

(f) *Location of exchange.* The short-term scholar shall participate in the Exchange Visitor Program at the conferences, workshops, seminars, or other events or activities stated on his or her Form IAP-66. A participant may also lecture or consult at institutions not listed on the Form IAP-66 if his or her Responsible Officer issues a written authorization of such activity. Such written authorization must be attached to the participant's Form IAP-66.

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## UNITED STATES INFORMATION AGENCY

### 22 CFR Part 514

#### Exchange Visitor Program

**AGENCY:** United States Information Agency.

**ACTION:** Interim final rule.

**SUMMARY:** The Agency is adopting specific regulations governing participation in summer work travel programs conducted by Agency-designated sponsors pursuant to Public Law 105-277. These regulations are adopted to assist designated Summer Work Travel sponsors with their administration of program placements for the upcoming summer program season.

**EFFECTIVE DATE:** These regulations are effective April 13, 1999.

**FOR FURTHER INFORMATION CONTACT:** Stanley S. Colvin, Assistant General Counsel, United States Information Agency, 301 4th Street, SW., Washington, DC 20547, Telephone, (202) 619-4979.

**SUPPLEMENTARY INFORMATION:** Since publication of the General Accounting Office report entitled "Inappropriate Uses of the Exchange Visitor Visa" in 1990, the status of Summer Work Travel programs administered by the Agency has been under a cloud of uncertainty. This uncertainty was due to the GAO report suggestion that the Agency was without adequate statutory authority to administer and oversee Summer Work Travel program activities. In light of this GAO determination, the Agency has pursued several approaches to bring the Summer Work Travel programs under the umbrella of authority to conduct international exchange activities provided by the Fulbright-Hayes Act. Sponsors of these programs have also sought to resolve the question of Agency authority. After years of uncertainty, the Congress, in passage of Public Law 105-

277, vested the Director of USIA with clear statutory authority to administer and oversee Summer Work Travel programs. This legislation also granted discretionary authority to the director to conduct these programs without regard to a requirement that participants have an offer of employment in place prior to their departure from their home country.

Accordingly, the Agency is adopting the following regulations on an interim final basis in order to assist designated Summer Work Travel sponsors with their administration of program placements for the upcoming summer program season. These regulations supersede program guidelines promulgated by the Agency and published at 61 FR 13760 (March 28, 1996) and existing regulations set forth at Subpart G of 22 CFR part 514. These regulations permit program sponsors to facilitate the entry into the United States of program participants for whom prior employment positions have not been arranged. However, a limitation on the number of participants that may enter the United States without a prearranged employment position is imposed. Sponsors must arrange prior employment positions for at least fifty percent of their program participants.

#### Public Comment

The Agency invites comments regarding this interim final rule notwithstanding the fact that it is under no legal requirement to do so. The oversight and administration of the Exchange Visitor Program are deemed to be foreign affairs functions of the United States Government. The Administrative Procedures Act, 5 U.S.C. 553 (a)(1), (1989), specifically exempts foreign affairs functions from the rulemaking requirements of the Act.

In accordance with 5 U.S.C. 605(b), the Agency certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of section 1(b) of E.O. 12291, nor does it have federal implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

#### List of Subjects in 22 CFR Part 514

Cultural exchange programs.

Dated March 24, 1999.

**Les Jin,**  
General Counsel.

Accordingly, 22 CFR part 514 is amended as follows:

## PART 514—EXCHANGE VISITOR PROGRAM

1. The authority citation for part 514 continues to read as follows:

**Authority:** 8 U.S.C. 1101(a)(15)(I), 1182, 1258; 22 U.S.C. 1431-1442, 2451-2460; Reorganization Plan No. 2 of 1997, 42 FR 62461, 3 CFR, 1977 Comp. p. 200; E.O. 12048 43 FR 13361, 3 CFR, 1978 Comp. p. 168; USIA Delegation Order No. 85-5 (50 FR 27393).

### Subpart G—[Removed]

2. Subpart G is removed and reserved, and subpart B is amended by adding a new § 514.32 to read as follows:

#### § 514.32 Summer work travel.

(a) *Introduction.* These regulations govern program participation in summer work travel programs conducted by Agency-designated sponsors pursuant to the authority granted the Agency by Public Law 105-277. These programs provide foreign post-secondary students the opportunity to work and travel in the United States for a four month period during their summer vacations. Extensions of program participation are not permitted.

(b) *Participant selection and screening.* In addition to satisfying the requirements set forth at § 514.10(a), sponsors shall adequately screen all program participants and at a minimum shall:

- (1) Conduct an in-person interview;
- (2) Ensure that the participant is a bona fide post-secondary school student in his or her home country; and
- (3) Ensure that not more than ten percent of selected program participants have previously participated in a summer work travel program.

(c) *Participant orientation.* Sponsors shall provide program participants, prior to their departure from the home country, information regarding:

- (1) The name and location of their employer, if prior employment has been arranged; and
- (2) Any contractual obligations related to their acceptance of paid employment in the United States, if prior employment has been arranged.

