

Panel Three consisting of the Chiefs of the Office of Engineering and Technology, the Wireless Telecommunications Bureau, and the International Bureau.

Panel Four consisting of the Chiefs of the Wireline Competition Bureau and the Media Bureau.

Additional information concerning this meeting may be obtained from David Fiske, Office of Media Relations, telephone number (202) 418-0500; TTY 1-888-835-5322. Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Qualex International (202) 863-2893; Fax (202) 863-2898; TTY (202) 863-2897. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. Qualex International may be reached by e-mail at [Qualexint@aol.com](mailto:Qualexint@aol.com).

This meeting can be viewed over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. For information on these services call (703) 993-3100. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast page at <http://www.fcc.gov/realaudio/>. Audio and video tapes of this meeting can be purchased from Infocus, 341 Victory Drive, Herndon, VA 20170, telephone (703) 834-1470, Ext. 10; fax number (703) 834-0111.

Federal Communications Commission.

**William F. Caton,**  
Deputy Secretary.

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## FEDERAL COMMUNICATIONS COMMISSION

### Privacy Act System of Records

**AGENCY:** Federal Communications Commission (FCC or Commission).

**ACTION:** Notice; altered Privacy Act system of records; revision of one routine use; addition of one new routine use; and cancellation of one system of records.

**SUMMARY:** Pursuant to the provisions of the Privacy Act of 1974, as amended, 5 U.S.C. 552a(e)(4) and (e)(11), the FCC proposes to alter a system of records, FCC/Central-6, "Personnel Investigation Records." The altered system of records will incorporate the provisions of FCC/ OMD-4, "Security Office Control Files," including the addition of two routine uses from FCC/ OMD-4; revision of one routine use; and addition of one new

routine use incorporating the data elements and uses for the Workplace Violence Form; and make other edits and revisions as necessary. The FCC will cancel FCC/ OMB-4.

**DATES:** In accordance with 5 U.S.C. 552a(e)(4) and (e)(11), any interested person may submit written comments concerning the proposed altered system of records on or before February 20, 2003. The Office of Management and Budget (OMB), which has oversight responsibility under the Privacy Act to review the system may submit comments on or before March 3, 2003. The proposed system shall become effective without further notice March 3, 2003 unless the FCC receives comments that would require a contrary determination. As required by 5 U.S.C. 552a(r) of the *Privacy Act of 1974*, as amended, the FCC has submitted reports on this proposed altered system to OMB and both Houses of Congress.

**ADDRESSES:** Comments should be sent to Les Smith, Privacy Act Clerk, Performance Evaluation and Records Management (PERM), Room 1-A804, Federal Communications Commission (FCC), 445 12th Street, SW., Washington, DC 20554, (202) 418-0217, or via the Internet at [lesmith@fcc.gov](mailto:lesmith@fcc.gov).

**FOR FURTHER INFORMATION:** Contact Les Smith, Performance Evaluation and Records Management (PERM), Room 1-A804, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, (202) 418-0217 or via the Internet at [lesmith@fcc.gov](mailto:lesmith@fcc.gov); or Eric Botker, Security Office, Associate Managing Director—Administrative Operations (AMD-AO), Security Operations Center, Federal Communications Commission (FCC), 445 12th Street, SW., Room 1-B458, Washington, DC 20554, (202) 418-7884 or via the Internet at [ebotker@fcc.gov](mailto:ebotker@fcc.gov).

