February 3, 2017

Jerry Moore
NIH Regulations Officer
Office of Management Assessment
National Institutes of Health
6011 Executive Boulevard
Suite 601, MSC 7669
Rockville, MD 20852-7669

RE: NPRM; Privacy Act Implementation [Docket number NIH-2016-0001]

Submitted via www.regulations.gov

Dear Mr. Moore,

The Federation of American Societies for Experimental Biology (FASEB) is composed of 30 scientific societies collectively representing 125,000 scientists and engineers. FASEB advocates on behalf of its member societies for a strong, effective, and efficient peer review system. As such, the Federation applauds efforts proposed by the National Institutes of Health (NIH) to exempt certain information contained within the new system of records, the NIH Electronic Research Administration (eRA) Records, from mandates of the Privacy Act of 1974 (“the Act”).

The Act states that individuals have the right to access any information about them contained within a federally managed system of records. This becomes problematic when a system of records contains information that, if provided to the individual, would damage the integrity of scientific grant peer review. Preserving the anonymity of peer referees and reviewers is of paramount importance to ensure a fair and honest peer review system. Therefore, FASEB strongly supports NIH’s conclusions that confidential referee and peer reviewer-identifying material, including recommendation letters, reviewer critiques, impact/priority score records, and/or assignment of peer reviewers, qualifies for exemption under subsection (k)(5) of the Act:

investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the
Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

The steps taken by NIH to exempt this information from the Act ensure that grant referees and reviewers will continue to work within a structure that allows them to provide fair, unbiased, and honest assessments of the scientific work of their peers.

The NIH peer review system is recognized as the “gold-standard” for evaluating scientific research proposals, and FASEB applauds NIH’s efforts to maintain the integrity of the process for both applicants and reviewers. By preserving the anonymity of those who evaluate scientific grants, NIH safeguards against any weakening of the peer review system. We also recommend that NIH reassess information contained within this system of records on a recurrent basis to ensure that records are appropriately exempt from the Act.

Thank you for allowing us to provide comments on this Notice. Please do not hesitate to contact me if we can provide any additional information to support your efforts in this area.

Sincerely,

Hudson H. Freeze, PhD
FASEB President