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Marilyn R. Abbott,

Secretary.

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DEPARTMENT OF LABOR

Office of the Secretary

Privacy Act of 1974; Publication of Amendments to Existing Systems of Records

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of Amendments to Existing Systems of Records.

SUMMARY: The Privacy Act of 1974 requires that each agency publish notice of all proposed and final amendments to the systems of records that it maintains. This document proposes to add two routine uses to an existing system of records, and it makes an administrative amendment to a second system of records.

DATES: Persons wishing to comment on the proposed routine uses to the existing system of records may do so by October 27, 2003.

EFFECTIVE DATE: Unless there is a further notice in the **Federal Register**, these routine uses will become effective on November 10, 2003. The amendment to DOL/CFO-2 is administrative (non-substantive) and therefore will become effective on September 15, 2003.

ADDRESSES: Written comments may be mailed or delivered to Robert A. Shapiro, Associate Solicitor, Division of Legislation and Legal Counsel, 200 Constitution Avenue, NW., Room N-2428, Washington, DC 20210 or by e-Mail to Miller.Miriam@dol.gov.

FOR FURTHER INFORMATION CONTACT: Miriam McD. Miller, Co-Counsel for Administrative Law, Office of the Solicitor, Department of Labor, 200 Constitution Avenue, NW, Room N-2428, Washington, DC 20210, telephone (202) 693-5522.

SUPPLEMENTARY INFORMATION: Pursuant to section three of the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)), hereinafter referred to as the Act, the Department hereby proposes to add two routine uses to an existing system of records, and it makes an administrative amendment to another system of records.

On April 8, 2002, in Volume 67 at Page 16816 of the **Federal Register**, the Department published a notice of 147 systems of records which are

maintained under the Act. On February 6, 2003, in 68 FR 6185, a new system of records was published by the Office of the 21st Century Workforce. That system is entitled DOL/21st CENTURY-1, *Correspondents With the Office of the 21st Century Workforce*.

A. At this time, with respect to DOL/OIG-3, the Office of the Inspector General(OIG) proposes to amend the category for Routine Uses by adding two new paragraphs. The first new paragraph will allow the disclosure of information to the President's Council on Integrity and Efficiency (PCIE) for the purpose of accurate reporting to the President and Congress on the activities of the Inspectors General. The second new paragraph will allow the disclosure of information to members of the PCIE, the Department of Justice, the Federal Bureau of Investigation, or the U.S. Marshals Service, as necessary, for the purpose of investigative qualitative assessment reviews to ensure adequate internal safeguards and management procedures are maintained. This second routine use is needed to enable the OIG to comply with the recently enacted Homeland Security Act of 2002 (Pub. L. 107-296, November 25, 2002). Specifically, subsection 812(a) of that Act requires that memoranda of understanding be entered into so that an external review process be established to ensure that adequate internal safeguards and management procedures exist within each OIG Office that receives authorization under paragraph (2) of section 812 (a), which significantly expands the OIGs' police powers.

B. In a second administrative (nonsubstantive) amendment, with respect to DOL/OCFO-2, the Office of the Chief Financial Officer (CFO), hereby amends the category for Categories of Records in the System by adding three items of information, which are the "financial institution code, the bank account number, and the bank account type". Comment by the public on this addition is not necessary.

General Prefatory Statement

1. In its April 8, 2002 publication, the Department gave notice of twelve paragraphs containing routine uses which apply to all of its systems of records, except for DOL/OASAM-5 and DOL/OASAM-7. These twelve paragraphs were presented in the General Prefatory Statement for that document, and it appeared at Page 16825 of Volume 67 of the **Federal Register**. At this time we are republishing the April 8, 2002 version of the General Prefatory Statement as a convenience to the reader of this

document. This General Prefatory Statement was also republished on February 6, 2003, at 68 FR 6185-6187.

2. This republication shall include the statement that pursuant to the Flexiplace Program, the system location for all systems of records may be temporarily located at alternate worksites, including the employees' homes or at geographically convenient satellite offices for part of the workweek.

The public, the Office of Management and Budget (OMB), and the Congress are invited to submit written comments on the proposed two routine uses. A report on these proposed routine uses, and the amendment to DOL/OCFO-2, has been provided to OMB and to the Congress as required by OMB Circular A-130, Revised, and 5 U.S.C. 552a.

General Prefatory Statement

A. Universal Routine Uses of the Records

The following routine uses of the records apply to and are incorporated by reference into each system of records published below unless the text of a particular notice of a system of records indicates otherwise. These routine uses do not apply to DOL/OASAM-5, Rehabilitation and Counseling File, nor to DOL/OASAM-7, Employee Medical Records.

1. To disclose the records to the Department of Justice when:

The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation, and the use of such records by the Department of Justice is for a purpose that is compatible with the purpose for which the agency collected the records.

