information, and security clearances, to insure that full and candid disclosures are obtained in making such determinations, to prevent subjects of such determinations from thwarting the completion of such determinations, and to avoid revealing the identities of persons who furnish information to the PBGC in confidence.

PART 4903—DEBT COLLECTION

Subpart A—General

- Sec.
- 4903.1 Purpose and scope.
- 4903.2 General.
- 4903.3 Definitions.

Subpart B—Administrative Offset

- 4903.21 Application of Federal Claims Collection Standards.
- 4903.22 Administrative offset procedures.
- 4903.23 PBGC requests for offset by other agencies.