

OMB Number: 1545-1221.

Regulation Project Number: EE-147-87.

**Abstract:** Section 414(r) of the Internal Revenue Code requires that employers who wish to test their qualified retirement plans on a separate line of business basis, rather than on a controlled group basis, provide notice to the IRS that the employer treats itself as operating qualified separate lines of business. Additionally, an employer may request an IRS determination that such lines satisfy administrative scrutiny. This regulation elaborates on the notice requirement and the determination process.

**Current Actions:** There is no change to this existing regulation.

**Type of Review:** Extension of a currently approved collection.

**Affected Public:** Business or other for-profit organizations.

**Estimated Number of Respondents:** 253.

**Estimated Time per Respondent:** 3 hours, 27 minutes.

**Estimated Total Annual Burden Hours:** 899.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments:** Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

**Comments are invited on:** (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 10, 2008.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

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**BILLING CODE 4830-01-P**

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## DEPARTMENT OF VETERANS AFFAIRS

### Privacy Act of 1974; System of Records

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice of amendment to system of records.

**SUMMARY:** As required by the Privacy Act of 1974, 5 U.S.C. 552a(e), notice is hereby given that the Department of Veterans Affairs (VA) is amending the system of records currently entitled "The Office of Inspector General Management Information System (MIS)—VA" (71VA53) as set forth in the **Federal Register** at 47 FR 6513. VA is amending the system of records by revising the system location, revising the Categories of Records in the System, adding a Purposes section, adding Routine Uses of Records Maintained in the System, including Categories of Users and the Purposes of Such Uses, and updating Policies and Practices for Storing, Retrieving, Accessing, Retaining and Disposing of Records in the System. VA is republishing the system notice in its entirety.

**DATES:** Comments on the amendment of this system of records must be received no later than October 29, 2008. If no public comment is received, the amended system will become effective October 29, 2008.

**ADDRESSES:** Written comments concerning the proposed amended system of records may be submitted by: mail or hand-delivery to Director, Regulations Management (O2REG), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1068, Washington, DC 20420; fax to (202) 273-9026; or e-mail to "VAregulations@va.gov." All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment.

**FOR FURTHER INFORMATION CONTACT:** Timothy J. McGrath, Attorney Advisor, Department of Veterans Affairs, Office of Inspector General, 810 Vermont Avenue, NW., Washington, DC 20420; or fax comments to (202) 565-8667; or

e-mail comments to [timothy.mcgrath@va.gov](mailto:timothy.mcgrath@va.gov).

**SUPPLEMENTARY INFORMATION:** This publication is in accordance with the Privacy Act requirement that agencies publish their amended system of records in the **Federal Register** when there is revision, change, or addition. The VA Office of Inspector General (OIG) has reviewed its systems of records notices and has determined that its record system, "The Office of Inspector General Management Information System (MIS)—VA" (71VA53) should be amended. The Categories of Records in the System is amended to include OIG employees' contact information to be used in the event of an emergency, and inclusion of OIG Hotline and health care inspections case tracking data as well as information on personnel suitability investigations of OIG employees.

This system of records is also amended by adding a Purposes section that defines how the records on OIG employees may be used for various management and human resources objectives.

The proposed amendments to this system of records add seven routine uses of records. The routine uses are as follows:

Routine use number 1 allows for disclosure of information from the record of an individual in response to an inquiry from a congressional office on behalf of that individual.

Routine use number 2 is added to reflect that disclosure may be made to the National Archives and Records Administration (NARA). NARA is responsible for archiving records no longer actively used but may be appropriate for preservation, and is responsible in general for the physical maintenance of the Federal government's records. VA must be able to turn records over to NARA in order to determine the proper disposition of such records.

Routine use number 3 allows VA to disclose records to the U.S. Department of Justice. When VA is involved in litigation or an adjudicative or administrative process, or occasionally when another party is involved in litigation or an adjudicative or administrative process, and VA policies or operations could be affected by the outcome of the litigation or process, VA must be able to disclose that information to the court, adjudicative or administrative bodies, or parties involved. This routine use would not constitute authority to disclose records in response to a grand jury or other subpoena under Privacy Act subsection

(b) because of the Court's analysis in *Doe v. DiGenova*, 779 F.2d 74, 78–84 (D.C. Cir. 1985) and *Doe v. Stephens*, 851 F.2d 1457, 1465–67 (D.C. Cir. 1988).

Routine use number 4 allows disclosure of information to a Federal, state, or local agency maintaining civil or criminal violation records or other pertinent information such as prior employment history, prior Federal employment background investigations, and/or personal or educational information relevant to the hiring, transfer, or retention of an employee, the letting of a contract, the granting of a security clearance, or the issuance of a grant or other benefit.

