

Office of the Secretary of Labor

Pt. 71

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Greenwood Village, Colorado 80111
Government Center, Room E-315
Boston, Massachusetts 02203

80. 1391 Speer Boulevard, Suite 210, Denver,
Colorado 80204

Region II

81. 705 North Plaza, Room 204, Carson City,
Nevada 89701

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New York, New York 10014

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Arizona 85016

Region III

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Region IV

85. 301 West Northern Lights Boulevard,
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Sam Nunn Atlanta Federal Center
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Atlanta, Georgia 30303

86. 1150 N. Curtis Road, Suite 201, Boise,
Idaho 83706

Region V

87. 505 106th Avenue, Northeast, Suite 302,
Bellevue, Washington 98004

230 South Dearborn, Room 1064
Chicago, Illinois 60604

88. Federal Office Building, 1220 Southwest
Third Avenue, Room 640, Portland, Or-
egon 97204

Region VI

*Employee Benefits Security Administration
Regional Director or District Supervisor*

525 Griffin Street, Room 858
Dallas, Texas 75202

1. Regional Director, J.F.K. Federal Build-
ing, Room 575, Boston, Massachusetts
02203

Region VII

2. Regional Director, 201 Varick Street, New
York, New York 10014

City Center Square Building
1100 Main Street, Suite 850
Kansas City, Missouri 64105

3. Regional Director, The Curtis Center, 170
South Independence Mall West, Suite 870
West, Philadelphia, Pennsylvania 19106

Region VIII

4. District Supervisor, 1335 East-West High-
way, Suite 200, Silver Spring, Maryland
20910

1999 Broadway, Suite 1730
Denver, Colorado 80202

5. Regional Director, 61 Forsyth Street, S.W.,
Room 7B54, Atlanta, Georgia 30303

Region IX

6. District Supervisor, 8040 Peters Road,
Building H, Suite 104, Plantation, Flor-
ida 33324

71 Stevenson Street, Suite 705
San Francisco, California 94105

7. Regional Director, 1885 Dixie Highway,
Suite 210, Ft. Wright, Kentucky 41011

Region X

8. District Supervisor, 211 West Fort Street,
Suite 1310, Detroit, Michigan 48226

1111 Third Avenue, Suite 800
Seattle, Washington 98101

9. Regional Director, 200 West Adams Street,
Suite 1600, Chicago, Illinois 60606

APPENDIX B TO PART 70 [RESERVED]

10. Regional Director, 1100 Main Street,
Suite 1200, Kansas City, Missouri 64105

**PART 71—PROTECTION OF INDI-
VIDUAL PRIVACY AND ACCESS
TO RECORDS UNDER THE PRI-
VACY ACT OF 1974**

11. District Supervisor, Robert Young Fed-
eral Building, 1222 Spruce Street, Room
6.310, St. Louis, Missouri 63103

Subpart A—General

12. Regional Director, 525 Griffin Street,
Room 900, Dallas, Texas 75202

Sec.

13. Regional Director, 71 Stevenson Street,
Suite 915, P.O. Box 190250, San Francisco,
California 94119

71.1 General provisions.

14. District Director, 1111 Third Avenue,
Room 860, Seattle, Washington 98101

71.2 Request for access to records.

15. Regional Director, 1055 E. Colorado Blvd,
Suite 200, Pasadena, California 91106

71.3 Responses by components to requests
for access to records.

71.4 Form and content of component re-
sponses.

71.5 Access to records.

71.6 Fees for access to records.

71.7 Appeals from denials of access.

71.8 Preservation of records.

71.9 Request for correction or amendment
of records.

*Regional Administrators, Veterans' Employment
and Training Service (VETS)*

Region I

J.F. Kennedy Federal Building

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- 71.10 Certain records not subject to correction.
- 71.11 Emergency disclosures.
- 71.12 Use and collection of social security numbers.
- 71.13 Employee standards of conduct.
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- 71.15 Training.

Subpart B—Exemption of Records Systems Under the Privacy Act

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- 71.51 Specific exemptions pursuant to subsection (k)(2) of the Privacy Act.
- 71.52 Specific exemptions pursuant to subsection (k)(5) of the Privacy Act.

APPENDIX A TO PART 71—RESPONSIBLE OFFICIALS

AUTHORITY: 5 U.S.C. 301; 5 U.S.C. 552a as amended; Reorganization Plan No. 6 of 1950, 5 U.S.C. Appendix.

SOURCE: 63 FR 56741, Oct. 22, 1998, unless otherwise noted.

Subpart A—General

§ 71.1 General provisions.

(a) *Purpose and scope.* This part contains the regulations of the U.S. Department of Labor implementing 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, or under the control of, the Department of Labor and which are retrieved by an individual's name or personal identifier. These regulations set forth the procedures by which an individual may seek access under the Privacy Act to records pertaining to him, may request correction or amendment of such records, or may seek an accounting of disclosures of such records by the Department. These regulations are applicable to each component of the Department.

(b) *Government-wide systems of records.*

(1) DOL/GOVT-1 (Office of Workers' Compensation Programs, Federal Employees' Compensation Act File):

(i) All records, including claim forms, medical, investigative and other reports, statements of witnesses, and other papers relating to claims for compensation filed under the Federal Employees' Compensation Act (as amended and extended), are covered by the government-wide system of records entitled DOL/GOVT-1. This system is

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maintained by and under the control of the Employment Standards Administration's Office of Workers' Compensation Programs (OWCP), and, as such, all records contained in the OWCP claims file, as well as all copies of such documents retained and/or maintained by the injured worker's employing agency, are official records of the OWCP.

(ii) The protection, release, inspection and copying of records covered by DOL/GOVT-1 shall be accomplished in accordance with the rules, guidelines and provisions of this part, as well as with part 70 of this subtitle, and with the notice of the systems of records and routine uses published in the FEDERAL REGISTER. All questions relating to access/disclosure, and/or the amendment of FECA records maintained by the OWCP or an employing agency, are to be resolved in accordance with this part.

(iii)(A) While an employing agency may establish procedures that an injured employee or beneficiary should follow in requesting access to documents it maintains, any decision issued in response to such a request must comply with the rules and regulations of the Department of Labor.

(B) Any administrative appeal taken from a denial issued by the employing agency shall be filed with the Solicitor of Labor in accordance with §§ 71.7 and 71.9 of this part.

(iv) No agency other than the OWCP has authority to issue determinations in response to requests for the correction or amendment of records contained in or covered by DOL/GOVT-1. Any request for correction or amendment received by an employing agency must be referred to the OWCP for review and decision.

(2) For the government-wide system of records entitled DOL/GOVT-2 (Job Corps Student Records), a system maintained by and under the control of the Employment and Training Administration, the regulations of this Department shall govern, including the procedure for requesting access to, or amendment of the records, as well as appeals therefrom, shall govern.

(c) *Definitions.* As used in this subpart, the following terms shall have the following meanings:

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(1) *Agency* has the meaning set forth in 5 U.S.C. 552(f).

(2) *Component* means each separate agency, bureau, office, board, division, commission, service, or administration of the Department of Labor, as well as each agency which possesses records covered by a DOL government-wide system of records.

(3) *Individual Data Subject* means the individual by whose name or identifier the subject record is retrieved.

(4) *Record* means any item, collection, or grouping of information about an individual which is maintained by any component within a system of records and which contains the individual's name, identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint, voiceprint, or photograph.

(5) *Requester* means an individual who makes either a request for access, a request for correction or amendment, or a request for an accounting.

(6) *Routine use* has the meaning set forth in 5 U.S.C. 552a(7).

(7) *Statistical record* has the meaning set forth in 5 U.S.C. 552a(6).

(8) *System of records* means a group of any records under the control of the Department or any component from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to that individual.

(9) *Under the control of* means those official records for which the agency is officially responsible and either has in its possession or exercises dominion over. This excludes those records which, although in the physical possession of agency employees and used by them in performing official functions, are not, in fact, agency records. Uncirculated personal notes, papers and records which are retained or discarded at the author's discretion and over which the agency exercises no dominion or control (e.g., personal telephone list) are not *agency records* for purposes of this part.

(10) *He, his, and him* include "she", "hers" and "her".

§ 71.2 Requests for access to records.

(a) *Procedure for making requests for access to records.* An individual, or legal

representative acting on his behalf, may request access to a record about himself by appearing in person or by writing to the component that maintains the record. (See appendix A to this part which lists the components of the Department of Labor and their addresses.) A requester in need of guidance in defining his request may write to the Assistant Secretary for Administration and Management, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210-0002. A request should be addressed to the component that maintains the requested record. Both the envelope and the request itself should be marked: "Privacy Act Request."

(b) *Description of records sought.* A request for access to records must describe the records 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, and the name or identifying number of the system of records in which the requester believes the record is kept.