**SUPPLEMENTARY INFORMATION:** As required by the *Privacy Act of 1974*, as amended, 5 U.S.C. 552a(e)(4) and (e)(11), this document sets forth notice of the proposed altered system of records maintained by the FCC; addition of two routine uses to FCC/Central-6 that were formerly in FCC/ OMD-4; revision of one routine use in FCC/ Central-6 to incorporate elements formerly in FCC/ OMD-4; addition of one new routine use to incorporate uses in the Workplace Violence Form; and cancellation of one system of records, FCC/ OMD-4. This agency previously gave complete notice of the two systems of records covered under this Notice by publication in the **Federal Register** on October 23, 2000, 65 FR 63468. This notice is a summary of more detailed information, which may be viewed at

the location given in the **ADDRESSES** section above. The purposes for altering FCC/Central-6, "Personnel Investigation Records" are to merge FCC/ OMD-4, "Security Office Control Files" into this system of records to eliminate possible duplications of functions and records; to add new data elements, new purposes, and one new routine use; to update the statutory authority to maintain the information that the Commission may collect when the Workplace Violence Form is introduced; and otherwise to alter, update, and revise this system of records as necessary.

The FCC proposes to achieve these purposes by altering this system of records, FCC/Central-6, "Personnel Investigation Records" with these changes:

The incorporation of the data elements of another system of records, FCC/ OMD-4, "Security Office Control Files," into FCC/Central-6;

The elimination of FCC/ OMD-4;

The transfer of two routine uses formerly in FCC/ OMD-4 to address new and/or revised uses;

Routine use (7) allows disclosure to the security officers of an agency in the executive, legislative, or judicial branch, or the District of Columbia Government, in response to their request(s) for verification of security clearances of FCC employees to have access to classified data or areas where their official duties require such access.

Routine use (8) allows disclosure to request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant or pertinent enforcement information or records, such as licenses, if necessary to obtain information relevant to a Commission decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a grant or other benefit.

The revision of one routine use to incorporate uses formerly in FCC/ OMD-4:

Routine use (5) allows disclosure to designated officers and employees of agencies, offices, and other establishments in the executive, legislative, and judicial branches of the Federal Government, and the District of Columbia Government, in response to their request, when such agency, office, or establishment conducts an investigation of the individual for the purpose of hiring, firing, or retention, granting a security clearance, making a determination of qualifications, suitability, or loyalty to the United States Government, or access to classified information or restricted areas, or classifying jobs, letting of a

contract, or issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's purpose.

The addition of one new routine use to include the data elements, information, and purposes for the Workplace Violence Form:

Routine use (9) allows disclosure to the Merit System Protection Board (MSPB) during the course of the MSPB's investigation of the individual's appeal, following the Commission's adverse action against the individual.

The alteration, revision, or modification of various data elements in FCC/Central-6, including editorial changes to update, simplify, or clarify, as necessary, this system of records.

The FCC Security Officer and the Personnel Security Specialist in the Security Office will use the records in FCC/Central-6 to provide investigative information to determine compliance with Federal regulations and/or an individual's suitability and fitness for Federal employment, access to classified information or restricted areas, position sensitivity, security clearances, evaluations of qualifications, and loyalty to the U.S.; to evaluate qualifications and suitability to perform contractual services for the U.S. Government; to document such determinations; to respond to an inquiry conducted under the President's Program to Eliminate Waste and Fraud in the Government; to take action on, or respond to a complaint about a threat, harassment, intimidation, violence, or other inappropriate behavior involving one or more FCC employees and/or contract employees; and to counsel employees.

Records in this system will be available for public inspection at the location given above. The functions in this system of records will be performed by the FCC Security Officer and the Personnel Security Specialist in the Security Office.

This notice meets the requirement documenting the change in the Commission's system of records, and provides the public, Congress, and the Office of Management and Budget (OMB) an opportunity to comment.

#### **FCC/CENTRAL-6**

##### **SYSTEM NAME:**

Personal Investigation Records.

##### **SECURITY CLASSIFICATION:**

There is no specific security classification for this system; however, data or records within the system may have national defense/foreign policy classifications up through secret.

##### **SYSTEM LOCATION:**

Security Operations Center, Assistant Managing Director-Administrative Offices (AMD-AO), Office of Managing Director, Federal Communications Commission (FCC), 445 12th Street, SW., Room 1-B458, Washington, DC 20554.