Routine use number 5 allows VA on its own initiative to disclose information which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal, or regulatory in nature and whether arising by general or program statute or by regulation, to a Federal, state, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, regulation, rule or order.

Routine use number 6 allows information to be disclosed to the Equal Employment Opportunity Commission (EEOC) in connection with investigations of alleged or possible discrimination practices, examination of Federal affirmative employment programs, compliance with the Uniform Guidelines of Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978. This disclosure is necessary to allow the EEOC access to relevant information.

Routine use number 7 allows information to be disclosed to officials of the Merit Systems Protection Board (MSPB), and the Office of Special Counsel (OSC), in connection with appeals, special studies of the civil service and other merit systems, reviews of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in Title 5, United States Code, Sections 1205 and 1206, or as may be authorized by law. This disclosure is necessary to allow the MSPB and OSC access to relevant information when properly requested.

Routine use number 8 is a suggested routine use by the Office of Management and Budget (OMB) for all Privacy Act systems of records, in order to allow for the appropriate mitigation of a possible data breach.

Routine use number 9 allows disclosure of information to individuals or entities with which VA has a

contract, subcontract, or agreement to perform services. VA must be able to provide information to its contractors or subcontractors in order for them to perform the services of the contract or agreement.

The Policies and Practices for Storing, Retrieving, Accessing, Retaining and Disposing of Records in the System is amended to reflect current technological practices and procedures, including storage of and safeguarding of data. This amended section also describes the current location of data stored on OIG computer equipment.

The Report of Intent to Amend a System of Records Notice and an advance copy of the system notice have been sent to the appropriate congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Approved: September 15, 2008.

**Gordon H. Mansfield,**

*Deputy Secretary of Veterans Affairs.*

#### 71VA53

##### SYSTEM NAME:

The Office of Inspector General Management Information System (MIS) (71VA53).

##### SYSTEM LOCATION:

Office of Inspector General (53C), Information Technology Division, Department of Veterans Affairs, 801 I Street, NW., Washington, DC 20420.

##### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The following category of individuals will be covered by the system: All personnel assigned to Office of Inspector General (OIG).

##### CATEGORIES OF RECORDS IN THE SYSTEM:

The Management Information System contains the following categories of records: Time and Attendance, Phone Directory, Awards, Training, Travel, and Personnel (which may include personnel suitability records and pre-employment inquiry records).

Records (or information contained in records) may include: (1) Individual's name, address and telephone contact information; (2) social security number; (3) date of birth; (4) service computation date; (5) career status; (6) assigned station; (7) job series; (8) education; (9) grade; (10) type of case; (11) work assignments; (12) travel; (13) experience; (14) training; and (15) audit, hotline, health care inspections and investigation case tracking data (e.g.,

case number, budgeted and actual staff days, target and completion dates, findings and results).

Personnel suitability records may contain investigative information about an individual's character, conduct and behavior in the community where he or she lives or lived; arrests and convictions for violations of law; reports of interviews with the subject and with present and former supervisors; co-workers, associates, neighbors, educators, etc., reports about the qualifications of an individual for a specific position and correspondence relating to adjudication matters; reports of inquiries with law enforcement agencies, employers, educational institutions attended, and credit reporting agencies; reports of action after Office of Personnel Management (OPM) or Federal Bureau of Investigation (FBI) full field investigations; and other information developed from the above.

*Pre-Employment Inquiry Records:* These records may contain information relating to an applicant's qualifications for employment in terms of character, reputation, and fitness; including letters of reference, responses to pre-employment inquiries, qualifications and character information; reports of inquiries with law enforcement agencies, employers, educational institutions attended, and credit reporting agencies; and other information which may relate to the specific selection factors associated with the position sought.

##### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, United States Code, Appendix 3.

##### PURPOSE(S):

The records and information about individual OIG employees are used for various management and human resources objectives. Case tracking data is used to measure employee productivity. Employee contact information is maintained to allow employees to be contacted in emergency situations. Training records are used to make certain the employees complete required training assignments and to maintain a record of each employee's training activities for career development and continuing professional education requirements.

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

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office that is made at the request of that individual.

2. Disclosure may be made to the National Archives and Records Administration (NARA) in records management activities and inspections conducted under authority of Title 44, United States Code.

3. Disclosure may be made to the Department of Justice including United States Attorneys, or in a proceeding before a court, adjudicative body, or other administrative body when the litigation or adjudicative or administrative process is likely to affect VA, its employees, or any of its components, or when VA, its employees, or any of its components is a party to the litigation process, or has an interest in the litigation or process and the use of these records is deemed by VA to be relevant and necessary to the litigation or process, provided that the disclosure is compatible with the purpose for which the records were collected.