(c) *Agreement to pay fees.* The filing of a request for access to a record under this subpart shall be deemed to constitute an agreement to pay all applicable fees charged under § 71.6 up to \$25.00. The component responsible for responding to the request shall confirm this agreement in its letter of acknowledgment to the requester. When filing a request, a requester may specify a willingness to pay a greater amount, if applicable.

(d) *Verification of identity.* Any individual who submits a request for access to records must verify his identity in one of the following ways:

(1) Any requester making a request in writing must state in his request his full name, and current address. In addition, a requester must provide with his request an example of his signature, which shall be notarized, or signed as an unsworn declaration under penalty of perjury, pursuant to 28 U.S.C. 1746. In order to facilitate the identification of the requested records, a requester

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may also include in his request his Social Security number.

(2) Any requester submitting a request in person may provide to the component a form of official photographic identification, such as a passport, an identification badge or a driver's license which contains the photograph of the requester. If a requester is unable to produce a form of photographic identification, he may provide to the component two or more acceptable forms of identification bearing his name and address. In all cases, sufficient identification must be presented to confirm that the requester is the individual data subject.

(e) *Verification of guardianship.* The parent, guardian, or representative of a minor or the guardian or representative of a person judicially determined to be incompetent who submits a request for access to the records of the minor or incompetent must establish:

(1) His identity, as required in paragraph (d) of this section,

(2) That the requester is the parent, guardian, or representative of the subject of the record, which may be proved by providing a copy of the subject's birth certificate showing parentage or by providing a court order establishing the guardianship, and

(3) That he seeks to act on behalf of the subject of the record.

(f) The disclosure officer may waive the requirements set forth in paragraphs (d) and (e) of this section when he deems such action to be appropriate, and may substitute in lieu thereof, other reasonable means of identification.

§71.3 Responses by components to requests for access to records.

(a) *In general.* Except as otherwise provided in this section, the component that:

(1) First receives a request for access to a record, and

(2) Has possession of the requested record is the component ordinarily responsible for responding to the request.

(b) *Authority to grant or deny requests.* The head of a component, or his designee (*i.e.* disclosure officer), is authorized to make an initial grant or denial of any request for access to a record in the possession of that component.

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(c) *Processing of requests for access not properly addressed.* A request for access that is not properly addressed as specified in §71.2 shall be forwarded to the Assistant Secretary for Administration and Management, who shall forward the request to the appropriate component or components for processing. A request not addressed to the appropriate component will be deemed not to have been received by the Department until the Assistant Secretary for Administration and Management has forwarded the request to the appropriate component which has the record and that component has received the request. When the component receives an improperly addressed request, it shall notify the requester of the date on which it received the request. Accordingly, a request for access shall be deemed received on the date that it is received in the appropriate component.

(d) *Date for determining responsive records.* In determining the extent to which records are responsive to a request for access, a component ordinarily will include only those records within the component's possession and control as of the date of its receipt of the request.

(e) *First party requests.* A request for access by the individual data subject for his or her own records shall be processed both under the Freedom of Information Act (FOIA) and the Privacy Act (PA).

§71.4 Form and content of component responses.

(a) *Form of notice granting request for access.* A request by the individual data subject for access to his or her own records shall not be denied unless both a Privacy Act exemption and a Freedom of Information Act exemption apply to the requested records. A component shall make a determination within 30 days to grant or deny a request for access in whole or in part. If the request is granted in whole, the component shall so notify the requester in writing. The notice shall describe the manner in which access to the record will be granted and shall inform the requester of any fees to be charged in accordance with §71.6.

(b) *Form of notice denying request for access.* A component denying a request

for access in whole or in part shall so notify the requester in writing. The notice, signed by the responsible agency official, shall include:

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

(2) A brief statement of the reason or reasons for the denial, including the Privacy Act and FOIA exemption or exemptions which the component has relied upon in denying the request; and

(3) A statement that the denial may be appealed under § 71.7(a), and a description of the requirements of that paragraph.

(c) *Record cannot be located.* If no records are found which are responsive to the request, the component shall so notify the requester in writing. Such notification by the component shall inform the requester that, if the requester considers this response to be a denial of their request, the requester has a right to appeal to the Solicitor of Labor, within ninety days, as set forth in § 71.7.

(d) *Medical records.* When an individual requests medical records concerning himself, which are not otherwise exempt from disclosure, the disclosure officer shall, if deemed necessary because of possible harm to the individual, advise the individual that the Department of Labor believes that the records should be provided to a physician designated in writing by the individual. In addition, the Department shall request the individual to designate such a physician. Upon receipt of the designation, the disclosure officer will permit the physician to review the records or to receive copies of the records by mail, upon proper verification of identity.

§ 71.5 Access to records.

(a) *Manner of access.* A component that has made a determination to grant a request for access shall grant the requester access to the requested record either by providing the requester with a copy of the record, or making the record available for inspection by the requester at a reasonable time and place. The component shall charge the requester only duplication costs in accordance with the provisions of § 71.6. If a component provides access to a record by making the record avail-

able for inspection by the requester, the manner of such inspection shall not unreasonably disrupt the operations of the component.

(b) *Accompanying person.* A requester appearing in person to review his own records may be accompanied by another individual of his own choosing. The requester shall provide the Department with his or her written consent to disclose the record to the accompanying person.

§ 71.6 Fees for access to records.

(a) *When charged.* A component shall charge fees pursuant to 31 U.S.C. 9701 and 5 U.S.C. 552a(f)(5) for the copying of records unless the component, in its discretion, waives or reduces the fees for good cause shown. A component shall charge fees at the rate of \$0.15 per page. In accordance with the provisions of the Freedom of Information Act, the first 100 pages of copying shall be furnished without charge. For materials other than paper copies, the component may charge the direct costs of reproduction, but only if the requester has been notified of such costs before they are incurred. Fees shall not be charged where they would amount, in the aggregate, for one request or for a series of related requests, to less than \$15.00. Notwithstanding any other provision of this paragraph, the first copy of an individual's Privacy Act record shall be provided to the individual at no cost.

(b) *Notice of estimated fees amounting to between \$25 to \$250.* When a component determines or estimates that the fees to be charged under this section may amount to between \$25 to \$250, the component shall notify the requester as soon as practicable of the actual or estimated amount of the fee, unless the requester has indicated in advance his willingness to pay a fee as high as that anticipated.

(c) *Notice of estimated fees in excess of \$250.* When a component determines or estimates that the fees to be charged under this section may amount to more than \$250, the component shall notify the requester as soon as practicable of the actual or estimated amount of the fee, unless the requester has indicated in advance his willingness to pay a fee as high as that estimated. If the fee is estimated to be in

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excess of \$250, then the agency may require payment in advance. (If only a portion of the fee can be estimated readily, the component shall advise the requester that the estimated fee may be only a portion of the total fee.) Where the estimated fee exceeds \$250 and a component has so notified the requester, the component will be deemed not to have received the request for access to records until the requester has paid the anticipated fee, in full or in part. A notice to a requester pursuant to this paragraph shall offer him the opportunity to confer with Department personnel with the object of reformulating his request to meet his needs at a lower cost.

(d) *Form of payment.* Requesters must pay fees by cash, check or money order payable to either the Treasury of the United States, or the U.S. Department of Labor. However, the Department shall not require advance payment in any case where the fee is under \$250, except that where a requester has previously failed to pay a fee charged under this part, the requester must pay the component or the Department the full amount owed and make an advance deposit of the full amount of any estimated fee before a component shall be required to process a new or pending request for access from that requester.

§71.7 Appeals from denials of access.

(a) *Appeals to the Solicitor of Labor.* When a component denies in whole or in part a request for access to records, the requester may appeal the denial to the Solicitor of Labor within 90 days of his receipt of the notice denying his request. An appeal to the Solicitor of Labor shall be made in writing, addressed to the Solicitor of Labor, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC. 20210-0002. Both the envelope and the letter of appeal itself must be clearly marked: "Privacy Act Appeal." An appeal not so addressed and marked shall be forwarded to the Office of the Solicitor as soon as it is identified as an appeal under the Privacy Act. An appeal that is improperly addressed shall be deemed not to have been received by the Department until the Office of the Solicitor receives the appeal.

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(b) *Form of action on appeal.* The disposition of an appeal shall be in writing. A written decision affirming in whole or in part the denial of a request for access shall include a brief statement of the reason or reasons for the affirmation, including each Privacy Act and FOIA exemption relied upon and its relation to each record withheld, and a statement that judicial review of the denial is available in the U.S. District Court for the judicial district in which the requester resides or has his principal place of business, the judicial district in which the requested records are located, or the District of Columbia. If the denial of a request for access is reversed on appeal, the requester shall be so notified and the request shall be processed promptly in accordance with the decision on appeal.

(c) *Delegation of Authority by the Solicitor of Labor.* The Solicitor of Labor is authorized to delegate his authority to decide appeals from any and all denials of access to other senior attorneys within the Office of the Solicitor.

