

(xi) number and dollar amount of mergers and acquisitions by size of acquiring and acquired firm; and

(xii) concentration ratios; and

(B) publishing annually a report giving a comparative analysis and interpretation of the historical trends of the small business sector as reflected by the data acquired pursuant to subparagraph (A) of this subsection. Annual report, publication.

(3)⁶⁵ RISK MANAGEMENT DATABASE.—

Risk manager database.

⁶⁵New subsection 4(b)(3) added by § 102 of P.L. 104-208, approved Sept. 30, 1996 (110 Stat. 3009-725). Former subsection 4(b)(3) added by § 3 of P.L. 98-362, approved July 16, 1984 (98 Stat. 431), effective Oct. 1, 1984, per § 7(a) thereof. Section 4(b)(3) was extended to March 31, 1991, per § 212 of P.L. 101-574, approved Nov. 15, 1990 (104 Stat. 2821). The same extension was enacted by § 11 of P.L. 101-515, approved Nov. 5, 1990 (104 Stat. 2145). The sunset date was extended to Oct. 1, 1994 by § 225 of P.L. 102-366, approved Sept. 4, 1992 (106 Stat. 1001); no further extensions were enacted. Expired § 4(b)(3) is reprinted below:

(A) The Administrator shall, not later than ninety days after the effective date of the Small Business Computer Security and Education Act of 1984, establish an advisory council to be known as the Small Business Computer Security and Education Advisory Council (hereinafter referred to as the "advisory council").

(B) The advisory council shall consist of the following members:

(i) an official of the Small Business Administration, appointed by the Administrator;

(ii) an official of the Institute for Computer Sciences and Technology of the Department of Commerce, appointed by the Secretary of Commerce;

(iii) an official of the Department of Justice, appointed by the Attorney General, who is knowledgeable about issues of computer security and its protection;

(iv) an official of the Department of Defense, appointed by the Secretary of Defense, who is knowledgeable about issues of computer security;

(v) one individual, appointed by the Administrator, who is representative of the interests of the manufacturers of computer hardware to small business concerns;

(vi) one individual, appointed by the Administrator, who is representative of the interests of the manufacturers of computer software to small business concerns;

(vii) one individual, appointed by the Administrator, who is representative of the interests of the providers of computer liability insurance to small business concerns;

(viii) one individual, appointed by the Administrator, who is representative of the interests of the providers of computer security equipment and services to small business concerns;

(ix) one individual, appointed by the Administrator, who is representative of the interests of associations of small business concerns, other than small business concerns engaging in any of the activities described in clauses (v) through (viii); and

(x) such additional qualified individuals from the private sector, appointed by the Administrator, as the

section 7 of this Act and title V of the Small Business Investment Act of 1958, a management information system that will generate a database capable of providing timely and accurate information in order to identify loan underwriting, collections, recovery, and liquidation problems.

(B) INFORMATION TO BE MAINTAINED.—In addition to such other information as the Administration considers appropriate, the database established under subparagraph (A) shall, with respect to each loan program described in subparagraph (A), include information relating to—

- (i) the identity of the institution making the guaranteed loan or issuing the debenture;
- (ii) the identity of the borrower;
- (iii) the total dollar amount of the loan or debenture;
- (iv) the total dollar amount of government exposure in each loan;
- (v) the district of the Administration in which the borrower has its principal office;
- (vi) the principal line of business of the borrower, as identified by Standard Industrial Classification Code (or any successor to that system);
- (vii) the delinquency rate for each program (including number of instances and days overdue);
- (viii) the number and amount of repurchases, losses, and recoveries in each program;
- (ix) the number of deferrals or forbearances in each program (including days and number of instances);
- (x) comparisons on the basis of loan program, lender, Administration district and region, for all the data elements maintained; and
- (xi) underwriting characteristics of each loan that has entered into default, including term, amount and type of collateral, loan-to-value and other actual and projected ratios, line of business, credit history, and type of loan.

