

Congress to favor or oppose any legislation or proposed legislation, or to encourage others to do so. This section does not prohibit the use of government time by union representatives to petition a Member of Congress to favor or oppose any legislation or proposed legislation, where permitted by the terms of a collective bargaining agreement.

[82 FR 47106, Oct. 11, 2017]

#### § 0.217 Nondiscrimination.

(a) Employees shall not discriminate against or harass any other employee, applicant for employment, contractor, or person dealing with the Department on official business on the basis of race, color, religion, national origin, sex, sexual orientation, age, disability, political affiliation, marital status, parental status, veterans status, or genetic information.

(b) Supervisors shall not retaliate against an employee for complaining about suspected unlawful discrimination or harassment, seeking accommodation for a disability, or otherwise exercising their right to be free from unlawful discrimination.

(c) An employee who engages in discriminatory or retaliatory conduct may be disciplined under these regulations, as well as other applicable laws. However, this section does not create any enforceable legal rights in any person.

#### § 0.218 General conduct prejudicial to the government.

An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the government.

### PART 1—DISCLOSURE OF RECORDS

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APPENDIX N TO SUBPART C OF PART 1—FINANCIAL CRIMES NETWORK

AUTHORITY: 5 U.S.C. 301, 552, 552a, 553; 31 U.S.C. 301, 321; 31 U.S.C. 3717.

SOURCE: 52 FR 26305, July 14, 1987, unless otherwise noted.

### Subpart A—Freedom of Information Act

SOURCE: 84 FR 6325, Feb. 27, 2019, unless otherwise noted.

#### § 1.0 General provisions.

(a) This subpart contains the rules that the Department of the Treasury follows in processing requests for records under the Freedom of Information Act (FOIA), 5 U.S.C. 552 as amended. These regulations apply to all components of the Department of the Treasury. Requests made by individuals for records about themselves under the Privacy Act of 1974, 5 U.S.C. 552a, are processed under subpart C of part 1 as well as under this subpart.

(b) The components of the Department of the Treasury for the purposes of this subpart are the following offices and bureaus:

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(1) The Departmental Offices, which include the offices of:

(i) The Secretary of the Treasury, including immediate staff;

(ii) The Deputy Secretary of the Treasury, including immediate staff;

(iii) The Chief of Staff, including immediate staff;

(iv) The Executive Secretary of the Treasury and all offices reporting to such official, including immediate staff;

(v) The Under Secretary (International Affairs) and all offices reporting to such official, including immediate staff;

(vi) The Under Secretary (Domestic Finance) and all offices reporting to such official, including immediate staff;

(vii) The Director of the Community Development Financial Institution Fund and all offices reporting to such official, including immediate staff;

(viii) The Director of the Office of Financial Research and all offices reporting to such official, including immediate staff;

(ix) The Under Secretary (Terrorism and Financial Intelligence) and all offices reporting to such official, including immediate staff;

(x) The Director of the Office of Foreign Assets Control and all offices reporting to such official, including immediate staff;

(xi) The General Counsel and all offices reporting to such official, including immediate staff, but not including legal counsel to the components listed in paragraphs (b)(2) through (10) of this section;

(xii) The Treasurer of the United States, including immediate staff;

(xiii) The Assistant Secretary (Legislative Affairs) and all offices reporting to such official, including immediate staff;

(xiv) The Assistant Secretary (Public Affairs) and all offices reporting to such official, including immediate staff;

(xv) The Assistant Secretary (Economic Policy) and all offices reporting to such official, including immediate staff;

(xvi) The Assistant Secretary (Tax Policy) and all offices reporting to such official, including immediate staff;

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(xvii) The Assistant Secretary (Management) and all offices reporting to such official, including immediate staff; and

(xviii) [Reserved]

(xix) The Inspector General and all offices reporting to such official, including immediate staff;

(2) The Alcohol and Tobacco Tax and Trade Bureau;

(3) The Bureau of Engraving and Printing;

(4) The Bureau of the Fiscal Service;

(5) The Financial Crimes Enforcement Network;

(6) The Internal Revenue Service;

(7) The Office of the Comptroller of the Currency;

(8) The United States Mint;

(9) The Treasury Inspector General for Tax Administration;

(10) The Special Inspector General for the Troubled Asset Relief Program.

(c) Any Treasury office which is now in existence or may hereafter be established, which is not specifically listed above and is not a subsidiary unit of a component of those listed above, shall be deemed a part of the Departmental Offices for the purpose of these regulations.

(d) The head of each component is hereby authorized to substitute the official designated and change the address specified in the appendix to this subpart applicable to that component. Components may issue supplementary regulations applicable only to the component in question, which (except with respect to fee schedules) shall be consistent with these regulations. Persons interested in the records of a particular component should, therefore, also consult the Code of Federal Regulations for any rules or regulations promulgated specifically with respect to that component (see Appendices to this subpart for cross references). In the event of any actual or apparent inconsistency, these Departmental regulations shall govern.

(e) Each component shall preserve all correspondence pertaining to the requests that it receives under this subpart, as well as copies of all requested records, until disposition or destruction is authorized pursuant to title 44 of the United States Code or the General Records Schedule 4.2 of the Na-

tional Archives and Records Administration. Records that are identified as responsive to a request will not be disposed of or destroyed while they are the subject of a pending request, administrative appeal, or lawsuit under the FOIA.

(f) Nothing in this subpart shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the FOIA.

### § 1.1 Proactive disclosure of Department records.

(a) Records that are required by the FOIA to be made available for public inspection in an electronic format may be accessed through the Department's website, <http://www.treasury.gov>, and/or on the website of the component that maintains such records. The FOIA office of each component is responsible for determining which of the component's records are required to be made publicly available, as well as identifying additional records of interest to the public that are appropriate for public disclosure, and for posting such records. Each component has a FOIA Public Liaison who can assist individuals in locating records particular to that component. A list of the Department's FOIA Public Liaisons is available at: <https://home.treasury.gov/footer/freedom-of-information-act>.

(b) When a component receives three or more requests for the same records, it shall make available for public inspection in an electronic format, any records released in response to those requests.

### § 1.2 Requirements for making requests.

(a) *General information.* (1) Requests should be addressed to the FOIA office of the component that maintains the requested records. The appendices to this subpart list the addresses of each FOIA office and the methods for submitting requests to each component. Requesters are encouraged to submit requests online (through [FOIA.gov](http://FOIA.gov), component web pages or by completing the "Submit an Online Request" form located at <https://home.treasury.gov/footer/freedom-of-information-act>).

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(2) When a requester is unable to determine the appropriate Departmental component to which to direct a request, the requester may send the request to Freedom of Information Act Request, Department of the Treasury, Departmental Offices (DO), Director, FOIA and Transparency, 1500 Pennsylvania Avenue NW, Washington, DC 20220. The FOIA and Transparency team will forward the request to the component(s) that it determines to be most likely to maintain the records that are sought.

(3) A requester who is making a request for records about himself or herself must comply with the verification of identity provision set forth in section 1.26 of subpart C of this part.

(4) Where a request for records pertains to a third party, a requester may receive greater access by submitting either a notarized authorization signed by that individual or a declaration by that individual made in compliance with the requirements set forth in 28 U.S.C. 1746, authorizing disclosure of the records to the requester, or submitting proof that the individual is deceased (*e.g.*, a copy of a death certificate). As an exercise of its administrative discretion, each component can require a requester to supply additional information, if necessary, in order to verify that a particular individual has consented to disclosure.

(b) *Description of records sought.* Requesters must describe the records sought in sufficient detail to enable Department personnel to locate them with a reasonable amount of effort. To the extent possible, requesters should include specific information that may assist a component in identifying the requested records, such as the date, title or name, author, recipient, subject matter of the record, case number, file designation, or reference number. Requesters should refer to the Appendices of this subpart for additional component-specific requirements. In general, requesters should include as much detail as possible about the specific records or the types of records that they are seeking. If the requester fails to reasonably describe the records sought, the component shall inform the requester what additional information is needed or why the request is defi-

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cient. Requesters who are attempting to reformulate or modify such a request may discuss their request with the component's designated FOIA contact or the FOIA Public Liaison. When a requester fails to provide sufficient detail after having been asked to clarify a request, the component shall notify the requester that the request has not been properly made and that the request will be administratively closed.

#### § 1.3 Responsibility for responding to requests.

(a) *In general.* The component that first receives a request for a record and maintains that record is the component responsible for responding to the request. In determining which records are responsive to a request, a component ordinarily will include only records in its possession as of the date that it begins its search. If any other date is used, the component shall inform the requester of that date. A record that is excluded from the requirements of the FOIA pursuant to 5 U.S.C. 552(c), shall not be considered responsive to a request.

(b) *Authority to grant or deny requests.* The head of a component, or designee, is authorized to grant or to deny any requests for records that are maintained by that component.

(c) *Re-routing of misdirected requests.* When a component's FOIA office determines that a request was misdirected within the agency, the receiving component's FOIA office must route the request to the FOIA office of the proper component(s) within the agency.

(d) *Consultation, referral, and coordination.* When reviewing records located by a component in response to a request, the component will determine whether another agency of the Federal Government is better able to determine whether the record is exempt from disclosure under the FOIA. As to any such record, the agency must proceed in one of the following ways:

(1) *Consultation.* When records originated with the component processing the request, but contain within them information of interest to another agency or other Federal Government office, the agency processing the request should typically consult with

that other entity prior to making a release determination.

(2) *Referral.* (i) When the component processing the request believes that a different agency is best able to determine whether to disclose the record, the component typically should refer the responsibility for responding to the request regarding that record to that agency. Ordinarily, the agency that originated the record is presumed to be the best agency to make the disclosure determination. However, if the component processing the request is in the best position to respond regarding the record, then the record may be handled as a consultation.

(ii) Whenever a component refers any part of the responsibility for responding to a request to another agency, it must document the referral, maintain a copy of the record that it refers, and notify the requester of the referral, informing the requester of the name(s) of the agency to which the record was referred, including that agency's FOIA contact information.

(3) *Coordination.* The standard referral procedure is not appropriate where disclosure of the identity of the agency to which the referral would be made could harm an interest protected by an applicable exemption, such as the exemptions that protect personal privacy or national security interests. For example, if a non-law enforcement agency responding to a request for records on a living third party locates within its files records originating with a law enforcement agency, and if the existence of that law enforcement interest in the third party was not publicly known, then to disclose that law enforcement interest could cause an unwarranted invasion of the personal privacy of the third party. Similarly, if an agency locates within its files material originating with an Intelligence Community agency, and the involvement of that agency in the matter is classified and not publicly acknowledged, then to disclose or give attribution to the involvement of that Intelligence Community agency could cause national security harms. In such instances, in order to avoid harm to an interest protected by an applicable exemption, the agency that received the request should coordinate with the originating agency

to seek its views on the disclosability of the record. The release determination for the record that is the subject of the coordination should then be conveyed to the requester by the agency that originally received the request.

(4) *Timing of responses to consultations and referrals.* All consultations and referrals will be handled according to the date that the FOIA request was initially received by the component or other agency of the Federal government.

(5) *Agreements regarding consultations and referrals.* Components may establish agreements with other Treasury components or agencies of the Federal government to eliminate the need for consultations or referrals with respect to particular types of records.

(e) *Classified information.* On receipt of any request involving classified information, the component shall take appropriate action to ensure compliance with part 2 of this title and with all other laws and regulations relating to proper handling of classified information. Whenever a request involves a record containing information that has been classified or may be appropriate for classification by another component or agency under any applicable executive order concerning the classification of records, the receiving component shall refer the responsibility for responding to the request regarding that information to the component or agency that classified the information, or that should consider the information for classification. Whenever a component's record contains information that has been derivatively classified, *i.e.*, it contains information classified by another component or agency of the Federal government, the component shall refer the responsibility for responding to that portion of the request to the component or agency that classified the underlying information.

#### § 1.4 Responses to requests.

(a) *In general.* Components ordinarily will respond to requests according to their order of receipt. The Appendices to this subpart contain the list of the Departmental components that are designated to accept requests. In instances involving misdirected requests, *i.e.*, where a request is sent to one of

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the components designated in the Appendices but is actually seeking records maintained by another component, the response time will commence on the date that the request is received by the appropriate component, but in any event not later than ten working days after the request is first received.

(b) *Multitrack processing.* All components must designate a specific track for requests that are granted expedited processing, in accordance with the standards set forth in paragraph (e) of this section. A component may also designate additional processing tracks that distinguish between simple and more complex requests based on the estimated amount of work or time needed to process the request. A component can consider factors such as the number of pages involved in processing the request or the need for consultations or referrals. Components shall advise requesters of the track into which their request falls and, when appropriate, shall offer the requesters an opportunity to narrow their request so that it can be placed in a different processing track.

(c) *Unusual circumstances.* Whenever the statutory time limits for processing a request cannot be met because of “unusual circumstances,” as defined in the FOIA, and the component extends the time limits on that basis, the component shall, before expiration of the twenty-day period to respond, notify the requester in writing of the unusual circumstances involved and of the date by which processing of the request can be expected to be completed. Where the extension exceeds ten working days, the component shall, as described by the FOIA, provide the requester with an opportunity to modify the request or agree to an alternative time period for processing. The component shall make available its designated FOIA contact or its FOIA Public Liaison for this purpose. The component must also alert requesters to the availability of the Office of Government Information Services to provide dispute resolution services.

(d) *Aggregating requests.* For the purposes of identifying unusual circumstances under the FOIA, components may aggregate requests in cases where it reasonably appears that mul-

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multiple requests, submitted either by a requester or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances. Components will not aggregate multiple requests that involve unrelated matters.

(e) *Expedited processing.* (1) Requests and appeals will be processed on an expedited basis only upon request and when it is determined that they involve:

(i) Circumstances in which the lack of expedited processing could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) An urgency to inform the public about an actual or alleged Federal government activity, if made by a person who is primarily engaged in disseminating information. The standard of “urgency to inform” requires that the records requested pertain to a matter of current exigency to the public and that delaying a response to a request for records would compromise a significant recognized interest to and throughout the general public; or

(iii) The loss of substantial due process rights.

(2) A request for expedited processing may be made at any time. Requests must be submitted to the component that maintains the records requested. The time period for making the determination on the request for expedited processing under this section shall commence on the date that the component receives the request.

(3) A requester who seeks expedited processing must submit a statement, certified to be true and correct, explaining in detail the basis for making the request for expedited processing. As a matter of administrative discretion, a component may waive the formal certification requirement.

(4) A requester seeking expedited processing under paragraph (e)(1)(ii) of this section, who is not a full-time member of the news media must establish that he or she is a person whose primary professional activity or occupation is information dissemination. Such a requester also must establish a particular urgency to inform the public about the government activity involved in the request—one that extends

beyond the public's right to know about government activity generally.

(5) A component shall notify the requester within ten calendar days of the receipt of a request for expedited processing of its decision whether to grant or deny expedited processing. If expedited processing is granted, the request shall be given priority, placed in the processing track for expedited requests, and shall be processed as soon as practicable. If a component denies expedited processing, any appeal of that decision that complies with the procedures set forth in § 1.6 of this subpart shall be acted on expeditiously.

(f) *Acknowledgments of requests.* Upon receipt of a request that will take longer than ten business days to process, a component shall send the requester an acknowledgment letter that assigns the request an individualized tracking number. The component shall also include in the acknowledgment a brief description of the records sought to allow requesters to more easily keep track of their requests.

(g) *Grants of requests.* Once a component makes a determination to grant a request in full or in part, it shall notify the requester in writing. The component also shall inform the requester of any fees charged under § 1.7 of this subpart and shall disclose the requested records to the requester promptly upon payment of any applicable fees. The component must also inform the requester of the availability of the FOIA Public Liaison to offer assistance.

(h) *Adverse determinations of requests.* A component making an adverse determination denying a request in any respect shall notify the requester of that determination in writing. Adverse determinations, or denials of requests, include decisions that: The requested record is exempt, in whole or in part; the request does not reasonably describe the records sought; the information requested is not a record subject to the FOIA; the requested record does not exist, cannot be located, or has been destroyed; or the requested record is not readily reproducible in the form or format sought by the requester. Adverse determinations also include denials involving fees or fee waiver matters, and denials of requests for expedited processing.

(i) *Content of denial letter.* The denial letter shall be signed by the head of the component, or FOIA designee, and shall include, when applicable:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reasons for the denial, including any FOIA exemption applied by the component in denying the request; and

(3) An estimate of the volume of any records or information withheld, for example, by providing the number of pages or some other reasonable form of estimation. This estimation is not required if the volume is otherwise indicated by deletions marked on records that are disclosed in part, or if the estimate would cause a harm protected by one of the exemptions.

(4) A statement that the denial may be appealed under § 1.6(a) of this subpart, and a description of the requirements set forth therein.

(5) A statement notifying the requester of the assistance available from the component's FOIA Public Liaison and the dispute resolution services offered by the Office of Government Information Services.

(j) *Markings on released documents.* Records disclosed in part must be marked clearly to show the amount of information deleted and the exemption under which the deletion was made unless doing so would harm an interest protected by an applicable exemption. The location of the information deleted shall also be indicated on the record, if technically feasible.

(k) *Use of record exclusions.* (1) In the event a component identifies records that may be subject to exclusion from the requirements of the FOIA pursuant to 5 U.S.C. 552(c), the component shall consult with the Department of Justice, Office of Information Policy (OIP), before applying the exclusion.

(2) A component invoking an exclusion must maintain an administrative record of the process of invocation and of the consultation with OIP.

#### **§ 1.5 Confidential commercial information.**

(a) *Definitions*—(1) *Confidential commercial information* means trade secrets and commercial or financial information obtained by the Department from

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a submitter that may be protected from disclosure under Exemption 4 of the FOIA.

(2) *Submitter* means any person or entity from whom the Department obtains confidential commercial information, directly or indirectly.

(3) *Designation of confidential commercial information.* A submitter of confidential commercial information must use good faith efforts to designate by appropriate markings, either at the time of submission or within a reasonable time thereafter, any portion of its submission that it considers to be protected from disclosure under Exemption 4. These designations will expire ten years after the date of the submission unless the submitter requests and provides justification for a longer designation period.

(b) *When notice to submitters is required.* (1) A component shall promptly provide written notice to a submitter whenever:

(i) The requested confidential commercial information has been designated in good faith by the submitter as information considered protected from disclosure under Exemption 4; or

(ii) The component has a reason to believe that the requested confidential commercial information may be protected from disclosure under Exemption 4 of the FOIA.

(2) The notice shall either describe the confidential commercial information requested or include a copy of the requested records or portions of records containing the information. In cases involving a voluminous number of submitters, notice may be made by posting or publishing the notice in a place or manner reasonably likely to accomplish it.

(c) *Exceptions to submitter notice requirements.* The notice requirements of this section shall not apply if:

(1) The component determines that the confidential commercial information is exempt from disclosure under the FOIA;

(2) The confidential commercial information lawfully has been published or has been officially made available to the public; or

(3) Disclosure of the confidential commercial information is required by a statute other than the FOIA or by a

regulation issued in accordance with the requirements of Executive Order 12600 of June 23, 1987;

(d) *Opportunity to object to disclosure.*

(1) A component will specify a reasonable time period as determined within its administrative discretion within which the submitter must respond to the notice referenced above. If a submitter has any objections to disclosure, it should provide the component a detailed written statement that specifies all grounds for withholding the particular confidential commercial information under any exemption of the FOIA. In order to rely on Exemption 4 as a basis for nondisclosure, the submitter must explain why the information constitutes a trade secret, or commercial or financial information that is privileged or confidential.

(2) A submitter who fails to respond within the time period specified in the notice shall be considered to have no objection to disclosure of the information. An objection to disclosure received by the component after the time period specified in the notice will not be considered by the component. Any information provided by a submitter under this subpart may itself be subject to disclosure under the FOIA and/or protected from disclosure by applicable exemptions or by a statute other than the FOIA.

(e) *Analysis of objections.* A component shall consider a submitter's objections and specific grounds for nondisclosure in deciding whether to disclose the requested confidential commercial information.

(f) *Notice of intent to disclose.* Whenever a component decides to disclose confidential commercial information over the objection of a submitter, the component shall provide the submitter written notice, which shall include:

(1) A statement of the reasons why each of the submitter's disclosure objections was not sustained;

(2) Copies of the records that the component intends to disclose or, in the alternative, a description of the confidential commercial information to be disclosed; and

(3) A specified disclosure date, which shall be a reasonable time subsequent to the notice.



(g) *Notice of FOIA lawsuit.* Whenever a requester files a lawsuit seeking to compel the disclosure of confidential commercial information, the component shall promptly notify the submitter.

(h) *Requester notification.* The component shall notify a requester whenever it provides the submitter with notice and an opportunity to object to disclosure; whenever it notifies the submitter of its intent to disclose the requested confidential commercial information; and whenever a submitter files a lawsuit to prevent the disclosure of the confidential commercial information.

#### § 1.6 Administrative appeals.

(a) *Requirements for making an appeal.* Before seeking review by a court of a component's adverse determination, a requester generally must first submit a timely administrative appeal. A requester may appeal any adverse determinations denying his or her request to the official specified in the appropriate appendix to this subpart. Examples of adverse determinations are provided in § 1.4(h) of this subpart. The requester must make the appeal in writing and to be considered timely it must be postmarked, or in the case of electronic submissions, transmitted, within 90 calendar days after the date of the component's final response. The appeal letter should clearly identify the component's determination that is being appealed and the assigned request number. The requester should mark both the appeal letter and envelope, or subject line of the electronic transmission, "Freedom of Information Act Appeal."

(b) *Adjudication of appeals.* (1) The FOIA appeal official or designee specified in the appropriate appendix will act on all appeals under this section.

(2) An appeal ordinarily will not be adjudicated if the request becomes a matter of FOIA litigation.

(3) On receipt of any appeal involving classified information, the FOIA appeal official or designee must take appropriate action to ensure compliance with applicable classification rules.

(c) *Decision on appeals.* A decision on an appeal must be made in writing by the component within 20 business days after receipt of the appeal. A decision

that upholds a component's determination must contain a statement that identifies the reasons for the affirmance, including any FOIA exemptions applied. The decision must provide the requester with notification of the statutory right to file a lawsuit and will inform the requester of the mediation services offered by the Office of Government Information Services of the National Archives and Records Administration as a non-exclusive alternative to litigation. If a component's decision is remanded or modified on appeal the requester will be notified of that determination in writing. The component will then further process the request in accordance with that appeal determination and respond directly to the requester. Appeals that have not been postmarked or transmitted within the specified time frame will be considered untimely and will be administratively closed with written notice to the requester.

(d) *Engaging in dispute resolution services provided by Office of Government Information Services (OGIS).* Mediation is a voluntary process. If a component agrees to participate in the mediation services provided by OGIS, it will actively engage as a partner to the process in an attempt to resolve the dispute.

#### § 1.7 Fees.

(a) *In general.* Components may charge for processing requests under the FOIA in accordance with the provisions of this section or may issue their own fee schedules as long as they are consistent with the OMB Guidelines. In order to resolve any fee issues that arise under this section, a component may contact a requester for additional information. A component ordinarily will collect all applicable fees before sending copies of records to a requester. Requesters must pay fees by check or money order made payable to the Treasury of the United States, or by other means specified at <https://home.treasury.gov/footer/freedom-of-information-act>.

(b) *Definitions.* For purposes of this section:

(1) *Commercial-use request* is a request for information for a use or a purpose that furthers a commercial, trade, or

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profit interest, which can include furthering those interests through litigation.

(2) *Direct costs* are those expenses that a component expends in searching for and duplicating (and, in the case of commercial-use requests, reviewing) records in order to respond to a FOIA request. For example, direct costs include the salary of the employee performing the work (*i.e.*, the basic rate of pay for the employee, plus 16 percent of that rate to cover benefits) and the cost of operating computers and other electronic equipment, such as photocopiers and scanners. Direct costs do not include overhead expenses such as the costs of space, and of heating or lighting a facility. Components shall ensure that searches, review, and duplication are conducted in the most efficient and the least expensive manner.

(3) *Duplication* is reproducing a copy of a record or of the information contained in it, necessary to respond to a FOIA request. Copies can take the form of paper, audiovisual materials, or electronic records, among others.

(4) *Educational institution* is any school that operates a program of scholarly research. A requester in this category must show that the request is made in connection with the requester's role at the educational institution. Components may seek assurance from the requester that the request is in furtherance of scholarly research and will advise requesters of their placement in this category.