2. To disclose the records in a proceeding before a court or adjudicative body, when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation, and that the use of such records is a purpose that is compatible with the purpose for which the agency collected the records.

3. When a record on its face, or in conjunction with other information,

indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the agency determines by careful review that the records or information are both relevant and necessary to any enforcement, regulatory, investigative or prosecutive responsibility of the receiving entity, and that the use of such records or information is for a purpose that is compatible with the purposes for which the agency collected the records.

4. To a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.

5. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

6. To disclose to contractors, employees of contractors, consultants, grantees, and volunteers who have been engaged to assist the agency in the performance of or working on a contract, service, grant, cooperative agreement or other activity or service for the Federal Government.

Note 1. Recipients shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a; see also 5 U.S.C. 552a(m).

7. To the parent locator service of the Department of Health and Human Services or to other authorized persons defined by Public Law 93—647 the name and current address of an individual for the purpose of locating a parent who is not paying required child support.

8. To any source from which information is requested in the course of a law enforcement or grievance investigation, or in the course of an investigation concerning retention of an employee or other personnel action, the retention of a security clearance, the letting of a contract, the retention of a grant, or the retention of any other benefit, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request,

and identify the type of information requested.

9. To a Federal, State, local, foreign, or tribal or other public authority of the fact that this system of records contains information relevant to the hiring or retention of an employee, the granting or retention of a security clearance, the letting of a contract, a suspension or debarment determination or the issuance or retention of a license, grant, or other benefit.

10. To the Office of Management and Budget during the coordination and clearance process in connection with legislative matters.

11. To the Department of the Treasury, and a debt collection agency with which the United States has contracted for collection services to recover debts owed to the United States.

12. To the news media and the public when (1) the matter under investigation has become public knowledge, (2) the Solicitor of Labor determines that disclosure is necessary to preserve confidence in the integrity of the Department or is necessary to demonstrate the accountability of the Department's officers, employees, or individuals covered by this system, or (3) the Solicitor of Labor determines that there exists a legitimate public interest in the disclosure of the information, except to the extent that the Solicitor of Labor determines in any of these situations that disclosure of specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

B. System Location—Flexiplace Programs

The following paragraph applies to and is incorporated by reference into all of the Department's systems of records under the Privacy Act, within the category entitled, SYSTEM LOCATION:

"Pursuant to the Department of Labor's Flexiplace Programs, copies of records may be temporarily located at alternative worksites, including employees' homes or at geographically convenient satellite offices for part of the workweek. All appropriate safeguards will be taken at these sites."

I. Publication of a Proposed Amendment

DOL/OIG—3, is proposed to be amended by revising the category of Routine Uses to read as set forth below. For the convenience of the reader, the entire system is being republished in full. The current version of this system is published at 67 FR 16908, April 8, 2002.

DOL/OIG—3

SYSTEM NAME:

Investigative Case Files, Case Development and Intelligence Records.

SECURITY CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Office of Inspector General, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210 and in the OIG regional and field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals or entities known or suspected of being involved in or associated with criminal activity, labor racketeering, or other violation of law or regulation and associates of those individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system of records contains materials related to criminal and civil investigations, intelligence and other background information based on reasonable suspicion of criminal activity; statements and other material from subjects and witnesses; information from government investigatory or law enforcement organizations and projects (federal, state, local or international); investigative notes and reports; summary information for indexing and cross-referencing; other evidence and background materials existing in any form (e.g. audio or video tape, photographs, computer tapes or disks).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. App 3; the Act of March 4, 1913 (37 Stat. 736) 29 U.S.C. 551; Secretary's Order 2—90, dated January 31, 1990 concerning the authorization and organization of the Office of Inspector General at the Department; and the Omnibus Crime Control Act of 1984; and 28 CFR 23.1.

PURPOSE(S):

This system of records is maintained as a repository for: (1) Records created as a result of targeting, surveys and projects for the development of cases and investigations for the Office of Investigations and for the Office of Labor Racketeering; (2) intelligence information concerning individuals identified as potential violators of criminal, labor and labor-related laws and other individuals associated with them; and (3) for other research and analysis to share with other law enforcement organizations if in compliance with 28 CFR 23.1.

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

A. Referral to federal, state, local and foreign investigative and/or prosecutive authorities. A record from a system of records, which indicates either by itself or in combination with other information within the agency's possession a violation or potential violation of law, whether civil, criminal or regulatory and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be disclosed as a routine use, to the appropriate federal, foreign, state or local agency or professional organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing or investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

B. Introduction to a grand jury. A record from a system of records may be disclosed, as a routine use, to a grand jury agent pursuant either to a federal or state grand jury subpoena or to a prosecution request that such record be released for the purpose of its introduction to a grand jury.