§71.8 Preservation of records.

Each component shall preserve all correspondence relating to the requests it receives under this subpart, and all records processed pursuant to such requests, until such time as the destruction of such correspondence and records is authorized pursuant to title 44 of the U.S. Code and record schedules approved by the National Archives and Records Administration, and otherwise in accordance with retention requirements as published in the agency's system of records. Under no circumstances shall records be destroyed while they are the subject of a pending request for access, appeal, or lawsuit under the Act.

§71.9 Request for correction or amendment of records.

(a) *How made.* An individual may submit a request for correction or amendment of a record pertaining to him. The request must be in writing and must be addressed to the component that maintains the record. (Appendix A of this part lists the components of the Department and their addresses.) The request must identify the particular record in question, state the correction

or amendment sought, and set forth the justification for the change. Both the envelope and the request itself must be clearly marked: "Privacy Act Amendment Request."

(b) *Initial determination.* Within 30 working days of receiving a request for correction or amendment, a component shall notify the requester whether his request will be granted or denied, in whole or in part. If the component grants the request in whole or in part, it shall send the requester a copy of the amended record, in releasable form, as proof of the change. If the component denies the request in whole or in part, it shall notify the requester in writing of the denial. The notice of denial shall state the reason or reasons for the denial and advise the requester of his right to appeal.

(c) *Appeals.* When a request for correction or amendment is denied in whole or in part, the requester may appeal the denial to the Solicitor of Labor within 90 days of his receipt of the notice denying his request. An appeal to the Solicitor of Labor shall be made in writing, shall set forth the specific item of information sought to be corrected or amended, and shall include any documentation said to justify the change. An appeal shall be addressed to the Solicitor of Labor, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210-0002. Both the envelope and the letter of appeal itself must be clearly marked: "Privacy Act Amendment Appeal."

(d) *Determination on appeal.* The Solicitor of Labor shall decide all appeals from denials of requests to correct or amend records. All such appeals shall be decided within 30 working days of receipt of the appeal, unless there is good cause shown to extend this period. The appellant shall be notified if the period for decision has been extended.

(1) If the denial of a request is affirmed on appeal, the requester shall be so notified in writing and advised of:

(i) The reason or reasons the denial has been affirmed,

(ii) The requester's right to file a Statement of Disagreement, as provided in paragraph (f) of this section, and

(iii) The requester's right to obtain judicial review of the denial in the U.S. District Court for the judicial district in which the requester resides or has its principal place of business, the judicial district in which the record is located, or the District of Columbia.

(2) If the denial is reversed on appeal, the requester shall be so notified and the request for correction or amendment shall be promptly remanded to the component that denied the request for processing in accordance with the decision on appeal.

(e) *Delegation of Authority by the Solicitor of Labor.* The Solicitor of Labor is authorized to delegate his or her authority to decide any and all appeals from denials of requests to correct or amend records to other senior attorneys within the Office of the Solicitor.

(f) *Statements of disagreement.* A requester whose request or appeal under this section has been denied shall have the right to file a Statement of Disagreement with the Solicitor of Labor, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210-0002, within 30 days of receiving notice of denial. Statements of Disagreement may not exceed one typed page per fact disputed. Statements exceeding this limit shall be returned to the requester for condensation. Upon receipt of a Statement of Disagreement under this section, the agency shall promptly have the statement included in the record and shall have the disputed record marked so as to indicate that a Statement of Disagreement has been filed.

(g) *Notices of correction or amendment or disagreement.* Within 30 working days of the correction or amendment of a record, the component that maintains the record shall advise all components or agencies to which it previously disclosed the record that the record has been amended. Whenever an individual has filed a Statement of Disagreement, a component shall append a copy of the Statement to the disputed record whenever the record is disclosed. The component may also append to the disputed record a written statement giving the component's reasons for denying the request to correct or amend the record.

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§ 71.10 Certain records not subject to correction.

Certain records are not subject to correction or amendment. These include, but are not limited to:

(a) Transcripts of testimony given under oath or written statements made under oath;

(b) Transcripts or decisions of grand jury, administrative, judicial, or quasi-judicial proceedings which constitute the official record of such proceedings;

(c) Records duly exempted from correction pursuant to 5 U.S.C. 552a(j) or 552a(k) by rulemaking promulgated under the Administrative Procedure Act (5 U.S.C. 551 *et seq.*)

§ 71.11 Emergency disclosures.

If the record of an individual has been disclosed to any person under compelling circumstances affecting the health or safety of any person, as described in 5 U.S.C. 552a(b)(8), the individual to whom the record pertains shall be notified of the disclosure at his last known address within 10 working days. The notice of such disclosure shall be in writing and shall state 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. The officer who made or authorized the disclosure shall be responsible for providing such notification.

§ 71.12 Use and collection of social security numbers.

(a) Each component unit that requests an individual to disclose his social security account number shall provide the individual, in writing, with the following information:

(1) The statute, regulation, Executive Order or other authority under which the number is solicited;

(2) Whether the disclosure is mandatory or voluntary; and

(3) The consequences, if any, to the individual should he or she refuse or fail to disclose the number.

(b) Neither the Department nor any of its component units shall, in the absence of specific federal statutory authority, deny to an individual any right, benefit or privilege provided by law solely because of such individual's

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refusal to disclose his social security account number.

(c) The head of each component unit shall ensure that employees authorized to collect social security account numbers or tax identifying numbers, are aware of the statutory or other basis for collecting such information, of the uses to which such numbers may be put, and of the consequences, if any, that might follow if a person refuses to disclose the requested number.

§ 71.13 Employee standards of conduct.

(a) Each component shall inform its employees of the provisions of the Privacy Act, including the Act's civil liability and criminal penalty provisions. Each component also shall notify its employees that they have a duty to:

(1) Protect the security of records,

(2) Ensure the accuracy, relevance, timeliness, and completeness of records,

(3) Avoid the unauthorized disclosure, either verbal or written, of records, and

(4) Ensure that the component maintains no system of records without public notice.

(b) Except to the extent that the Privacy Act permits such activities, an employee of the Department of Labor shall:

(1) Not collect information of a personal nature from individuals unless the employee is authorized to collect such information to perform a function or discharge a responsibility of the Department;

(2) Collect from individuals only that information which is necessary to the performance of the functions or to the discharge of the responsibilities of the Department;

(3) Collect information about an individual directly from that individual, whenever practicable;

(4) Inform each individual from whom information is collected of:

(i) The legal authority that authorizes the Department to collect such information,

(ii) The principal purposes for which the Department intends to use the information,

(iii) The routine uses the Department may make of the information, and

(iv) The practical and legal effects upon the individual of not furnishing the information;

(5) Maintain all records which are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as to ensure fairness to the individual in the determination;

(6) Maintain no record describing how any individual exercises rights guaranteed by the First Amendment to the United States Constitution, unless:

(i) The individual has volunteered such information for his own benefit,

(ii) A statute expressly authorizes the Department to collect, maintain, use, or disseminate the information, or

(iii) The individual's beliefs, activities, or membership are pertinent to and within the scope of an authorized law enforcement activity;

(7) Notify the head of the component of the existence or development of any system of records that has not been disclosed to the public;

(8) Disclose no record to anyone, for any use, unless authorized by the Act;

(9) Maintain and use records with care to prevent the inadvertent disclosure of a record to anyone; and

(10) Notify the head of the component of any record that contains information that the Act or the foregoing provisions of this paragraph do not permit the Department to maintain.

§ 71.14 Use of nonpublic information.

(a) *Prohibition.* (1) An employee shall not engage in a financial transaction using nonpublic information, nor allow the improper use of nonpublic information to further his own private interest or that of another, whether through advice or recommendations, or by knowing unauthorized disclosure. *See* 5 CFR 2635.703.

(2) Nonpublic information is information that an employee gains by reason of Federal employment that he knows or reasonably should know has not been made available to the general public. Nonpublic information includes information contained in a Privacy Act system of records which an individual knew or should have known:

(i) Is normally exempt from disclosure under Exemptions 6 or 7(C) of the Freedom of Information Act, or is oth-

erwise protected from disclosure by statute, Executive Order or regulation;

(ii) Has not actually been disseminated to the general public and is not authorized to be made available to the public upon request.

(b) *Sanctions.* Any DOL employee who willfully discloses any information or records from any file that contains individually-identifiable information to any person or agency not entitled to receive it, and the disclosure of which is prohibited by the Privacy Act or by rules or regulations established thereunder, and who, knowing the disclosure of the specific material is so prohibited, will be subject to disciplinary action, as appropriate.

(c) *Public Disclosures by Third Parties of DOL Privacy Act Records.* When Labor Department records subject to the Privacy Act are disclosed to third parties, and as a condition of the disclosure of such records, the person or entity to whom the records are furnished is expressly prohibited from further disseminating the information, any further dissemination of the information so furnished to such person or entity may be subject to the penalties set forth in 18 U.S.C. 641.

