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in response to a demand. However, the Department will consider a demand submitted in accordance with this subpart and issue a decision to grant or deny the demand.

(b) No employee may provide official information or testimony relating to official information in response to a demand unless authorized by the Department in accordance with this subpart. *See United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951). An employee who fails to comply with this regulation may be subject to disciplinary action up to and including removal.

RESPONSIBILITIES IF MAKING A DEMAND

§ 1.213 How can I obtain official information or testimony relating to official information in response to my demand?

You must submit a demand in accordance with this subpart (*see United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951)). The appropriate Department official, in consultation with the Office of the General Counsel, will consider your demand in accordance with this subpart. The Counsel to the Inspector General will consider and make any final determinations regarding all demands seeking official information or employee testimony from the Office of Inspector General.

§ 1.214 What information must I include with my demand?

Your demand must include the following information, if applicable:

(a) The caption of the legal proceeding underlying your demand, including the docket number and the name of the court or other authority involved;

(b) The parties to the legal proceeding underlying your demand and any known relationships they have to the Department's mission or programs;

(c) A copy of the complaint or equivalent document setting forth the assertions in the legal proceeding underlying your demand;

(d) The identity of the employee whose testimony is sought and an affidavit or declaration under 28 U.S.C. 1746 or, if such an affidavit or declaration is not feasible, a written statement by you or your attorney, setting forth a reasonably detailed summary of the testimony sought and its relevance to the legal proceeding underlying your demand. Any authorization the Department decides to grant for testimony by an employee shall be limited to testimony within the scope of the summary provided;

(e) If the demand seeks documents or other materials to be obtained or inspected, a de-scription of the official information and the relevance to the legal proceeding underlying your demand;

(f) A written description of all prior decisions, orders, or pending motions in the legal proceeding underlying your demand that bear on the relevance of the official information or testimony you seek;

(g) A showing that the desired official information or testimony is not reasonably available from any other source, including a showing that no document could be provided and used in lieu of testimony; and

(h) An explanation of how each of the Department's considerations set forth in §1.220(a) apply to your demand.

§ 1.215 How soon before I need the official information or testimony relating to official information should I submit my demand?

You must submit your demand, including all information identified in §1.214, at least 14 calendar days before the date when you need the official information or testimony relating to official information.

§ 1.216 If I serve a subpoena, must I also submit information in accordance with § 1.214?

Yes. A subpoena shall be served in accordance with the Federal Rules of Civil Procedure, Federal Rules of Criminal Procedure, or applicable state procedure, as appropriate. If you serve a subpoena, including a subpoena *duces tecum*, together with the subpoena you must also submit information in accordance with §1.214. If you serve a subpoena on the Department or a Department employee before submitting information in accordance with §1.214 of this subpart, the Department may oppose the subpoena on the grounds that you failed to follow the requirements of this subpart.