(C) DEADLINE FOR OPERATIONAL CAPABILITY.—The database established under subparagraph (A) shall—

- (i) be operational not later than June 30, 1997; and

B. MANAGEMENT OF GUARANTEED LOAN LENDERS AND SERVICERS

REFERENCES:

Guidance	Treasury/FMS "Managing Federal Receivables"
----------	---

1. Lender Eligibility.

- a. *Participation Criteria.* Federal credit granting agencies shall establish and publish in the Federal Register specific eligibility criteria for lender participation in Federally guaranteed loan programs. These criteria should include:
- (1) Requirements that the lender is not currently debarred/suspended from participation in a Government contract or delinquent on a Government debt;
 - X (2) Qualification requirements for principal officers and staff of the lender;
 - (3) Fidelity/surety bonding and/or errors and omissions insurance with the Federal Government as a loss payee, where appropriate, for new or non-regulated lenders or lenders with questionable performance under Federal guarantee programs;
 - (4) Financial and capital requirements for lenders not regulated by a Federal financial institution regulatory agency, including minimum net worth requirements based on business volume.
- b. *Review of Eligibility.* Agencies shall review and document a lender's eligibility for continued participation in a guaranteed loan program at least every two years. Ideally, these reviews should be conducted in conjunction with on-site reviews of lender operations (see B.3) or other required reviews, such as renewal of a lender agreement (see B.2). Lenders not meeting standards for continued participation should be decertified. In addition to the participation criteria above, guarantor agencies should consider lender performance as a critical factor in determining continued eligibility for participation.
- c. *Fees.* When authorized and appropriated for such purposes, agencies should assess non-refundable fees to defray the costs of determining and reviewing lender eligibility.
- d. *Decertification.* Guarantor agencies should establish specific procedures to decertify lenders or take other appropriate action any time there is:
- (1) Significant and/or continuing non-conformance with agency standards; and/or
 - (2) Failure to meet financial and capital requirements or other eligibility criteria.
- Agency procedures should define the process and establish timetables by which decertified lenders can apply for reinstatement of eligibility for Federal guaranteed loan programs.
- e. *Loan Servicers.* Lenders transferring and/or assigning the right to service guaranteed loans to a loan servicer should use only servicers meeting applicable standards set by the Federal guarantor agency. Where appropriate, agencies may adopt standards for loan servicers established by a Government Sponsored Enterprise (GSE) or a similar organization (e.g., Government National Mortgage Association for single family mortgages) and/or may authorize lenders to use servicers that have been approved by a GSE or similar organization.

2. Lender Agreements. Agencies should enter into written agreements with lenders that have been determined to be eligible for participation in a guaranteed loan program. These agreements should incorporate general participation requirements, performance standards and other applicable requirements of this Circular. Agencies are encouraged, where not prohibited by authorizing legislation, to set a fixed duration for the agreement to ensure a formal review of the lender eligibility for continued participation in the program.

- a. *General Participation Requirements.*
- (1) Requirements for lender eligibility, including participation criteria, eligibility reviews, fees, and decertification (see *Section 1*, above);
 - (2) Agency and lender responsibilities for sharing the risk of loan defaults (see *Section II.3. a.(1)*); and, where feasible

(3) Maximum delinquency, default and claims rates for lenders, taking into account individual program characteristics.

- b. *Performance Standards.* Agencies should include due diligence requirements for originating, servicing, and collecting loans in their lender agreements. This may be accomplished by referencing agency regulations or guidelines. Examples of due diligence standards include collection procedures for past due accounts, delinquent debtor counseling procedures and litigation to enforce loan contracts.

Agencies should ensure, through the claims review process, that lenders have met these standards prior to making a claim payment. Agencies should reduce claim amounts or reject claims for lender non-performance.