C. Referral to federal, state, local or professional licensing boards. A record from a system of records may be disclosed, as a routine use, to any governmental, professional or licensing authority when such record reflects on qualifications, either moral, educational or vocational, of an individual seeking to be licensed or to maintain a license.

D. Disclosure to contractor, grantee or other indirect recipient of federal funds to allow such entity to effect corrective action in agency's best interest. A record from a system of records may be disclosed, as a routine use, to any direct or indirect recipient of federal funds where such record reflects serious inadequacies with a recipient's personnel, and disclosure of the record is made to permit a recipient to take corrective action beneficial to the Government.

E. Disclosure to any source, either private or governmental, to the extent necessary to solicit information relevant to any investigation, audit or inspection. A record from a system of records may be disclosed, as a routine use, to any source, either private or governmental, to the extent necessary to secure from such source information relevant to and sought in furtherance of an investigation, audit, or evaluation.

F. Disclosure to any domestic or foreign governmental agencies for personnel or other action. A record from a system of records may be disclosed, as a routine use, to a federal, state, local, foreign or international agency, for their use in connection with such entity's assignment, hiring or retention of an individual, issuance of a security clearance, reporting of an investigation of an individual, letting of a contract or issuance of a license, grant or other benefit, to the extent that the information is relevant and necessary to such agency's decision on the matter.

G. Disclosure to a board of contract appeals, GAO or any other entity hearing a contractor protest or dispute. A record from a system of records may be disclosed, as a routine use, to the United States General Accounting Office, to a board of contract appeals, or to the claims court in bid protest cases or contract dispute cases involving procurement.

H. Disclosure to domestic or foreign governmental law enforcement agency in order to obtain information relevant to an OIG or DOL decision. A record from a system of records may be disclosed, as a routine use, to a domestic or foreign governmental agency maintaining civil, criminal or other relevant enforcement information, or other pertinent information, in order to obtain information relevant to an OIG or DOL decision concerning the assignment, hiring, or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit, or which may be relevant to an OIG or DOL investigation, audit, or evaluation.

I. Disclosure to OMB or DOJ regarding Freedom of Information Act and Privacy Act advice. Information from a system of records may be disclosed, as a routine use, to the Office of Management and Budget or the Department of Justice in order to obtain advice regarding statutory or other requirements under the Freedom of Information Act or Privacy Act.

J. Disclosure pursuant to the receipt of a valid subpoena. A record from a system of records may be disclosed, as a routine use, in response to a facially valid subpoena for the record. Disclosure may also be made when a subpoena or order is signed by a judge from a court of competent jurisdiction.

K. Disclosure to Treasury and DOJ in pursuance of an *ex parte* court order to obtain taxpayer information from the IRS. A record from a system of records may be disclosed, as a routine use, to the Department of Treasury and the Department of Justice when the OIG

seeks an *ex parte* court order to obtain taxpayer information from the Internal Revenue Service.

L. Disclosure to a consumer reporting agency in order to obtain relevant investigatory information. A record from a system of records may be disclosed, as a routine use, to a "consumer reporting agency" as that term is defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) and the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)), for the purposes of obtaining information in the course of an investigation, audit, or evaluation.

M. Disclosure in accordance with computer matching laws, regulations and/or guidelines. A record may be disclosed to a federal, state, or local agency for use in computer matching programs to prevent and detect fraud and abuse in benefit programs administered by those agencies, to support civil and criminal law enforcement activities of those agencies and their components, and to collect debts and overpayments owed to the agencies and their components. This routine use does not provide unrestricted access to records for such law enforcement and related anti-fraud activities; each request for disclosure will be considered in light of the applicable legal and administrative requirements for the performance of a computer matching program or procedure.

N. Disclosure to members of the President's Council on Integrity and Efficiency, for the preparation of reports to the President and Congress on the activities of the Inspectors General.

O. Disclosure to members of the President's Council on Integrity and Efficiency, the Department of Justice, the Federal Bureau of Investigation, or the U.S. Marshals Service, as necessary, for the purpose of conducting qualitative assessment reviews of the investigative operations of the DOL OIG to ensure that adequate internal safeguards and management procedures are maintained.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

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

STORAGE:

The records are stored on a variety of mediums including paper, magnetic tapes or discs, and/or optical digital data discs.

RETRIEVABILITY:

Retrievable by name of individual subject, other personal identifiers and other non-personal elements.

SAFEGUARDS:

Available on an official need-to-know basis and kept in locked storage when not in use. Offices containing records are restricted to authorized personnel only. Any automated data can only be accessed by a password from an authorized user. Computer terminals with access are away from general staff and housed in locked offices.