(5) *Noncommercial scientific institution* is an institution that is not operated on a "commercial" basis, as defined in paragraph (b)(1) of this section, and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry. A requester in this category must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are sought to further scientific research and not for a commercial use.

(6) *Representative of the news media* is any person or entity that actively gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distrib-

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utes that work to an audience. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting news to the public at large and publishers of periodicals that disseminate "news" and make their products available through a variety of means to the general public. A request for records that supports the news-dissemination function of the requester shall not be considered to be for a commercial use. "Freelance" journalists who demonstrate a solid basis for expecting publication through a news media entity shall be considered as a representative of the news media. A publishing contract would provide the clearest evidence that publication is expected; however, components shall also consider a requester's past publication record in making this determination.

(7) *Other requester* refers to a requester who does not fall within any of the previously described categories.

(8) *Review* is the examination of a record located in response to a request in order to determine whether any portion of it is exempt from disclosure. Review time includes time spent processing any record for disclosure, such as doing all that is necessary to prepare the record for disclosure, including the process of redacting the record and marking the appropriate exemptions. Review time also includes time spent obtaining and considering any formal objection to disclosure made by a confidential commercial information submitter under § 1.5 of this subpart, but it does not include time spent resolving general legal or policy issues regarding the application of exemptions. Review costs are properly charged even if a record ultimately is not disclosed.

(9) *Search* is the process of looking for and retrieving records or information responsive to a request. Search time includes time devoted to page-by-page or line-by-line identification of information within records; and the reasonable efforts expended to locate and retrieve information from electronic records.

(c) *Charging fees.* Unless a component has issued a separate fee schedule, or a waiver or reduction of fees has been granted under paragraph (k) of this section, components shall charge the following fees. Because the fee amounts provided below already account for the direct costs associated with a given fee type, components should not add any additional costs to those charges.

(1) *Search.* (i) Search fees shall be charged for all requests, subject to the restrictions of paragraph (d) of this section. Components will charge search fees for all other requesters, subject to the restrictions of paragraph (d) of this section. Components may properly charge for time spent searching even if they do not locate any responsive records or if they determine that the records are entirely exempt from disclosure.

(ii) For each quarter hour spent by personnel searching for requested records, including electronic searches that do not require new programming, the fees shall be as follows: executive—\$21; professional—\$16.50; and administrative—\$13.00.

(iii) In addition, requesters will be charged the direct costs associated with the creation of any new computer program required to locate the requested records.

(2) *Duplication.* Duplication fees will be charged to all requesters, subject to the restrictions of paragraph (d) of this section. A component shall honor a requester's preference for receiving a record in a particular form or format where it is readily reproducible by the component in the form or format requested. Where photocopies are supplied, the component will provide one copy per request at a cost of \$0.15 per page. For copies of records produced on tapes, disks, other forms of duplication, or other electronic media, components will charge the direct costs of producing the copy, including operator time. Where paper documents must be scanned in order to comply with a requester's preference to receive the records in an electronic format, the requester shall pay the direct costs associated with scanning those materials, including operator's time. For other

forms of duplication, components will charge the direct costs.

(3) *Review.* Review fees will only be charged to requesters who make commercial-use requests. Review fees will be assessed in connection with the initial review of the record, *i.e.*, the review conducted by a component to determine whether an exemption applies to a particular record or portion of a record. No charge will be made for review at the administrative appeal stage of exemptions applied at the initial review stage. However, when the appellate authority determines that a particular exemption no longer applies, any costs associated with a component's re-review of the records in order to consider the use of other exemptions may be assessed as review fees. Review costs are properly charged even if a record ultimately is not disclosed. Review fees will be charged at the same rates as those charged for a search under paragraph (c)(1)(ii) of this section.

(d) *Restrictions on charging fees.* (1) No search fees will be charged for requests by educational institutions, non-commercial scientific institutions, or representatives of the news media (unless the records are sought for commercial use).

(2) If a component fails to comply with the FOIA's time limits in which to respond to a request, it may not charge search fees, or, in the instances of requests from requesters described in paragraph (d)(1) of this section, may not charge duplication fees, except as described in paragraphs (d)(2)(i) through (iii) of this section.

(i) If a component has determined that unusual circumstances as defined by the FOIA apply and the agency provided timely written notice to the requester in accordance with the FOIA, a failure to comply with the time limit shall be excused for an additional ten days.

(ii) If a component has determined that unusual circumstances as defined by the FOIA apply, and more than 5,000 pages are necessary to respond to the request, the component may charge search fees, or, in the case of requesters described in paragraph (d)(1) of this section, may charge duplication fees if

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the following steps are taken. The component must have provided timely written notice of unusual circumstances to the requester in accordance with the FOIA and the component must have discussed with the requester via written mail, email, or telephone (or made not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request in accordance with 5 U.S.C. 552(a)(6)(B)(ii). If this exception is satisfied, the component may charge all applicable fees incurred in the processing of the request.

(iii) If a court has determined that exceptional circumstances exist as defined in the FOIA, a failure to comply with the time limits shall be excused for the length of time provided by the court order.

(3) No search or review fees will be charged for a quarter-hour period unless more than half of that period is required for search or review.

(4) Except for requesters seeking records for a commercial use, components will provide without charge:

(i) The first 100 pages of duplication (or the cost equivalent for other media); and

(ii) The first two hours of search.

(5) When, after first deducting the 100 free pages (or its cost equivalent) and the first two hours of search, a total fee calculated under paragraph (c) of this section is \$25.00 or less for any request, no fee will be charged.

(e) *Notice of anticipated fees in excess of \$25.00.* When a component determines or estimates that the fees to be assessed in accordance with this section will exceed \$25.00, the component shall notify the requester of the actual or estimated amount of the fees, including a breakdown of the fees for search, review or duplication, unless the requester has indicated a willingness to pay fees as high as those anticipated. If only a portion of the fee can be estimated readily, the component shall advise the requester accordingly. In cases in which a requester has been notified that the actual or estimated fees are in excess of \$25.00, the request shall not be considered received and further work will not be completed until the requester commits in writing to pay the actual or estimated total fee. Such a

commitment must be made by the requester in writing, must indicate a given dollar amount the requester is willing to pay, and must be received by the component within 30 calendar days from the date of notification of the fee estimate. If a commitment is not received within this period, the requester shall be notified, in writing, that the request shall be closed. Components will inform the requester of their right to seek assistance from the appropriate component FOIA Public Liaison or other FOIA professional to assist the requester in reformulating request in an effort to reduce fees. Components are not required to accept payments in installments. If the requester has indicated a willingness to pay some designated amount of fees, but the component estimates that the total fee will exceed that amount, the component will toll the processing of the request when it notifies the requester of the estimated fees in excess of the amount the requester has indicated a willingness to pay. The Component will inquire whether the requester wishes to revise the amount of fees the requester is willing to pay or modify the request. Once the requester responds, the time to respond will resume from where it was at the date of the notification.

(f) *Charges for other services.* Although not required to provide special services, if a component chooses to do so as a matter of administrative discretion, the direct costs of providing the service will be charged. Examples of such services include certifying that records are true copies, providing multiple copies of the same document, or sending records by means other than first class mail.

(g) *Charging interest.* Components may charge interest on any unpaid bill starting on the 31st day following the date of billing the requester. Interest charges will be assessed at the rate provided in 31 U.S.C. 3717 and will accrue from the billing date until payment is received by the component. Components will follow the provisions of the Debt Collection Act of 1982 (Pub. L. 97-365, 96 Stat. 1749), as amended, and its administrative procedures, including the use of consumer reporting agencies, collection agencies, and offset.

(h) *Aggregating requests.* When a component reasonably believes that a requester or a group of requesters acting in concert is attempting to divide a single request into a series of requests for the purpose of avoiding fees, the component may aggregate those requests and charge accordingly. Components may presume that multiple requests of this type made within a 30-day period have been made in order to avoid fees. For requests separated by a longer period, components will aggregate them only where there is a reasonable basis for determining that aggregation is warranted in view of all the circumstances involved. Multiple requests involving unrelated matters will not be aggregated.

(i) *Advance payments.* (1) For requests other than those described in paragraphs (i)(2) and (i)(3) of this section, a component shall not require the requester to make an advance payment before work is commenced or continued on a request. Payment owed for work already completed (*i.e.*, payment before copies are sent to a requester) is not an advance payment.

(2) When a component determines or estimates that a total fee to be charged under this section will exceed \$250.00, it may require that the requester make an advance payment up to the amount of the entire anticipated fee before beginning to process the request. A component may elect to process the request prior to collecting fees when it receives a satisfactory assurance of full payment from a requester with a history of prompt payment.

(3) Where a requester has previously failed to pay a properly charged FOIA fee to any component or agency within 30 calendar days of the billing date, a component may require that the requester pay the full amount due, plus any applicable interest on that prior request and the component may require that the requester make an advance payment of the full amount of any anticipated fee before the component begins to process a new request or continues to process a pending request, or any pending appeal. Where a component has a reasonable basis to believe that a requester has misrepresented his or her identity in order to avoid paying

outstanding fees, it may require that the requester provide proof of identity.

(4) In cases in which a component requires advance payment, the request shall not be considered received and further work will not be completed until the required payment is received. If the requester does not pay the advance payment within 30 calendar days after the date of the component's fee determination letter, the request will be closed.

(j) *Other statutes specifically providing for fees.* The fee schedule of this section does not apply to fees charged under any statute that specifically requires an agency to set and collect fees for particular types of records. In instances where records responsive to a request are subject to a statutorily-based fee schedule program, the component will inform the requester of the contact information for that source.

(k) *Requirements for waiver or reduction of fees.* (1) Requesters may seek a waiver of fees by submitting a written application demonstrating how disclosure of the requested 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.

(2) A component must furnish records responsive to a request without charge or at a reduced rate when it determines, based on all available information, that disclosure of the requested 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. In deciding whether this standard is satisfied the component must consider the factors described in paragraphs (k)(2)(i) through (iii) of this section:

(i) Disclosure of the requested information would shed light on the operations or activities of the government. The subject of the request must concern identifiable operations or activities of the Federal Government with a connection that is direct and clear, not remote or attenuated.

(ii) Disclosure of the requested information would be likely to contribute

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significantly to public understanding of those operations or activities. This factor is satisfied when the following criteria are met:

(A) Disclosure of the requested records must be meaningfully informative about government operations or activities. The disclosure of information that is already in the public domain, in either the same or a substantially identical form, would not be meaningfully informative if nothing new would be added to the public's understanding.

(B) The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area as well as the requester's ability and intention to effectively convey information to the public must be considered. Components will presume that a representative of the news media will satisfy this consideration.

(iii) The disclosure must not be primarily in the commercial interest of the requester. To determine whether disclosure of the requested information is primarily in the commercial interest of the requester, components will consider the following criteria:

(A) Components must identify whether the requester has any commercial interest that would be furthered by the requested disclosure. A commercial interest includes any commercial, trade, or profit interest. Requesters must be given an opportunity to provide explanatory information regarding this consideration.

(B) If there is an identified commercial interest, the component must determine whether that is the primary interest furthered by the request. A waiver or reduction of fees is justified when the requirements of paragraphs (k)(2)(i) and (ii) of this section are satisfied and any commercial interest is not the primary interest furthered by the request. Components ordinarily will presume that when a news media requester has satisfied the requirements of paragraphs (k)(2)(i) and (ii) of this section, the request is not primarily in the commercial interest of the requester. Disclosure to data brokers or others who merely compile and

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market government information for direct economic return will not be presumed to primarily serve the public interest.

(3) Where only some of the records to be released satisfy the requirements for a waiver of fees, a waiver shall be granted for those records.

(4) Requests for a waiver or reduction of fees should be made when the request is first submitted to the component and should address the criteria referenced above. A requester may submit a fee waiver request at a later time so long as the underlying record request is pending or on administrative appeal. When a requester who has committed to pay fees subsequently asks for a waiver of those fees and that waiver is denied, the requester shall be required to pay any costs incurred up to the date the fee waiver request was received.

(5) The requester shall be notified in writing of the decision to grant or deny the fee waiver.

**APPENDIX A TO SUBPART A OF PART 1—  
DEPARTMENTAL OFFICES**

1. *In general.* This appendix applies to the Departmental Offices as defined in 31 CFR 1.1(b)(1).

2. *Public Reading Room.* The public reading room for the Departmental Offices is the Treasury Library. The library is located in the Freedman's Bank Building (Treasury Annex), Room 1020, 1500 Pennsylvania Avenue NW, Washington, DC 20220. For building security purposes, visitors are required to make an appointment by calling 202-622-0990. Treasury also maintains an electronic reading room, which may be accessed at <https://home.treasury.gov/footer/freedom-of-information-act>.

3. *Requests for records.*

(a) Initial determinations as to whether to grant requests for records of the Departmental Offices will be made by the Director for FOIA and Transparency, or the designee of such official, with the exception of initial determinations by the Office of the Inspector General and the Special Inspector General for the Troubled Asset Relief Program, which will be made by the designee of the respective Inspector General.

(b) Requests for records should be sent to: Freedom of Information Request, Departmental Offices, Director, FOIA and Transparency, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220. Requests may also be submitted via email at [FOIA@treasury.gov](mailto:FOIA@treasury.gov).

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4. Administrative appeal of initial determination to deny records.

(a) Appellate determinations with respect to records of the Departmental Offices or requests for expedited processing will be made by the Deputy Assistant Secretary for Privacy, Transparency, and Records, or the designee of such official, with the exception of appellate determinations by the Office of the Inspector General and the Special Inspector General for the Troubled Asset Relief Program, which will be made by the respective Inspector General or his or her designee.

(b) Appeals should be addressed to: Freedom of Information Appeal, Departmental Offices, FOIA and Transparency, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220. Appeals may also be submitted via email at FOIA@treasury.gov.

APPENDIX B TO SUBPART A OF PART 1—INTERNAL REVENUE SERVICE

1. In general. This appendix applies to the Internal Revenue Service (IRS). See also 26 CFR 601.702.

2. Public reading room. The IRS no longer maintains physical reading rooms. Documents for the public are found on various websites at irs.gov including the electronic FOIA Reading Room located at https://www.irs.gov/uac/electronic-reading-room.

3. Requests for records. Initial determinations as to whether to grant requests for records of the IRS, grant expedited processing, grant a fee waiver, or determine requester category will be made by those officials specified in 26 CFR 601.702.

Requests for records should be submitted to the IRS using the information below:

IRS accepts FOIA requests by fax or by mail

If your request is for IRS Headquarters Office records concerning matters of nationwide applicability, such as published guidance (regulations and revenue rulings), program management, operations, or policies, including National or Headquarters Offices of Chief Counsel records that are not available at the Electronic FOIA Reading Room site:

If your request is for your own records or other records controlled at IRS field locations including Division Counsel offices that are not available at the Electronic FOIA Reading Room site:

Fax: 877-807-9215, Mail: IRS FOIA Request, Stop 211, PO Box 621506, Atlanta, GA 30362-3006.

Fax: 877-891-6035, Mail: IRS FOIA Request, Stop 93A, Post Office Box 621506, Atlanta GA 30362-3006.

4. Administrative appeal of initial determination to deny records. Appellate determinations with respect to records of the Internal Revenue Service will be made by the Commissioner of Internal Revenue or the delegate of such officer. Appeals must be in writing and addressed to: IRS Appeals Attention: FOIA Appeals, M/Stop 55202, 5045 E Butler Ave., Fresno, CA 93727-5136.

standard time. Visitors shall comply with 31 CFR part 605, governing the conduct of persons within the buildings and grounds of the BEP. In addition, BEP also maintains an electronic reading room, which may be accessed at http://www.bep.gov/bepfoialibrary.html.

3. Requests for records. Initial determinations as to whether to grant or deny requests for records of the BEP or applicable fees will be made by the BEP Director delegate, i.e., Disclosure Officer. Requests may be mailed or faxed to: FOIA/PA Request, Disclosure Officer, Bureau of Engraving and Printing, Office of the Chief Counsel—FOIA and Transparency Services, Washington, DC 20228-0001, Fax Number: (202) 874-2951.

4. Administrative Appeal of initial determination to deny records. Appellate determinations with respect to records of the BEP will be made by the Director of the BEP or the delegate of the Director for purposes of this

APPENDIX C TO SUBPART A OF PART 1—BUREAU OF ENGRAVING AND PRINTING

1. In general. This appendix applies to the Bureau of Engraving and Printing (BEP).

2. Public reading room. BEP's public reading room is located at 14th and C Streets SW, Washington, DC 20228. Individuals wishing to visit the public reading room must request an appointment by telephoning (202) 874-2500. The reading room is open on official business days from 10:00 a.m. to 4:00 p.m. eastern

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section. Appeals may be mailed or delivered in person to: FOIA/PA APPEAL, Director, Bureau of Engraving and Printing, Office of the Director, 14th and C Streets SW, Washington, DC 20228-0001.

**APPENDIX D TO SUBPART A OF PART 1—  
BUREAU OF THE FISCAL SERVICE**

1. *In general.* This appendix applies to the Bureau of the Fiscal Service.

2. *Public reading room.* The public reading room for the Bureau of the Fiscal Service is the Treasury Library. The library is located in the Freedman's Bank Building (Treasury Annex), Room 1020, 1500 Pennsylvania Avenue NW, Washington, DC 20220. For building security reasons, visitors are required to make an appointment by calling 202-622-0990. Fiscal Service also maintains an electronic reading room, which may be accessed at [https://www.fiscal.treasury.gov/foia/foia\\_readingroom.htm](https://www.fiscal.treasury.gov/foia/foia_readingroom.htm).

3. *Requests for records.* Initial determinations whether to grant requests for records will be made by the Disclosure Officer, Bureau of the Fiscal Service. Requests may be mailed or delivered in person to:

Freedom of Information Request, Disclosure Officer, Bureau of the Fiscal Service, 401 14th Street SW, Washington, DC 20227.

4. *Administrative appeal of initial determination to deny records.* Appellate determinations will be made by the Commissioner, Bureau of the Fiscal Service, or that official's delegate. Appeals may be mailed to: Freedom of Information Appeal (FOIA), Commissioner, Bureau of the Fiscal Service, 401 14th Street SW, Washington, DC 20227.

Appeals may be delivered personally to the Office of the Commissioner, Bureau of the Fiscal Service, 401 14th Street SW, Washington, DC.

**APPENDIX E TO SUBPART A OF PART 1—  
UNITED STATES MINT**

1. *In general.* This appendix applies to the United States Mint.

2. *Public reading room.* The U.S. Mint will provide a room on an ad hoc basis when necessary. Contact the Freedom of Information/Privacy Act Officer, United States Mint, Judiciary Square Building, 7th Floor, 633 3rd Street NW, Washington, DC 20220.

3. *Requests for records.* Initial determinations as to whether to grant requests for records of the United States Mint will be made by the Freedom of Information/Privacy Act Officer, United States Mint. Requests may be mailed or delivered in person to: Freedom of Information Act Request, Freedom of Information/Privacy Act Officer, United States Mint, Judiciary Square Building, 7th Floor, 633 3rd Street NW, Washington, DC 20220.

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4. *Administrative appeal of initial determination to deny records.* Appellate determinations with respect to records of the United States Mint will be made by the Director of the Mint. Appeals made by mail should be addressed to: Freedom of Information Appeal, Director, United States Mint, Judiciary Square Building, 7th Floor, 633 3rd Street NW, Washington, DC 20220.

**APPENDIX F TO SUBPART A OF PART 1—  
OFFICE OF THE COMPTROLLER OF THE  
CURRENCY**

1. *In general.* This appendix applies to the Office of the Comptroller of the Currency.

2. *Public reading room.* The Office of the Comptroller of the Currency will make materials available through its Public Information Room at 250 E Street SW, Washington, DC 20219.

3. *Requests for records.* Initial determinations as to whether to grant requests for records of the Office of the Comptroller of the Currency will be made by the Disclosure Officer or the official so designated. Requests may be mailed or delivered in person to: Freedom of Information Act Request, Disclosure Officer, Communications Division, 3rd Floor, Comptroller of the Currency, 250 E Street SW, Washington, DC 20219.

4. *Administrative appeal of initial determination to deny records.* Appellate determinations with respect to records of the Comptroller of the Currency will be made by the Chief Counsel or delegates of such official. Appeals made by mail shall be addressed to: Communications Division, Comptroller of the Currency, 250 E Street SW, Washington, DC 20219.

Appeals may be delivered personally to the Communications Division, Comptroller of the Currency, 250 E Street SW, Washington, DC.

**APPENDIX G TO SUBPART A OF PART 1—  
FINANCIAL CRIMES ENFORCEMENT  
NETWORK**

1. *In general.* This appendix applies to the Financial Crimes Enforcement Network (FinCEN).

2. *Public reading room.* FinCEN will provide records on the online reading room located on the FinCEN FOIA page or in the Code of Federal Regulations.

3. *Requests for records.* Initial determinations as to whether to grant requests for records of FinCEN will be made by the Freedom of Information Act/Privacy Act Officer, FinCEN. Requests for records may be mailed to: Freedom of Information Act/Privacy Act Request, Financial Crimes Enforcement Network, Post Office Box 39, Vienna, VA 22183.

4. *Administrative appeal of initial determination to deny records.* Appellate determinations with respect to the records of FinCEN



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will be made by the Director of FinCEN or the delegate of the Director. Appeals should be mailed to: Freedom of Information Act Appeal, Post Office Box 39, Vienna, VA 22183, or emailed to: [FinCENFOIA@fincen.gov](mailto:FinCENFOIA@fincen.gov).

### APPENDIX H TO SUBPART A OF PART 1— ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

1. *In general.* This appendix applies to the Alcohol and Tobacco Tax and Trade Bureau (TTB).

2. *Public reading room.* The public reading room for TTB is maintained at 1310 G Street NW, Washington, DC 20005. For building security purposes, visitors are required to make an appointment by calling 202-882-9904.

3. *Requests for records.* Initial determinations as to whether to grant requests for records of TTB will be made by the Director, Regulations and Rulings Division. Requests for records may be mailed to: TTB FOIA Requester Service Center, 1310 G Street NW, Box 12, Washington, DC 20005. Requests may also be faxed to: 202-453-2331.

4. *Administrative appeal of initial determination to deny records.* Appellate determinations with respect to the records of TTB will be made by the Assistant Administrator (Headquarters Operations), Alcohol and Tobacco Tax and Trade Bureau or the delegate of such official. Appeals may be mailed or delivered in person to: FOIA Appeal, Assistant Administrator (Headquarters Operations), Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005.

### APPENDIX I TO SUBPART A OF PART 1— TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

1. *In general.* This appendix applies to the Treasury Inspector General for Tax Administration (TIGTA).

2. *Public reading room.* TIGTA will provide a room upon request when necessary. Contact the Disclosure Branch, Office of Chief Counsel, TIGTA, at 202-622-4068.

3. *Requests for records.* Initial determinations as to whether to grant requests for records of TIGTA will be made by the Disclosure Officer, TIGTA. Requests for records may be mailed to: Freedom of Information Act/Privacy Act Request, Treasury Inspector General for Tax Administration, Office of Chief Counsel, Disclosure Branch, 1401 H Street NW, Room 469, Washington, DC 20005. You may also view the How to Make a FOIA Request for TIGTA Records at [https://www.treasury.gov/tigta/important\\_foia\\_mafr.shtml](https://www.treasury.gov/tigta/important_foia_mafr.shtml). TIGTA's FOIA email address is [FOIA.Reading.Room@tigta.treas.gov](mailto:FOIA.Reading.Room@tigta.treas.gov).

4. *Administrative appeal of initial determination to deny records.* Appellate determina-

tions with respect to the records of TIGTA will be made by the Chief Counsel, TIGTA, or the delegate of the Chief Counsel. Appeals should be mailed to: Freedom of Information Act/Privacy Act Appeal, Treasury Inspector General for Tax Administration, Office of Chief Counsel, 1401 H Street NW, Room 469, Washington, DC 20005.

## Subpart B—Other Disclosure Provisions

### § 1.8 Scope.

The regulations in this subpart concern access to information and records other than under 5 U.S.C. 552. This subpart is applicable to the Departmental Offices and to the bureaus of the Department as defined in §1.1(a) of this part, except to the extent that bureaus of the Department have adopted separate guidance governing the subject matter of a provision of this subpart.

[69 FR 54003, Sept. 7, 2004]

### § 1.9 Records not to be otherwise withdrawn or disclosed.

Except in accordance with this part, or as otherwise authorized, Treasury Department officers and employees are prohibited from making records or duplicates available to any person who is not an officer or employee of the Department, and are prohibited from withdrawing any such records or duplicates from the files, possession or control of the Department.