§ 71.15 Training.

All DOL systems managers, disclosure officers, and employees with responsibilities under the Privacy Act shall periodically attend training offered by the Department on the Privacy Act.

Subpart B—Exemption of Records Systems Under the Privacy Act

§ 71.50 General exemptions pursuant to subsection (j) of the Privacy Act.

(a) The following systems of records are eligible for exemption under 5 U.S.C. 552a(j)(2) because they are maintained by a component of the agency or subcomponent which performs as its principal function the enforcement of criminal laws, and they contain investigatory material compiled for criminal law enforcement purposes. Accordingly, these systems of records are exempt from the following subsections of 552a of title 5 U.S. Code: (c)(3) and (4), (d), (e)(1), (2), and (3), (e)(4)(G), (H), and (I), (e)(5) and (8), (f) and (g).

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(1) DOL/ESA-45 (Investigative Files of the Office of Labor-Management Standards), a system of records maintained by the Office of Labor-Management Standards.

(2) DOL/OIG-1 (General Investigative Files, and Subject Title Index, USDOL/OIG), a system of records maintained by the Office of the Inspector General (OIG).

(3) DOL/OIG-2 (Freedom of Information/Privacy Acts Records), a system of records maintained by the OIG.

(4) DOL/OIG-3 (Case Development Records), a system of records maintained by the OIG.

(5) DOL/OIG-5 (Investigative Case Tracking Systems/Audit Information Reporting Systems, USDOL/OIG), a system of records maintained by the OIG.

(6) DOL/MSHA-20 (Civil/Criminal Investigations), a system of records maintained by the Mine Safety and Health Administration.

(7) DOL/EBSA-2 (Office of Enforcement Index Cards and Investigation Files), a system of records maintained by the Employee Benefits Security Administration.

(b) This exemption applies to the extent that information in these systems of records is subject to exemption pursuant to 5 U.S.C. 552a(j)(2).

(c) These systems are exempted for the reasons set forth in paragraphs (c)(1) through (12) of this section, from the following subsections of 5 U.S.C. 552a:

(1) *Subsection (c)(3)*. The release of the disclosure accounting would present a serious impediment to law enforcement by permitting the subject of an investigation of an actual or potential criminal violation to determine whether he is the subject of investigation, or to obtain valuable information concerning the nature of that investigation and the information obtained, or to identify witnesses and informants.

(2) *Subsection (c)(4)*. Since an exemption is being claimed for subsection (d) of the Act (Access to Records), this subsection is inapplicable to the extent that these systems of records are exempted from subsection (d).

(3) *Subsection (d)*. Access to records contained in these systems would inform the subject of an actual or poten-

tial criminal investigation of the existence of that investigation, of the nature and scope of the investigation, of the information and evidence obtained as to his or her activities, and of the identity of witnesses or informants. Such access would, accordingly, provide information that could enable the subject to avoid detection, apprehension, and prosecution. This result, therefore, would constitute a serious impediment to effective law enforcement not only because it would prevent the successful completion of the investigation but also because it could endanger the physical safety of witnesses or informants, lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony. Amendment of the records would interfere with ongoing criminal law enforcement proceedings and imposes an impossible administrative burden by requiring criminal investigations to be continuously reinvestigated.

(4) *Subsection (e)(1)*. In the course of criminal and related law enforcement investigations, cases, and matters, the agency will occasionally obtain information concerning actual or potential violations of law that may not be technically within its statutory or other authority, or it may compile information in the course of an investigation which may not be relevant to a specific prosecution. In the interests of effective law enforcement, it is necessary to retain some or all of such information since it can aid in establishing patterns of criminal activity and can provide valuable leads for Federal and other law enforcement agencies. Moreover, it is difficult to know during the course of an investigation what is relevant and necessary. In this connection, facts or evidence may not seem relevant at first, but later in the investigation, their relevance is borne out.

(5) *Subsection (e)(2)*. To collect information to the greatest extent practicable from the subject individual of a criminal investigation or prosecution would present a serious impediment to law enforcement because the subject of the investigation or prosecution would be placed on notice as to the existence

of the investigation and would therefore be able to avoid detection or apprehension, improperly influence witnesses, destroy evidence, or fabricate testimony.

(6) *Subsection (e)(3)*. To provide individuals supplying information with a form which includes the information required by subsection (e)(3) would constitute a serious impediment to law enforcement, i.e., it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(7) *Subsections (e)(4)(G) and (H)*. These subsections are inapplicable to the extent that these systems are exempt from the access provisions of subsection (d) and the rules provisions of subsection (f).

(8) *Subsection (e)(4)(I)*. The categories of sources of the records in these systems have been published in the FEDERAL REGISTER in broad generic terms in the belief that this is all that subsection (e)(4)(I) of the Act requires. In the event, however, that this subsection should be interpreted to require more detail as to the identity of sources of the records in this system, exemption from this provision is necessary to protect the confidentiality of the sources of criminal and related law enforcement information. Such exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(9) *Subsection (e)(5)*. In the collection of information for criminal enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. Furthermore, the accuracy of such information can often only be determined in a court of law. The restrictions of subsection (e)(5) would inhibit the ability of government attorneys in exercising their judgment in reporting on information and investigations and impede the development of criminal information and related data necessary for effective law enforcement.

(10) *Subsection (e)(8)*. The individual notice requirements of subsection (e)(8)

could present a serious impediment to law enforcement as this could interfere with the ability to issue warrants or subpoenas and could reveal investigative techniques, procedures, or evidence.

(11) *Subsection (f)*. Procedures for notice to an individual pursuant to subsection (f)(1) as to existence of records pertaining to the individual dealing with an actual or potential criminal, civil, or regulatory investigation or prosecution must be exempted because such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation or case, pending or future. In addition, mere notice of the fact of an investigation could inform the subject or others that their activities are under investigation or may become the subject of an investigation and could enable the subjects to avoid detection, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Since an exemption is being claimed for subsection (d) of the Act (Access to Records) the rules required pursuant to subsections (f)(2) through (5) are inapplicable to these systems of records to the extent that these systems of records are exempted from subsection (d).

(12) *Subsection (g)*. Since an exemption is being claimed for subsections (d) (Access to Records) and (f) (Agency Rules) this section is inapplicable, and is exempted for the reasons set forth for those subsections, to the extent that these systems of records are exempted from subsections (d) and (f).

[63 FR 56741, Oct. 22, 1998, as amended at 68 FR 16399, Apr. 3, 2003]

§ 71.51 Specific exemptions pursuant to subsection (k)(2) of the Privacy Act.

(a) The following systems of records are eligible for exemption under 5 U.S.C. 552a(k)(2) because they contain investigatory material compiled for law enforcement purposes other than material within the scope of subsection (j)(2) of 5 U.S.C. 552a. Provided however, that if any individual is denied any right, privilege or benefit to which he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the

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maintenance of such material, such material shall be provided to such individual, except 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 January 1, 1975, under an implied promise that the identity of the source would be held in confidence. Accordingly the following systems of records are exempt from (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (e)(4)(I) and (f) of 5 U.S.C. 552a.

(1) DOL/GOVT-1 (Office of Workers' Compensation Programs, Federal Employees' Compensation Act File), a system of records maintained by the Employment Standards Administration (ESA).

(2) DOL/OASAM-17 (Equal Employment Opportunity Complaint Files), a system of records maintained by the Office of the Assistant Secretary for Administration and Management (OASAM).

(3) DOL/OASAM-19 (Negotiated Grievance Procedure and Unfair Labor Practice Files), a system of records maintained by OASAM.

(4) DOL/OASAM-20 (Personnel Investigation Records), a system of records maintained by OASAM.

(5) DOL/OASAM-22 (Directorate of Civil Rights Discrimination Complaint Case Files), a system of records maintained by OASAM.

(6) DOL/OASAM-29 (OASAM Employee Administrative Investigation File), a system of records maintained by OASAM.

(7) DOL/BLS-7 (BLS Employee Conduct Investigation), a system of records maintained by the Bureau of Labor Statistics (BLS).

(8) DOL/ESA-2 (Office of Federal Contract Compliance Programs, Complaint Files), a system of records maintained by ESA.

(9) DOL/ESA-25 (Office of Federal Contract Compliance Programs, Management Information Systems (OFCCP/MIS)), a system of records maintained by ESA.

(10) DOL/ESA-26 (Office of Workers' Compensation Programs, Longshore and Harbor Workers' Compensation

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Act Investigation Files), a system of records maintained by ESA.

(11) DOL/ESA-27 (Office of Workers' Compensation Programs, Longshore Act Claimant Representatives), a system of records maintained by ESA.

(12) DOL/ESA-28 (Office of Workers' Compensation Programs, Physicians and Health Care Providers Excluded under the Longshore Act), a system of records maintained by ESA.