- c. *Reporting Requirements.* Federal credit granting agencies should require certain data to monitor the health of their guaranteed loan portfolios, track and evaluate lender performance and satisfy OMB, Treasury, and other reporting requirements which include the <Treasury Report on Receivables (TROR)>. Examples of these data which agencies must maintain include:

(1) *Activity Indicators* -- number and amount of outstanding guaranteed loans at the beginning and end of the reporting period and the agency share of risk; number and amount of guaranteed loans made during the reporting period; and number and amount of guaranteed loans terminated during the period.

(2) *Status Indicators* -- a schedule showing the number and amount of past due loans by "age" of the delinquency, and the number and amount of loans in foreclosure or liquidation (when the lender is responsible for such activities).

Agencies may have several sources for such data, but some or all of the information may best be obtained from lenders and servicers. Lender agreements should require lenders to report necessary information on a quarterly basis (or other reporting period based on the level of lending and payment activity).

- d. *Loan Servicers.* Lender agreements must specify that loan servicers must meet applicable participation requirements and performance standards. The agreement should also specify that servicers acquiring loans must provide any information necessary for the lender to comply with reporting requirements to the agency. Servicers may not resell the loans except to qualified servicers.

OMB Circular A-123, Management's Responsibility for Internal Control

TABLE OF CONTENTS

- I. Introduction**
- II. Standards**
- III. Integrated Internal Control Framework**
- IV. Assessing Internal Control**
- V. Correcting Internal Control Deficiencies**
- VI. Reporting on Internal Control**

I. INTRODUCTION

Management has a fundamental responsibility to develop and maintain effective internal control. The proper stewardship of Federal resources is an essential responsibility of agency managers and staff. Federal employees must ensure that Federal programs operate and Federal resources are used efficiently and effectively to achieve desired objectives. Programs must operate and resources must be used consistent with agency missions, in compliance with laws and regulations, and with minimal potential for waste, fraud, and mismanagement.

Management is responsible for developing and maintaining effective internal control. Effective internal control provides assurance that significant weaknesses in the design or operation of internal control, that could adversely affect the agency's ability to meet its objectives, would be prevented or detected in a timely manner.

Internal Control -- organization, policies, and procedures -- are tools to help program and financial managers achieve results and safeguard the integrity of their programs. This Circular provides guidance on using the range of tools at the disposal of agency managers to achieve desired program results and meet the requirements of the Federal Managers' Financial Integrity Act (FMFIA) of 1982. The FMFIA encompasses accounting and administrative controls. Such controls include program, operational, and administrative areas as well as accounting and financial management.

The importance of internal control is addressed in many statutes and executive documents. The FMFIA establishes overall requirements with regard to internal control. The agency head must establish controls that reasonably ensure that: "(i) obligations and costs are in compliance with applicable law; (ii) funds, property, and other assets are safeguarded against waste, loss, unauthorized use or misappropriation; and (iii) revenues

OMB Circular A-123, Management's Responsibility for Internal Control

and expenditures applicable to agency operations are properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports and to maintain accountability over the assets."¹ In addition, the agency head annually must evaluate and report on the control and financial systems that protect the integrity of Federal programs (Section 2 and Section 4 of FMFIA respectively). The three objectives of internal control are to ensure the effectiveness and efficiency of operations, reliability of financial reporting, and compliance with applicable laws and regulations. The safeguarding of assets is a subset of all of these objectives.

Instead of considering internal control as an isolated management tool, agencies should integrate their efforts to meet the requirements of the FMFIA with other efforts to improve effectiveness and accountability. Thus, internal control should be an integral part of the entire cycle of planning, budgeting, management, accounting, and auditing. It should support the effectiveness and the integrity of every step of the process and provide continual feedback to management.

Federal managers must carefully consider the appropriate balance between controls and risk in their programs and operations. Too many controls can result in inefficient and ineffective government; agency managers must ensure an appropriate balance between the strength of controls and the relative risk associated with particular programs and operations. The benefits of controls should outweigh the cost. Agencies should consider both qualitative and quantitative factors when analyzing costs against benefits.