[69 FR 54003, Sept. 7, 2004]

### § 1.10 Oral information.

(a) Officers and employees of the Department may, in response to requests, orally provide information contained in records of the Department that are determined to be available to the public. If the obtaining of such information requires a search of records, a written request and the payment of the fee for a record search set forth in §1.6 will be required.

(b) Information with respect to activities of the Department not a matter of record shall not be disclosed if the information involves matters exempt from disclosure under 5 U.S.C. 552 or the regulations in this part, or if the disclosure of such information would

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give the person requesting the information advantages not accorded to other citizens.

[69 FR 54003, Sept. 7, 2004]

### § 1.11 Testimony or the production of records in a court or other proceeding.

(a) *Applicability.* (1) This section sets forth the policies and procedures of the Department regarding the testimony of employees and former employees as witnesses in legal proceedings and the production or disclosure of information contained in Department documents for use in legal proceedings pursuant to a request, order, or subpoena (collectively referred to in this subpart as a demand).

(2) This section does not apply to any legal proceeding in which an employee is to testify while on leave status regarding facts or events that are unrelated to the official business of the Department.

(3)(i) Nothing in this section affects the rights and procedures governing public access to records pursuant to the Freedom of Information Act (5 U.S.C. 552) or the Privacy Act (5 U.S.C. 552a).

(ii) Demands in legal proceedings for the production of records, or for the testimony of Department employees regarding information protected by the Privacy Act (5 U.S.C. 552a), the Trade Secrets Act (18 U.S.C. 1905) or other confidentiality statutes, must satisfy the requirements for disclosure set forth in those statutes and the applicable regulations of this part before the records may be provided or testimony given.

(4) This section is intended only to provide guidance for the internal operations of the Department and to inform the public about Department procedures concerning the service of process and responses to demands or requests, and the procedures specified in this section, or the failure of any Treasury employee to follow the procedures specified in this section, are not intended to, do not, and may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law by a party against the United States.

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(b) *Definitions.* For purposes of this section:

(1) *Agency counsel* means:

(i) With respect to the Departmental Offices, the General Counsel or his or her designee; or

(ii) With respect to a bureau or office of the Department, the Chief Counsel or Legal Counsel (or his or her designee) of such bureau or office.

(2) *Demand* means a request, order, or subpoena for testimony or documents related to or for possible use in a legal proceeding.

(3) *Department* means the United States Department of the Treasury.

(4) *Document* means any record or other property, no matter what media and including copies thereof, held by the Department, including without limitation, official letters, telegrams, memoranda, reports, studies, calendar and diary entries, maps, graphs, pamphlets, notes, charts, tabulations, analyses, statistical or informational accumulations, any kind of summaries of meetings and conversations, film impressions, magnetic tapes and sound or mechanical reproductions.

(5) *Employee* means all employees or officers of the Department, including contractors and any other individuals who have been appointed by, or are subject to the supervision, jurisdiction or control of the Secretary, as well as the Secretary of the Treasury. The procedures established within this subpart also apply to former employees of the Department where specifically noted.

(6) *General Counsel* means the General Counsel of the Department or other Department employee to whom the General Counsel has delegated authority to act under this subpart.

(7) *Legal proceeding* means all pre-trial, trial and post trial stages of all existing or reasonably anticipated judicial or administrative actions, hearings, investigations, or similar proceedings before courts, commissions, boards, grand juries, or other tribunals, foreign or domestic. This phrase includes all phases of discovery as well as responses to formal or informal requests by attorneys or others involved in legal proceedings.

(8) *Official business* means the authorized business of the Department.

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(9) *Secretary* means the Secretary of the Treasury.

(10) *Testimony* means a statement in any form, including personal appearances before a court or other legal tribunal, interviews, depositions, telephonic, televised, or videotaped statements or any responses given during discovery or similar proceedings, which response would involve more than the production of documents.

(c) *Department policy*. No current or former employee shall, in response to a demand, produce any Department documents, provide testimony regarding any information relating to or based upon Department documents, or disclose any information or produce materials acquired as part of the performance of that employee's official duties or official status, without the prior authorization of the General Counsel or the appropriate agency counsel.

(d) *Procedures for demand for testimony or production of documents*. (1) A demand directed to the Department for the testimony of a Department employee or for the production of documents shall be served in accordance with the Federal Rules of Civil Procedure, Federal Rules of Criminal Procedure, or applicable state procedures and shall be directed to the General Counsel, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, or to the Chief or Legal Counsel of the concerned Department component. Acceptance of a demand shall not constitute an admission or waiver with respect to jurisdiction, propriety of service, improper venue, or any other defense in law or equity available under the applicable laws or rules.

(2) A subpoena or other demand for testimony directed to an employee or former employee shall be served in accordance with the Federal Rules of Civil or Criminal Procedure or applicable State procedure and a copy of the subpoena shall be sent to agency counsel.

(3)(i) In court cases in which the United States or the Department is not a party, where the giving of testimony or the production of documents by the Department, or a current or former employee is desired, an affidavit (or if that is not feasible, a statement) by

the litigant or the litigant's attorney, setting forth the information with respect to which the testimony or production is desired, must be submitted in order to obtain a decision concerning whether such testimony or production will be authorized. Such information shall include: the title of the legal proceeding, the forum, the requesting party's interest in the legal proceeding, the reason for the demand, a showing that other evidence reasonably suited to the requester's needs is not available from any other source and, if testimony is requested, the intended use of the testimony, a general summary of the desired testimony, and a showing that no document could be provided and used in lieu of testimony. The purpose of this requirement is to assist agency counsel in making an informed decision regarding whether testimony or the production of document should be authorized. Permission to testify or produce documents will, in all cases, be limited to the information set forth in the affidavit or statement, or to such portions thereof as may be deemed proper.

(ii) Agency counsel may consult or negotiate with an attorney for a party, or the party if not represented by an attorney, to refine or limit a demand so that compliance is less burdensome or obtain information necessary to make the determination required by paragraph (e) of this section. Failure of the attorney or party to cooperate in good faith to enable agency counsel to make an informed determination under this subpart may serve, where appropriate, as a basis for a determination not to comply with the demand.

(iii) A determination under this subpart to comply or not to comply with a demand is without prejudice as to any formal assertion or waiver of privilege, lack of relevance, technical deficiency or any other ground for noncompliance.

(4)(i) Employees shall immediately refer all inquiries and demands made on the Department to agency counsel.

(ii) An employee who receives a subpoena shall immediately forward the subpoena to agency counsel. Agency counsel will determine the manner in which to respond to the subpoena.

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(e) *Factors to be considered by agency counsel.* (1) In deciding whether to authorize the release of official information or the testimony of personnel concerning official information (hereafter referred to as “the disclosure”) agency counsel shall consider the following factors:

(i) Whether the request or demand is unduly burdensome;

(ii) Whether the request would involve the Department in controversial issues unrelated to the Department’s mission;

(iii) Whether the time and money of the United States would be used for private purposes;

(iv) The extent to which the time of employees for conducting official business would be compromised;

(v) Whether the public might misconstrue variances between personal opinions of employees and Department policy;

(vi) Whether the request demonstrates that the information requested is relevant and material to the action pending, genuinely necessary to the proceeding, unavailable from other sources, and reasonable in its scope;

(vii) Whether the number of similar requests would have a cumulative effect on the expenditure of agency resources;

(viii) Whether disclosure otherwise would be inappropriate under the circumstances; and

(ix) Any other factor that is appropriate.

(2) Among those demands and requests in response to which compliance will not ordinarily be authorized are those with respect to which any of the following factors exists:

(i) The disclosure would violate a statute, Executive order, or regulation;

(ii) The integrity of the administrative and deliberative processes of the Department would be compromised;

(iii) The disclosure would not be appropriate under the rules of procedure governing the case or matter in which the demand arose;

(iv) The disclosure, including release in camera, is not appropriate or necessary under the relevant substantive law concerning privilege;

(v) The disclosure, except when in camera and necessary to assert a claim

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of privilege, would reveal information properly classified or other matters exempt from unrestricted disclosure; or

(vi) The disclosure would interfere with ongoing enforcement proceedings, compromise constitutional rights, reveal the identity of an intelligence source or confidential informant, or disclose trade secrets or similarly confidential commercial or financial information.

(f) *Requests for opinion or expert testimony.* (1) Subject to 5 CFR 2635.805, an employee or former employee shall not provide, with or without compensation, opinion or expert testimony concerning official information, subjects, or activities, except on behalf of the United States or a party represented by the Department of Justice, without written approval of agency counsel.

(2) Upon a showing by the requestor of exceptional need or unique circumstances and that the anticipated testimony will not be adverse to the interests of the Department or the United States, agency counsel may, in writing, grant authorization for an employee, or former employee, to appear and testify at no expense to the United States.

(3) Any expert or opinion testimony by a former employee of the Department shall be excepted from § 1.11(f)(1) where the testimony involves only general expertise gained while employed at the Department.

(g) *Procedures when agency counsel directs an employee not to testify or provide documents.* (1) If agency counsel determines that an employee or former employee should not comply with a subpoena or other request for testimony or the production of documents, agency counsel will so inform the employee and the party who submitted the subpoena or made the request.

(2) If, despite the determination of the agency counsel that testimony should not be given and/or documents not be produced, a court of competent jurisdiction or other appropriate authority orders the employee or former employee to testify and/or produce documents, the employee shall notify agency counsel of such order.

(i) If agency counsel determines that no further legal review of, or challenge

to, the order will be sought, the employee or former employee shall comply with the order.

(ii) If agency counsel determines to challenge the order, or that further legal review is necessary, the employee or former employee should not comply with the order. Where necessary, the employee should appear at the time and place set forth in the subpoena. If legal counsel cannot appear on behalf of the employee, the employee should produce a copy of this subpart and respectfully inform the legal tribunal that he/she has been advised by counsel not to provide the requested testimony and/or produce documents. If the legal tribunal rules that the subpoena must be complied with, the employee shall respectfully decline to comply, citing this section and *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951).

[69 FR 54003, Sept. 7, 2004]

**§ 1.12 Regulations not applicable to official request.**

The regulations in this part shall not be applicable to official requests of other governmental agencies or officers thereof acting in their official capacities, unless it appears that granting a particular request would be in violation of law or inimical to the public interest. Cases of doubt should be referred for decision to agency counsel (as defined in § 1.11(b)(1)).

[69 FR 54003, Sept. 7, 2004]

**Subpart C—Privacy Act**

**§ 1.20 Purpose and scope of regulation.**

The regulations in this subpart are issued to implement the provisions of the Privacy Act of 1974 (5 U.S.C. 552a). The regulations apply to all records which are contained in systems of records maintained by the Department of the Treasury and which are retrieved by an individual's name or personal identifier. They do not relate to those personnel records of Government employees, which are under the jurisdiction of the Office of Personnel Management to the extent such records are subject to regulations issued by such OPM. The regulations apply to all components of the Department of the Treasury. Any reference in this subpart

to the Department or its officials, employees, or records shall be deemed to refer also to the components or their officials, employees, or records. The regulations set forth the requirements applicable to Department of the Treasury employees maintaining, collecting, using or disseminating records pertaining to individuals. They also set forth the procedures by which individuals may request notification of whether the Department of the Treasury maintains or has disclosed a record pertaining to them or may seek access to such records maintained in any non-exempt system of records, request correction of such records, appeal any initial adverse determination of any request for amendment, or may seek an accounting of disclosures of such records. For the convenience of interested persons, the components of the Department of the Treasury may reprint these regulations in their entirety (less any appendices not applicable to the component in question) in those titles of the Code of Federal Regulations which normally contain regulations applicable to such components. In connection with such republication, and at other appropriate times, components may issue supplementary regulations applicable only to the component in question, which are consistent with these regulations. In the event of any actual or apparent inconsistency, these Departmental regulations shall govern. Persons interested in the records of a particular component should, therefore, also consult the Code of Federal Regulations for any rules or regulations promulgated specifically with respect to that component (see Appendices to this subpart for cross references). The head of each component is hereby also authorized to substitute other appropriate officials for those designated and correct addresses specified in the appendix to this subpart applicable to the component. The components of the Department of the Treasury for the purposes of this subpart are the following offices and bureaus:

(a) The Departmental Offices, which include the offices of:

- (1) The Secretary of the Treasury, including immediate staff;
- (2) The Deputy Secretary of the Treasury, including immediate staff;

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(3) The Chief of Staff, including immediate staff;

(4) The Executive Secretary of the Treasury and all offices reporting to such official, including immediate staff;

(5) Under Secretary (International Affairs) and all offices reporting to such official, including immediate staff;

(6) Assistant Secretary (International Economics and Development) and all offices reporting to such official, including immediate staff;

(7) Assistant Secretary (Financial Markets and Investment Policy) and all offices reporting to such official, including immediate staff;

(8) Under Secretary (Domestic Finance) and all offices reporting to such official, including immediate staff;

(9) Fiscal Assistant Secretary and all offices reporting to such official, including immediate staff;

(10) Assistant Secretary (Financial Institutions) and all offices reporting to such official, including immediate staff;

(11) Assistant Secretary (Financial Markets) and all offices reporting to such official, including immediate staff;

(12) Assistant Secretary (Financial Stability) and all offices reporting to such official, including immediate staff;

(13) Under Secretary (Terrorism & Financial Intelligence) and all offices reporting to such official, including immediate staff;

(14) Assistant Secretary (Terrorist Financing) and all offices reporting to such official, including immediate staff;

(15) Assistant Secretary (Intelligence and Analysis) and all offices reporting to such official, including immediate staff;

(16) General Counsel and all offices reporting to such official, including immediate staff; except legal counsel to the components listed in paragraphs (a)(23), (a)(24), and (a)(25) and (b) through (j) of this section;

(17) Treasurer of the United States including immediate staff;

(18) Assistant Secretary (Legislative Affairs) and all offices reporting to

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such official, including immediate staff;

(19) Assistant Secretary (Public Affairs) and all offices reporting to such official, including immediate staff;

(20) Assistant Secretary (Economic Policy) and all offices reporting to such official, including immediate staff;

(21) Assistant Secretary (Tax Policy) and all offices reporting to such official, including immediate staff;

(22) Assistant Secretary (Management) and Chief Financial Officer, and all offices reporting to such official, including immediate staff;

(23) The Inspector General, and all offices reporting to such official, including immediate staff;

(24) The Treasury Inspector General for Tax Administration, and all offices reporting to such official, including immediate staff;

(25) The Special Inspector General for the Troubled Asset Relief Program, and all offices reporting to such official, including immediate staff;

(b) Alcohol and Tobacco Tax and Trade Bureau.

(c) Bureau of Public Debt.

(d) Financial Management Service.

(e) Internal Revenue Service.

(f) Comptroller of the Currency.

(g) Office of Thrift Supervision.

(h) Bureau of Engraving and Printing.

(i) United States Mint.

(j) Financial Crimes Enforcement Network.

For purposes of this subpart, the office of the legal counsel for the components listed in paragraphs (a)(23), (a)(24), (a)(25), (b) through (j) of this section are to be considered a part of such components. Any office, which is now in existence or may hereafter be established, which is not specifically listed or known to be a component of any of those listed above, shall be deemed a part of the Departmental Offices for the purpose of these regulations.

[52 FR 26305, July 14, 1987, as amended at 60 FR 31633, June 16, 1995; 65 FR 2333, Jan. 14, 2000; 68 FR 55311, Sept. 25, 2003; 73 FR 51221, Sept. 2, 2008; 75 FR 744, Jan. 6, 2010; 75 FR 36535, June 28, 2010]

### § 1.21 Definitions.

(a) The term *agency* means agency as defined in 5 U.S.C. 552(e);

(b) The term *individual* means a citizen of the United States or an alien lawfully admitted for permanent residence;

(c) The term *maintain* includes maintain, collect, use, or disseminate;

(d) The term *record* means any item, collection, or grouping of information about an individual that is maintained by the Department of the Treasury or component of the Department. This includes, but is not limited to, the individual's education, financial transactions, medical history, and criminal or employment history and that contains the name, or an identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

(e) The term *system of records* means a group of any records under the control of the Department of the Treasury or any component 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;

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

(g) The term *routine use* means the disclosure of a record that is compatible with the purpose for which the record was collected;

(h) The term *component* means a bureau or office of the Department of the Treasury as set forth in §1.20 and in the appendices to these regulations. (See 5 U.S.C. 552a(a).)

(i) The term *request for access* means a request made pursuant to 5 U.S.C. 552a(d)(1).

(j) The term *request for amendment* means a request made pursuant to 5 U.S.C. 552a(d)(2).

(k) The term *request for accounting* means a request made pursuant to 5 U.S.C. 552a(c)(3).

**§ 1.22 Requirements relating to systems of records.**

(a) *In general.* Subject to 5 U.S.C. 552a (j) and (k) and §1.23(c), each component

shall, in conformance with 5 U.S.C. 552a:

(1) Maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by the statute or by Executive order of the President (See 5 U.S.C. 552a(e)(1)).

(2) Collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. (See 5 U.S.C. 552a(e)(2)).

(b) *Requests for information from individuals.* Subject to 5 U.S.C. 552a(j) and §1.23(c)(1), each component of the Treasury shall inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual:

(1) The authority (whether granted by statute, or by Executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(2) The principal purpose or purposes for which the information is intended to be used;

(3) The routine uses which may be made of the information, as published pursuant to 5 U.S.C. 552a(e)(4)(D); and

(4) The effects on such individual, if any, of not providing all or any part of the requested information. (See 5 U.S.C. 552a(e)(3)).

(c) *Report on new systems.* Each component of the Treasury shall provide adequate advance notice to Congress and the Office of Management and Budget through the Disclosure Branch and Administration Section of the Office of the General Counsel of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals or the disclosure of information relating to such individuals, and its effect on the preservation of the constitutional principles of federalism and separation of powers. (See 5 U.S.C. 552a(o)).

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(d) *Accurate and secure maintenance of records.* Each component shall:

(1) Subject to 5 U.S.C. 552a(j) and § 1.23(c)(1), maintain all records which are used in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination (see 5 U.S.C. 552a(e)(5));

(2) Prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to 5 U.S.C. 552 (see 31 CFR part 1, subpart A), make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for Department of the Treasury purposes (see 5 U.S.C. 552a(e)(6)) and

(3) Establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained. (See 5 U.S.C. 552a(e)(10)).

(i) System managers, with the approval of the head of their offices within a component, shall establish administrative and physical controls, consistent with Department regulations, to insure the protection of records systems from unauthorized access or disclosure and from physical damage or destruction. The controls instituted shall be proportional to the degree of sensitivity of the records but at a minimum must insure that records other than those available to the general public under the Freedom of Information Act (5 U.S.C. 552), are protected from public view, that the area in which the records are stored is supervised during all business hours and physically secure during nonbusiness hours to prevent unauthorized personnel from obtaining access to the records. Automated systems shall comply with the security standards promulgated by the National Bureau of Standards.

(ii) System managers, with the approval of the head of their offices within a component, shall adopt access re-

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strictions to insure that only those individuals within the agency who have a need to have access to the records for the performance of their duties have access to them. Procedures shall also be adopted to prevent accidental access to, or dissemination of, records.

(e) *Prohibition against maintenance of records concerning First Amendment rights.* No component shall maintain a record describing how any individual exercises rights guaranteed by the First Amendment (e.g. speech), unless the maintenance of such record is:

(1) Expressly authorized by statute, or

(2) Expressly authorized by the individual about whom the record is maintained, or

(3) Pertinent to and within the scope of an authorized law enforcement activity. (See 5 U.S.C. 552a (e)(7))

(f) *Notification of disclosure under compulsory legal process.* Subject to 5 U.S.C. 552a(j) and § 1.23(c)(1), when records concerning an individual are subpoenaed by a Grand Jury, Court, or quasi-judicial agency, or disclosed in accordance with an ex parte court order pursuant to 26 U.S.C. 6103(i), the official served with the subpoena or court order shall make reasonable efforts to assure that notice of any disclosure is provided to the individual. Notice shall be provided within five working days of making the records available under compulsory legal process or, in the case of a Grand Jury subpoena or an ex parte order, within five days of its becoming a matter of public record. Notice shall be mailed to the last known address of the individual and shall contain the following information: the date and authority to which the subpoena is, or was returnable, or the date of and court issuing the ex parte order, the name and number of the case or proceeding, and the nature of the information sought and provided. Notice of the issuance of a subpoena or an ex parte order is not required if the system of records has been exempted from the notice requirement of 5 U.S.C. 552a (e)(8) and this section, pursuant to 5 U.S.C. 552a (j) and § 1.23 (c)(1), by a Notice of Exemption published in the FEDERAL REGISTER. (See 5 U.S.C. 552a (e)(8)).



(g) *Emergency disclosure.* If information concerning an individual has been disclosed to any person under compelling circumstances affecting health or safety, the individual shall be notified at the last known address within 5 days of the disclosure (excluding Saturdays, Sundays, and legal public holidays). Notification shall include the following information: The nature of the information disclosed, the person or agency to whom it was disclosed, the date of disclosure, and the compelling circumstances justifying the disclosure. Notification shall be given by the officer who made or authorized the disclosure. (See 5 U.S.C. 552a (b)(8)).

**§ 1.23 Publication in the Federal Register—Notices of systems of records, general exemptions, specific exemptions, review of all systems.**

(a) *Notices of systems of records to be published in the FEDERAL REGISTER.* (1) The Department shall publish a notice of the existence and character of all systems of records every 3 years in the FEDERAL REGISTER. An annual notice of systems of records is required to be published by the Office of the Federal Register in the publication entitled "Privacy Act Issuances", as specified in 5 U.S.C. 552a(f).

(2) Minor changes to systems of records shall be published annually. (See paragraph (d)(8) of this section)

(3) In addition, the Department shall publish in the FEDERAL REGISTER upon establishment or revision a notice of the existence and character of any new or revised systems of records. Unless otherwise instructed, each notice shall include:

(i) The name and location of the system;

(ii) The categories of individuals on whom records are maintained in the system;

(iii) The categories of records maintained in the system;

(iv) Each routine use of the records contained in the system, including the categories of users and the purpose of such use;

(v) The policies and practices of the component regarding storage, retrievability, access controls, retention, and disposal of the records;

(vi) The title and business address of the Treasury official who is responsible for the system of records;

(vii) The procedures of the component whereby an individual can be notified if the system of records contain a record pertaining to the individual, including reasonable times, places, and identification requirements.