(13) DOL/ESA-29 (Office of Workers' Compensation Programs, Physicians and Health Care Providers Excluded under the Federal Employees' Compensation Act), a system of records maintained by ESA.

(14) DOL/ESA-32 (ESA, Complaint and Employee Conduct Investigations), a system of records maintained by ESA.

(15) DOL/ESA-36 (ESA, Wage and Hour Division, MSPA/FLCRA Civil Money Penalty Record Files), a system of records maintained by ESA.

(16) DOL/ESA-40 (ESA, Wage and Hour Division, MSPA/FLCRA Tracer List), a system of records maintained by ESA.

(17) DOL/ESA-41 (ESA, Wage and Hour Division, MSPA/FLCRA Certificate Action Record Files), a system of records maintained by ESA.

(18) DOL/ESA-45 (Investigative Files of the Office of Labor-Management Standards), a system maintained by the Office of Labor-Management Standards.

(19) DOL/ETA-16 (Employment and Training Administration Investigatory File), a system of records maintained by the Employment and Training Administration (ETA).

(20) DOL/ETA-22 (ETA Employee Conduct Investigations), a system of records maintained by ETA.

(21) DOL/OIG-1 (General Investigative Files, and Subject Title Index, USDOL/OIG), a system of records maintained by the Office of the Inspector General (OIG).

(22) DOL/OIG-2 (Freedom of Information/Privacy Acts Records), a system of records maintained by the OIG.

(23) DOL/OIG-3 (Case Development Records), a system of records maintained by OIG.

(24) DOL/OIG-5 (Investigative Case Tracking Systems/Audit Information

Reporting Systems, USDOL/OIG), a system of records maintained by OIG.

(25) DOL/MSHA-10 (Discrimination Investigations), a system of records maintained by the Mine Safety and Health Administration (MSHA).

(26) DOL/MSHA-19 (Employee Conduct Investigations), a system of records maintained by MSHA.

(27) DOL/MSHA-20 (Civil/Criminal Investigations), a system of records maintained by MSHA.

(28) DOL/OSHA-1 (Discrimination Complaint File), a system of records maintained by the Occupational Safety and Health Administration (OSHA).

(29) DOL/OSHA-12 (Employee Conduct Investigations), a system of records maintained by OSHA.

(30) DOL/EBSA-2 (Office of Enforcement Index Cards and Investigation Files), a system of records maintained by the Employee Benefits Security Administration (EBSA).

(31) DOL/EBSA-7 (EBSA Employee Conduct Investigations), a system of records maintained by EBSA.

(32) DOL/SOL-8 (Special Litigation Files), a system of records maintained by the Office of the Solicitor (SOL).

(33) DOL/SOL-9 (Freedom of Information Act and Privacy Act Appeals Files), a system of records maintained by SOL.

(34) DOL/SOL-11 (Division of Civil Rights Defensive Litigation Files), a system of records maintained by SOL.

(35) DOL/SOL-12 (Third-party Recovery Files), a system of records maintained by SOL.

(36) DOL/SOL-13 (SOL Employee Conduct Investigations), a system of records maintained by SOL.

(37) DOL/SOL-15 (Solicitor's Office Litigation Files), a system of records maintained by SOL.

(38) DOL/VETS-1 (Veterans' Reemployment Complaint File—VETS-1), a system of records maintained by the Veterans' Employment and Training Service (VETS).

(39) DOL/VETS-2 (Veterans' Preference Complaint File), a system of records maintained by VETS.

(b) This exemption applies to the extent that information in these systems is subject to exemption pursuant to 5 U.S.C. 552a(k)(2).

(c) The systems of records listed under paragraphs (a)(1) through (a)(39) of this section are exempted for the reasons set forth in paragraphs (c) (1) through (6) of this section, from the following subsections of 5 U.S.C. 552a:

(1) *Subsection (c)(3)*. The release of the disclosure accounting, for disclosures made pursuant to subsection (b) of the Act, including those permitted under the routine uses published for these systems of records, would enable the subject of an investigation of an actual or potential civil case to determine whether he or she is the subject of investigation, to obtain valuable information concerning the nature of that investigation and the information obtained, and to determine the identity of witnesses or informants. Such access to investigative information would, accordingly, present a serious impediment to law enforcement. In addition, disclosure of the accounting would constitute notice to the individual of the existence of a record even though such notice requirement under subsection (f)(1) is specifically exempted for this system of records.

(2) *Subsections (d)(1), (d)(2), (d)(3), and (d)(4)*. Access to the records contained in these systems would inform the subject of an actual or potential civil investigation of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his or her activities, and of the identity of witnesses or informants. Such access would, accordingly, provide information that could enable the subject to avoid detection. This result, therefore, would constitute a serious impediment to effective law enforcement not only because it would prevent the successful completion of the investigation but also because it could endanger the physical safety of witnesses or informants, lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

(3) *Subsection (e)(1)*. The notices for these systems of records published in the FEDERAL REGISTER set forth the basic statutory or related authority for maintenance of these systems. However, in the course of civil and related law enforcement investigations, cases

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and matters, the agency will occasionally obtain information concerning actual or potential violations of law that are not strictly or technically within its statutory or other authority or may compile information in the course of an investigation which may not be relevant to a specific case. In the interests of effective law enforcement, it is necessary to retain some or all of such information in this system of records since it can aid in establishing patterns of compliance and can provide valuable leads for Federal and other law enforcement agencies. Moreover, it is difficult to know during the course of an investigation what is relevant and necessary. In this connection, facts or evidence may not seem relevant at first, but later in the investigation, their relevance is borne out.

(4) *Subsections (e)(4) (G) and (H)*. Since an exemption is being claimed for subsections (f) (Agency Rules) and (d) (Access to Records) of the Act, these subsections are inapplicable to the extent that these systems of records are exempted from subsections (f) and (d).

(5) *Subsection (e)(4)(I)*. The categories of sources of the records in these systems have been published in the FEDERAL REGISTER in broad generic terms in the belief that this is all that subsection (e)(4)(I) of the Act requires. In the event, however, that this subsection should be interpreted to require more detail as to the identity of sources of the records in this system, exemption from this provision is necessary in order to protect the confidentiality of the sources of civil law enforcement information. Such exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(6) *Subsection (f)*. Procedures for notice to an individual pursuant to subsection (f)(1) as to existence of records pertaining to the individual dealing with an actual or potential criminal, civil, or regulatory investigation or prosecution must be exempted because such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation or case, pending or future. In addition, mere notice of the fact of an investigation could inform the subject or others that their activities are under or may

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become the subject of an investigation and could enable the subjects to avoid detection, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Since an exemption is being claimed for subsection (d) of the Act (Access to Records), the rules required pursuant to subsections (f)(2) through (5) are inapplicable to these systems of records to the extent that these systems of records are exempted from subsection (d).

[63 FR 56741, Oct. 22, 1998, as amended at 68 FR 16399, Apr. 3, 2003]

§71.52 Specific exemptions pursuant to subsection (k)(5) of the Privacy Act.

(a) The following systems of records are eligible for exemption under 5 U.S.C. 552a(k)(5) because they contain 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 January 1, 1975, under an implied promise that the identity of the source would be held in confidence. Accordingly, these systems of records are exempt from (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (e)(4)(I) and (f) of 5 U.S.C. 552a.

(1) DOL/OASAM-20 (Personnel Investigation Records), a system of records maintained by the Office of the Assistant Secretary for Administration and Management (OASAM).

(2) DOL/OIG-1 (General Investigative Files, and Subject Title Index, USDOL/OIG), a system of records maintained by the Office of the Inspector General (OIG).

(3) DOL/OIG-2 (Freedom of Information/Privacy Acts Records), a system of records maintained by the OIG.

(4) DOL/OIG-3 (Case Development Records), a system of records maintained by the OIG.

(5) DOL/OIG-5 (Investigative Case Tracking Systems/Audit Information Reporting Systems, USDOL/OIG), a

system of records maintained by the OIG.

(b) This exemption applies to the extent that information in these systems is subject to exemption pursuant to 5 U.S.C. 552a(k)(5).

(c) The systems of records listed under paragraphs (a)(1) through (a)(5) of this section are exempted for the reasons set forth in paragraphs (c)(1) through (6) of this section, from the following subsections of 5 U.S.C. 552a:

(1) *Subsection (c)(3)*. The release of the disclosure accounting, for disclosures made pursuant to subsection (b) of the Act, including those permitted under the routine uses published for this system of records, would enable the subject of an investigation of an actual or potential civil case to determine whether he or she is the subject of investigation, to obtain valuable information concerning the nature of that investigation and the information obtained, and to determine the identity of witnesses or informants. Such access to investigative information would, accordingly, present a serious impediment to the investigation. In addition, disclosure of the accounting would constitute notice to the individual of the existence of a record even though such notice requirement under subsection (f)(1) is specifically exempted for this system of records.

