

[Billing Code: 6750-01P]

FEDERAL TRADE COMMISSION

Privacy Act of 1974; New Routine Uses

AGENCY: Federal Trade Commission (FTC).

ACTION: Notice of new routine uses; request for comments.

SUMMARY: The FTC proposes to revise an existing system of records titled “Inspector General Investigative Files – FTC” to comply with requirements established by the Homeland Security Act of 2002. The major change to the system is the addition of new routine uses to allow the disclosure of information to authorized officials within the President’s Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE), who are charged with the responsibility for conducting qualitative assessment reviews of investigative operations for the purpose of reporting to the President and Congress on the activities of the OIG.

DATES: Any interested persons may submit written comments on this proposal by [INSERT DATE 30 CALENDAR DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

Unless changes are made in response to comments received from the public, this action will become effective without further notice on [INSERT DATE 45 CALENDAR DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESS: Comments filed in paper form should be mailed or delivered to Cynthia A. Hogue, Counsel to the Inspector General, Office of Inspector General, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments should refer to “Privacy Act of 1974; New Routine Uses, P052103” to facilitate the organization of comments, and should include this reference both in the text and on the envelope. Because paper mail in the

Washington area and at the Agency is subject to delay, please consider submitting your comments in electronic form, by sending them to the following email address: chogue@ftc.gov. The Privacy Act and the FTC Act permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and may be available to the public on the FTC Web site, to the extent practicable, at <http://www.ftc.gov>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>. If the comment, to the extent it is placed on the public record, contains any material for which confidential treatment is desired, the comment must be filed only in paper form, accompanied by a confidentiality request to the General Counsel as required by Commission Rule 4.9(c), 16 CFR 4.9(c), stating the specific legal or other justification, if any, for such treatment, and the first page of the document must be clearly labeled "Confidential." The General Counsel will grant or deny the request in accordance with applicable law and the public interest.

FOR FURTHER INFORMATION CONTACT: Cynthia A. Hogue, Counsel to the Inspector General, Office of Inspector General, FTC, 600 Pennsylvania Avenue, N.W., Washington, DC 20580, (202) 326-2618; or Alex Tang, Attorney, Office of the General Counsel, FTC, (202) 326-2447.

SUPPLEMENTAL INFORMATION: This publication is in accordance with the Privacy Act requirement that agencies publish their amended systems of records in the Federal Register when

there is a revision, change or addition. FTC's Office of Inspector General (OIG) has reviewed its systems of records notice for the "Office of Inspector General Investigative Files-FTC," *see* 55 FR 20527 (May 17, 1990) (FTC I-7), and has determined that it must be revised to add two new routine uses to permit disclosure of records for the purpose of assessment reviews. The Homeland Security Act of 2002 (Pub. L. 107-296, Nov. 25, 2002) requires certain Inspectors General to "establish an external review process for ensuring that adequate internal safeguards and management procedures continue to exist within each Office * * * ."

The PCIE and the ECIE are establishing peer review processes that are designed to provide qualitative measurement to ensure that adequate internal safeguards and management procedures are maintained, foster high-quality investigations and investigative processes, ensure that the highest level of professionalism is maintained and promote consistency in investigative standards and practices within the IG community. The FTC OIG has committed to undergoing qualitative assessment reviews of its investigations. Proposed routine use (5) will allow disclosure of information to authorized officials within the PCIE, the ECIE, the Department of Justice and the Federal Bureau of Investigation, as necessary, for the purpose of conducting qualitative assessment reviews of the OIG's investigative operations. Proposed routine use (6) will allow the disclosure of information to the PCIE and the ECIE for their preparation of reports to the President and Congress on the activities of the Inspectors General. As required by the Privacy Act at 5 U.S.C. 552a(r), we have notified the Office of Management and Budget, the Committee on Government Reform of the House of Representatives, and the Committee on (Homeland Security and) Governmental Affairs of the Senate of the new routine uses.

The FTC is also taking this opportunity to make various technical changes and corrections to the system notice to improve its clarity and accuracy. None of these changes will affect the existing or new proposed routine uses.

The system notice is published in its entirety below.

FTC-I-7

System name: Office of Inspector General Investigative Files–FTC

Security classification: None.

System location: FTC Office of Inspector General, 600 Pennsylvania Avenue, N.W.,
Washington, DC 20580.

Categories of individuals covered by the system: Subjects of OIG investigations relating to the programs and operations of the Federal Trade Commission. Subject individuals include, but are not limited to, current and former employees; current and former agents or employees of contractors or subcontractors, as well as current and former contractors and subcontractors in their personal capacity, where applicable; and other individuals whose actions affect the FTC, its programs or operations.

Categories of records in the system: Correspondence relating to the investigation; internal staff memoranda; copies of subpoenas issued during the investigation, affidavits, statements from witnesses, transcripts of testimony taken in the investigation and accompanying exhibits; documents, records or copies obtained during the investigation; interview notes, documents and records relating to the investigation; opening reports, information or data relating to alleged or suspected criminal, civil or administrative violations or similar wrongdoing by subject individuals and final reports of investigation.

Authority for maintenance of the system: Inspector General Act Amendments of 1988, Pub. L. 100-504, amending the Inspector General Act of 1978, Pub. L. 95-452, 5 U.S.C. app.