(viii) The procedures of the component whereby an individual can be notified on how to gain access to any record pertaining to such individual that may be contained in the system of records, and how to contest its content; and

(ix) The categories of sources of records in the system. (See 5 U.S.C. 552a(e)(4))

(b) *Notice of new or modified routine uses to be published in the FEDERAL REGISTER.* At least 30 days prior to a new use or modification of a routine use, as published under paragraph (a)(3)(iv) of this section, each component shall publish in the FEDERAL REGISTER notice of such new or modified use of the information in the system and provide an opportunity for interested persons to submit written data, views, or arguments to the components. (See 5 U.S.C. 552a(e)(11))

(c) *Promulgation of rules exempting systems from certain requirements—(1) General exemptions.* In accordance with existing procedures applicable to a Treasury component's issuance of regulations, the head of each such component may adopt rules, in accordance with the requirements (including general notice) of 5 U.S.C. 553 (b) (1), (2), and (3), (c) and (e), to exempt any system of records within the component from any part of 5 U.S.C. 552a and these regulations except subsections (b) (sec. 1.24, conditions of disclosure), (c)(1) (sec. 1.25, keep accurate accounting of disclosures), (c)(2) (sec. 1.25, retain accounting for five years or life of record), (e)(4) (A) through (F) (paragraph (a) of this section, publication of annual notice of systems of records), (e)(6) (sec. 1.22(d), accuracy of records prior to dissemination), (e)(7) (sec. 1.22(e), maintenance of records on First Amendment rights), (e)(9) (sec. 1.28, establish rules of conduct), (e)(10) (sec. 1.22(d)(3), establish safeguards for records), (e)(11) (paragraph (c) of this

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section, publish new intended use), and (i) (sec. 1.28(c), criminal penalties) if the systems of records maintained by the component which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of:

(i) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole, and probation status;

(ii) Information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or

(iii) Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision. (See 5 U.S.C. 552a(j))

(2) *Specific exemptions.* In accordance with existing procedures applicable to a Treasury component's issuance of regulations, the head of each such component may adopt rules, in accordance with the requirements (including general notice) of 5 U.S.C. 553 (b) (1), (2), and (3), (c), and (e), to exempt any system of records within the component from 5 U.S.C. 552a(c)(3) (sec. 1.25(c)(2), accounting of certain disclosures available to the individual), (d) (sec. 1.26(a), access to records), (e)(1) (sec. 1.22(a)(1), maintenance of information to accomplish purposes authorized by statute or executive order only), (e)(4)(G) (paragraph (a)(7) of this section, publication of procedures for notification), (e)(4)(H) (paragraph (a)(8) of this section, publication of procedures for access and contest), (e)(4)(I) (paragraph (a)(9) of this section, publication of sources of records), and (f) (sec. 1.26, promulgate rules for notification, access and contest), if the system of records is:

(i) Subject to the provisions of 5 U.S.C. 552(b)(1);

(ii) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of 5 U.S.C. 552a and paragraph (a)(1) of this section. If any individual is denied any right, privilege, or benefit that such individual would otherwise be entitled to by Federal law, or for which such individual would otherwise be eligible, as a result of the maintenance of this material, such material shall be provided to the individual, except to the extent that the disclosure of the 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 September 27, 1975, under an implied promise that the identity of the source would be held in confidence;

(iii) Maintained in connection with providing protective services to the President of the United States or other individuals pursuant to 18 U.S.C. 3056;

(iv) Required by statute to be maintained and used solely as statistical records;

(v) 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 September 27, 1975, under an implied promise that the identity of the source would be held in confidence;

(vi) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(vii) Evaluation material used to determine potential for promotion in the armed services, 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 September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(3) At the time that rules under this subsection are adopted, the head of the component shall include in the statement required under 5 U.S.C. 553(c) the reasons why the system of records is to be exempted from a provision of 5 U.S.C. 552a and this part. (See 5 U.S.C. 552a (j) and (k))

(d) *Review and report to OMB.* The Department shall ensure that the following reviews are conducted as often as specified below by each of the components who shall be prepared to report to the Departmental Disclosure Branch upon request the results of such reviews and any corrective action taken to resolve problems uncovered. Each component shall:

(1) Review every two years a random sample of the component's contracts that provide for the maintenance of a system of records on behalf of the component to accomplish a function of the component, in order to ensure that the working of each contract makes the provisions of the Act apply. (5 U.S.C. 552a(m)(1))

(2) Review annually component's recordkeeping and disposal policies and practices in order to assure compliance with the Act.

(3) Review routine use disclosures every 3 years, that are associated with each system of records in order to ensure that the recipient's use of such records continues to be compatible with the purpose for which the disclosing agency originally collected the information.

(4) Review every three years each system of records for which the component has issued exemption rules pursuant to section (j) or (k) of the Privacy Act in order to determine whether the exemption is needed.

(5) Review annually each ongoing matching program in which the component has participated during the year, either as a source or as a matching agency in order to assure that the requirements of the Act, the OMB Matching Guidelines, and the OMB Model Control System and checklist have been met.

(6) Review component's training practices annually to ensure that all component personnel are familiar with the requirements of the Act, these regulations and Departmental directives.

(7) Review annually the actions of component personnel that have resulted either in the agency being found civilly liable under section (g) of the Act, or an employee being found criminally liable under the provisions of section (i) of the Act, in order to determine the extent of the problem and to prevent future recurrences.

(8) Review annually each system of records notice to ensure that it accurately describes the system. Where minor changes are needed, publish an amended notice in the FEDERAL REGISTER. Minor changes shall be consolidated in one annual comprehensive publication. The term "minor change to a system of records" means a change that does not significantly change the system. More specifically, a minor change does not affect the character or purpose of the system and does not affect the ability of an individual to gain access to a record about the individual or to any information pertaining to such individual which is contained in the system; for example, changing the title of the system manager or the location of the system.

**§ 1.24 Disclosure of records to person other than the individual to whom they pertain.**

(a) *Conditions of disclosure.* No component of Treasury shall disclose any record which is contained in a system of records maintained by it by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, or the parent, if a minor, or legal guardian, if incompetent, of such individual, unless disclosure of the record would be:

(1) To those offices and employees of the Department of the Treasury who have a need for the record in the performance of their duties;

(2) Retired under 5 U.S.C. 552 (subpart A of this part);

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(3) For a routine use as defined in 5 U.S.C. 552a(a)(7) and § 1.21(g) and as described under 5 U.S.C. 552a(e)(4)(D) and § 1.23(a)(4);

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13 of the U.S. Code;

(5) To a recipient who has provided the component with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or the designee of such official to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity.

(i) If the activity is authorized by law; and

(ii) If the head of the agency or instrumentality has made a written request to the Department of the Treasury specifying the particular portion desired and the law enforcement activities for which the record is sought;

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual, if upon such disclosure, notification is transmitted to the last known address of such individual;

(9) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee.

(10) To the Comptroller General, or the authorized representatives of such official, in the course of the performance of the duties of the General Accounting Office; or

(11) Pursuant to the order of a court of competent jurisdiction. (See 5 U.S.C. 552a(b))

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### § 1.25 Accounting of disclosures.

(a) *Accounting of certain disclosures.* Each component, with respect to each system of records under its control, shall:

(1) Keep an accurate accounting of: (i) The date, nature, and purpose of each disclosure of a record to any person or to an agency made under 5 U.S.C. 552a (b) and § 1.24; and (ii) the name and address of the person or agency to whom the disclosure is made;

(2) Retain the accounting made under paragraph (a)(1) of this section for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made; and

(3) Inform any person or other agency about any correction or notation of dispute made by the constituent unit in accordance with 5 U.S.C. 552a (d) and § 1.28 of any record that has been disclosed to the person or agency if an accounting of the disclosure was made. (See 5 U.S.C. 552(c).)

(b) *Accounting systems.* To permit the accounting required by paragraph (a) of this section, system managers, with the approval of the head of their offices within a component, shall establish or implement, a system of accounting for all disclosures of records, either orally or in writing, made outside the Department of the Treasury. Accounting records shall:

(1) Be established in the least expensive and most convenient form that will permit the system manager to advise individuals, promptly upon request, what records concerning them have been disclosed and to whom;

(2) Provide, as a minimum, the identification of the particular record disclosed, the name and address of the person or agency to whom or to which disclosed, and the date, nature and purpose of the disclosure; and

(3) Be maintained for 5 years or until the record is destroyed or transferred to the National Archives and Records Service for storage in records centers, in which event, the accounting pertaining to those records, unless maintained separately, shall be transferred with the records themselves.

(c) *Exemptions from accounting requirements.* No accounting is required for disclosure of records:

(1) To those officers and employees of the Department of the Treasury who have a need for the record in the performance of their duties; or

(2) If disclosure would be required under 5 U.S.C. 552 and Subpart A of this part.

(d) *Access to accounting by individual.*

(1) Subject to paragraphs (c) and (d)(2) of this section, each component shall establish and set forth in the appendix to this subpart applicable to the component, procedures for making the accounting required under paragraph (a) of this section available to the individual to whom the record pertains and shall thereafter make such accounting available in accordance therewith at the request of the individual. The procedures may require the requester to provide reasonable identification.

(2) Access accountings of disclosure may be withheld from the individual named in the record only if the disclosures were (i) made under 5 U.S.C. 552a (b)(7) and § 1.24 (a)(7), or (ii) under a system of records exempted from the requirements of 5 U.S.C. 552a(c)(3) in accordance with 5 U.S.C. 552 (j) or (k) and § 1.23(c). (See 5 U.S.C. 552a(c))

**§ 1.26 Procedures for notification and access to records pertaining to individuals—format and fees for request for access.**

(a) *Procedures for notification and access.* Each component shall establish, in accordance with the requirements of 5 U.S.C. 553, and set forth in the appendix to this subpart applicable to such component procedures whereby an individual can be notified, in response to a request, if any system of records named by the individual contains a record pertaining to that individual. In addition, such procedures shall set forth the requirements for access to such records. As a minimum such procedures shall specify the times during, and the places at which access will be accorded, together with such identification as may be required of the individual before access. (See 5 U.S.C. 552a(f) (1), (2) and (3))

(b) *Access.* Each component in accordance with the procedures prescribed under paragraph (a) of this section, shall allow an individual to gain access to records or to any information per-

taining to such individual which is contained in the system of records upon request. The individual shall be permitted to review the record and have a copy made of all or any portion of the record in a form that is comprehensible. The individual will also be permitted to be accompanied by any person of the individual's choosing to review the record, except that the agency may require the individual to furnish a written statement authorizing discussion of that individual's record in the accompanying person's presence. (See 5 U.S.C. 552a(d)(1))

(c) *Exceptions.* Neither the procedures prescribed under paragraph (a) of this section nor the requirements for access under paragraph (b) of this section shall be applicable to—(1) systems of records exempted pursuant to 5 U.S.C. 552a (j) and (k) and § 1.23(c); (2) information compiled in reasonable anticipation of a civil action or proceeding (See 5 U.S.C. 552(d)(5)); or (3) information pertaining to an individual which is contained in, and inseparable from, another individual's record.

(d) *Format of request.* (1) A record for notification of whether a record exists shall:

(i) Be made in writing and signed by the person making the request, who must be the individual about whom the record is maintained, or such individual's duly authorized representative (See § 1.34);

(ii) State that it is made pursuant to the Privacy Act, 5 U.S.C. 552a or these regulations, have marked "Privacy Act Request" on the request and on the envelope;

(iii) Give the name of the system or subsystem or categories of records to which access is sought, as specified in "Privacy Act Issuances" published by the Office of the Federal Register and referenced in the appendices to this subpart;

(iv) Describe the nature of the record(s) sought in sufficient detail to enable Department personnel to locate the system of records containing the record with a reasonable amount of effort. Whenever possible, a request for access should describe the nature of the record sought, the date of the record or the period in which the record was compiled.

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(v) Provide such identification of the requester as may be specified in the appropriate appendix to this subpart; and

(vi) Be addressed or delivered in person to the office or officer of the component indicated for the particular system or subsystem or categories of records the individual wishes access to, as specified in "Privacy Act Issuances" published by the Office of the Federal Register and referenced in the appendices to this subpart. Assistance in ascertaining the appropriate component or in preparing a request for notification may be obtained by a written request to this effect addressed as specified in appendix A of this part, as the address for the Departmental Offices for "Request for notification and access to records and accountings of disclosures".

(2) A request for access to records shall, in addition to complying with paragraph (a)(1)(i) through (vi) of this section:

(i) State whether the requester wishes to inspect the records or desires to have a copy made and furnished without first inspecting them;

(ii) If the requester desires to have a copy made, state the firm agreement of the requester to pay the fees for duplication ultimately determined in accordance with (31 CFR 1.6) Subpart A of this title, unless such fees are waived pursuant to that section by the system manager or other appropriate official as indicated in the appropriate appendix to these regulations; and

(iii) Comply with any other requirement set forth in the applicable appendix to this subpart or the "Notice of Records Systems" applicable to the system in question. Requesters are hereby advised that any request for access which does not comply with the foregoing requirements and those set forth elsewhere in this Subpart C, will not be deemed subject to the time constraints of this section, unless and until amended so as to comply. However, components shall advise the requester in what respect the request is deficient so that it may be processed. This section applies only to records which are contained in a system of records and which are in the possession or control of the component. (See 5 U.S.C. 552a (d) and (f))

(e) *Requests for records not in control of component.* (1) Treasury employees shall make reasonable efforts to assist an oral requester to ascertain to which office or officer a written request should be sent. When the request is for a record which is not in the possession or control of any component of the Department of the Treasury, the requester shall be so advised.

(2) Where the record requested was created by a Department or agency other than the Department of the Treasury or a component of the Department and has been classified (e.g. National Defense or Intelligence Information) or otherwise restrictively endorsed (e.g. Office of Personnel Management records of FBI reports) by such other Department or agency, and a copy is in the possession of a component of the Department of the Treasury, that portion of the request shall be referred to the originating agency for determination as to all issues in accordance with the Privacy Act. In the case of a referral to another agency under this paragraph, the requester shall be notified that such portion of the request has been so referred and that the requester may expect to hear from that agency.

(3) When information sought from a system manager or other appropriate official in the Department of the Treasury includes information furnished by other Federal agencies not classified or otherwise restrictively endorsed, the system manager or other appropriate official receiving the request shall consult with the appropriate agency prior to making a decision to disclose or not to disclose the record. The decision as to whether the record shall be disclosed shall be made, in the first instance by the system manager or other appropriate official maintaining the record. (See 5 U.S.C. 552a (d) and (f))

(f) *Date of receipt of request.* A request for notification or access to records shall be considered to have been received for purposes of this subpart on the date on which the requirements of paragraph (d) of this section have been satisfied. Requests for notification or access to records and any separate agreement to pay shall be stamped or endorsed with the date of receipt by

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the receiving office. The latest of such stamped dates will be deemed to be the date of receipt of the request for the purposes of this subpart. (See 5 U.S.C. 552a (d) and (f))

(g) *Notification of determination*—(1) *In general.* Notification of determinations as to notification of whether a record exists or as to whether to grant access to records requested will be made by the officers designated in the appendices to this subpart. The notification of the determination shall be mailed within 30 days (excluding Saturdays, Sundays and legal public holidays) after the date of receipt of the request, as determined in accordance with paragraph (f) of this section. If it is not possible to respond within 30 days, the designated officer shall inform the requester, stating the reason for the delay (e.g. volume of records requested, scattered location of the records, need to consult other agencies, or the difficulty of the legal issues involved) and when a response will be dispatched. (See 5 U.S.C. 552a (d) and (f))

(2) *Granting of access.* When it has been determined that the request for access will be granted—(i) and a copy requested; such copy in a form comprehensible to the requester shall be furnished promptly, together with a statement of the applicable fees for duplication; and (ii) and the right to inspect has been requested, the requester shall be promptly notified in writing of the determination, and when and where the requested records may be inspected. An individual seeking to inspect such records may be accompanied by another person of such individual's choosing. The individual seeking access shall be required to sign the required form indicating that the Department of the Treasury is authorized to discuss the contents of the subject record in the accompanying person's presence. If, after making the inspection, the individual making the request desires a copy of all or a portion of the requested records, such copy in a form comprehensible to the individual shall be furnished upon payment of the applicable fees for duplication. Fees to be charged are as prescribed by 31 CFR part 1, subpart A, § 1.6 Fees shall not be charged where they would amount, in

the aggregate, to less than \$3.00. (See 5 U.S.C. 552a (d) and (f))

(3) *Requirements for access to medical records.* When access is requested to medical records, including psychological records, the responsible official may determine that such release could have an adverse effect on the individual and that release will be made only to a physician authorized in writing to have access to such records by the individual making the request. Upon receipt of the authorization the physician will be permitted to review the records or to receive copies of the records by mail, upon proper verification of identity. (See 5 U.S.C. 552a (f) (3))

(4) *Denial of request.* When it is determined that the request for notification of whether a record exists or access to records will be denied (whether in whole or part or subject to conditions or exceptions), the person making the request shall be so notified by mail in accordance with paragraph (g)(1) of this section. The letter of notification shall specify the city or other location where the requested records are situated (if known), contain a statement of the reasons for not granting the request as made, set forth the name and title or position of the responsible official and advise the individual making the request of the right to file suit in accordance with 5 U.S.C. 552a (g)(1)(B).

(5) *Prohibition against the use of 5 U.S.C. 552 (b) exemptions.* Exemptions from disclosure under 5 U.S.C. 552 (b) (31 CFR part 1, subpart A, § 1.2 (c)), may not be invoked for the purpose of withholding from an individual any record which is otherwise accessible to such individual under the Privacy Act, 5 U.S.C. 552a and this subpart. (See 5 U.S.C. 552a (q))

(6) *Records exempt in whole or in part.*  
(i) When an individual requests notification as to whether a record exists or access to records concerning the individual which have been exempted from individual access pursuant to 5 U.S.C. 552a (j) or which have been compiled in reasonable anticipation of a civil action or proceeding in either a court or before an administrative tribunal and the assertion of the exemption is deemed necessary, the Department of the Treasury will neither confirm nor

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deny the existence of the record but shall advise the individual only that no record available to the individual pursuant to the Privacy Act of 1974 has been identified.

(ii) Requests from individuals for access to records which have been exempted from access pursuant to 5 U.S.C. 552a (k) shall be processed as follows:

(A) Requests for information classified pursuant to Executive Orders 12958, 13526, or successor or prior Executive Orders require the responsible component of the Department to review the information to determine whether it continues to warrant classification pursuant to an Executive Order. Information which no longer warrants classification under these criteria shall be declassified and made available to the individual. If the information continues to warrant classification, the individual shall be advised that the information sought is classified, that it has been reviewed and continues to warrant classification, and that it has been exempted from access pursuant to 5 U.S.C. 552 (b)(1) and 5 U.S.C. 552a (k)(1). Information which has been exempted pursuant to 5 U.S.C. 552a (j) and which is also classified shall be reviewed as required by this paragraph but the response to the individual shall be in the form prescribed by paragraph (g)(6)(i) of this section.

(B) Requests for information which has been exempted from disclosure pursuant to 5 U.S.C. 552a (k)(2) shall be responded to in the manner provided in paragraph (g)(6)(i) of this section unless the requester shows that the information has been used or is being used to deny the individual any right, privilege or benefit for which he is eligible or to which he would otherwise be entitled under federal law. In that event, the individual shall be advised of the existence of the information but such information as would identify a confidential source shall be extracted or summarized in a manner which protects the source to the maximum degree possible and the summary extract shall be provided to the requesting individual.

(C) Information compiled as part of an employee background investigation which has been exempted pursuant to 5

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U.S.C. 552a (k)(5) shall be made available to an individual upon request except to the extent that it identifies the confidential source. Material identifying the confidential sources shall be extracted or summarized in a manner which protects the source to the maximum degree possible and the summary or extract shall be provided to the requesting individual.

(D) Testing or examination material which has been exempted pursuant to 5 U.S.C. 552a (k)(6) shall not be made available to an individual if disclosure would compromise the objectivity or fairness of the testing or examination process; but may be made available if no such compromise possibility exists. (See 5 U.S.C. 552a (d)(5), (j) and (k)).

[52 FR 26305, July 14, 1987, as amended at 76 FR 4817, Jan. 27, 2011]

### **§ 1.27 Procedures for amendment of records pertaining to individuals—format, agency review and appeal from initial adverse agency determination.**

(a) *In general.* Subject to the application of exemptions promulgated by the head of each component, in accordance with § 1.23(c), and subject to § 1.27(f), each component of the Department of the Treasury, shall in conformance with 5 U.S.C. 552a(d)(2), permit an individual to request amendment of a record pertaining to such individual. Any request for amendment of records or any appeal that does not fully comply with the requirements of this section and any additional specific requirements imposed by the component in the applicable appendix to this subpart will not be deemed subject to the time constraints of paragraph (e) of this section, unless and until amended so as to comply. However, components shall advise the requester in what respect the request or appeal is deficient so that it may be resubmitted or amended. (See 5 U.S.C. 552a (d) and (f))

(b) *Form of request to amend records.* In order to be subject to the provisions of this section, a request to amend records shall:

(1) Be made in writing and signed by the person making the request, who must be the individual about whom the



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record is maintained, or the duly authorized representative of such individual;

(2) State that it is made pursuant to the Privacy Act, 5 U.S.C. 552a or these regulations, have marked "Privacy Act Amendment Request" on the request and on the envelope;

(3) Be addressed to the office or officer of the component specified for such purposes in "Privacy Act Issuances" published by the Office of the Federal Register and referenced in the appendices to this subpart for that purpose; and

(4) Reasonably describe the records which the individual desires to have amended, including, to the best of the requester's knowledge, dates of letters requesting access to such records previously and dates of letters in which notification concerning access was made, if any, and the individual's documentation justifying the correction. (See U.S.C. 552a (d) and (f))

(c) *Date of receipt of request.* A request for amendment of records pertaining to an individual shall be deemed to have been received for purposes of this subpart when the requirements of paragraph (b) of this section have been satisfied. The receiving office or officer shall stamp or otherwise endorse the date of receipt of the request. (See 5 U.S.C. 552a (d) and (f))

(d) *Review of requests to amend records.* Officials responsible for review of requests to amend records pertaining to an individual, as specified in the appropriate appendix to this subpart, shall:

(1) Not later than 10 days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of such request, acknowledge in writing such receipt; and

(2) Promptly, either—(i) Make any correction of any portion which the individual believes and the official agrees is not accurate, relevant, timely, or complete; or

(ii) Inform the individual of the refusal to amend the record in accordance with the individual's request, the reason for the refusal, and the name and business address of the officer designated in the applicable appendix to this subpart, as the person who is to review such refusal. (See 5 U.S.C. 552a (d) and (f))

(e) *Administrative appeal*—(1) *In general.* Each component shall permit individuals to request a review of initial decisions made under paragraph (d) of this section, when an individual disagrees with a refusal to amend this record. (See 5 U.S.C. 552a (d), (f), and (g)(1))

(2) Form of request for administrative review of refusal to amend record. At any time within 35 days after the date of the notification of the initial decision described in paragraph (d)(2)(ii) of this section, the requester may submit an administrative appeal from such refusal to the official specified in the notification of the initial decision and the appropriate appendix to this subpart. The appeal shall:

(i) Be made in writing stating any arguments in support thereof and be signed by the person to whom the record pertains, or the duly authorized representative of such official;

(ii) Be addressed to and mailed or hand delivered within 35 days of the date of the initial decision, to the office or officer specified in the appropriate appendix to this subpart and in the notification. (See the appendices to this subpart for the address to which appeals made by mail should be addressed);

(iii) Have clearly marked on the appeal and on the envelope, "Privacy Act Amendment Appeal";

(iv) Reasonably describe the records requested to be amended; and

(v) Specify the date of the initial request, to amend records, and the date of the letter giving notification that the request was denied. (See 5 U.S.C. 552a (d) and (f))

(3) *Date of receipt.* Appeals shall be promptly stamped with the date of their receipt by the office to which addressed and such stamped date will be deemed to be the date of receipt for all purposes of this subpart. The receipt of the appeal shall be acknowledged within 10 days (excluding Saturdays, Sundays, and legal public holidays) from the date of the receipt (unless the determination on appeal is dispatched in 10 days, in which case, no acknowledgment is required) by the responsible official and the requester advised of the

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date of receipt established by the foregoing and when a response is due in accordance with this paragraph. (See 5 U.S.C. 552a (d) and (f))

(4) *Review of administrative appeals from denial of requests to amend records.* Officials responsible for deciding administrative appeals from denials of requests to amend records pertaining to an individual, as specified in the appendices to this subpart shall: Complete the review, and notify the requester of the final agency decision within 30 days (exclusive of Saturdays, Sundays and legal public holidays) after the date of receipt of such appeal, unless the time is extended by the head of the agency or the delegate of such official, for good cause shown. If such final agency decision is to refuse to amend the record, in whole or in part, the requester shall also be advised of the right—(i) to file a concise “Statement of Disagreement” setting forth the reasons for his disagreement with the decision which shall be filed within 35 days of the date of the notification of the final agency decision and (ii) to judicial review of the final agency decision under 5 U.S.C. 552a(g)(1)(A). (See 5 U.S.C. 552a (d), (f) and (g)(1))

(5) *Notation on record and distribution of statements of disagreement.* The system manager is responsible, in any disclosure containing information about which an individual has filed a “Statement of Disagreement”, occurring after the filing of the statement under paragraph (e)(4) of this section, for clearly noting any portion of the record which is disputed and providing copies of the statement and, if deemed appropriate, a concise statement of the component’s reasons for not making the amendments requested to persons or other agencies to whom the disputed record has been disclosed. (See 5 U.S.C. 552a(d)(4))

(f) *Records not subject to correction under the Privacy Act.* The following records are not subject to correction or amendment by individuals:

(1) Transcripts or written statements made under oath; and

(2) Transcripts of Grand Jury proceedings, judicial or quasi-judicial proceedings which form the official record of those proceedings; and

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(3) Pre-sentence reports comprising the property of the courts but maintained in agency files; and

(4) Records pertaining to the determination, the collection and the payment of the Federal taxes; and

(5) Records duly exempted from correction by notice published in the FEDERAL REGISTER; and

(6) Records compiled in reasonable anticipation of a civil action or proceeding.