(2) *Subsections (d)(1), (d)(2), (d)(3), and (d)(4)*. Access to the records contained in these systems would inform the subject of an actual or potential investigation of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his or her activities, and of the identity of witnesses or informants. Such access would, accordingly, provide information that could enable the subject to avoid detection. This result, therefore, would constitute a serious impediment to effective investigation not only because it would prevent the successful completion of the investigation but also because it could endanger the physical safety of witnesses or informants, lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

(3) *Subsection (e)(1)*. The notices for these systems of records published in

the FEDERAL REGISTER set forth the basic statutory or related authority for maintenance of this system. However, in the course of civil and related investigations, cases and matters, the agency will occasionally obtain information concerning actual or potential violations of law that are not strictly or technically within its statutory or other authority or may compile information in the course of an investigation which may not be relevant to a specific case. In the interests of effective investigation, it is necessary to retain some or all of such information in these systems of records since it can aid in establishing patterns of compliance and can provide valuable leads for Federal and other law enforcement agencies. Moreover, it is difficult to know during the course of an investigation what is relevant and necessary. In this connection, facts or evidence may not seem relevant at first, but later in the investigation, their relevance is borne out.

(4) *Subsections (e)(4)(G) and (H)*. Since an exemption is being claimed for subsections (f) (Agency Rules) and (d) (Access to Records) of the Act, these subsections are inapplicable to the extent that these systems of records are exempted from subsections (f) and (d).

(5) *Subsection (e)(4)(I)*. The categories of sources of the records in these systems have been published in the FEDERAL REGISTER in broad generic terms in the belief that this is all that subsection (e)(4)(I) of the Act requires. In the event, however, that this subsection should be interpreted to require more detail as to the identity of sources of the records in this system, exemption from this provision is necessary in order to protect the confidentiality of the sources of investigatory information. Such exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(6) *Subsection (f)*. Procedures for notice to an individual pursuant to subsection (f)(1) as to existence of records pertaining to the individual dealing with an actual or potential investigation must be exempted because such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation or

case, pending or future. In addition, mere notice of the fact of an investigation could inform the subject or others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Since an exemption is being claimed for subsection (d) of the Act (Access to Records), the rules required pursuant to subsections (f)(2) through (5) are inapplicable to these systems of records to the extent that these systems of records are exempted from subsection (d).

APPENDIX A TO PART 71—RESPONSIBLE OFFICIALS

(a)(1) The titles of the responsible officials of the various independent agencies in the Department of Labor are listed below. This list is provided for information and to assist requesters in locating the office most likely to have responsive records. The officials may be changed by appropriate designation. Unless otherwise specified, the mailing addresses of the officials shall be:
 U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210-0002.
 Secretary of Labor, *Attention:* Assistant Secretary for Administration and Management (OASAM)
 Deputy Solicitor, Office of the Solicitor
 Chief Administrative Law Judge, Office of the Administrative Law Judges (OALJs)
 Legal Counsel (OALJs)
 Assistant Secretary for Administration and Management (OASAM)
 Deputy Assistant Secretary for Administration and Management (OASAM)
 Director, Business Operations Center, OASAM
 Director, Civil Rights Center, OASAM
 Director, Human Resources Center, OASAM
 Director, Information Technology Center, OASAM
 Director, Worklife Center, OASAM
 Director, Reinvention Center, OASAM
 Director, Safety and Health Center, OASAM
 Director, Conference and Services Center, OASAM
 Chief Financial Officer, Office of the Chief Financial Officer
 Associate Deputy Secretary for Adjudication
 Chairperson, Administrative Review Board (ARB)
 Chief Administrative Appeals Judge, Benefits Review Board (BRB)
 Chairperson, Employees' Compensation Appeals Board (ECAB)
 Executive Director, Office of Adjudicatory Services (OAS)
 Director, Office of Small Business Programs

Director, Women's Bureau
 Assistant Secretary Office of Congressional and Intergovernmental Affairs (OCIA)
 Deputy Assistant Secretary, OCIA
 Assistant Secretary for Policy (ASP)
 Deputy Assistant Secretary, ASP
 Assistant Secretary, Office of Public Affairs (OPA)
 Deputy Assistant Secretary, OPA
 Disclosure Officer, Office of the Inspector General (OIG)
 Director, Office of Management, Administration and Planning Bureau of International Labor Affairs (ILAB)
 Secretary, U.S. National Administrative Office (USNAO)
 Assistant Secretary for Employment Standards, Employment Standards Administration (ESA)
 Director, Office of Management, Administration and Planning (OMAP), ESA
 Director, Equal Employment Opportunity Unit, ESA
 Director, Office of Public Affairs, OMAP, ESA
 Director, Division of Human Resources Management, OMAP, ESA
 Director, Division of Legislative and Regulatory Analysis, OMAP, ESA
 Director, Office of Workers' Compensation Programs (OWCP), ESA
 Special Assistant to the Director, OWCP, ESA
 Director for Federal Employees' Compensation, OWCP, ESA
 Director for Longshore and Harbor Workers' Compensation, OWCP, ESA
 Director for Coal Mine Workers' Compensation, OWCP, ESA
 Administrator, Wage and Hour Division, ESA
 Deputy Administrator, Wage and Hour Division, ESA
 National Office Program Administrator, Wage and Hour Division, ESA
 Deputy National Office Program Administrator, Wage and Hour Division, ESA
 Director, Office of Enforcement Policy, Wage and Hour Division, ESA
 Deputy Director, Office of Enforcement Policy, Wage and Hour Division, ESA
 Director, Office of Planning and Analysis, Wage and Hour Division ESA
 Director, Office of Wage Determinations, Wage and Hour Division ESA
 Director, Office of External Affairs, Wage and Hour Division, ESA
 Director, Office of Quality and Human Resources, Wage and Hour Division, ESA
 Deputy Assistant Secretary for Federal Contract Compliance Programs (OFCCP), ESA
 Deputy Director, Office of Federal Contract Compliance Programs, OFCCP, ESA
 Director, Division of Policy, Planning and Program Development, OFCCP, ESA

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Deputy Director, Division of Policy, Planning and Program Development, OFCCP, ESA
Director, Division of Program Operations, OFCCP, ESA
Deputy Director, Division of Program Operations, OFCCP, ESA
Director, Division of Management and Administrative Programs, OFCCP, ESA
Deputy Assistant Secretary for Labor-Management Standards, ESA
Assistant Secretary of Labor, Employment and Training Administration (ETA)
Deputy Assistant Secretary of Labor, Employment and Training Administration (ETA)
Administrator, Office of Financial and Administrative Management, ETA
Director, Office of Management, Information, and Support, ETA
Director, Office of Human Resources, ETA
Director, Office of the Comptroller, ETA
Director, Office of Grants and Contracts Management, ETA
Chief, Division of Resolution and Appeals, ETA
Chief, Division of Acquisition and Assistance, ETA
Chief, Division of Financial and Grant Management Policy and Review, ETA
Director, Office of Regional Management, ETA
Administrator, Office of Policy and Research, ETA
Director, Unemployment Insurance Service, ETA
Director, United States Employment Service, ETA
Chief, Division of Foreign Labor Certifications, ETA
Administrator, Office of Job Training Programs, ETA
Director, Office of Welfare-to-Work Programs, ETA
Director, Office of Employment and Training Programs, ETA
Director, National Office of School to Work Opportunities, ETA
Director, Office of Job Corps, ETA
Director, Office of National Programs, ETA
Director, Bureau of Apprenticeship and Training, ETA
Administrator, Office of Work-Based Learning, ETA
Program Manager, Division of Policy and Analysis, Office of Worker Retraining and Adjustment Programs, ETA
Program Manager, Division of Program Implementation, Office of Worker Retraining and Adjustment Programs, ETA
Director, Office of Trade Adjustment Assistance, ETA
Director, Office of One-Stop/LMI, ETA
Director, Office of Equal Employment Opportunity, Occupational Safety and Health Administration (OSHA)

Director, Office of Information and Consumer Affairs, OSHA
Director, Directorate Office of Construction, OSHA
Director, Directorate of Federal-State Operations, OSHA
Director, Directorate of Policy, OSHA
Director, Directorate of Administrative Programs, OSHA
Director, Personnel Programs, OSHA
Director, Office of Administrative Services, OSHA
Director, Office of Management Data Systems, OSHA
Director, Office of Management Systems and Organization, OSHA
Director, Office of Program Budgeting, Planning and Financial Management, OSHA
Director, Directorate of Compliance Programs, OSHA
Director, Directorate of Technical Support, OSHA
Director, Directorate of Safety Standards Programs, OSHA
Director, Directorate of Health Standards Programs, OSHA
Director, Office of Statistics, OSHA
Director, Office of Program Services, Employee Benefits Security Administration
Assistant Secretary for Veterans' Employment and Training (VETS)
Deputy Assistant Secretary for Veterans' Employment and Training, VETS
Director, Office of Operations and Programs, VETS
Chair, Benefits Review Board
Commissioner, Bureau of Labor Statistics (BLS)
Associate Commissioner, Office of Administration, BLS

The mailing address for responsible officials in the Bureau of Labor Statistics is:

Rm. 4040—Postal Square Bldg., 2 Massachusetts Ave., NE, Washington, DC 20212-0001.