Purpose(s): To document the conduct and outcome of investigations; to report results of investigations to other components of the FTC or other agencies and authorities for their use in evaluating their programs and imposition of criminal, civil or administrative sanctions; to report the results of investigations to other agencies or other regulatory bodies for an action deemed appropriate and for retaining sufficient information to fulfill reporting requirements; and to maintain records related to the activities of the Office of the Inspector General.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In addition to the disclosures generally permitted under 5 U.S.C. 552a(b), and the disclosure provisions described in Appendix I of the notice published at 57 FR 45678 (Oct. 2,

1992) (compiling various FTC system notices), records or information in these records may be specifically disclosed pursuant to 5 U.S.C. 552a(b)(3) as follows, provided that no routine use specified either herein or in Appendix I shall be construed to limit or waive any other routine use:

(1) Disclosed to agencies, offices, or establishments of the executive, legislative, or judicial branches of the federal or state government

(a) Where such agency, office, or establishment has an interest in the individual for employment purposes, including a security clearance or determination as to access to classified information, and needs to evaluate the individual's qualifications, suitability, and loyalty to the United States Government, or

(b) Where such agency, office, or establishment conducts an investigation of the individual for the purposes of granting a security clearance, or for making a determination of qualifications, suitability, or loyalty to the United States Government, or access to classified information or restricted areas, or

(c) Where the records or information in those records are relevant and necessary to a decision with regard to the hiring or retention of an employee or disciplinary or other administrative action concerning an employee, or

(d) Where disclosure is requested in connection with the award of a contract or other determination relating to a government procurement, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter, including, but not limited to, disclosure to any Federal agency responsible for considering suspension or debarment actions where such record

would be germane to a determination of the propriety or necessity of such action, or disclosure to the United States General Accounting Office, the General Services Administration Board of Contract Appeals, or any other Federal contract board of appeals in cases relating to an agency procurement;

(2) Disclosed to the Office of Personnel Management, the Office of Government Ethics, the Merit Systems Protection Board, the Office of the Special Counsel, the Equal Employment Opportunity Commission, or the Federal Labor Relations Authority or its General Counsel, of records or portions thereof relevant and necessary to carrying out their authorized functions, such as, but not limited to, rendering advice requested by the OIG, investigations of alleged or prohibited personnel practices (including unfair labor or discriminatory practices), appeals before official agencies, offices, panels or boards, and authorized studies or review of civil service or merit systems or affirmative action programs;

(3) Disclosed to independent auditors or other private firms with which the Office of the Inspector General has contracted to carry out an independent audit or investigation, or to analyze, collate, aggregate or otherwise refine data collected in the system of records, subject to the requirement that such contractors shall maintain Privacy Act safeguards with respect to such records;

(4) Disclosed to a direct recipient of federal funds such as a contractor, where such record reflects serious inadequacies with a recipient's personnel and disclosure of the record is for purposes of permitting a recipient to take corrective action beneficial to the Government;

(5) Disclosed to any official charged with the responsibility to conduct qualitative assessment reviews of internal safeguards and management procedures employed in investigative

operations. This disclosure category includes members of the President's Council on Integrity and Efficiency, Executive Council on Integrity and Efficiency and officials and administrative staff within their investigative chain of command, as well as authorized officials of the Department of Justice and the Federal Bureau of Investigation; and

(6) Disclosed to members of the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency for the preparation of reports to the President and Congress on the activities of the Inspectors General.

Disclosure to consumer reporting agencies:

Disclosures may be made from this system, pursuant to 5 U.S.C. 552a(b)(12), to consumer reporting agencies as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f), or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3), in accordance with 31 U.S.C. 3711(f).

Policies and Practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The OIG Investigative Files consist of paper records maintained in file folders, cassette tapes and CD-ROMs containing audio recordings of investigative interviews, and data maintained on computer diskettes and hard drives. The folders, cassette tapes, CD-ROMs and diskettes are stored in file cabinets in the OIG. The hard drives are retained in the OIG safe.

Retrievability: The records are retrieved by the name of the subject of the investigation or by a unique control number assigned to each investigation.

Safeguards: Records are maintained in lockable file cabinets in lockable rooms. Access is restricted to individuals whose duties require access to the records. File cabinets and rooms are locked during non-duty hours.

Retention and disposal:

As prescribed in National Archives and Records Administration General Records Schedule 22, item 1b, OIG Investigative Files are destroyed 10 years after a case is closed. Cases that are unusually significant for documenting major violations of criminal law or ethical standards are offered to the National Archives for permanent retention.

System manager(s) and address: Inspector General, Federal Trade Commission,
600 Pennsylvania Avenue, N.W., Washington, DC 20580.

Notification procedure:

Under the provisions of 5 U.S.C. 552a(d), an individual may request notification as to whether a system of records contains records retrieved using his or her personal identifier, may request access to records in a system of records, and may contest the accuracy or completeness of records. Each of those actions may be initiated by the individual by mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the General Counsel, Federal Trade Commission,
600 Pennsylvania Avenue, N.W., Washington, DC 20580. *See* 16 CFR 4.13(c)-(k).

Record access procedures: See above.

Contesting record procedure: See above.

Record source categories: Employees or other individuals on whom the record is maintained, non-target witnesses, FTC and non-FTC records, to the extent necessary to carry out OIG investigations authorized by 5 U.S.C. app.

Exemptions claimed for the system:

Pursuant to 5 U.S.C. 552a(j)(2), records in this system are exempt from the provisions of 5 U.S.C. 552(a), except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10) and (11) and (i) and corresponding provisions of 16 CFR 4.13, to the extent that a record in the system of records was compiled for criminal law enforcement purposes.

Pursuant to 5 U.S.C. 552a(k)(2), the system is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f) and the corresponding provisions of 16 CFR 4.13, to the extent the system of records consists of investigatory material compiled for law enforcement purposes, other than material within the scope of the exemption at 5 U.S.C. 552a(j)(2).

See 16 CFR 4.13(m), as amended.

By direction of the Commission.

Donald S. Clark,
Secretary