### § 1.28 Training, rules of conduct, penalties for non-compliance.

(a) *Training.* Subject to policy guidance and regulations issued by the Deputy Secretary, who has Department-wide responsibility therefor, each component shall institute a training program to instruct employees and employees of Government contractors covered by 5 U.S.C. 552a(m), who are involved in the design, development, operation or maintenance of any system of records, on a continuing basis with respect to the duties and responsibilities imposed on them and the rights conferred on individuals by the Privacy Act, the regulations in this subpart, including the appendices thereto, and any other related regulations. Such training shall provide suitable emphasis on the civil and criminal penalties imposed on the Department and the individual employees by the Privacy Act for non-compliance with specified requirements of the Act as implemented by the regulations in this subpart. (See 5 U.S.C. 552a(e)(9))

(b) *Rules of conduct.* In addition, to the Standards of Conduct published in part O of this title, particularly 31 CFR 0.735–44, the following are applicable to employees of the Department of the Treasury (including, to the extent required by the contract or 5 U.S.C. 552a(m), Government contractors and employees of such contractors), who are involved in the design, development, operation or maintenance of any system of records, or in maintaining any records, for or on behalf of the Department, including any component thereof.

(1) The head of each office of a component of the Department shall be responsible for assuring that employees subject to such official’s supervision

are advised of the provisions of the Privacy Act, including the criminal penalties and civil liabilities provided therein, and the regulations in this subpart, and that such employees are made aware of their individual and collective responsibilities to protect the security of personal information, to assure its accuracy, relevance, timeliness and completeness, to avoid unauthorized disclosure either orally or in writing, and to insure that no information system concerning individuals, no matter how small or specialized is maintained without public notice.

(2) Employees of the Department of the Treasury involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record shall:

(i) Collect no information of a personal nature from individuals unless authorized to collect it to achieve a function or carry out a responsibility of the Department;

(ii) Collect from individuals only that information which is necessary to Department functions or responsibilities, unless related to a system exempted under 5 U.S.C. 552a (j) or (k):

(iii) Collect information, wherever possible, directly from the individual to whom it relates, unless related to a system exempted under 5 U.S.C. 552a(j);

(iv) Inform individuals from whom information is collected about themselves of the authority for collection, the purposes thereof, the use that will be made of the information, and the effects, both legal and practical, of not furnishing the information. (While this provision does not explicitly require it, where feasible, third party sources should be informed of the purposes for which information they are asked to provide will be used.);

(v) Neither collect, maintain, use nor disseminate information concerning an individual's religious or political beliefs or activities or membership in associations or organizations, unless (A) the individual has volunteered such information for the individual's own benefits; (B) the information is expressly authorized by statute to be collected, maintained, used or disseminated; or (C) the activities involved are pertinent to and within the scope of an au-

thorized investigation, adjudication or correctional activity;

(vi) Advise their supervisors of the existence or contemplated development of any record system which is capable of retrieving information about individuals by individual identifier;

(vii) Disseminate no information concerning individuals outside the Department except when authorized by 5 U.S.C. 552a or pursuant to a routine use published in the FEDERAL REGISTER;

(viii) Assure that an accounting is kept in the prescribed form, of all dissemination of personal information outside the Department, whether made orally or in writing, unless disclosed under 5 U.S.C. 552 and subpart A of this part;

(ix) Maintain and process information concerning individuals with care in order to insure that no inadvertent disclosure of the information is made either within or without the Department; and

(x) Assure that the proper Department authorities are aware of any information in a system maintained by the Department which is not authorized to be maintained under the provisions of the Privacy Act of 1974, including information on First Amendment Activities, information that is inaccurate, irrelevant or so incomplete as to risk unfairness to the individual concerned.

(3) Heads of components within the Department or their delegates shall, at least annually, review the record systems subject to their supervision to insure compliance with the provisions of the Privacy Act of 1974 and the regulations in this subpart. (See 5 U.S.C. 552a (e)(9), (i) and (m))

(c) *Criminal penalties.* (1) The Privacy Act imposes criminal penalties on the conduct of Government officers or employees as follows: Any officer or employee of an agency (which term includes the Department of the Treasury):

(i) Who by virtue of the official's employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section (5 U.S.C.

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552a) or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, or

(ii) Who willfully maintains a system of records without meeting the notice requirements of paragraph (e)(4) of this section (5 U.S.C. 552a)—shall be guilty of a misdemeanor and fined not more than \$5,000.

(2) The Act also imposes a collateral criminal penalty on the conduct of any person as follows:

“Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000.”

(3) For the purposes of 5 U.S.C. 552a (i), the provisions of paragraph (c)(1) of this section are applicable to Government contractors and employees of such contractors who by contract, operate by or on behalf of the Department of the Treasury a system of records to accomplish a Departmental function. Such contractor and employees are considered employees of the Department of the Treasury for the purposes of 5 U.S.C. 552a(i). (See 5 U.S.C. 552a (i) and (m).)

### **§ 1.29 Records transferred to Federal Records Center or National Archives of the United States.**

(a) *Records transferred to the Administrator of General Services for storage in the Federal Records Center.* Records pertaining to an identifiable individual which are transferred to the Federal Records Center in accordance with 44 U.S.C. 3103 shall, for the purposes of the Privacy Act, 5 U.S.C. 552a, be considered to be maintained by the component which deposited the record and shall be subject to the provisions of the Privacy Act and this subpart. The Administrator of General Services shall not disclose such records except to the Department of the Treasury or to others under rules consistent with the Privacy Act which may be established by the Department of the Treasury or a component. If such records are retrieved for the purpose of making a determination about an individual, they

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must be reviewed for accuracy, relevance, timeliness, and completeness.

(b) *Records transferred to the National Archives of the United States.* (1) Records transferred to National Archives prior to September 27, 1975. Records pertaining to an identifiable individual transferred to the National Archives prior to September 27, 1975, as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government shall be considered to be maintained by the National Archives, and

(i) Shall not be subject to 5 U.S.C. 552a,

(ii) Except, that a statement describing such records [modeled after 5 U.S.C. 552a (e)(4) (A) through (G)] shall be published in the FEDERAL REGISTER.

(2) *Records transferred to National Archives on or after September 27, 1975.* Records pertaining to an identifiable individual transferred to the National Archives as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, on or after September 27, 1975, shall be considered to be maintained by the National Archives, and

(i) Shall not be subject to 5 U.S.C. 552a,

(ii) Except, that a statement describing such records in accordance with 5 U.S.C. 552a (e)(4) (A) through (G) shall be published in the FEDERAL REGISTER and rules of conduct and training in accordance with 5 U.S.C. 552 (e) (9) are to be established by the National Archives. (See 5 U.S.C. 552a (e))

### **§ 1.30 Application to system of records maintained by Government contractors.**

When a component contracts for the operation of a system of records, to accomplish a Departmental function, the provisions of the Privacy Act, 5 U.S.C. 552a, and this subpart shall be applicable to such system. The component shall have responsibility for insuring that the contractor complies with the contract requirements relating to privacy.

### **§ 1.31 Sale or rental of mailing lists.**

(a) *In general.* An individual's name and address shall not be sold or rented

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by a component unless such action is specifically authorized by law.

(b) *Withholding of names and addresses.* This section shall not be construed to require the withholding of names and addresses otherwise permitted to be made public. (See 5 U.S.C. 552a (n)).

### § 1.32 Use and disclosure of social security numbers.

(a) *In general.* An individual shall not be denied any right, benefit, or privilege provided by law by a component because of such individual's refusal to disclose his social security number.

(b) *Exceptions.* The provisions of paragraph (a) of this section shall not apply with respect to:

(1) Any disclosure which is required by Federal statute, or

(2) The disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

(c) *Requests for disclosure of social security number.* Any component which requests an individual to disclose his or her social security account number shall inform that individual whether:

(1) Disclosure is mandatory or voluntary.

(2) By what statutory or other authority such number is solicited, and

(3) What uses will be made of it. (See section 7 of the Privacy Act of 1974 set forth at 5 U.S.C. 552a, note.)

### § 1.34 Guardianship.

The parent or guardian of a minor or a person judicially determined to be incompetent shall, in addition to establishing the identity of the minor or other person represented, establish parentage or guardianship by furnishing a copy of a birth certificate showing parentage or a court order establishing the guardianship and may thereafter, act on behalf of such individual. (See 5 U.S.C. 552a (h))

### § 1.35 Information forms.

(a) *Review of forms.* Except for forms developed and used by constituent units, the Deputy Assistant Secretary for Administration shall be responsible

for reviewing all forms developed and used by the Department of the Treasury to collect information from and about individuals. The heads of components shall each be responsible for the review of forms used by such component to collect information from and about individuals.

(b) *Scope of review.* The responsible officers shall review each form for the purpose of eliminating any requirement for information that is not relevant and necessary to carry out an agency function and to accomplish the following objectives:

(1) To insure that no information concerning religion, political beliefs or activities, association memberships (other than those required for a professional license), or the exercise of First Amendment rights is required to be disclosed unless such requirement of disclosure is expressly authorized by statute or is pertinent to, and within the scope of, any authorized law enforcement activity;

(2) To insure that the form or a separate form that can be retained by the individual makes clear to the individual which information he is required by law to disclose and the authority for that requirement and which information is voluntary;

(3) To insure that the form or a separate form that can be retained by the individual states clearly the principal purpose or purposes for which the information is being collected, and summarizes concisely the routine uses that will be made of the information;

(4) To insure that the form or a separate form that can be retained by the individual clearly indicates to the individual the effect in terms of rights, benefits or privileges of not providing all or part of the requested information; and

(5) To insure that any form requesting disclosure of a Social Security Number, or a separate form that can be retained by the individual, clearly advises the individual of the statute or regulation requiring disclosure of the number or clearly advises the individual that disclosure is voluntary and that no consequence will follow from the refusal to disclose it, and the uses

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that will be made of the number whether disclosed mandatorily and voluntarily.

(c) *Revision of forms.* Any form which does not meet the objectives specified in the Privacy Act and in this section, shall be revised to conform thereto. A separate statement may be used in instances when a form does not conform. This statement will accompany a form and shall include all the information necessary to accomplish the objectives specified in the Privacy Act and this section.

**§ 1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 552a and this part.**

(a) *In General.* In accordance with 5 U.S.C. 552a(j) and (k) and § 1.23(c), the Department of the Treasury hereby exempts the systems of records identified below from the following provisions of the Privacy Act for the reasons indicated.

(b) *Authority.* These rules are promulgated pursuant to the authority vested in the Secretary of the Treasury by 5 U.S.C. 552a(j) and (k) and pursuant to the authority of § 1.23(c).

(c) *General exemptions under 5 U.S.C. 552a(j)(2).* (1) Under 5 U.S.C. 552a(j)(2), the head of any agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act if the agency or component thereof that maintains the system performs as its principal function any activities pertaining to the enforcement of criminal laws. Certain components of the Department of the Treasury have as their principal function activities pertaining to the enforcement of criminal laws. This paragraph applies to the following systems of records maintained by the Department of the Treasury:

- (i) Treasury.
- (ii) Departmental Offices:

Number	System name
DO .190 .....	Investigation Data Management System.
DO .220 .....	SIGTARP Hotline Database.
DO .221 .....	SIGTARP Correspondence Database.
DO .222 .....	SIGTARP Investigative MIS Database.
DO .223 .....	SIGTARP Investigative Files Database.
DO .224 .....	SIGTARP Audit Files Database.
DO .303 .....	TIGTA General Correspondence.
DO .307 .....	TIGTA Employee Relations Matters, Appeals, Grievances, and Complaint Files.
DO .308 .....	TIGTA Data Extracts.
DO .309 .....	TIGTA Chief Counsel Case Files.
DO .310 .....	TIGTA Chief Counsel Disclosure Section Records.
DO .311 .....	TIGTA Office of Investigations Files.

- (iii) Alcohol and Tobacco Tax and Trade Bureau.
- (iv) Comptroller of the Currency:

Number	System name
CC .110 .....	Reports of Suspicious Activities.
CC .120 .....	Bank Fraud Information System.
CC .500 .....	Chief Counsel's Management Information System.
CC .510 .....	Litigation Information System.
OTS .001 .....	Confidential Individual Information System.
OTS .004 .....	Criminal Referral Database.

- (v) Bureau of Engraving and Printing.
- (vi) Financial Management Service.
- (vii) Internal Revenue Service:

Number	System name
Treasury/IRS 46.002 .....	Management Information System and Case Files, Criminal Investigation.
Treasury/IRS 46.003 .....	Confidential Informant Records, Criminal Investigation.
Treasury/IRS 46.005 .....	Electronic Surveillance and Monitoring Records, Criminal Investigation.
Treasury/IRS 46.015 .....	Relocated Witness Records, Criminal Investigation.
Treasury/IRS 46.050 .....	Automated Information Analysis and Recordkeeping, Criminal Investigation.
IRS 90.001 .....	Chief Counsel Management Information System Records.

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Number	System name
IRS 90.003 .....	Chief Counsel Litigation and Advice (Criminal) Records.
IRS 90.004 .....	Chief Counsel Legal Processing Division Records.
IRS 90.005 .....	Chief Counsel Library Records.

- (viii) U.S. Mint.
- (ix) Bureau of the Public Debt.
- (x) Financial Crimes Enforcement Network:

Number	System name
FinCEN .001 .....	FinCEN Database.
FinCEN .002 .....	Suspicious Activity Reporting System.
FinCEN .003 .....	Bank Secrecy Act Reports System.

(2) The Department hereby exempts the systems of records listed in paragraphs (c)(1)(i) through (x) of this section from the following provisions of 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(j)(2): 5 U.S.C. 552a(c)(3) and (4), 5 U.S.C. 552a(d)(1), (2), (3), (4), 5 U.S.C. 552a(e)(1), (2) and (3), 5 U.S.C. 552a(e)(4)(G), (H), and (I), 5 U.S.C. 552a(e)(5) and (8), 5 U.S.C. 552a(f), and 5 U.S.C. 552a(g).

(d) *Reasons for exemptions under 5 U.S.C. 552a(j)(2).* (1) 5 U.S.C. 552a(e)(4)(G) and (f)(1) enable individuals to inquire whether a system of records contains records pertaining to them. Application of these provisions to the systems of records would give individuals an opportunity to learn whether they have been identified as suspects or subjects of investigation. As further described in the following paragraph, access to such knowledge would impair the Department's ability to carry out its mission, since individuals could:

- (i) Take steps to avoid detection;
- (ii) Inform associates that an investigation is in progress;
- (iii) Learn the nature of the investigation;
- (iv) Learn whether they are only suspects or identified as law violators;
- (v) Begin, continue, or resume illegal conduct upon learning that they are not identified in the system of records; or
- (vi) Destroy evidence needed to prove the violation.

(2) 5 U.S.C. 552a(d)(1), (e)(4)(H) and (f)(2), (3) and (5) grant individuals access to records pertaining to them. The application of these provisions to the systems of records would compromise

the Department's ability to provide useful tactical and strategic information to law enforcement agencies.

(i) Permitting access to records contained in the systems of records would provide individuals with information concerning the nature of any current investigations and would enable them to avoid detection or apprehension by:

(A) Discovering the facts that would form the basis for their arrest;

(B) Enabling them to destroy or alter evidence of criminal conduct that would form the basis for their arrest; and

(C) Using knowledge that criminal investigators had reason to believe that a crime was about to be committed, to delay the commission of the crime or commit it at a location that might not be under surveillance.

(ii) Permitting access to either ongoing or closed investigative files would also reveal investigative techniques and procedures, the knowledge of which could enable individuals planning crimes to structure their operations so as to avoid detection or apprehension.

(iii) Permitting access to investigative files and records could, moreover, disclose the identity of confidential sources and informants and the nature of the information supplied and thereby endanger the physical safety of those sources by exposing them to possible reprisals for having provided the information. Confidential sources and informants might refuse to provide information unless they believe that their identities will not be revealed through disclosure of their names or

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the nature of the information they supplied. Loss of access to such sources would seriously impair the Department's ability to carry out its mandate.

(iv) Furthermore, providing access to records contained in the systems of records could reveal the identities of undercover law enforcement officers who compiled information regarding the individual's criminal activities and thereby endanger the physical safety of those undercover officers or their families by exposing them to possible reprisals.

(v) By compromising the law enforcement value of the systems of records for the reasons outlined in paragraphs (d)(2)(i) through (iv) of this section, permitting access in keeping with these provisions would discourage other law enforcement and regulatory agencies, foreign and domestic, from freely sharing information with the Department and thus would restrict the Department's access to information necessary to accomplish its mission most effectively.

(vi) Finally, the dissemination of certain information that the Department maintains in the systems of records is restricted by law.

(3) 5 U.S.C. 552a(d)(2), (3) and (4), (e)(4)(H), and (f)(4) permit an individual to request amendment of a record pertaining to him or her and require the agency either to amend the record, or to note the disputed portion of the record and to provide a copy of the individual's statement of disagreement with the agency's refusal to amend a record to persons or other agencies to whom the record is thereafter disclosed. Since these provisions depend on the individual having access to his or her records, and since these rules exempt the systems of records from the provisions of 5 U.S.C. 552a relating to access to records, for the reasons set out in paragraph (d)(2) of this section, these provisions should not apply to the systems of records.

(4) 5 U.S.C. 552a(c)(3) requires an agency to make accountings of disclosures of a record available to the individual named in the record upon his or her request. The accountings must state the date, nature, and purpose of

each disclosure of the record and the name and address of the recipient.

(i) The application of this provision would impair the ability of law enforcement agencies outside the Department of the Treasury to make effective use of information provided by the Department. Making accountings of disclosures available to the subjects of an investigation would alert them to the fact that another agency is conducting an investigation into their criminal activities and could reveal the geographic location of the other agency's investigation, the nature and purpose of that investigation, and the dates on which that investigation was active. Individuals possessing such knowledge would be able to take measures to avoid detection or apprehension by altering their operations, by transferring their criminal activities to other geographical areas, or by destroying or concealing evidence that would form the basis for arrest. In the case of a delinquent account, such release might enable the subject of the investigation to dissipate assets before levy.

(ii) Moreover, providing accountings to the subjects of investigations would alert them to the fact that the Department has information regarding their criminal activities and could inform them of the general nature of that information. Access to such information could reveal the operation of the Department's information-gathering and analysis systems and permit individuals to take steps to avoid detection or apprehension.

(5) 5 U.S.C. 552(c)(4) requires an agency to inform any person or other agency about any correction or notation of dispute that the agency made in accordance with 5 U.S.C. 552a(d) to any record that the agency disclosed to the person or agency if an accounting of the disclosure was made. Since this provision depends on an individual's having access to and an opportunity to request amendment of records pertaining to him or her, and since these rules exempt the systems of records from the provisions of 5 U.S.C. 552a relating to access to and amendment of records, for the reasons set out in paragraph (f)(3) of this section, this provision should not apply to the systems of records.



(6) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish a general notice listing the categories of sources for information contained in a system of records. The application of this provision to the systems of records could compromise the Department's ability to provide useful information to law enforcement agencies, since revealing sources for the information could:

- (i) Disclose investigative techniques and procedures;
- (ii) Result in threats or reprisals against informants by the subjects of investigations; and
- (iii) Cause informants to refuse to give full information to criminal investigators for fear of having their identities as sources disclosed.

(7) 5 U.S.C. 552a(e)(1) requires an agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term "maintain," as defined in 5 U.S.C. 552a(a)(3), includes "collect" and "disseminate." The application of this provision to the systems of records could impair the Department's ability to collect and disseminate valuable law enforcement information.

(i) In many cases, especially in the early stages of investigation, it may be impossible to immediately determine whether information collected is relevant and necessary, and information that initially appears irrelevant and unnecessary often may, upon further evaluation or upon collation with information developed subsequently, prove particularly relevant to a law enforcement program.

(ii) Not all violations of law discovered by the Department fall within the investigative jurisdiction of the Department of the Treasury. To promote effective law enforcement, the Department will have to disclose such violations to other law enforcement agencies, including State, local and foreign agencies, that have jurisdiction over the offenses to which the information relates. Otherwise, the Department might be placed in the position of having to ignore information relating to violations of law not within the jurisdiction of the Department of the Treas-

ury when that information comes to the Department's attention during the collation and analysis of information in its records.

(8) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The application of this provision to the systems of records would impair the Department's ability to collate, analyze, and disseminate investigative, intelligence, and enforcement information.

(i) Most information collected about an individual under criminal investigation is obtained from third parties, such as witnesses and informants. It is usually not feasible to rely upon the subject of the investigation as a source for information regarding his criminal activities.

(ii) An attempt to obtain information from the subject of a criminal investigation will often alert that individual to the existence of an investigation, thereby affording the individual an opportunity to attempt to conceal his criminal activities so as to avoid apprehension.

(iii) In certain instances, the subject of a criminal investigation may assert his/her constitutional right to remain silent and refuse to supply information to criminal investigators upon request.

(iv) During criminal investigations it is often a matter of sound investigative procedure to obtain information from a variety of sources to verify information already obtained from the subject of a criminal investigation or other sources.

(9) 5 U.S.C. 552a(e)(3) requires an agency to inform each individual whom it asks to supply information, on the form that it uses to collect the information or on a separate form that the individual can retain, of the agency's authority for soliciting the information; whether disclosure of information is voluntary or mandatory; the principal purposes for which the agency will use the information; the routine uses that may be made of the information; and the effects on the individual

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of not providing all or part of the information. The systems of records should be exempted from this provision to avoid impairing the Department's ability to collect and collate investigative, intelligence, and enforcement data.

(i) Confidential sources or undercover law enforcement officers often obtain information under circumstances in which it is necessary to keep the true purpose of their actions secret so as not to let the subject of the investigation or his or her associates know that a criminal investigation is in progress.

(ii) If it became known that the undercover officer was assisting in a criminal investigation, that officer's physical safety could be endangered through reprisal, and that officer may not be able to continue working on the investigation.

(iii) Individuals often feel inhibited in talking to a person representing a criminal law enforcement agency but are willing to talk to a confidential source or undercover officer whom they believe are not involved in law enforcement activities.

(iv) Providing a confidential source of information with written evidence that he or she was a source, as required by this provision, could increase the likelihood that the source of information would be subject to retaliation by the subject of the investigation.

(v) Individuals may be contacted during preliminary information gathering, surveys, or compliance projects concerning the administration of the internal revenue laws before any individual is identified as the subject of an investigation. Informing the individual of the matters required by this provision would impede or compromise subsequent investigations.

(10) 5 U.S.C. 552a(e)(5) requires an agency to maintain all records it uses in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination.

(i) Since 5 U.S.C. 552a(a)(3) defines "maintain" to include "collect" and "disseminate," application of this provision to the systems of records would hinder the initial collection of any information that could not, at the mo-

ment of collection, be determined to be accurate, relevant, timely, and complete. Similarly, application of this provision would seriously restrict the Department's ability to disseminate information pertaining to a possible violation of law to law enforcement and regulatory agencies. In collecting information during a criminal investigation, it is often impossible or unfeasible to determine accuracy, relevance, timeliness, or completeness prior to collection of the information. In disseminating information to law enforcement and regulatory agencies, it is often impossible to determine accuracy, relevance, timeliness, or completeness prior to dissemination because the Department may not have the expertise with which to make such determinations.

(ii) Information that may initially appear inaccurate, irrelevant, untimely, or incomplete may, when collated and analyzed with other available information, become more pertinent as an investigation progresses. In addition, application of this provision could seriously impede criminal investigators and intelligence analysts in the exercise of their judgment in reporting results obtained during criminal investigations.

(11) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when the agency makes any record on the individual available to any person under compulsory legal process, when such process becomes a matter of public record. The systems of records should be exempted from this provision to avoid revealing investigative techniques and procedures outlined in those records and to prevent revelation of the existence of an ongoing investigation where there is need to keep the existence of the investigation secret.

(12) 5 U.S.C. 552a(g) provides for civil remedies to an individual when an agency wrongfully refuses to amend a record or to review a request for amendment, when an agency wrongfully refuses to grant access to a record, when an agency fails to maintain accurate, relevant, timely, and complete records which are used to make a determination adverse to the individual, and when an agency fails to

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comply with any other provision of 5 U.S.C. 552a so as to adversely affect the individual. The systems of records should be exempted from this provision to the extent that the civil remedies may relate to provisions of 5 U.S.C. 552a from which these rules exempt the systems of records, since there should be no civil remedies for failure to comply with provisions from which the Department is exempted. Exemption from this provision will also protect the Department from baseless civil court actions that might hamper its ability to collate, analyze, and disseminate in-

vestigative, intelligence, and law enforcement data.