(d) *Participant placement.* Sponsors shall ensure that not less than 50 percent of their program participants have pre-arranged employment with a U.S. employer. For all program participants for whom pre-arranged employment has not been secured sponsors shall:

- (1) Ensure that the participant has sufficient financial resources to support him or herself during his or her search for employment;
- (2) Provide the participant with pre-departure information that explains how

to seek employment and how to secure lodging in the United States;

(3) Prepare and provide to program participants a roster of bona fide job listings equal to or greater than the number of participants for whom pre-arranged employment has not been secured; and,

(4) Undertake reasonable efforts to secure suitable employment for any participant who has not found suitable employment within one week of commencing his or her job search.

(e) *Participant compensation.* Sponsors shall advise program participants regarding Federal Minimum Wage requirements and shall ensure that participants receive pay and benefits commensurate with those offered to their American counterparts.

(f) *Monitoring.* Sponsors shall provide:

(1) All participants with a telephone number which allows 24-hour immediate contact with the sponsor; and

(2) Appropriate assistance to program participants on an as-needed emergency basis.

(g) *Use of third parties.* Program sponsors are responsible for full compliance with all Exchange Visitor Program regulations. If a program sponsor elects to utilize a third-party to provide U.S. hosting, orientation, placement, or other support services to participants for whom they have facilitated entry into the United States, such sponsor shall closely oversee the provision of these services by the third-party and ensure that the provision of these services satisfies all regulatory obligations.

(h) *Placement report.* In lieu of listing the name and address of the participant's pre-arranged employer on the form IAP-66, sponsors shall submit to the Agency a report of all participant placements. Sponsors shall report the name, place of employment, and the number of times each participant has participated in a summer work travel program. In addition, for participants for whom employment was not pre-arranged, the sponsor shall also list the length of time it took for such participant to find employment. Such report shall be submitted semi-annually on January 30th and July 31st of each year and shall reflect placements made in the preceding six month period.

(i) *Unauthorized activities.* Program participants may not be employed as domestic employees in United States households or in positions that require the participant to invest his or her own monies to provide themselves with

inventory for the purpose of door-to-door sales.

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## DEPARTMENT OF JUSTICE

### 28 CFR Part 16

[AAG/A Order No. 159-99]

### Exemption of Records System Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

**SUMMARY:** The Department of Justice is exempting a Privacy Act system of records from subsection (d) of the Privacy Act, 5 U.S.C. 552a. This system of records is the "Freedom of Information/Privacy Acts (FOI/PA) Records, (JUSTICE/OPR-002)." Records in this system may contain information which relates to official Federal investigations and matters of law enforcement of the Office of Professional Responsibility (OPR). Accordingly, where applicable, the exemptions are necessary to avoid interference with the law enforcement functions of OPR. Specifically, the exemptions are necessary to prevent subjects of investigations from frustrating the investigatory process; preclude the disclosure of investigative techniques; protect the identities and physical safety of confidential sources and of law enforcement personnel; ensure OPR's ability to obtain information from information sources; protect the privacy of third parties; and safeguard classified information as required by Executive Order 12958.

**DATES:** This rule will be effective April 13, 1999.

**FOR FURTHER INFORMATION CONTACT:** Mary Cahill, (202) 307-1823.

**SUPPLEMENTARY INFORMATION:** A proposed rule with invitation to comment was published in the **Federal Register** on December 10, 1998. No comments were received.

This Order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, it is hereby stated that the order will not have "a significant economic impact on a substantial number of small entities."

#### List of Subjects in Part 16

Administrative Practice and Procedures, Courts, Freedom of Information Act, Privacy Act, and Government in Sunshine Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793-78, it is proposed to amend 28 CFR 16.80 by adding paragraphs (c) and (d) as set forth below.

Dated: March 26, 1999.

**Stephen R. Colgate,**  
Assistant Attorney General for  
Administration.

### PART 16—[AMENDED]

1. The authority for Part 16 continues to read as follows:

**Authority:** 5 U.S.C. 301, 552, 552a, 552b(g), 553, 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717, 9701.

2. 28 CFR 16.80 is amended by adding paragraphs (c) and (d) to read as follows:

#### § 16.80 Exemption of Office of Professional Responsibility (OPR) System—limited access.

\* \* \* \* \*

(c) The following system of records is exempted from 5 U.S.C. 552a(d).

(1) Freedom of Information/Privacy Act (FOI/PA) Records (JUSTICE/OPR-002).

This exemption applies only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2), (k)(1), and (k)(2). To the extent that information in a record pertaining to an individual does not relate to national defense or foreign policy, official Federal investigations and/or law enforcement matters, the exemption does not apply. In addition, where compliance would not appear to interfere with or adversely affect the overall law enforcement process, the applicable exemption may be waived by OPR.

(d) Exemption from subsection (d) is justified for the following reasons:

(1) From the access and amendment provisions of subsection (d) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation of the existence of that investigation; of the nature and scope of the information and evidence obtained as to his activities; of the identity of confidential sources, witnesses, and law enforcement personnel; and of information that may enable the subject to avoid detection or apprehension. These factors would present a serious impediment to effective law enforcement where they prevent the successful completion of the investigation, endanger the physical safety of confidential sources, witnesses, and law enforcement personnel, and/or lead to the improper influencing of