A. Agency Implementation. Internal control guarantees neither the success of agency programs, nor the absence of waste, fraud, and mismanagement, but is a means of managing the risk associated with Federal programs and operations. Managers should define the control environment (e.g., programs, operations, or financial reporting) and then perform risk assessments to identify the most significant areas within that environment in which to place or enhance internal control. The risk assessment is a critical step in the process to determine the extent of controls. Once significant areas have been identified, control activities should be implemented. Continuous monitoring and testing should help to identify poorly designed or ineffective controls and should be reported upon periodically. Management is then responsible for redesigning or improving upon those controls. Management is also responsible for communicating the objectives of internal control and ensuring the organization is committed to sustaining an effective internal control environment.

Appropriate internal control should be integrated into each system established by agency management to direct and guide its operations. As stated earlier in this document, internal control applies to program, operational, and administrative areas as well as accounting and financial management.

Generally, identifying and implementing the specific procedures necessary to ensure effective internal control, and determining how to assess the effectiveness of those controls, is left to the discretion of the agency head. While the procedures may vary from

¹ The quoted text is from the Federal Managers' Financial Integrity Act (FMFIA) of 1982.

OMB Circular A-123, Management's Responsibility for Internal Control

agency to agency, management should have a clear, organized strategy with well-defined documentation processes that contain an audit trail, verifiable results, and specify document retention periods so that someone not connected with the procedures can understand the assessment process.

To ensure senior management involvement, many agencies have established their own senior management council, often chaired by the agency's lead management official, to address management accountability and related issues within the broader context of agency operations. Relevant issues for such a council include ensuring the agency's commitment to an appropriate system of internal control; actively overseeing the process of assessing internal controls, including non-financial as well as financial reporting objectives; recommending to the agency head which control deficiencies are material to disclose in the annual FMFIA report; and providing input for the level and priority of resource needs to correct these deficiencies. (See also Section IV.C. Role of a Senior Management Council.)

II. STANDARDS

Internal control is an integral component of an organization's management that provides reasonable assurance that the following objectives are being achieved: effectiveness and efficiency of operations, reliability of financial reporting, and compliance with applicable laws and regulations.²

Internal control, in the broadest sense, includes the plan of organization, methods and procedures adopted by management to meet its goals. Internal control includes processes for planning, organizing, directing, controlling, and reporting on agency operations.

The three objectives of internal control are:

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

² Internal control standards and the definition of internal control are based on GAO, Standards for Internal Control in the Federal Government, November 1999, "Green Book".

SYSTEM NAME:

Investigative Files--SBA 16.

SYSTEM LOCATION:

Office of the Inspector General (OIG), Investigations Division and Federal Records Center (FRC). See Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM INCLUDE:

Persons against whom are made allegations that are within the jurisdiction of the OIG to investigate; persons identified as making such allegations; or persons cross-referenced in investigative file or subsequent investigations. Applicants to, and participants in SBA programs, their principals, representatives and resource partners; contractors and parties to cooperative agreements and their principals, representatives, and other interested parties; governmental entities; SBA employees, members of the Advisory Councils, Service Corps of Retired Executive volunteers in connection with allegations of wrongdoing that are within the jurisdiction of the OIG to investigate.

CATEGORIES OF RECORDS IN THE SYSTEM INCLUDE:

Material provide to, gathered or created by OIG in investigating, or otherwise dealing with allegations that are within the jurisdiction of the OIG to investigate, documentation of allegations, consultations, decisions, interviews, records reviews, reports of investigations, and various correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. App. 3 (The Inspector General Act of 1978), 15 U.S.C. Chapters 14A and 14B and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES, THESE RECORDS MAY BE USED, DISCLOSED OR REFERRED:

- a. To the Federal, State, local or foreign agency or professional organization which investigates, prosecutes or enforces violations, statutes, rules, regulations or orders issued when the Agency identifies a violation or potential violation of law whether arising by general or program statute, or by regulation, rule or order.
- b. To a grand jury, court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of such proceedings or in settlement negotiations.
- c. To other Federal agencies conducting background checks; only to the extent the information is relevant to the requesting agencies' function.
- d. To any Federal, State, local, foreign or international agency, in connection with such entity's assignment, hiring and 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.
- e. To a domestic, foreign, or international government agency maintaining civil, criminal, relevant enforcement or other pertinent information, for 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.

f. To Federal, State or local bar associations and other professional regulatory or disciplinary bodies for use in disciplinary proceedings and inquiries.

g. To a Congressional office from an individual's record, when the office is inquiring on the individual's behalf; the Member's access rights are no greater than the individual's.

h. To the General Accounting Office (GAO) for periodic reviews of SBA.

i. To the Office of Government Ethics for any purpose consistent with their mission.

j. To the GAO, and to the General Services Administration's Board of Contract Appeals in bid protest cases involving an agency procurement.

k. To any Federal agency which has the authority to subpoena other Federal agencies records and has issued a valid subpoena.

l. To the Department of Treasury and the Department of Justice (DOJ) when an agency is seeking an ex parte court order to obtain taxpayer information from the Internal Revenue Service.

m. To debt collection contractors for collecting delinquent debts as authorized by the Debt Collection Act of 1982, 31 U.S.C. 3718.

n. To a "consumer reporting agency" as that term is defined in the Fair Credit Reporting Act (15 U.S.C. 1681 a (f)) and the Federal Claims Collection Act of 1966 (31 U.S.C. 701(a)(3)), to obtain information during an investigation or audit.

o. To agency personnel responsible for Program Civil Remedies Act litigation, the tribunal and defendant's counsel.

p. To a grand jury agent pursuant either to a Federal or State grand jury subpoena or to a prosecution request that records be introduced to a grand jury.

q. To Agency volunteers, interns, grantees, experts and contractors who have been engaged by the Agency to assist in the performance of a service related to this system of records and who need access to the records in order to perform this activity. Recipients of these records shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

r. To the DOJ when any of the following is a party to litigation or has an interest in such litigation, and the use of such records by the DOJ is deemed by the agency to be relevant and necessary to the litigation, provided, however, that in each case, the agency determines the disclosure of the records to the DOJ is a use of the information contained in the records that is compatible with the purpose for which the records were collected:

(1) The agency, or any component thereof;

(2) Any employee of the agency in his or her official capacity;

(3) Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee; or

(4) The United States Government, where the agency determines that litigation is likely to affect the agency or any of its components.

s. In a proceeding before a court, or adjudicative body, or a dispute resolution body before which the agency is authorized to appear or before which any of the following is a party to litigation or has an interest in litigation, provided, however, that the agency determines that the use of such records is relevant and necessary to the litigation, and that, in each case, the agency determines that disclosure of the records to a court or

other adjudicative body is a use of the information contained in the records that is incompatible with the purpose for which the records were collected:

- (1) The agency, or any component thereof;
- (2) Any employee of the agency in his or her official capacity;
- (3) Any employee of the agency in his or her individual capacity here the DOJ has agreed to represent the employee; or
- (4) The United States Government, where the agency determines that litigation is likely to affect the agency or any of its components.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS:

STORAGE:

File folders in filing cabinets and safes, and electronic files.

RETRIEVAL:

Indexed by name of the investigated individual and cross-referenced to the number(s) of the investigative file(s) containing related materials.

SAFEGUARDS:

All filing cabinets are locked. Access to and use limited to those persons with official need to know; computers are protected by password and user identification codes.

RETENTION AND DISPOSAL:

In accordance with Standard Operating Procedure 00 41 2 Item Nos. 90:10 and 90:12. Cut off at the end of the calendar year. Transfer to FRC 6 years after cutoff. Destroy 15 years after cutoff.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations or designee. See Appendix A.