(e) *Specific exemptions under 5 U.S.C. 552a(k)(1)*. (1) Under 5 U.S.C. 552a(k)(1), the head of any agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act to the extent that the system contains information subject to the provisions of 5 U.S.C. 552(b)(1). This paragraph applies to the following systems of records maintained by the Department of the Treasury:

(i) Departmental Offices:

Number	System name
DO .120 .....	Records Related to Office of Foreign Assets Control Economic Sanctions.

(ii) Financial Crimes Enforcement Network:

Number	System name
FinCEN .001 .....	FinCEN Database.

(2) The Department of the Treasury hereby exempts the systems of records listed in paragraph (e)(1)(i) and (ii) of this section from the following provisions of 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(k)(1): 5 U.S.C. 552a(c)(3), 5 U.S.C. 552a(d)(1), (2), (3), and (4), 5 U.S.C. 552a(e)(1), 5 U.S.C. 552a(e)(4)(G), (H), and (I), and 5 U.S.C. 552a(f).

(f) *Reasons for exemptions under 5 U.S.C. 552a(k)(1)*. The reason for invoking the exemption is to protect material authorized to be kept secret in the interest of national defense or foreign policy pursuant to Executive Orders 12958, 13526, or successor or prior Executive Orders.

(g) *Specific exemptions under 5 U.S.C. 552a(k)(2)*. (1) Under 5 U.S.C. 552a(k)(2), the head of any agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act if the system is investigatory material compiled for law enforcement purposes and for the purposes of assuring the safety of individuals protected by the Department pursuant to the provisions of 18 U.S.C. 3056. This paragraph applies to the following systems of records maintained by the Department of the Treasury:

(i) Treasury:

Number	System name
Treasury .013 .....	Department of the Treasury Civil Rights Complaints and Compliance Review Files.

(ii) Departmental Offices:

Number	System name
DO .120 .....	Records Related to Office of Foreign Assets Control Economic Sanctions.
DO .144 .....	General Counsel Litigation Referral and Reporting System.
DO .190 .....	Investigation Data Management System.
DO .220 .....	SIGTARP Hotline Database.
DO .221 .....	SIGTARP Correspondence Database.
DO .222 .....	SIGTARP Investigative MIS Database.
DO .223 .....	SIGTARP Investigative Files Database.

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Number	System name
DO .224 .....	SIGTARP Audit Files Database.
DO.225 .....	TARP Fraud Investigation Information System.
DO .303 .....	TIGTA General Correspondence.
DO .307 .....	TIGTA Employee Relations Matters, Appeals, Grievances, and Complaint Files.
DO .308 .....	TIGTA Data Extracts.
DO .309 .....	TIGTA Chief Counsel Case Files.
DO .310 .....	TIGTA Chief Counsel Disclosure Section Records.
DO .311 .....	TIGTA Office of Investigations Files.

(iii) Alcohol and Tobacco Tax and Trade Bureau:

Number	System name
TTB .001 .....	Regulatory Enforcement Record System.

(iv) Comptroller of the Currency:

Number	System name
CC .100 .....	Enforcement Action Report System.
CC .110 .....	Reports of Suspicious Activities.
CC .120 .....	Bank Fraud Information System.
CC .220 .....	Section 914 Tracking System.
CC .500 .....	Chief Counsel's Management Information System.
CC .510 .....	Litigation Information System.
CC .600 .....	Consumer Complaint Inquiry and Information System.
OTS .001 .....	Confidential Individual Information System.
OTS .004 .....	Criminal Referral Database.

(v) Bureau of Engraving and Printing:

Number	System name
BEP .021 .....	Investigative files.

(vi) Financial Management Service.

(vii) Internal Revenue Service:

Number	System name
IRS 00.002 .....	Correspondence File-Inquiries about Enforcement Activities.
IRS 00.007 .....	Employee Complaint and Allegation Referral Records.
IRS 00.334 .....	Third Party Contact Reprisal Records.
IRS 22.061 .....	Wage and Information Returns Processing (IRP).
IRS 24.047 .....	Audit Underreporter Case Files.
IRS 26.001 .....	Acquired Property Records.
IRS 26.006 .....	Form 2209, Courtesy Investigations.
IRS 26.012 .....	Offer in Compromise (OIC) Files.
IRS 26.013 .....	One-hundred Per Cent Penalty Cases.
IRS 26.019 .....	TDA (Taxpayer Delinquent Accounts).
IRS 26.020 .....	TDI (Taxpayer Delinquency Investigations) Files.
IRS 26.021 .....	Transferee Files.
IRS 34.037 .....	IRS Audit Trail and Security Records System.
IRS 37.007 .....	Practitioner Disciplinary Records.
IRS 37.009 .....	Enrolled Agents Records.
IRS 37.111 .....	Preparer Tax Identification Number Records.
IRS 42.001 .....	Examination Administrative File.
IRS 42.002 .....	Excise Compliance Programs.
IRS 42.005 .....	Whistleblower Office Records.
IRS 42.008 .....	Audit Information Management System (AIMS).
IRS 42.016 .....	Classification and Examination Selection Files.
IRS 42.017 .....	International Enforcement Program Files.

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Number	System name
IRS 42.021 .....	Compliance Programs and Projects Files.
IRS 42.031 .....	Anti-Money Laundering/Bank Secrecy Act (BSA) and Form 8300 Records.
IRS 44.001 .....	Appeals Case Files.
Treasury/IRS 46.050 .....	Automated Information Analysis and Recordkeeping, Criminal Investigation.
IRS 48.001 .....	Disclosure Records.
IRS 49.001 .....	Collateral and Information Requests System.
IRS 49.002 .....	Component Authority and Index Card Microfilm Retrieval System.
IRS 50.222 .....	Tax Exempt Government Entities Case Management Records.
IRS 60.000 .....	Employee Protection System Records.
IRS 90.001 .....	Chief Counsel Management Information System Records.
IRS 90.002 .....	Chief Counsel Litigation and Advice (Civil) Records.
IRS 90.004 .....	Chief Counsel Legal Processing Division Records.
IRS 90.005 .....	Chief Counsel Library Records.

(viii) U.S. Mint:

Number	System name
Mint .008 .....	Criminal investigation files.

(ix) Bureau of the Public Debt:

Number	System name
BPD.009 .....	U.S. Treasury Securities Fraud Information System.

(x) Financial Crimes Enforcement Network:

Number	System name
FinCEN .001 .....	FinCEN Database.
FinCEN .002 .....	Suspicious Activity Reporting System.
FinCEN .003 .....	Bank Secrecy Act Reports System.

(2) The Department hereby exempts the systems of records listed in paragraphs (g)(1)(i) through (x) of this section from the following provisions of 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(k)(2): 5 U.S.C. 552a(c)(3), 5 U.S.C. 552a(d)(1), (2), (3), (4), 5 U.S.C. 552a(e)(1), 5 U.S.C. 552a(e)(4)(G), (H), and (I), and 5 U.S.C. 552a(f).

(h) *Reasons for exemptions under 5 U.S.C. 552a(k)(2).* (1) 5 U.S.C. 552a(c)(3) requires an agency to make accountings of disclosures of a record available to the individual named in the record upon his or her request. The accountings must state the date, nature, and purpose of each disclosure of the record and the name and address of the recipient.

(i) The application of this provision would impair the ability of the Department of the Treasury and of law enforcement agencies outside the Department

to make effective use of information maintained by the Department. Making accountings of disclosures available to the subjects of an investigation would alert them to the fact that an agency is conducting an investigation into their illegal activities and could reveal the geographic location of the investigation, the nature and purpose of that investigation, and the dates on which that investigation was active. Individuals possessing such knowledge would be able to take measures to avoid detection or apprehension by altering their operations, by transferring their illegal activities to other geographical areas, or by destroying or concealing evidence that would form the basis for detection or apprehension. In the case of a delinquent account, such release might enable the subject of the investigation to dissipate assets before levy.

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(ii) Providing accountings to the subjects of investigations would alert them to the fact that the Department has information regarding their illegal activities and could inform them of the general nature of that information.

(2) 5 U.S.C. 552a(d)(1), (e)(4)(H) and (f)(2), (3) and (5) grant individuals access to records pertaining to them. The application of these provisions to the systems of records would compromise the Department's ability to utilize and provide useful tactical and strategic information to law enforcement agencies.

(i) Permitting access to records contained in the systems of records would provide individuals with information concerning the nature of any current investigations and would enable them to avoid detection or apprehension by:

(A) Discovering the facts that would form the basis for their detection or apprehension;

(B) Enabling them to destroy or alter evidence of illegal conduct that would form the basis for their detection or apprehension, and

(C) Using knowledge that investigators had reason to believe that a violation of law was about to be committed, to delay the commission of the violation or commit it at a location that might not be under surveillance.

(ii) Permitting access to either ongoing or closed investigative files would also reveal investigative techniques and procedures, the knowledge of which could enable individuals planning non-criminal acts to structure their operations so as to avoid detection or apprehension.

(iii) Permitting access to investigative files and records could, moreover, disclose the identity of confidential sources and informants and the nature of the information supplied and thereby endanger the physical safety of those sources by exposing them to possible reprisals for having provided the information. Confidential sources and informants might refuse to provide investigators with valuable information unless they believed that their identities would not be revealed through disclosure of their names or the nature of the information they supplied. Loss of access to such sources would seriously

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impair the Department's ability to carry out its mandate.

(iv) Furthermore, providing access to records contained in the systems of records could reveal the identities of undercover law enforcement officers or other persons who compiled information regarding the individual's illegal activities and thereby endanger the physical safety of those undercover officers, persons, or their families by exposing them to possible reprisals.

(v) By compromising the law enforcement value of the systems of records for the reasons outlined in paragraphs (h)(2)(i) through (iv) of this section, permitting access in keeping with these provisions would discourage other law enforcement and regulatory agencies, foreign and domestic, from freely sharing information with the Department and thus would restrict the Department's access to information necessary to accomplish its mission most effectively.

(vi) Finally, the dissemination of certain information that the Department may maintain in the systems of records is restricted by law.

(3) 5 U.S.C. 552a(d)(2), (3) and (4), (e)(4)(H), and (f)(4) permit an individual to request amendment of a record pertaining to him or her and require the agency either to amend the record, or to note the disputed portion of the record and to provide a copy of the individual's statement of disagreement with the agency's refusal to amend a record to persons or other agencies to whom the record is thereafter disclosed. Since these provisions depend on the individual having access to his or her records, and since these rules exempt the systems of records from the provisions of 5 U.S.C. 552a relating to access to records, these provisions should not apply to the systems of records for the reasons set out in paragraph (h)(2) of this section.

(4) 5 U.S.C. 552a(e)(1) requires an agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required by statute or executive order. The term "maintain," as defined in 5 U.S.C. 552a(a)(3), includes "collect" and "disseminate." The application of this provision to the system of records could

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impair the Department's ability to collect, utilize and disseminate valuable law enforcement information.

(i) In many cases, especially in the early stages of investigation, it may be impossible immediately to determine whether information collected is relevant and necessary, and information that initially appears irrelevant and unnecessary often may, upon further evaluation or upon collation with information developed subsequently, prove particularly relevant to a law enforcement program.

(ii) Not all violations of law discovered by the Department analysts fall within the investigative jurisdiction of the Department of the Treasury. To promote effective law enforcement, the Department will have to disclose such violations to other law enforcement agencies, including State, local and foreign agencies that have jurisdiction over the offenses to which the information relates. Otherwise, the Department might be placed in the position of having to ignore information relating to violations of law not within the jurisdiction of the Department of the Treasury when that information comes to the Department's attention during the collation and analysis of information in its records.

(5) 5 U.S.C. 552a(e)(4)(G) and (f)(1) enable individuals to inquire whether a system of records contains records pertaining to them. Application of these provisions to the systems of records would allow individuals to learn whether they have been identified as suspects or subjects of investigation. As further described in the following paragraph, access to such knowledge would impair the Department's ability to carry out its mission, since individuals could:

(i) Take steps to avoid detection;

(ii) Inform associates that an investigation is in progress;

(iii) Learn the nature of the investigation;

(iv) Learn whether they are only suspects or identified as law violators;

(v) Begin, continue, or resume illegal conduct upon learning that they are not identified in the system of records; or

(vi) Destroy evidence needed to prove the violation.

(6) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish a general notice listing the categories of sources for information contained in a system of records. The application of this provision to the systems of records could compromise the Department's ability to complete or continue investigations or to provide useful information to law enforcement agencies, since revealing sources for the information could:

(i) Disclose investigative techniques and procedures;

(ii) Result in threats or reprisals against informants by the subjects of investigations; and

(iii) Cause informants to refuse to give full information to investigators for fear of having their identities as sources disclosed.

(i) *Specific exemptions under 5 U.S.C. 552a(k)(4).* (1) Under 5 U.S.C. 552a(k)(4), the head of any agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act if the system is required by statute to be maintained and used solely as statistical records. This paragraph applies to the following system of records maintained by the Department, for which exemption is claimed under 5 U.S.C. 552a(k)(4).

Internal Revenue Service:

Number	System name
IRS 70.001 .....	Statistics of Income—Individual Tax Returns.

(2) The Department hereby exempts the system of records listed in paragraph (i)(1) of this section from the following provisions of 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(k)(4): 5 U.S.C. 552a(c)(3), 5 U.S.C. 552a(d)(1), (2), (3), and (4), 5 U.S.C. 552a(e)(1), 5 U.S.C.

552a(e)(4)(G), (H), and (I), and 5 U.S.C. 552a(f).

(3) The system of records is maintained under section 6108 of the Internal Revenue Code, which provides that "the Secretary or his delegate shall prepare and publish annually statistics

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reasonably available with respect to the operation of the income tax laws, including classifications of taxpayers and of income, the amounts allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable.’’

(j) *Reasons for exemptions under 5 U.S.C. 552a(k)(4)*. The reason for exempting the system of records is that disclosure of statistical records (including release of accounting for disclosures) would in most instances be of no benefit to a particular individual since the records do not have a direct effect on a given individual.

(k) *Specific exemptions under 5 U.S.C. 552a(k)(5)*. (1) Under 5 U.S.C. 552a(k)(5), the head of any agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act if the system is investigatory material compiled solely for the purpose of deter-

mining suitability, eligibility, and qualifications for Federal civilian employment 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 September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Thus to the extent that the records in this system can be disclosed without revealing the identity of a confidential source, they are not within the scope of this exemption and are subject to all the requirements of the Privacy Act. This paragraph applies to the following systems of records maintained by the Department or one of its bureaus:

(i) Treasury:

Number	System name
Treasury .007 .....	Personnel Security System.

(ii) Departmental Offices:

Number	System name
DO .306 .....	TIGTA Recruiting and Placement.

(iii) Alcohol and Tobacco Tax and Trade Bureau.

(iv) Comptroller of the Currency.

(v) Bureau of Engraving and Printing.

(vi) Financial Management Service.

(vii) Internal Revenue Service:

Number	System name
IRS 34.021 .....	Personnel Security Investigations, National Background Investigations Center.
IRS 34.022 .....	Automated Background Investigations System (ABIS).
IRS 90.006 .....	Chief Counsel Human Resources and Administrative Records.

(viii) U.S. Mint.

(ix) Bureau of the Public Debt.

(x) Financial Crimes Enforcement Network.

(2) The Department hereby exempts the systems of records listed in paragraph (k)(1)(i) through (x) of this section from the following provisions of 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(k)(5): 5 U.S.C. 552a(c)(3), 5 U.S.C. 552a(d)(1), (2), (3), and (4), 5 U.S.C.

552a(e)(1), 5 U.S.C. 552a(e)(4)(G), (H), and (I), and 5 U.S.C. 552a(f).

(1) *Reasons for exemptions under 5 U.S.C. 552a(k)(5)*. (1) The sections of 5 U.S.C. 552a from which the systems of records are exempt include in general those providing for individuals' access to or amendment of records. When such access or amendment would cause the identity of a confidential source to be revealed, it would impair the future ability of the Department to compile



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investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information. In addition, the systems shall be exempt from 5 U.S.C. 552a(e)(1) which requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The Department believes that to fulfill the requirements of 5 U.S.C. 552a(e)(1) would unduly restrict the agency in its information gathering inasmuch as it is often not until well after the investigation that it is possible to determine the relevance and necessity of particular information.

(2) If any investigatory material contained in the above-named systems becomes involved in criminal or civil matters, exemptions of such material under 5 U.S.C. 552a(j)(2) or (k)(2) is hereby claimed.

(m) *Exemption under 5 U.S.C. 552a(k)(6).* (1) Under 5 U.S.C. 552a(k)(6), the head of any agency may promulgate rules to exempt any system of records that is testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process. This paragraph applies to the following system of records maintained by the Department, for which exemption is claimed under 5 U.S.C. 552a(k)(6).

Departmental Offices:

Number	System name
DO .306 .....	TIGTA Recruiting and Placement Records.

(2) The Department hereby exempts the system of records listed in paragraphs (m)(1) of this section from the following provisions of 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(k)(6); 5 U.S.C. 552a(c)(3), 5 U.S.C. 552a(d)(1), (2), (3), and (4), 5 U.S.C. 552a(e)(1), 5 U.S.C. 552a(e)(4)(G), (H), and (I), and 5 U.S.C. 552a(f).

(n) *Reasons for exemptions under 5 U.S.C. 552a(k)(6).* The reason for exempting the system of records is that disclosure of the material in the system would compromise the objectivity or fairness of the examination process.

(o) *Exempt information included in another system.* Any information from a system of records for which an exemption is claimed under 5 U.S.C. 552a(j) or (k) which is also included in another system of records retains the same exempt status such information has in the system for which such exemption is claimed.

[77 FR 28479, May 15, 2012, as amended at 77 FR 59548, Sept. 28, 2012; 79 FR 12944, Mar. 7, 2014; 80 FR 13765, Mar. 17, 2015]

**APPENDIX A TO SUBPART C OF PART 1—  
DEPARTMENTAL OFFICES**

1. *In general.* This appendix applies to the Departmental Offices as defined in 31 CFR part 1, subpart C, §1.20. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records, the officers designated to make the initial and appellate determinations with respect to requests for amendment of records, the officers designated to grant extensions of time on appeal, the officers with whom “Statement of Disagreement” may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e)(4) and (11) and published annually by the Office of the Federal Register in “Privacy Act Issuances”.

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Departmental Offices, will be made by the head of the organizational unit having immediate custody of the records requested,

or the delegate of such official. This information is contained in the appropriate system notice in the "Privacy Act Issuances", published annually by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records should be addressed to:

Privacy Act Request, DO, Director, Disclosure Services Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

3. *Requests for amendments of records.* Initial determinations under 31 CFR 1.27(a) through (d) with respect to requests to amend records for records maintained by the Departmental Offices will be made by the head of the organization or unit having immediate custody of the records or the delegate of such official. Requests for amendment of records should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send these requests should be addressed to: Privacy Act Amendment Request, DO, Director, Disclosure Services Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

4. *Administrative appeal of initial determination refusing to amend record.* Appellate determinations under 31 CFR 1.27(e) with respect to records of the Departmental Offices, including extensions of time on appeal, will be made by the Secretary, Deputy Secretary, Under Secretary, General Counsel, Special Inspector General for Troubled Assets Relief Program, or Assistant Secretary having jurisdiction over the organizational unit which has immediate custody of the records, or the delegate of such official, as limited by 5 U.S.C. 552a(d) (2) and (3). Appeals made by mail should be addressed as indicated in the letter of initial decision or to:

Privacy Act Amendment Request, DO, Director, Disclosure Services Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

5. *Statements of disagreement.* "Statements of Disagreement" as described in 31 CFR 1.27(e)(4) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the General Counsel of the Department of the Treasury or the delegate of such official and shall be delivered to the following location:

General Counsel, Department of the Treasury, Room 3000, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

7. *Annual notice of systems of records.* The annual notice of systems of records required to be published by the Office of the Federal

Register in the publication entitled "Privacy Act Issuances", as specified in 5 U.S.C. 552a (f). Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 and 8 of this appendix, and locations for access are indicated in the notice for the pertinent system.

8. *Verification of identity.* An individual seeking notification or access to records, or seeking to amend a record, must satisfy one of the following identification requirements before action will be taken by the Departmental Offices on any such request:

(i) An individual seeking notification or access to records in person, or seeking to amend a record in person, may establish identity by the presentation of a single official document bearing a photograph (such as a passport or identification badge) or by the presentation of two items of identification which do not bear a photograph but do bear both a name and signature (such as a driver's license or credit card).

(ii) An individual seeking notification or access to records by mail, or seeking to amend a record by mail, may establish identity by a signature, address, and one other identifier such as a photocopy of a driver's license or other official document bearing the individual's signature.

(iii) Notwithstanding subdivisions (i) and (ii) of this subparagraph, an individual seeking notification or access to records by mail or in person, or seeking to amend a record by mail or in person, who so desires, may establish identity by providing a notarized statement, swearing or affirming to such individual's identity and to the fact that the individual understands the penalties provided in 5 U.S.C. 552a(i)(3) for requesting or obtaining access to records under false pretenses.

Notwithstanding subdivision (i), (ii), or (iii) of this subparagraph, a designated official may require additional proof of an individual's identity before action will be taken on any request, if such official determines that it is necessary to protect against unauthorized disclosure of information in a particular case. In addition, a parent of any minor or a legal guardian of any individual will be required to provide adequate proof of legal relationship before such person may act on behalf of such minor or such individual.

[52 FR 26305, July 14, 1987, as amended at 75 FR 745, Jan. 6, 2010]

#### APPENDIX B TO SUBPART C OF PART 1— INTERNAL REVENUE SERVICE

1. *Purpose.* The purpose of this section is to set forth the procedures that have been established by the Internal Revenue Service for individuals to exercise their rights under the Privacy Act of 1974 (88 Stat. 1896) with respect to systems of records maintained by

the Internal Revenue Service, including the Office of the Chief Counsel. The procedures contained in this section are to be promulgated under the authority of 5 U.S.C. 552a(f). The procedures contained in this section relate to the following:

(a) The procedures whereby an individual can be notified in response to a request if a system of records named by the individual contains a record pertaining to such individual (5 U.S.C. 552a(f)(1)).

(b) The procedures governing reasonable times, places, and requirements for identifying an individual who requests a record of information pertaining to such individual before the Internal Revenue Service will make the record or information available to the individual (5 U.S.C. 552a (f)(2)).

(c) The procedures for the disclosure to an individual upon a request of a record of information pertaining to such individual, including special procedures for the disclosure to an individual of medical records, including psychological records. (5 U.S.C. 552a (f)(3)).

(d) The procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, for an appeal within the Internal Revenue Service of an initial adverse agency determination, and for whatever additional means may be necessary for individuals to be able to exercise fully their right under 5 U.S.C. 552a (5 U.S.C. 552a (f)(4)).

Any individual seeking to determine whether a system of records maintained by any office of the Internal Revenue Service contains a record or information pertaining to such individual, or seeking access to, or amendment of, such a record, must comply fully with the applicable procedure contained in paragraph (3) or (4) of this section before the Internal Revenue Service will act on the request. Neither the notification and access (or accounting of disclosures) procedures under paragraph (3) of this section nor the amendment procedures under paragraph (4) of this section are applicable to (i) systems of records exempted pursuant to 5 U.S.C. 552a (j) and (k), (ii) information compiled in reasonable anticipation of a civil action or proceeding (see 5 U.S.C. 552a (d)(5)), or (iii) information pertaining to an individual which is contained in, and inseparable from, another individual's record.

2. *Access to and amendment of tax records.* The provisions of the Privacy Act of 1974 may not be used by an individual to amend or correct any tax record. The determination of liability for taxes imposed by the Internal Revenue Service Code, the collection of such taxes, and the payment (including credits or refunds of overpayments) of such taxes are governed by the provisions of the Internal Revenue Service Code and by the procedural rules of the Internal Revenue Service. These

provisions set forth the established procedures governing the determination of liability for tax, the collection of such taxes, and the payment (including credits or refunds of overpayments) of such taxes. In addition, these provisions set forth the procedures (including procedures for judicial review) for resolving disputes between taxpayers and the Internal Revenue Service involving the amount of tax owed, or the payment or collection of such tax. These procedures are the exclusive means available to an individual to contest the amount of any liability for tax or the payment or collection thereof. See, for example, 26 CFR 601.103 for summary of general tax procedures. Individuals are advised that Internal Revenue Service procedures permit the examination of tax records during the course of an investigation, audit, or collection activity. Accordingly, individuals should contact the Internal Revenue Service employee conducting an audit or effecting the collection of tax liabilities to gain access to such records, rather than seeking access under the provisions of the Privacy Act. Where, on the other hand, an individual desires information or records not in connection with an investigation, audit, or collection activity, the individual may follow these procedures.