Director of Program Evaluation and Information Resources Mine Safety and Health Administration (MSHA)

The mailing address for responsible official in the Mine Safety and Health Administration (MSHA) is:

4015 Wilson Boulevard, Arlington, Virginia 22203.

The mailing address for the Office of Administrative Law Judges is:

Chief, Office of Administrative Law Judges, 800 K Street, NW, Suite N-400, Washington, DC 20001-8002.

(2) The titles of the responsible officials in the regional offices of the various independent agencies are listed below: Unless otherwise specified, the mailing address for these officials by region, shall be:

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Region I

U.S. Department of Labor, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (For Wage and Hour only: Contact Region III)

In Region I, Only, the mailing address for OSHA is:

133 Portland Street, 1st Floor, Boston, Massachusetts 02114

Region II

201 Varick Street, New York, New York 10014, (For Wage and Hour only: Contact Region III)

Region III

Gateway Building, 3535 Market Street, Philadelphia, Pennsylvania 19104

Region IV

U.S. Department of Labor, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303

214 N. Hogan Street, Suite 1006, Jacksonville, Florida 32202 (OWCP Only)

Region V

Kluczynski Federal Building, 230 South Dearborn Street, Chicago, Illinois 60604
1240 East Ninth Street, Room 851, Cleveland, Ohio 44199 (FEC only)

Region VI

525 Griffin Square Building, Griffin & Young Streets, Dallas, Texas 75202

Region VII

City Center Square Building, 1100 Main Street, Kansas City, Missouri 64105-2112 (For Wage and Hour only: Contact Region V)

801 Walnut Street, Room 200, Kansas City, Missouri 64106 (OFCCP only)

Region VIII

1999 Broadway Street, Denver, Colorado 80202 (For Wage and Hour only: Contact Region VI)

1801 California Street, Suite 915, Denver, Colorado 80202 (OWCP only)

The mailing address for the Director of the Regional Bureau of Apprentice and Training in Region VIII is: Room 465, U.S. Custom House, 721-19th Street, Denver, CO 80202

Region IX

71 Stevenson Street, San Francisco, California 94105

Region X

1111 Third Avenue, Seattle, Washington 98101-3212 (For Wage and Hour only: Contact Region IX)

Regional Administrator for Administration and Management (OASAM)

Regional Personnel Officer, OASAM

Regional Director for Information and Public Affairs, OASAM

Regional Administrator for Occupational Safety and Health and Safety (OSHA)

Regional Commissioner, Bureau of Labor Statistics (BLS)

Regional Administrator for Employment and Training Administration (ETA)

Regional Director, Job Corps, ETA

Director, Regional Bureau of Apprenticeship and Training, ETA

Regional Management Analyst, ETA-Atlanta, Georgia

Regional Administrator for Wage and Hour, ESA

Regional Director for Federal Contract Compliance Programs, ESA

Regional Director for the Office of Workers' Compensation Programs, ESA

District Director, Office of Workers' Compensation Programs, ESA

*Office of Federal Contract Compliance Programs
ESA, Responsible Offices, Regional Offices*

JFK Federal Building, Room E-235, Boston, Massachusetts 02203

201 Varick Street, Room 750, New York, New York 10014

Gateway Building, Room 15340, 3535 Market Street, Philadelphia, Pennsylvania 19104

61 Forsyth Street, SW, Suite 7B75, Atlanta, Georgia 30303

Kluczynski Federal Building, Room 570, 230 South Dearborn Street, Chicago, Illinois 60604

Federal Building, Room 840, 525 South Griffin Street, Dallas, Texas 75202

71 Stevenson Street, Suite 1700, San Francisco, California 94105-2614

1111 Third Avenue, Suite 610, Seattle, Washington 98101-3212

*Office of Workers' Compensation Programs ESA,
Responsible Officials, District Directors*

John F. Kennedy, Federal Building, Boston, Massachusetts 02203 (FECA and LHWCA Only)

201 Varick Street, Seventh Floor, New York, New York 10014 (FECA and LHWCA only)

3535 Market Street, Philadelphia, Pennsylvania 19104 (FECA and LHWCA only)

Penn Traffic Building, 319 Washington Street, Johnstown, Pennsylvania 15901 (BLBA only)

105 North Main Street, Suite 100, Wilkes-Barre, Pennsylvania 18701 (BLBA Only)

Wellington Square, 1225 South Main Street, Greensburg, Pennsylvania 15601 (BLBA only)

300 West Pratt Street, Suite 240, Baltimore, Maryland 21201 (LHWCA Only)

Federal Building, 200 Granby Mall, Room #212, Norfolk, Virginia 23510 (LHWCA only)

Office of the Secretary of Labor**Pt. 71, App. A**

2 Hale Street, Suite 304, Charleston, West Virginia 25301 (BLBA Only)

609 Market Street, Parkersburg, West Virginia 26101 (BLBA Only)

800 North Capitol Street NW, Washington, DC 20211 (FECA Only)

1200 Upshur Street, NW, Washington, DC 20210 (DCCA Only)

334 Main Street, Fifth Floor, Pikeville, Kentucky 41501 (BLBA only)

500 Springdale Plaza,
Spring Street, Mt. Sterling, Kentucky 40353 (BLBA Only)

214 N. Hogan Street, 10th Floor, Jacksonville, Florida 32201 (FECA and LHWCA only)

230 South Dearborn Street, 8th Floor, Chicago, Illinois 60604 (FECA and LHWCA)

1240 East 9th Street, Cleveland, Ohio 44199 (FECA Only)

274 Marconi Boulevard, 3rd Floor, Columbus, Ohio 43215 (BLBA Only)

525 Griffin Street, Federal Building, Dallas, Texas 75202 (FECA Only)

701 Loyola Avenue, Room 13032, New Orleans, Louisiana 70113 (LHWCA Only)

8866 Gulf Freeway, Suite 140, Houston, Texas 77017 (LHWCA Only)

City Center Square, Suite 750, 1100 Main Street, Kansas City, Missouri 64105 (FECA Only)

1801 California Street, Denver, Colorado 80202 (FECA and BLBA Only)

71 Stevenson Street, 2nd Floor, San Francisco, California 94105 (LHWCA and FECA Only)

401 E. Ocean Boulevard, Suite 720, Long Beach, California 90802 (LHWCA Only)

300 Ala Moana Boulevard, Room 5119, Honolulu, Hawaii 96850 (LHWCA Only)

1111 3rd Avenue, Seattle, Washington 98101-3212 (LHWCA and FECA only)

Regional Administrator, Occupational Safety and Health Administration (OSHA)

Area Director, OSHA

639 Granite Street, 4th Floor, Braintree, Massachusetts 02184

279 Pleasant Street, Suite 201, Concord, New Hampshire 03301

202 Harlow Street, Room 211, Bangor, Maine 04401

Federal Office Building, 450 Main Street, Room 508, Hartford, Connecticut 06103

One LaFayette Square, Suite 202, Bridgeport, Connecticut 06604

1145 Main Street, Room 108, Springfield, Massachusetts 01103-1493

Federal Office Building, 380 Westminister Mall, Room 243, Providence, Rhode Island 02903

Valley Office Park, 13 Branch Street, Methuen, Massachusetts 01844

6 World Trade Center, Room 881, New York, New York 10048

990 Westbury Road, Westbury, New York 11590

42-40 Bell Boulevard, Bayside, New York 11361

401 New Karner Road, Suite 300, Albany, New York 12205-3809

Plaza 35, Suite 205, 1030 St. Georges Avenue, Avenel, New Jersey 07001

299 Cherry Hill Road, Suite 304, Parsippany, New Jersey 07054

3300 Vikery Road, North Syracuse, New York 13212

5360 Genesee Street, Bowmansville, New York 14026

BBV Plaza Building, 1510 F.D. Roosevelt Avenue, Suite 5B, Guaynabo, Puerto Rico 00968

500 Route 17 South, 2nd Floor, Hasbrouck Heights, New Jersey 07604

Marlton Executive Park, Building 2, Suite 120, 701 Route 73 South, Marlton, New Jersey 08053

660 White Plains Road, 4th Floor, Tarrytown, New York 10591-5107

US Custom House, Room 242, Second & Chestnut Street, Philadelphia, Pennsylvania 19106