4. Any information in this system, may be disclosed to a Federal, state, or local agency maintaining civil or criminal violation records or other pertinent information such as prior employment history, prior Federal employment background investigations, and/or personal or educational background in order for VA to obtain information relevant to the hiring, transfer, or retention of an employee, the letting of a contract, the granting of a security clearance, or the issuance of a grant or other benefit. The name and address of a veteran may be disclosed to a Federal agency under this routine use if this information has been requested by the Federal agency in order to respond to the VA inquiry.

5. VA may disclose on its own initiative any information in this system, except the names and home addresses of veterans and their dependents, which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal, or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a Federal, state, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order. On its own initiative, VA may also disclose the names and addresses of veterans and dependents to a Federal or state agency charged with the responsibility of investigating or prosecuting civil, criminal, or regulatory violations of law, or charged with enforcing or implementing the statute, rule or order issued pursuant thereto.

6. Information may be disclosed to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, compliance with the Uniform Guidelines of Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978.

7. Information may be disclosed to officials of the Merit Systems Protection Board, and the Office of Special Counsel, when properly requested in connection with appeals, special studies of the civil service and other merit systems, reviews of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in Title 5, United States Code, Sections 1205 and 1206, or as may be authorized by law.

8. Disclosure of any information within this system may be made when it is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised and VA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interest, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by VA or another agency or entity) that rely upon the compromised information; and the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in connection with VA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

9. VA may disclose information to individuals, organizations, private or public agencies, or other entities with which VA has a contract or agreement or where there is a subcontract to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement.

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

Records and information are stored electronically in the VA OIG's MCI (Master Case Index) databases and servers at the OIG's office at 801 I Street, NW., Washington, DC, in the office of the Information Technology Division. Backup records are stored on magnetic disc, tape, and CD-ROM and may also

be retained in hard copy format in secure file folders. Information can be retrieved based on computer searches of various data elements, including, but not limited to, MCI case numbers, transaction numbers, key words, and names of individual OIG employees. Electronic data is maintained indefinitely as described above. Policy for the disposal of records as well as a retention schedule is being developed by the OIG's Office of Management and Administration. Information on awards and travel is maintained so that OIG managers have readily available relevant information about their employees in these areas.

**STORAGE:**

Records and information are stored electronically in databases and servers at VA OIG headquarters in Washington, DC. Backup records are stored on magnetic disc, tape, and CD-ROM and are also retained in hard copy format in secure file folders by the OIG component with responsibility for the specific category of records. All records about OIG personnel are maintained by the OIG's Human Resources Management Division.

**RETRIEVABILITY:**

Records are retrieved by Social Security Number, case number, work assignment, or name.

**SAFEGUARDS:**

Information in the system is protected from unauthorized access through administrative, physical, and technical safeguards. Categories of records are restricted to those with an official need to know the information. Only VA OIG supervisors, for example, can access the Awards data, and only for employees within their supervisory chain. Access to data is also limited by means of features such as "read-only access," i.e., where the person with access can read but not enter or change the information in the system. Safeguards also include password protection features and cipher locks securing the physical area. Some information in the system is restricted to employees of the Human Resources Management Division.

**RETENTION AND DISPOSAL:**

Records will be maintained and disposed of in accordance with a records disposition authority approved by the Archivist of the United States.

**SYSTEM MANAGER(S) AND ADDRESS:**

Mailing address: Director, Information Technology Division (53C), Department of Veterans Affairs, Office of Inspector General, 810 Vermont Avenue, NW., Washington, DC 20420. Physical

address: Director, Information Technology Division (53C), Department of Veterans Affairs, Office of Inspector General, 801 I Street, NW., Washington, DC 20420.

**NOTIFICATION PROCEDURE:**

An individual who wishes to determine whether a record is being maintained under his or her name in this system must furnish a written request or apply in person to the Assistant Inspector General for Management and Administration (53),

Department of Veteran Affairs, Office of Inspector General, 810 Vermont Avenue, NW., Washington, DC 20420.

**RECORD ACCESS PROCEDURES:**

An individual who seeks access to, wishes to determine the contents of such records, or wishes to contest records maintained under his or her name in this system, must submit a written request to the Assistant Inspector General for Management and Administration (53), Department of Veterans Affairs, Office of Inspector

General, 810 Vermont Ave., NW., Washington, DC 20420.

**CONTESTING RECORD PROCEDURES:**

(See records access procedures above).

**RECORD SOURCE CATEGORIES:**

Individual employees, supervisors, official personnel folder, other personnel documents, individual applications, and forms.

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