3. *Procedures for access to records—(a) In general.* This paragraph sets forth the procedure whereby an individual can be notified in response to a request if a system of records named by the individual which is maintained by the Internal Revenue Service contains a record pertaining to such individual. In addition, this paragraph sets forth the procedure for the disclosure to an individual upon a request of a record or information pertaining to such individual, including the procedures for verifying the identity of the individual before the Internal Revenue Service will make a record available, and the procedure for requesting an accounting of disclosures of such records. An individual seeking to determine whether a particular system of records contains a record or records pertaining to such individual and seeking access to such records (or seeking an accounting of disclosures of such records) shall make a request for notification and access (or a request for an accounting of disclosures) in accordance with the rules provided in paragraph 3(b) of this section.

(b) *Form of request for notification and access or request for an accounting of disclosures.* (i) A request for notification and access (or request for an accounting of disclosures) shall be made in writing and shall be signed by the person making the request.

(ii) Such request shall be clearly marked, "Request for notification and access," or "Request for accounting of disclosures."

(iii) Such a request shall contain a statement that it is being made under the provisions of the Privacy Act of 1974.

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(iv) Such request shall contain the name and address of the individual making the request. In addition, if a particular system employs an individual's social security number as an essential means of accessing the system, the request must include the individual's social security number. In the case of a record maintained in the name of two or more individuals (e.g., husband and wife), the request shall contain the names, addresses, and social security numbers (if necessary) of both individuals.

(v) Such request shall specify the name and location of the particular system of records (as set forth in the Notice of Systems) for which the individual is seeking notification and access (or an accounting of disclosures), and the title and business address of the official designated in the access section for the particular system (as set forth in the Notice of Systems). In the case of two or more systems of records which are under the control of the same designated official at the same systems location, a single request may be made for such systems. In the case of two or more systems of records which are not in the control of the same designated official at the same systems location, a separate request must be made for each such system.

(vi) If an individual wishes to limit a request for notification and access to a particular record or records, the request should identify the particular record. In the absence of a statement to the contrary, a request for notification and access for a particular system of records shall be considered to be limited to records which are currently maintained by the designated official at the systems location specified in the request.

(vii) If such request is seeking notification and access to material maintained in a system of records which is exempt from disclosure and access under 5 U.S.C. 552a (k)(2), the individual making the request must establish that such individual has been denied a right, privilege, or benefit that such individual would otherwise be entitled to under Federal law as a result of the maintenance of such material.

(viii) Such request shall state whether the individual wishes to inspect the record in person, or desires to have a copy made and furnished without first inspecting it. If the individual desires to have a copy made, the request must include an agreement to pay the fee for duplication ultimately determined to be due. If the individual does not wish to inspect a record, but merely wishes to be notified whether a particular system or records contains a record pertaining to such individual, the request should so state.

(c) *Time and place for making a request.* A request for notification and access to records under the Privacy Act (or a request for accounting of disclosures) shall be addressed to or delivered in person to the office of the official designated in the access section for the

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particular system of records for which the individual is seeking notification and access (or an accounting of disclosures). The title and office address of such official is set forth for each system of records in the Notice of Systems of Records. A request delivered to an office in person must be delivered during the regular office hours of that office.

(d) Sample request for notification and access to records. The following are sample requests for notification and access to records which will satisfy the requirements of this paragraph:

**REQUEST FOR NOTIFICATION AND ACCESS TO RECORDS BY MAIL**

I, John Doe, of 100 Main Street, Boston, MA 02108 (soc. sec. num. 000-00-0000) request under the Privacy Act of 1974 that the following system of records be examined and that I be furnished with a copy of any record (or a specified record) contained therein pertaining to me. I agree that I will pay the fees ultimately determined to be due for duplication of such record. I have enclosed the necessary information.

System Name:  
System Location:  
Designated Official:

John Doe

**REQUEST FOR NOTIFICATION AND ACCESS TO RECORDS IN PERSON**

I, John Doe, of 100 Main Street, Boston, MA 02108 (soc. sec. num. 000-00-0000) request under the provisions of the Privacy Act of 1974, that the following system of records be examined and that I be granted access in person to inspect any record (or a specified record) contained therein pertaining to me. I have enclosed the necessary identification.

System Name:  
System Location:  
Designated Official:

John Doe

(e) *Processing a request for notification and access to records or a request for an accounting of disclosures.* (i) If a request for notification and access (or request for an accounting of disclosures) omits any information which is essential to processing the request, the request will not be acted upon and the individual making the request will be promptly advised of the additional information which must be submitted before the request can be processed.

(ii) Within 30 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of a request for notification and access (or a request for an accounting of disclosures), to a particular system of records by the designated official for such system, a determination will be made as to

whether the particular system of records is exempt from the notification and access provisions of the Privacy Act, and if such system is not exempt, whether it does or does not contain a record pertaining to the individual making the request. If a determination cannot be made within 30 days, the individual will be notified of the delay, the reasons therefor, and the approximate time required to make a determination. If it is determined by the designated official that the particular system of records is exempt from the notification and access provisions of the Privacy Act, the individual making the request will be notified of the provisions of the Privacy Act under which the exemption is claimed. On the other hand, if it is determined by the designated official that the particular system of records is not exempted from the notification and access provisions of the Privacy Act and that such system contains a record pertaining to the individual making the request, the individual will be notified of the time and place where inspection may be made. If an individual has not requested that access be granted to inspect the record in person, but merely requests that a copy of the record be furnished, or if it is determined by the designated official that the granting of access to inspect a record in person is not feasible in a particular case, then the designated official will furnish a copy of the record with the notification, or if a copy cannot be furnished at such time, a statement indicating the approximate time such copy will be furnished. If the request is for an accounting of disclosures from a system of records which is not exempt from the accounting of disclosure provisions of the Privacy Act, the individual will be furnished with an accounting of such disclosures.

(f) *Granting of access.* Normally, an individual will be granted access to inspect a record in person within 30 days (excluding Saturdays, Sundays, and legal public holidays) after the receipt for a request for notification and access by the designated official. If access cannot be granted within 30 days, the notification will state the reasons for the delay and the approximate time such access will be granted. An individual wishing to inspect a record may be accompanied by another person of his choosing. Both the individual seeking access and the individual accompanying him may be required to sign a form supplied by the IRS indicating that the Service is authorized to disclose or discuss the contents of the record in the presence of both individuals. See 26 CFR 601.502 for requirements to be met by taxpayer's representatives in order to discuss the contents of any tax records.

(g) *Medical records.* When access is requested to medical records (including psychological records), the designated official may determine that release of such records

will be made only to a physician designated by the individual to have access to such records.

(h) *Verification of identity.* An individual seeking notification or access to records, or seeking to amend a record, must satisfy one of the following identification requirements before action will be taken by the IRS on any such request:

(i) An individual seeking notification or access to records in person, or seeking to amend a record in person, may establish identity by the presentation of a single document bearing a photograph (such as a passport or identification badge) or by the presentation of two items of identification which do not bear a photograph but do bear both a name and signature (such as a driver's license or credit card).

(ii) An individual seeking notification or access to records by mail, or seeking to amend a record by mail, may establish identity by a signature, address, and one other identifier such as a photocopy of a driver's license or other document bearing the individual's signature.

(iii) Notwithstanding subdivisions (i) and (ii) of this subparagraph, an individual seeking notification or access to records by mail or in person, or seeking to amend a record by mail or in person, who so desires, may establish identity by providing a notarized statement, swearing or affirming to such individual's identity and to the fact that the individual understands the penalties provided in 5 U.S.C. 552a(i)(3) for requesting or obtaining access to records under false pretenses.

(iv) Notwithstanding subdivisions (i), (ii), or (iii) of this subparagraph, a designated official may require additional proof of an individual's identity before action will be taken on any request if such official determines that it is necessary to protect unauthorized disclosure of information in a particular case. In addition, a parent of any minor or a legal guardian of any individual will be required to provide adequate proof of legal relationship before such person may act on behalf of such minor or such individual.

(i) *Fees.* The fee for costs required of the IRS in copying records pursuant to this paragraph is \$0.15 per page. However, no fee will be charged if the aggregate costs required of the IRS in copying records is less than \$3.00. If an individual who has requested access to inspect a record in person is denied such access by the designated official because it would not be feasible in a particular case, copies of such record will be furnished to the individual without payment of the fees otherwise required under this subparagraph. If the IRS estimates that the total fees for costs incurred in complying with a request for copies of records will amount to

\$50 or more, the individual making the request may be required to enter into a contract for the payment of the actual fees with respect to the request before the Service will furnish the copies requested. Payment of fees for copies of records should be made by check or money order payable to the Internal Revenue Service.

4. *Procedures for amendment of records.* (a) In general. This paragraph sets forth the procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to such individual, for making a determination on the request, for making an appeal within the IRS of an initial adverse determination, and for judicial review of a final determination.

(b) *Amendment of record.* Under 5 U.S.C. 552a(d)(2), an individual who has been granted access to a record pertaining to such individual may, after inspecting the record, request that the record be amended to make any correction of any portion thereof which the individual believes is not accurate, relevant, timely, or complete. An individual may seek to amend a record in accordance with the rules provided in paragraph (d)(3) of this section. See paragraph (b) of this section for prohibition against amendment of tax records.

(c) *Form of request for amendment of record.* (i) A request for amendment of a record shall be in writing and shall be signed by the individual making the request.

(ii) Such request shall be clearly marked "Request for amendment of record."

(iii) Such request shall contain a statement that it is being made under the provisions of the Privacy Act of 1974.

(iv) Such request shall contain the name and address of the individual making the request. In addition, if a particular system employs an individual's social security number as an essential means of accessing the system, the request must include the individual's social security number. In the case of a record maintained in the name of two or more individuals (e.g., husband and wife), the request shall contain the names, addresses, and social security numbers (if necessary) of both individuals.

(v) Such request shall specify the name and location of the system of records (as set forth in the Notice of Systems) in which such record is maintained, and the title and business address of the official designated in the access section for such system (as set forth in the Notice of Systems).

(vi) Such request shall specify the particular record in the system which the individual is seeking to amend.

(vii) Such request shall clearly state the specific changes which the individual wishes to make in the record and a concise explanation of the reasons for the changes. If the individual wishes to correct or add any information, the request shall contain specific

language making the desired correction or addition.

(d) *Time and place for making request.* A request to amend a record under the Privacy Act shall be addressed to or delivered in person to the office of the official designated in the access section for the particular system of records. The title and office address of such official is set forth for each system of records in the Notice of Systems of Records. A request delivered to an office in person must be delivered during the regular office hours of that office.

(e) *Processing a request for amendment of a record.* (i) Within 10 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of a request to amend a record by the designated official, the individual will be sent a written acknowledgment that will state that the request has been received, that action is being taken thereon, and that the individual will be notified within 30 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of the request whether the requested amendments will or will not be made. If a request for amendment of a record omits any information which is essential to processing the request, the request will not be acted upon and the individual making the request will be promptly advised on the additional information which must be submitted before the request can be processed.

(ii) Within 30 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of a request to amend a record by the designated official, a determination will be made as to whether to grant the request in whole or part. The individual will then be notified in writing of the determination. If a determination cannot be made within 30 days, the individual will be notified in writing within such time of the reasons for the delay and the approximate time required to make a determination. If it is determined by the designated official that the request will be granted, the requested changes will be made in the record and the individual will be notified of the changes. In addition, to the extent an accounting was maintained, all prior recipients of such record will be notified of the changes. Upon request, an individual will be furnished with a copy of the record, as amended, subject to the payment of the appropriate fees. On the other hand, if it is determined by the designated official that the request, or any portion thereof, will not be granted, the individual will be notified in writing of the adverse determination. The notification of an adverse determination will set forth the reasons for refusal to amend the record. In addition, the notification will contain a statement informing the individual of such individual's right to request an independent review of the adverse determination by a reviewing officer in the national office of the

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IRS and the procedures for requesting such a review.

(f) *Administrative review of adverse determination.* Under 5 U.S.C. 552a (d)(3), an individual who disagrees with the refusal of the agency to amend a record may, within 35 days of being notified of the adverse determination, request an independent review of such refusal by a reviewing officer in the national office of the IRS. The reviewing officer for the IRS is the Commission of Internal Revenue, the Deputy Commissioner, or an Assistant Commissioner. In the case of an adverse determination relating to a system of records maintained by the Office of General Counsel for the IRS, the reviewing officer is the Chief Counsel or his delegate. An individual seeking a review of an adverse determination shall make a request for review in accordance with the rules provided in paragraph (d)(7) of this section.

(g) *Form of request for review.* (i) A request for review of an adverse determination shall be in writing and shall be signed by the individual making the request.

(ii) Such request shall be clearly marked "Request for review of adverse determination".

(iii) Such request shall contain a statement that it is being made under the provisions of the Privacy Act of 1974.

(iv) Such request shall contain the name and address of the individual making the request. In addition, if a particular system employs an individual's social security number as an essential means of accessing the system, the request must include the individual's social security number. In the case of a record maintained in the name of two or more individuals (e.g. husband and wife), the request shall contain the names, addresses, and social security numbers (if necessary) of both individuals.

(v) Such request shall specify the particular record which the individual is seeking to amend, the name and location of the system of records (as set forth in the Notice of Systems) in which such record is maintained, and the title and business address of the designated official for such system (as set forth in the Notice of Systems).

(vi) Such request shall include the date of the initial request for amendment of the record, and the date of the letter notifying the individual of the initial adverse determination with respect to such request.

(vii) such request shall clearly state the specific changes which the individual wishes to make in the record and a concise explanation of the reasons for the changes. If the individual wishes to correct or add any information, the request shall contain specific language making the desired correction or addition.

(h) *Time and place for making the request.* A request for review of an adverse determination under the Privacy Act shall be ad-

ressed to or delivered in person to the Director, Office of Disclosure, Attention: OP:EX:D Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224. A request for review of an adverse determination will be promptly referred by the Director, Office of Disclosure to the appropriate reviewing officer for his review and final determination.

(i) *Processing a request for review of adverse determination.* Within 30 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of a request for review of an adverse determination by the appropriate reviewing officer, the reviewing officer will review the initial adverse determination, make a final determination whether to grant the request to amend the record in whole or in part, and notify the individual in writing of the final determination. If a final determination cannot be made within 30 days, the Commissioner of Internal Revenue may extend such 30-day period. The individual will be notified in writing within the 30 day period of the cause for the delay and the approximate time required to make a final determination. If it is determined by the reviewing officer that the request to amend the record will be granted, the reviewing officer will cause the requested changes to be made and the individual will be so notified. Upon request, an individual will be furnished with a copy of the record as amended subject to the payment of appropriate fees. On the other hand, if it is determined by the reviewing officer that the request to amend the record, or any portion thereof, will not be granted, the individual will be notified in writing of the final adverse determination. The notification of a final adverse determination will set forth the reasons for the refusal of the reviewing officer to amend the record. The notification shall include a statement informing the individual of the right to submit a concise statement for insertion in the record setting forth the reasons for the disagreement with the refusal of the reviewing officer to amend the record. In addition, the notification will contain a statement informing the individual of the right to seek judicial review by a United States district court of a final adverse determination.

(j) *Statement of disagreement.* Under 5 U.S.C. 552a (d)(3), an individual who disagrees with a final adverse determination not to amend a record subject to amendment under the Privacy Act may submit a concise statement for insertion in the record setting forth the reasons for disagreement with the refusal of the reviewing officer to amend the record. A statement of disagreement should be addressed to or delivered in person to the Director, Office of Disclosure, Attention: OP:EX:D, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224. The Director, Office of Disclosure will

forward the statement of disagreement to the appropriate designated official who will cause the statement to be inserted in the individual's record. Any such statement will be available to anyone to whom the record is subsequently disclosed and the prior recipients of the record will be provided with a copy of the statement of disagreement, to the extent an accounting of disclosures was maintained.

(k) *Judicial review.* If, after a review and final determination on a request to amend a record by the appropriate reviewing officer, the individual is notified that the request will not be granted, or if, after the expiration of 30 days (not including Sundays, Saturdays, and legal public holidays) from the receipt of such request by the Director, Disclosure Operations Division, action is not taken thereon in accordance with the requirements of paragraph (d)(9) of this section, an individual may commence an action within the time prescribed by law in a U.S. District Court pursuant to 5 U.S.C. 552a (g)(1). The statute authorizes an action only against the agency. With respect to records maintained by the IRS, the agency is the Internal Revenue Service, not an officer or employee thereof. Service of process in such an action shall be in accordance with the Federal Rules of Civil Procedure (28 U.S.C. App.) applicable to actions against an agency of the United States. Where provided in such Rules, delivery of process upon the IRS must be directed to the Commissioner of Internal Revenue, Attention: CC:GLS, 1111 Constitution Avenue, NW, Washington, DC 20224. The district court will determine the matter de novo.

5. *Records transferred to Federal Records Centers.* Records transferred to the Administrator of General Services for storage in a Federal Records Center are not used by the Internal Revenue Service in making any determination about any individual while stored at such location and therefore are not subject to the provisions of 5 U.S.C. 552a (e)(5) during such time.

#### APPENDIX C TO SUBPART C OF PART 1— UNITED STATES CUSTOMS SERVICE

1. *In general.* This appendix applies to the United States Customs Service. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officer designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the of-

ficers with whom "Statements of Disagreement may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accounting of disclosures.* (a) For records which are maintained at the United States Customs Service Headquarters, initial requests for notification and access to records and accountings of disclosures under 31 CFR 1.26, should be mailed or personally delivered to the Director, Office of Regulations & Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229. The official who has authority over the maintenance of the file will have the authority to grant or deny the request.

(b) For records maintained at Regional Offices, initial requests for notification and access to records and accountings of disclosures under 31 CFR 1.26, should be mailed or personally delivered to the Regional Commissioner of Customs in whose region the records are located. This official shall have the authority to grant the request or deny the request. The appropriate location of the regional offices is specified in Customs Appendix A in "Privacy Act Issuances" published annually by the Office of the Federal Register.

(c) Each request shall comply with the identification and other requirements set forth in 31 CFR 1.26, and in the appropriate system notice in the "Privacy Act Issuances" published annually by the Office of the Federal Register. Each request should be conspicuously labeled on the face of the envelope "Privacy Act Request".

3. *Request for amendment of records.* (a) For records which are maintained at Customs Service Headquarters, initial requests for amendment of records under 31 CFR 1.27 (a) through (d) should be mailed or personally delivered to the Director, Office of Regulations & Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229. The official who has authority over the maintenance of the file will have the authority to grant or deny the request.

(b) For records not maintained at Customs Service Headquarters, initial requests for amendment of records under 31 CFR 1.27 (a) through (d) should be mailed or personally delivered to the Regional Commissioner of Customs in whose region the records are located. This official shall have the authority to grant or deny the request. A request directed to a Regional Commissioner should be



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mailed to or personally delivered at the appropriate location specified in Customs Appendix A in "Privacy Act Issuances" published annually by the Office of the Federal Register.

(c) Each request shall comply with the identification and other requirements set forth in 31 CFR 1.27, and in the appropriate system notice in "Privacy Act Issuance" published by the Office of the Federal Register. Each request should be conspicuously labeled on the face of the envelope "Privacy Act Amendment Request".

4. *Administrative appeal of initial determination refusing to amend records.* Appellate determinations (including extensions of time on appeal under 31 CFR 1.27 (e) with respect to all Customs Service records will be made by the Director, Office of Regulations & Rulings or the delegate of such official. All such appeals should be mailed or personally delivered to the United States Customs Service, Office of Regulations & Rulings, 1301 Constitution Avenue NW., Washington, DC 20229. Each appeal should be conspicuously labeled on the face of the envelope "Privacy Act Amendment Appeal".

5. *Statements of disagreement.* "Statements of Disagreement" pursuant to 31 CFR 1.27 (e)(4)(i) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the Chief Counsel, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229.

7. *Annual notice of systems of records.* The annual notice of the United States Customs Service systems of records required to be published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f), is included in the publication entitled "Privacy Act Issuances".

8. *Verification of identity.* Each request shall comply with the identification and other requirements set forth in 31 CFR 1.26 and in the appropriate system notice published by the Office of the Federal Register. Each request should be conspicuously labeled on the face of the envelope "Privacy Act Request".

### APPENDIX D TO SUBPART C OF PART 1— UNITED STATES SECRET SERVICE

1. *In general.* This appendix applies to the United States Secret Service. It sets forth specific notification and access procedures with respect to particular systems of records including identification requirements, and time and places where records may be reviewed; identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures

for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the United States Secret Service, will be made by the Freedom of Information and Privacy Act Officer, United States Secret Service. Requests for notification should be made by mail or delivered personally between the hours of 9:00 a.m. and 5:30 of any day excluding Saturdays, Sundays, and legal holidays to: Privacy Act Request, Freedom of Information and Privacy Act Officer, United States Secret Service, Suite 3000, 950 H Street, NW., Washington, DC 20373-5802.

a. *Identification requirements.* In addition to the requirements specified in 31 CFR 1.26, each request for notification, access or amendment of records made by mail shall contain the requesting individual's date and place of birth and a duly notarized statement signed by the requester asserting his or her identity and stipulating that the requesting individual understands that knowingly or willfully seeking or obtaining access to records about another person under false pretences is punishable by a fine of up to \$5,000.

b. *Individuals making requests in person.* Individuals making requests in person will be required to exhibit acceptable identifying documents such as employee identification numbers, drivers licenses, medical cards or other documents sufficient to verify the identity of the requester.

c. *Physical inspection of records.* Upon determining that a request for the physical inspection of records is to be granted, the requester shall be notified in writing of the determination, and when and where the requested records may be inspected. The inspection of records will be conducted at the Secret Service field office or other facility located nearest to the residence of the individual making the request. Such inspection shall be conducted during the regular business hours of the Secret Service Field Office or other facility where the disclosure is made. A person of his or her own choosing may accompany the individual making the request provided the individual furnishes a

written statement authorizing the disclosure of that individual's record in the accompanying person's presence. Any disclosure of a record will be made in the presence of a representative of the United States Secret Service.

3. *Requests for amendment of records.* Initial determination under 31 CFR part 1, whether to grant requests to amend records will be made by the Freedom of Information and Privacy Act Officer. Requests should be mailed or delivered personally between the hours of 9:00 a.m. and 5:30 p.m. to: Privacy Act Amendment Request, Freedom of Information and Privacy Acts Officer, United States Secret Service, Suite 3000, 950 H Street, NW., Washington, DC 20373-5802.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations, including extensions of time on appeal, with respect to records of the United States Secret Service will be made by the Deputy Director, United States Secret Service. Appeals may be mailed or delivered personally to: Privacy Act Amendment Appeal, Deputy Director, United States Secret Service, 950 H Street, NW., Suite 8300, Washington, DC 20373-5802.

5. *Statements of disagreement.* "Statements of Disagreements" under 31 CFR 1.27 (e)(4)(i) shall be filed with the official signing of the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the United States Secret Service General Counsel and shall be delivered to the following location: General Counsel, United States Secret Service, Suite 8300, 950 H Street, NW., Washington, DC 20373-5802.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

[52 FR 26305, July 14, 1987, as amended at 66 FR 9959, Feb. 13, 2001]

#### APPENDIX E TO SUBPART C OF PART 1— ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

1. *In general.* This appendix applies to the Alcohol and Tobacco Tax and Trade Bureau. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of

records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(3), (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determination under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Alcohol and Tobacco Tax and Trade Bureau, will be made by the Director, Regulations and Rulings Division, or the delegate of such officer. Requests may be mailed or delivered in person to:

Privacy Act Request, Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Box 12, Washington, DC 20005. Requests may also be faxed to 202-453-2331.

3. *Requests for amendment of record.* Initial determinations under 31 CFR 1.27 (a) through (d) with respect to requests to amend records maintained by the Alcohol and Tobacco Tax and Trade Bureau will be made by the Director, Regulations and Rulings Division. Requests for amendment of records may be mailed or delivered in person to:

Privacy Act Request, Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005. Requests may also be faxed to 202-453-2331. The Bureau will process a faxed request when the request meets the identity verification requirements outlined in paragraph 4(a) of this Appendix.