##### **CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

1. Current and former FCC employees, applicants for employment in the Federal service, and contractors.

2. Individuals considered for access to classified information or restricted areas and/or security determinations such as contractors, experts, instructors, and consultants to Federal programs.

3. Individuals who are neither applicants nor employees of the Federal Government, but who are or were involved in Federal programs under a co-operative agreement.

##### **CATEGORIES OF RECORDS IN THE SYSTEM:**

1. Data needed to identify an individual and his/her security clearance for both FCC and contract employees: Individual's last, first, and middle names (filed alphabetically by last name); Social Security Number; date of birth; place of birth; Bureau/Office/Contractor Company; position title; security classification; types and dates of investigations; agency conducting investigation, investigation dates, clearance level granted, and position sensitivity level; and remarks.

2. Data needed to investigate an individual's character, conduct, and behavior in the community where he or she lives or lived; arrests and convictions for violations against the law; reports of interviews with present and former supervisors, co-workers, associates, educators, etc; reports about the individual's qualifications for a position; reports of inquiries with law enforcement agencies, employers, and educational institutions attended; reports of action after OPM or FBI Section 8(d) Full Field Investigation; Notices of Security Investigation and other information developed from the above described Certificates of Clearance; and in some instances, a photograph of the subject.

3. Data to needed to investigate allegations of misconduct by an FCC employee;

4. Data needed to investigate miscellaneous complaints not covered by the FCC's formal or informal grievance procedure; and

5. Data needed to conduct inquiries under the "President's Program to Eliminate Waste and Fraud in Government."

6. Data needed to investigate violence, threats, harassment, intimidation, or other inappropriate behavior that causes an FCC employee or contractor to fear for his/her personal safety in the FCC workplace: case number; victim's name; office telephone number; room number; organization bureau/office/division/branch; duty station; position; supervisor; supervisor's telephone number; location of incident; activity at time of incident; circumstances surrounding the incident; perpetrator; name(s) and telephone number(s) of witness(es); injured party(s); medical treatment(s); medical report; property damages; report(s) to police and/or Federal Protective Services; and other miscellaneous information.

##### **AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 CFR part 5; 29 CFR part 1960; 47 CFR 19.735-107; 5 U.S.C. 1303, 1304, 3301, 7902; and Executive Orders 10450, 11222, 12065, and 12196.

##### **PURPOSE(S):**

FCC Security Officer and the Personnel Security Specialist of the Security Office use the records in this system to provide investigative information to determine compliance with Federal regulations and/or to make a determination about an individual's suitability and fitness for Federal employment, access to classified information or restricted areas, position sensitivity, security clearances, evaluations of qualifications, and loyalty to the U.S.; to evaluate qualifications and suitability to perform contractual services for the U.S. Government; to document such determinations; to respond to an inquiry conducted under the President's Program to Eliminate Waste and Fraud in the Government; to take action on, or to respond to a complaint about a threat, harassment, intimidation, violence, or other inappropriate behavior involving one or more FCC employees and/or contract employees; and to counsel employees.

##### **ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

1. A record from this system of records may be referred to the appropriate Federal, state, or local agency responsible for investigating or prosecuting a violation or for enforcing or implementing the statute, rule, regulation, or order where there is an indication of a violation or potential violation of a statute, regulation, rule, or order.

2. A record on an individual in this system of records may be disclosed to a

Congressional office in response to an inquiry an individual has made to the Congressional office.

3. A record for this system of records maybe disclosed to GSA and NARA for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall not be used to make a determination about individuals.

4. A record on an individual in this system of records may be disclosed, where pertinent, in any legal proceeding to which the Commission is a party before a court or administrative body.

5. A record from this system may be disclosed to designated officers and employees of agencies, offices, and other establishments in the executive, legislative, and judicial branches of the Federal Government, and the District of Columbia Government, in response to their request, when such agency, office, or establishment conducts an investigation of the individual for the purpose of hiring, firing, or retention, granting a security clearance, making a determination of qualifications, suitability, or loyalty to the United States Government, or access to classified information or restricted areas, or classifying jobs, letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's purpose.