One Rodney Square, Suite 402, 920 King Street, Wilmington, Delaware 19801

Federal Building, 1000 Liberty Avenue, Room 1428, Pittsburgh, Pennsylvania 15222

3939 West Ridge Road, Suite B12, Erie, Pennsylvania 16506

Federal Office Building, 200 Granby Street, Room 835, Norfolk, Virginia 23510

820 First Street, NE, Suite 440, Washington, DC 20002

20 North Pennsylvania Avenue, Penn Place, Room 2005, Wilkes-Barre, Pennsylvania 18701-3590

850 North 5th Street, Allentown, Pennsylvania 18102

550 Eagan Street, Room 206, Charleston, West Virginia 25301

Federal Building, Room 1110, 300 W. Pratt St., Baltimore, Maryland 21201

Progress Plaza, 49 Progress Avenue, Harrisburg, Pennsylvania 17109

2400 Herodian Way, Suite 250, Smyrna, Georgia 30080

450 Mall Boulevard, Suite J, Savannah, Georgia 31406

Todd Mall, 2047 Canyon Road, Birmingham, Alabama 35216

8040 Peters Road, Building H-100, Fort Lauderdale, Florida 33324

Ribault Building, Suite 227, 1851 Executive Center Drive, Jacksonville, Florida 32207

5807 Breckenridge Parkway, Suite A, Tampa, Florida 33610

1835 Assembly Street, Room 1468, Columbia, South Carolina 29201

3780 I-55 North, Suite 210, Jackson, Mississippi 39211-6323

3737 Government Boulevard, Suite 100, Mobile, Alabama 36693

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John C. Watts Federal Building, 330 West Broadway, Room 108, Frankfort, Kentucky 40601
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Century Station Federal Office Building, 300 Fayetteville Mall, Room 438, Raleigh, North Carolina 27601
1600 167th Street, Suite 9, Calumet City, Illinois 60409
O'Hara Lake Plaza, 2360 East Devon Avenue, Suite 1010, Des Plaines, Illinois 60018
344 Smoke Tree Business Park, North Aurora, Illinois 60542
Federal Office Building, 1240 East 9th Street, Room 899, Cleveland, Ohio 44199
Federal Office Building, 200 N. High Street, Room 620, Columbus, Ohio 43215
US P.O. & Courthouse Building, 46 East Ohio Street, Room 423, Indianapolis, Indiana 46204
36 Triangle Park Drive, Cincinnati, Ohio 45246
2618 North Ballard Road, Appleton, Wisconsin 54915
Henry S. Reuss Building, Room 1180, 310 West Wisconsin Avenue, Milwaukee, Wisconsin 53203
110 South 4th Street, Suite 1220, Minneapolis, Minnesota 55401
234 North Summit Street, Room 734, Toledo, Ohio 43604
801 South Waverly Road, Suite 306, Lansing, Michigan 48917-4200
4802 East Broadway, Madison, Wisconsin 53716
2918 W. Willow Knolls Road, Peoria, Illinois 61614
8344 East R.L. Thornton Freeway, Suite 420, Dallas, Texas 75228
903 San Jacinto Boulevard, Suite 319, Austin, Texas 78701
Westbank Building, Suite 820, 505 Marquette Avenue, NW, Albuquerque, New Mexico 87102
2156 Wooddale Boulevard, Hoover Annex, Suite 200, Baton Rouge, Louisiana 70806
Wilson Plaza, 606 N. Carancahua, Suite 700, Corpus Christi, Texas 78401
Federal Office Building, 1205 Texas Avenue, Room 806, Lubbock, Texas 79401
350 North Sam Houston Parkway East, Suite 120, Houston, Texas 77060
17625 El Camino Real, Suite 400, Houston, Texas 77058
420 West Main Place, Suite 300, Oklahoma City, Oklahoma 73102
North Starr II, Suite 430, 8713 Airport Freeway, Fort Worth, Texas 76180-7604
TCBY Building, Suite 450, 425 West Capitol Avenue, Little Rock, Arkansas 72201
4171 North Mesa Street, Room C119, El Paso, Texas 79902

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Overland—Wolf Building, Room 100, 6910 Pacific Street, Omaha, Nebraska 68106
8600 Farley, Suite 105, Overland Park, Kansas 66212-4677
2900 Fourth Avenue, North, Suite 303, Billings, Montana 59101
220 E. Rosser, Room 348, P.O. Box 2439, Bismarck, North Dakota 58501
7935 East Prentice Avenue, Suite 209, Englewood, Colorado 80011-2714
1391 Speer Boulevard, Suite 210, Denver, Colorado 80204
1781 South 300 West, P.O. Box 65200, Salt Lake City, Utah 84165-0200
71 Stevenson Street, Room 420, San Francisco, California 94105
101 El Camino Plaza, Suite 105, Sacramento, California 95815
5675 Ruffin Road, Suite 330, San Diego, California 92123
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3221 North 16th Street, Suite 100, Phoenix, Arizona 85016
705 North Plaza, Room 204, Carson City, Nevada 89701
301 West Northern Lights Boulevard, Suite 407, Anchorage, Alaska 99503
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505 106th Avenue, Northeast, Suite 302, Bellevue, Washington 98004
1220 Southwest Third Avenue, Room 640, Portland, Oregon 97204

*Employee Benefits Security Administration
Regional Director or District Supervisor*

Regional Director, J.F.K. Federal Bldg., Room 575, Boston, Massachusetts 22203
Regional Director, 1633 Broadway, Rm. 226, New York, N.Y. 10019
Regional Director, 3535 Market Street, Room M300, Gateway Building, Philadelphia, Pennsylvania 19104
District Supervisor, 1730 K Street N.W., Suite 556, Washington, DC 20006
Regional Director, 61 Forsyth Street, S.W., Room 7B54, Atlanta, Georgia 30303
District Supervisor, 8040 Peters Road, Building H, Suite 104, Plantation, Florida 33324
Regional Director, 1885 Dixie Highway, Suite 210, Ft. Wright, Kentucky 41011
District Supervisor, 211 West Fort Street, Suite 1310, Detroit, Michigan 48226-3211
Regional Director, 200 West Adams Street, Suite 1600, Chicago, Illinois 60606
Regional Director, City Center Square, 1100 Main Street, Suite 1200, Kansas City, Missouri 64105

Office of the Secretary of Labor

§ 75.1

District Supervisor, 815 Olive Street, Room 338, St. Louis, Missouri 63101
Regional Director, 525 Griffin Street, Room 707, Dallas, Texas 75202
Regional Director, 71 Stevenson Street, Suite 915, P.O. Box 190250, San Francisco, California 94119-0250
District Director, 1111 Third Avenue, Room 860, Seattle, Washington 98101-3212
Regional Director, Suite 514, 790 E. Colorado Blvd, Pasadena, CA 91101

Regional Administrators, Veterans' Employment and Training Service (VETS)

Region I

J.F. Kennedy Federal Building, Government Center, Room E-315, Boston, Massachusetts 02203

Region II

201 Varick Street, Room 766, New York, New York 10014

Region III

U.S. Customs House, Room 802, Second and Chestnut Streets, Philadelphia, Pennsylvania 19106

Region IV

Atlanta Federal Center, 61 Forsyth Street, SW., Room 6T85, Atlanta, Georgia 30303

Region V

230 South Dearborn, Room 1064, Chicago, Illinois 60604

Region VI

525 Griffin Street, Room 858, Dallas, Texas 75202

Region VII

Center City Square, 1100 Main Street, Suite 850, Kansas City, Missouri 64105-2112

Region VIII

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Region IX

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[63 FR 56741, Oct. 22, 1998, as amended at 68 FR 16399, Apr. 3, 2003]

PART 75—DEPARTMENT OF LABOR REVIEW AND CERTIFICATION PROCEDURES FOR RURAL INDUSTRIALIZATION LOAN AND GRANT PROGRAMS UNDER THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT OF 1972

Sec.

75.1 Introduction.

75.11 Standards for the review of applications.

AUTHORITY: Sec. 118, Pub. L. 92-419, 86 Stat. 663 (7 U.S.C. 1932).

§ 75.1 Introduction.

(a) Section 118 of the Consolidated Farm and Rural Development Act authorizes the Farmers Home Administration (FmHA) of the U.S. Department of Agriculture to make or guarantee loans to finance industrial and business activities in rural areas (broadly defined to include any place with a population of less than 50,000), 7 U.S.C. 1932(d). The Act also permits FmHA to make grants to public bodies for measures designed to facilitate the development of private business enterprises and for pollution control and abatement projects.

(b) As a prior condition for the approval of such loans, guarantees and grants, the Act further specifies that the Secretary of Labor must certify to the Secretary of Agriculture within 60 days after referral, that the loan or grant is not calculated to or likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant and is not calculated to or likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area. Responsibility within the Department of Labor (DOL) for the review and certification process has been assigned to the Manpower Administration (MA).