4. *Verification of identity.* (a) In addition to the requirements specified in 31 CFR 1.26(d) of this appendix, each request for notification, access or amendment of records made by mail or fax shall contain the requesting individual's date and place of birth and a statement signed by the requester asserting his or her identity and stipulating that the requester understands that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is a misdemeanor and punishable by a fine of up to \$5,000 provided, that the Alcohol and Tobacco Tax and Trade Bureau may require a signed notarized statement verifying the identity of the requester.

(b) Individuals making requests in person will be required to exhibit at least two acceptable identifying documents such as employee identification cards, driver's license, medical cards, or other documents sufficient to verify the identity of the requester.

(c) The parent or guardian of a minor or a person judicially determined to be incompetent, shall in addition to establishing the identity of the minor or other person he represents as required in (a) and (b), establish his own parentage or guardianship by furnishing a copy of a birth certificate showing parentage (or other satisfactory documentation) or a court order establishing the guardianship.

5. *Request for physical inspection of records.* Upon determining that a request for the physical inspection of records is to be granted, the requester shall be notified in writing of the determination, and when and where the records may be inspected. The inspection of records will be made at the Alcohol and Tobacco Tax and Trade Bureau Field Office or other facility located nearest to the residence of the individual making the request. Such inspection shall be conducted during the regular business hours of the field office or other facility where the disclosure is made. A person of the requester's own choosing may accompany the requester provided the requester furnishes a written statement authorizing the disclosure of the requester's record in the accompanying person's presence. The record inspection will be made in the presence of a representative of the Bureau. Following the inspection of the record, the individual will acknowledge in writing the fact that he or she had an opportunity to inspect the requested record.

6. *Requests for copies of records without prior physical inspection.* Upon determining that an individual's request for copies of his or her records without prior physical inspection is to be granted, the requester shall be notified in writing of the determination, and the location and time for his or her receipt of the requested copies. The copies will be made available at the Alcohol and Tobacco Tax and Trade Bureau field office or other facility located nearest to the residence of the individual making the request, unless the individual requests that the documents be sent by mail. Copies shall be received by the requester during the regular business hours of the field office or other facility where the disclosure is made. Transfer of the copies to the individual shall be conditioned upon payment of copying costs and his presentation of at least two acceptable identifying documents such as employee identification cards, driver's license, medical cards, or other documents sufficient to verify the identity of the requester. Following the receipt of the copies in person, the individual will acknowledge receipt in writing.

7. *Administrative appeal of initial determination refusing to amend record.* Appellate determinations under 31 CFR 1.27(e) with respect to records of the Alcohol and Tobacco Tax and Trade Bureau, including extensions of time on appeal, will be made by the Administrator or the delegate of such officer. Appeals should be addressed to, or delivered in person to:

Privacy Act Amendment Appeal, Administrator, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Box 12, Washington, DC 20005.

8. *Statements of disagreement.* "Statements of Disagreement" as described in 31 CFR 1.27(e)(4) shall be filed with the official signing the notification within 35 days of the date of such notification and should be limited to one page.

9. *Service of process.* Service of process will be received by the Administrator of the Alcohol and Tobacco Tax and Trade Bureau or the delegate of such official and shall be delivered to the following location:

Administrator, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Box 12, Washington, DC 20005, Attention: Chief Counsel.

10. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for each pertinent system.

[76 FR 62298, Oct. 7, 2011]

#### APPENDIX F TO SUBPART C OF PART 1— BUREAU OF ENGRAVING AND PRINTING

1. *In general.* This appendix applies to the Bureau of Engraving and Printing. It sets forth specific notification and access procedures with respect to particular systems of records including identification requirements, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the

routine uses of the information in the system required by 5 U.S.C. 552a (e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances."

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Bureau of Engraving and Printing, will be made by the head of the organizational unit having immediate custody of the records requested, or the delegate of such official. Requests for access to records contained within a particular system of records should be submitted to the address indicated for that system in the access section of the notices published by the Office of the Federal Register in "Privacy Act Issuances." Requests for information and specific guidance should be addressed to: Privacy Act Request, Disclosure Officer (Executive Assistant to the Director), Room 104-18M, Bureau of Engraving and Printing, Washington, DC 20228.

3. *Requests for amendment of records.* Initial determination under 31 CFR 1.27 (a) through (d), whether to grant request to amend records will be made by the head of the organizational unit having immediate custody of the records or the delegate of such official. Requests for amendment should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for amendment should be addressed to: Privacy Act Amendment Request, Disclosure Officer (Executive Assistant to the Director), Bureau of Engraving and Printing, Room 104-18M, Washington, DC 20228.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal, with respect to records of the Bureau of Engraving and Printing will be made by the Director of the Bureau or the delegate of such officer. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, Disclosure Officer (Executive Assistant to the Director), Room 104-18M, Bureau of Engraving and Printing, Washington, DC 20228.

5. *Statements of disagreement.* "Statements of Disagreement" under 31 CFR 1.27(e)(4)(8) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the Chief Counsel of the Bureau of Engraving and Printing and shall be delivered to the following location: Chief

Counsel, Bureau of Engraving and Printing, Room 109-M, 14th and C Streets, SW., Washington, DC 20228.

7. *Verification of identity.* An individual seeking notification or access to records, or seeking to amend a record, or seeking an accounting of disclosures, must satisfy one of the following identification requirements before action will be taken by the Bureau of Engraving and Printing on any such request:

(i) An individual appearing in person may establish identity by the presentation of a single document bearing a photograph (such as a passport or identification badge) or by the presentation of two items of identification which do not bear a photograph, but do bear both a name and signature (such as a credit card).

(ii) An individual may establish identity through the mail by a signature, address, and one other identifier such as a photocopy of a driver's license or other document bearing the individual's signature.

(iii) Notwithstanding subdivisions (i) and (ii) of this subparagraph, an individual who so desires, may establish identity by providing a notarized statement, swearing or affirming to such individual's identity and to the fact that the individual understands the penalties provided in 5 U.S.C. 552a(1)(3) for requesting or obtaining access to records under false pretenses.

Notwithstanding subdivision (i), (ii), or (iii) of this subparagraph, the Executive Assistant or other designated official may require additional proof of an individual's identity before action will be taken on any request if such official determines that it is necessary to protect against unauthorized disclosure of information in a particular case. In addition, a parent of any minor or a legal guardian of any individual will be required to provide adequate proof of legal relationship before such person may act on behalf of such minor or such individual.

8. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 522a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

#### APPENDIX G TO SUBPART C OF PART 1— FINANCIAL MANAGEMENT SERVICE

1. *In general.* This appendix applies to the Financial Management Service. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect

to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Financial Management Service, will be made by the head of the organizational unit having immediate custody of the records requested or an official designated by this official. This is indicated in the appropriate system notice in "Privacy Act Issuances" published annually by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records may be mailed or delivered personally to: Privacy Act Request, Disclosure Officer, Financial Management Service, Room 108, Treasury Department Annex No. 1, Pennsylvania Avenue and Madison Place, NW., Washington, DC 20226.

3. *Requests for amendment of records.* Initial determination under 31 CFR 1.27(a) through (d), whether to grant requests to amend records will be made by the head of the organizational unit having immediate custody of the records or the delegate of such official. Requests for amendment should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for amendment should be addressed to: Privacy Act Amendment Request, Disclosure Officer, Financial Management Service, Department of the Treasury, Treasury Annex No. 1, Washington, DC 20226.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal, with respect to records of the Financial Management Service will be made by the Commissioner or the delegate of such official. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal Commissioner, Financial Management Serv-

ice (Privacy), Department of the Treasury, Room 618, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, NW., Washington, DC 20226.

5. *Statements of disagreement.* "Statements of Disagreement" under 31 CFR 1.27(e)(4)(i) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the Commissioner, Financial Management Service or the delegate of such official and shall be delivered to the following location: Commissioner, Financial Management Service (Privacy), Department of the Treasury, Room 618, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, NW, Washington, DC 20226.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

#### APPENDIX H TO SUBPART C OF PART 1— UNITED STATES MINT

1. *In general.* This appendix applies to the United States Mint. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the United States Mint will be made by the head of the organizational unit having immediate custody of the records requested or

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an official designated by this official. This is indicated in the appropriate system notice in "Privacy Act Issuances" published annually by the Office of the Federal Register. Requests should be directed to the Superintendent or Officer in charge of the facility in which the records are located or to the Chief, Administrative Programs Division. Requests for information and specific guidance on where to send requests for records may be mailed or delivered personally to: Privacy Act Request, Chief, Administrative Programs Division, United States Mint, Judiciary Square Building, 633 3rd Street, N.W., Washington, DC 20220.

3. *Requests for amendment of records.* Initial determination under 31 CFR 1.27 (a) through (d), whether to grant requests to amend records will be made by the head of the Mint installation having immediate custody of the records or the delegated official. Requests should be mailed or delivered personally to: Privacy Act Amendment Request, Freedom of Information and Privacy Acts Officer, United States Mint, Judiciary Square Building, 633 3rd Street, Washington, DC 20220.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27 including extensions of time on appeal, with respect to records of the United States Mint will be made by the Director of the Mint or the delegate of the Director. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220.

5. *Statements of disagreement.* "Statements of Disagreement" under 31 CFR 1.27 (e)(4)(i) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the Director of the Mint and shall be delivered to the following location: Director of the Mint, Judiciary Square Building, 633 3rd street, NW., Washington, DC 20220.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

**APPENDIX I TO SUBPART C OF PART 1—  
BUREAU OF THE PUBLIC DEBT**

1. *In general.* This appendix applies to the Bureau of the Public Debt. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officer designated to grant extension of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Bureau of Public Debt, will be made by the head of the organizational unit having immediate custody of the records requested or an official designated by this official. This is indicated in the appropriate system notice in "Privacy Act Issuances" published annually by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records may be mailed or delivered personally to: Privacy Act Request, Disclosure Officer, Administrative Resource Center, Bureau of the Public Debt, Department of the Treasury, 200 Third Street, Room 211, Parkersburg, WV 26101-5312.

3. *Requests for amendment of records.* Initial determination under 31 CFR 1.27 (a) through (d), whether to grant requests to amend records will be made by the head of the organizational unit having immediate custody of the records or the delegate of such official. Requests for amendment should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for amendment should be addressed to: Privacy Act Amendment Request, Disclosure Officer, Administrative Resource Center, Bureau of the Public Debt, Department of the Treasury, 200 Third Street, Room 211, Parkersburg, WV 26101-5312.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal, with respect to records of the Bureau of the Public Debt will be made by the Executive Director, Administrative Resource Center, Bureau of the Public Debt or the delegate of such officer. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, Chief Counsel, Bureau of the Public Debt, Department of the Treasury, Executive Director, Administrative Resource Center, Bureau of the Public Debt.

5. *Statements of disagreement.* “Statements of Disagreement” under 31 CFR 1.27 (e)(4)(i) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the Chief Counsel of the Bureau of the Public Debt and shall be delivered to the following location: Chief Counsel, Bureau of the Public Debt, Department of the Treasury, 200 Third Street, Room G-15, Parkersburg, WV 26106-1328.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled “Privacy Act Issuances”. Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

#### APPENDIX J TO SUBPART C OF PART 1— OFFICE OF THE COMPTROLLER OF THE CURRENCY

1. *In general.* This appendix applies to the Office of the Comptroller of the Currency. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom “Statements of Disagreement” may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C.

552a(e) (4) and (11) and published annually by the Office of the Federal Register in “Privacy Act Issuances”.

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26 whether to grant requests for notification and access to records and accountings of disclosures for the Office of the Comptroller of the Currency will be made by the head of the organizational unit having immediate custody of the records requested or the delegate of that official. This is indicated in the appropriate system notice in “Privacy Act Issuances” published biennially by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records shall be mailed or delivered personally to: Disclosure Officer, Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

3. *Requests for amendment of records.* Initial determinations under 31 CFR 1.27 (a) through (d) whether to grant requests to amend records will be made by the Comptroller’s delegate or the head of the organizational unit having immediate custody of the records or the delegate of that official. Requests for amendment shall be mailed or delivered personally to: Disclosure Officer, Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal, with respect to records of the Office of the Comptroller of the Currency will be made by the Comptroller of the Currency or the Comptroller’s delegate. Appeals shall be mailed or delivered personally to: Disclosure Officer, Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

5. *Statements of disagreement.* “Statements of Disagreement” under 31 CFR 1.27(e)(4)(i) shall be filed with the OCC’s Director of Communications at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process shall be delivered to the Chief Counsel or the Chief Counsel’s delegate at the following location: Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled “Privacy Act Issuances”. Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26

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and 1.27 are indicated in the notice for the pertinent system.

[52 FR 26305, July 14, 1987, as amended at 60 FR 57333, Nov. 15, 1995; 67 FR 34402, May 14, 2002]

### APPENDIX K TO SUBPART C OF PART 1— FEDERAL LAW ENFORCEMENT TRAINING CENTER

1. *In general.* This appendix applies to the Federal Law Enforcement Training Center. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosure of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register, in "Privacy Act Issuances".

2. *Requests for notification and access to records and accounting of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accounting of disclosures for the Federal Law Enforcement Training Center, will be made by the head of the organizational unit having immediate custody of the records requested or an official designated by this official. This is indicated in the appropriate system notice in "Privacy Act Issuances" published annually by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records may be mailed or delivered personally to: Privacy Act Request, Library Building 262, Federal Law Enforcement Training Center, Glynco, Georgia 31524.

3. *Requests for amendment of records.* Initial determinations under 31 CFR 1.27 (a) through (d), whether to grant requests to amend records will be made by the head of the organizational unit having immediate custody of the records or the delegate of such official. Requests for amendment should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where

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to send requests for amendment should be addressed to: Privacy Act Amendment Request, Federal Law Enforcement Training Center, Glynco, Georgia 31524.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal, with respect to records of the Federal Law Enforcement Training Center will be made by the Assistant Secretary (Enforcement), Department of the Treasury or the delegate of such officer. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, FLETC, Assistant Secretary (Enforcement), Department of the Treasury, 1500 Pennsylvania Avenue, NW., Room 4312, Washington, DC 20220.

5. *Statements of disagreement.* "Statements of Disagreement" under 31 CFR 1.27(e)(4)(i) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the General Counsel of the Department of the Treasury or the delegate of such official and shall be delivered to the following location: General Counsel, Department of the Treasury, Room 3000, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

[52 FR 26305, July 14, 1987. Redesignated at 65 FR 2334, Jan. 14, 2000]

### APPENDIX L TO SUBPART C OF PART 1— OFFICE OF THRIFT SUPERVISION

1. *In general.* This appendix applies to the Office of Thrift Supervision. It sets forth specific notification and access procedures with respect to particular systems of records, and identifies the officers designated to make the initial determinations with respect to notification and access to records, the officers designated to make the initial and appellate determinations with respect to requests for amendment of records, the officers designated to grant extensions of time on appeal, the officers with whom "Statement of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals,



and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published biennially by the Office of the Federal Register in "Privacy Act Issuances."

2. *Requests for notification and access to records and accounting of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Office of Thrift Supervision, will be made by the head of the organizational unit having immediate custody of the records requested, or the delegate of such official. This information is contained in the appropriate system notice in the "Privacy Act Issuances," published biennially by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records should be addressed to: Privacy Act Request, Chief, Disclosure Branch, Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Requests may be delivered in person to: Office of Thrift Supervision, Information Services Division, 1700 G Street, NW., Washington, DC.

3. *Requests for amendments of records.* Initial determinations under 31 CFR 1.27 (a) through (d) with respect to requests to amend records maintained by the Office of Thrift Supervision will be made by the head of the organization or unit having immediate custody of the records or the delegates of such official. Requests for amendment of records should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send these requests should be addressed to: Privacy Act Amendment Request, Chief, Disclosure Branch, Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Privacy Act Amendment Requests may be delivered in person to: Office of Thrift Supervision, Information Services Division, 1700 G Street, NW., Washington, DC.

4. *Administrative appeal of initial determination refusing to amend record.* Appellate determination under 31 CFR 1.27(e) with respect to records of the Office of Thrift Supervision, including extensions of time on appeal, will be made by the Director, Public Affairs, Office of Thrift Supervision, or the delegate of such official, as limited by 5 U.S.C. 552a(d) (2) and (3). Appeals made by mail should be addressed as indicated in the letter of initial decision or to: Privacy Act Amendment Request, Chief, Disclosure Branch, Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Appeals may be delivered in person to: Office of Thrift Supervision, Information Services Division, 1700 G Street, NW., Washington, DC.

5. *Statements of Disagreement.* "Statements of Disagreement" as described in 31 CFR 1.27(e)(4) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the Corporate Secretary of the Office of Thrift Supervision or the delegate of such official and shall be delivered to the following location: Corporate Secretary, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

7. *Annual notice of systems of record.* The annual notice of systems of records required to be published by the Office of the Federal Register is included in the publication entitled "Privacy Act Issuances," as specified in 5 U.S.C. 552a(f). Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 and (8) below, and locations for access are indicated in the notice for the pertinent system.

8. *Verification of identity.* An individual seeking notification or access to records, or seeking to amend a record, must satisfy one of the following identification requirements before action will be taken by the Office of Thrift Supervision on any such request:

(i) An individual seeking notification or access to records in person, or seeking to amend a record in person, may establish identity by the presentation of a single official document bearing a photograph (such as a passport or identification badge) or by the presentation of two items of identification which do not bear a photograph but do bear both a name and signature (such as a driver's license or credit card).

(ii) An individual seeking notification or access to records by mail, or seeking to amend a record by mail, may establish identity by a signature, address, and one other identifier such as a photocopy of a driver's license or other official document bearing the individual's signature.

(iii) Notwithstanding subdivisions (i) and (ii) of this subparagraph, an individual seeking notification or access to records by mail or in person, or seeking to amend a record by mail or in person, who so desires, may establish identity by providing a notarized statement, swearing or affirming to such individual's identity and to the fact that the individual understands the penalties provided in 5 U.S.C. 552a(i)(3) for requesting or obtaining access to records under false pretenses. Alternatively, an individual may provide a statement that the individual understands the penalties provided in 5 U.S.C. 552a(i)(3) for requesting or obtaining access to records

under false pretenses which is subscribed by the individual as true and correct under penalty of perjury pursuant to 28 U.S.C. 1746. Notwithstanding subdivision (i), (ii), or (iii) of this subparagraph, a designated official may require additional proof of an individual's identity before action will be taken on any request, if such official determines that it is necessary to protect against unauthorized disclosure of information in a particular case. In addition, a parent of any minor or a legal guardian of any individual will be required to provide adequate proof of legal relationship before such person may act on behalf of such minor or such individual.

[60 FR 31633, June 16, 1995. Redesignated at 65 FR 2334, Jan. 14, 2000]

APPENDIX M TO SUBPART C OF PART 1  
[RESERVED]

APPENDIX N TO SUBPART C OF PART 1—  
FINANCIAL CRIMES ENFORCEMENT  
NETWORK

1. *In general.* This appendix applies to the Financial Crimes Enforcement Network (FinCEN). It sets forth specific notification and access procedures with respect to particular systems of records, and identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(4) and (11) and published biennially by the Office of the Federal Register in "Privacy Act Issuances."

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for FinCEN will be made by the Freedom of Information/Privacy Act officer, FinCEN. Requests may be mailed to: Privacy Act Request, Financial Crimes Enforcement Network, Post Office Box 39, Vienna, VA 22183.

3. *Requests for amendments of records.* Initial determinations under 31 CFR 1.27(a) through (d) whether to grant requests to amend records maintained by FinCEN will be made by the Freedom of Information/Privacy Act

officer, FinCEN. Requests may be mailed to: Privacy Act Request, Financial Crimes Enforcement Network, Post Office Box 39, Vienna, VA 22183.

4. *Verification of Identity.* An individual seeking notification or access to records, or seeking to amend a record, or seeking an accounting of disclosures, must satisfy one of the following identification requirements before action will be taken by FinCEN on any such request:

(i) An individual may establish identity through the mail by a signature, address, and one other identifier such as a photocopy of a driver's license or other official document bearing the individual's signature.

(ii) Notwithstanding this paragraph (4)(i), an individual may establish identity by providing a notarized statement, swearing or affirming to such individual's identity and to the fact that the individual understands the penalties provided in 5 U.S.C. 552a(i)(3) for requesting or obtaining access to records under false pretenses.

(iii) Notwithstanding this paragraph (4)(i) and (ii), the Freedom of Information Act/Privacy Act Officer or other designated official may require additional proof of an individual's identity before action will be taken on any request, if such official determines that it is necessary to protect against unauthorized disclosure of information in a particular case. In addition, a parent of any minor or a legal guardian of any individual will be required to provide adequate proof of legal relationship before such person may act on behalf of such minor or such individual.

5. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal with respect to the records of FinCEN will be made by the Director of FinCEN or the delegate of the Director. Appeals should be addressed to: Privacy Act Amendment Appeal, Financial Crimes Enforcement Network, Post Office Box 39, Vienna, VA 22183.

6. *Statements of Disagreement.* "Statements of Disagreement" as described in 31 CFR 1.27(e)(4) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification and should be limited to one page.

7. *Service of Process.* Service of process will be received by the Chief Counsel of FinCEN and shall be delivered to the following location: Office of Chief Counsel, Financial Crimes Enforcement Network, Post Office Box 39, Vienna, VA 22183.

8. *Biennial notice of systems of records.* The biennial notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances."

## Office of the Secretary of the Treasury

## § 2.1

Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 and paragraph 4 of this appendix are indicated in the notice for the pertinent system.

[68 FR 55311, Sept. 25, 2003]

### PART 2—NATIONAL SECURITY INFORMATION

Sec.

2.1 Processing of mandatory declassification review requests.

2.2 Access to classified information by historical researchers, former Treasury Presidential and Vice Presidential appointees, and former Presidents and Vice Presidents.

AUTHORITY: 31 U.S.C. 321, E.O. 12958, 60 FR 19825, E.O. 13292, 68 FR 15315.

SOURCE: 72 FR 63104, Nov. 8, 2007, unless otherwise noted.

#### § 2.1 Processing of mandatory declassification review requests.

(a) Except as provided by section 3.4(b) of Executive Order 13292, Further Amendment to Executive Order 12958, as amended, *Classified National Security Information*, all information classified by the Department of the Treasury under these Orders or any predecessor Executive Order shall be subject to mandatory declassification review by the Department, if:

(1) The request for a mandatory declassification review describes the document or material containing the information with sufficient specificity to enable Treasury personnel to locate it with a reasonable amount of effort;

(2) The information is not exempt from search and review under sections 105C, 105D, or 701 of the National Security Act of 1947 (50 U.S.C. 431, 432 and 432a); and

(3) The information has not been reviewed for declassification within the past 2 years or the information is not the subject of pending litigation.

(b) Requests for classified records originated by the Department of the Treasury shall be directed to the Office of Security Programs, Attention: Assistant Director (Information Security), 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Upon receipt of each request for mandatory declassification review, pursuant to section

3.5 of Executive Order 13292, the following procedures will apply:

(1) The Office of Security Programs will acknowledge receipt of the request.

(2)(i) A mandatory declassification review request need not identify the requested information by date or title of the responsive records, but must be of sufficient specificity to allow Treasury personnel to locate records containing the information sought with a reasonable amount of effort. Whenever a request does not reasonably describe the information sought, the requester will be notified by the Office of Security Programs that unless additional information is provided or the scope of the request is narrowed, no further action will be undertaken with respect to the request.

(ii) If Treasury has reviewed the information within the past 2 years and determined that all or part thereof remains classified, or the information is the subject of pending litigation, the requester shall be so informed and advised of the requester's appeal rights.

(3) The Office of Security Programs will determine the appropriate Treasury offices or bureaus to conduct the mandatory declassification review. The Office of Security Programs will also advise Treasury and/or bureau reviewing officials concerning the mandatory declassification review process. Classified information relating to intelligence activities (including special activities), intelligence sources or methods, or cryptology will also be coordinated with the Office of the Assistant Secretary (Intelligence and Analysis). As appropriate, the Office of Security Programs will refer requests to other Federal departments and agencies having a direct interest in the requested documents.

(4)(i) Treasury personnel undertaking a mandatory declassification review shall make reasonable efforts to determine if particular information may be declassified. Reviewing officials may rely on applicable exemption criteria under the Freedom of Information Act, the Privacy Act, and any other applicable law that authorizes the withholding of information. Reviewing officials shall also identify the amount of search and review time required to