RETENTION AND DISPOSAL:

Closed Labor Racketeering case files are retired to the Federal Records Center and retained for 20 years. All other cases are destroyed 10 years after the files are closed. Intelligence information maintained in electronic files are reviewed every 5 years for relevance and importance. Information deemed obsolete or otherwise unreliable is deleted after 5 years. Electronic information for which accuracy of information and reliability of source cannot be confirmed is deleted after 1 year. Electronic Information collected for which reliability of source and reasonable suspicion of criminal activity has been confirmed and linked to long term, known organized crime activity can be kept in excess of 5 years. All records are destroyed 20 years after cut off date.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations, OIG/DOL, 200 Constitution Avenue, NW., Washington, DC 20210.

NOTIFICATION PROCEDURE:

Inquiries concerning this system can be directed to: Disclosure Officer, OIG, 200 Constitution Avenue, NW, Washington, DC 20210. Inquiries must comply with the requirements in 29 CFR part 71.

RECORD ACCESS PROCEDURE:

Individuals can request access to any record pertaining to him/her by mailing a request to the Disclosure Officer listed above and in accordance with 29 CFR 71.2.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the Disclosure Officer listed in 29 CFR Part 71. In addition, the request should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed

amendment sought for the information. See 29 CFR part 71.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Secretary of Labor has promulgated regulations which exempt information contained in this system of records from various provisions of the Privacy Act depending upon the purpose for which the information was gathered and for which it will be used. The various law enforcement purposes and the reasons for the exemptions are as follow:

(a) *Criminal Law Enforcement:* Information compiled for this purpose is exempt from all of the provisions of the Act except the following sections: (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i). This material is exempt because the disclosure and other requirements of the Act would substantially compromise the efficacy and integrity of OIG operations in a number of ways. Indeed, disclosure of even the existence of these files would be problematic.

Disclosure could enable suspects to take action to prevent detection of criminal activities, conceal evidence, or escape prosecution. Required disclosure of information contained in this system could lead to the intimidation of, or harm to, informants, witnesses and their respective families or OIG personnel and their families.

Disclosure could invade the privacy of individuals other than subjects and disclose their identity when confidentiality was promised to them. Disclosures from these files could interfere with the integrity of other information which would otherwise be privileged, *see, e.g.,* 5 U.S.C. 552(b)(5) and which could interfere with other important law enforcement concerns, *see, e.g.,* 5 U.S.C. 552(b)(7).

The requirement that only relevant and necessary information be included in a criminal investigative file is contrary to good investigative practices which require a full and complete inquiry and exhaustion of all potential sources of information. 5 U.S.C. 552a(e)(1). Similarly, maintaining only those records which are accurate, relevant, timely and complete and which assure fairness in a determination is contrary to established investigative techniques. 5 U.S.C. 552a(e)(5). Requiring investigators to obtain information to the greatest extent practicable directly from the subject individual would be counterproductive to performance of a clandestine criminal investigation. 5 U.S.C. 552a(e)(2). Finally, providing notice to an individual interviewed of the authority

of the interviewer, the purpose to which the information provided may be used, the routine uses of that information and the effect upon the individual should he choose not to provide the information sought could discourage the free flow of information in a criminal law enforcement inquiry. 5 U.S.C. 552a(e)(3).

(b) *Other Law Enforcement:* In accordance with 5 U.S.C. 552a(k)(2), investigatory material compiled for law enforcement purposes (to the extent it is not already exempted by 5 U.S.C. 552a(j)(2)), is exempted from the following provisions of the ACT: (c)(3), (d), (e)(1), (e)(4)(G), (H), (I) and (f). This material is exempt because the disclosure and other requirements of the act could substantially compromise the efficacy and integrity of OIG operations. Disclosure could invade the privacy of other individuals and disclose their identity when they were expressly promised confidentiality.

Disclosure could interfere with the integrity of information which would otherwise be subject to privileges, *see, e.g.,* 5 U.S.C. 552(b)(5), and which could interfere with other important law enforcement concerns. *See, e.g.,* 5 U.S.C. 552(b)(7).

II. Publication of an Amendment

DOL/OCFO-2, *Department of Labor Accounting and Related Systems*, is amended by adding the following words, "financial institution code, bank account number, and bank account type", to the category entitled Categories of Records in the System. The current version of this system appears at 67 FR 16863, April 8, 2002.

Signed at Washington, DC, this 3rd day of September, 2003.

Elaine L. Chao,

Secretary of Labor.

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LEGAL SERVICES CORPORATION**Notice of Intent To Award—Grant Awards for the Provision of Civil Legal Services to Eligible Low-Income Clients Beginning January 1, 2004**

AGENCY: Legal Services Corporation.

ACTION: Announcement of intention to make FY 2004 Competitive Grant Awards.

SUMMARY: The Legal Services Corporation (LSC) hereby announces its intention to award grants and contracts to provide economical and effective delivery of high quality civil legal