6. A record from this system of records may be disclosed to the Department of Justice or in a proceeding before a court or adjudicatory body when:

(a) The United States, the Commission, a component of the Commission, or when represented by the government, an employee of the Commission is a party to litigation or anticipated litigation or has an interest in such litigation, and

(b) The Commission determines that the disclosure is relevant or necessary to the litigation.

7. A record from this system may be disclosed to the security officers of an agency in the executive, legislative, or judicial branch, or the District of Columbia Government, in response to their request(s) for verification of security clearances of FCC employees to have access to classified data or areas where their official duties require such access.

8. A record in this system may be disclosed to request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant or pertinent enforcement information or records, such as licenses, if necessary to obtain information

relevant to a Commission decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a grant or other benefit.

9. A record from this system may be disclosed to the Merit System Protection Board (MSPB) during the course of the MSPB's investigation of the individual's appeal, following the Commission's adverse action against the individual.

In each of these cases, the FCC will determine whether disclosure of the records is compatible with the purpose for which the records were collected.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Not applicable.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system of records include both paper and electronic records. Paper records are stored in file folders in security containers. The electronic records are maintained in a computer database.

**RETRIEVABILITY:**

Records are retrieved by individual's name and Social Security Number.

**SAFEGUARDS:**

Paper records are maintained in file folders and stored in approved security containers, within a secure, access-controlled area with an intrusion alarm. Access is limited to approved security office and administrative personnel.

The electronic records are maintained in a "stand-alone" computer database, which is secured through controlled access and passwords restricted to security and administrative personnel on a "need to know" basis. The computers are located in a room with a simplex lock and intrusive alarm systems. The computer databases are maintained on a computer that is not connected to the FCC computer network. The databases are backed-up on a daily basis to floppy disk(s), which are then stored in a secured area.

**RETENTION AND DISPOSAL:**

Both paper and electronic records are retained during employment or while an individual is actively involved in federal programs. As appropriate, records are returned to investigating agencies after employment terminates; otherwise, the records are retained for five years from the date that the employee leaves the Commission.

Investigative files and the computer database, which show the completion of an investigation, are retained for 15

years, except for investigations involving potential actionable issue(s), which will be maintained for 25 years plus the current year from the date of the most recent investigative activity.

Paper records are destroyed by shredding. Electronic records are destroyed by electronic erasure.

**SYSTEM MANAGER(S) AND ADDRESS:**

Security Office, Associate Managing Director—Administrative Operations (AMD—AO), Security Operations Center, Federal Communications Commission (FCC), 445 12th Street, SW., Room 1—B458, Washington, DC 20554.

**NOTIFICATION, RECORD ACCESS AND CONTESTING RECORD PROCEDURES:**

This system is exempt from the requirement that the agency publish the procedures for notifying an individual, at his or her request, if the system contains a record pertaining to him/her, for gaining access to such record, and for contesting the contents of the record.

**RECORD SOURCE CATEGORIES:**

This system is exempt from the requirement that the agency publish the categories of sources of records in this system.

**EXEMPTION FROM CERTAIN PROVISIONS OF THE ACT:**

This system of records is exempt from sections (c)(3), (d), (e)(4)(G), (H), and (I), and (f) of the *Privacy Act of 1974*, 5 U.S.C. 552a, and from 47 CFR 0.554–0.557 of the Commission's rules. These provisions concern the notification, record access, and contesting procedures described above, and also the publication of record sources. The system is exempt from these provisions because it contains the following types of information:

1. Investigative material compiled for law enforcement purposes as defined in Section (k)(2) of the Privacy Act.

2. Properly classified information, obtained from another Federal agency during the course of a personnel investigation, which pertains to national defense and foreign policy, as stated in Section (k)(1) of the Privacy Act.

3. Investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, as described in Section (k)(5) of the Privacy Act, as amended.

Federal Communications Commission.

**Marlene H. Dortch,**  
Secretary.

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