NOTIFICATION PROCEDURES:

An individual may submit a record inquiry in writing or in person to the Systems Manager or PA Officer.

ACCESS PROCEDURES:

Systems Manager or PA Officer will determine procedures.

CONTESTING PROCEDURES:

Notify the official listed above and state reason(s) for contesting and the proposed amendment sought.

SOURCE CATEGORIES:

Subject individual, Agency personnel, informants, the Federal Bureau of Investigation and other investigative Government agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

(1) Pursuant to 5 U.S.C. 552a(j)(2), records in this system of records are exempt from the application of all provisions of section 552a except sections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), (11), and (i), to the extent that it consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of

identifying data and notations of arrests, confinement, release, and parole and probation status;

(B) information compiled for the purpose of criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision. This system is exempted in order to maintain the efficacy and integrity of the Office of the Inspector General's criminal law enforcement function.

(2) Pursuant to 5 U.S.C. 552(a)(k)(2) and (k)(5), all investigatory material in the record compiled for law enforcement purposes or for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information is exempt from the notification, access, and contest requirements (under 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Agency regulations. This exemption is necessary in order to fulfill commitments made to protect the confidentiality of sources and to protect subjects of investigations from frustrating the investigatory process.

SBA 17

SYSTEM NAME:

Investigations Division Management Information System--SBA 17.

0

SYSTEM LOCATION:

Office of the Inspector General (OIG), Investigations Division. See Appendix A.

CATEGORIES OF INDIVIDUALS COVERED IN THE SYSTEM INCLUDES:

Persons against whom are made allegations that are within the OIG's jurisdiction to investigate, persons identified as making allegations or persons who are cross-referenced to an investigative file, principals, representatives of applicants, participants, contractors, grantees, participants in cooperative agreements, resource partners and their principals and representatives and other interested parties participating in SBA programs, and members of Advisory Councils and SCORE/ACE volunteers.

CATEGORIES OF RECORDS IN THE SYSTEM INCLUDES:

Material gathered or created during preparation for, conduct of and follow-up on investigations conducted by OIG, the FBI and other Federal, State, local, or foreign regulatory or law enforcement agency. May include alphabetical indices of names and case numbers and information about allegations, decisions, investigative assignments and special techniques, and reports and results of investigations and time spent by investigators.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. App. 3 (The Inspector General Act of 1978), 15 U.S.C. Chapters 14A and 14B; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES, THESE RECORDS MAY BE USED, DISCLOSED OR REFERRED:

a. To the Federal, State, local or foreign agency or professional organization which investigates, prosecutes or enforces violations, statutes, rules, regulations or orders issued when the Agency identifies a violation or potential violation of law whether arising by general or program statute, or by regulation, rule or order.

b. To a court, magistrate, grand jury or administrative tribunal, opposing counsel during such proceedings or in

[[Page 58614]]

settlement negotiations when presenting evidence.

c. To the General Accounting Office for periodic reviews of the SBA.

d. To the Office of Government Ethics for any purpose consistent with their mission.

e. To Agency volunteers, interns, grantees, experts and contractors who have been engaged by the Agency to assist in the performance of a service related to this system of records and who need access to the records in order to perform this activity. Recipients of these records shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

f. To the Department of Justice (DOJ) when any of the following is a party to litigation or has an interest in such litigation, and the use of such records by the DOJ is deemed by the agency to be relevant and necessary to the litigation, provided, however, that in each case, the agency determines the disclosure of the records to the DOJ is a use of the information contained in the records that is compatible with the purpose for which the records were collected:

- (1) The agency, or any component thereof;
- (2) Any employee of the agency in his or her official capacity;
- (3) Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee; or
- (4) The United States Government, where the agency determines that litigation is likely to affect the agency or any of its components.

g. In a proceeding before a court, or adjudicative body, or a dispute resolution body before which the agency is authorized to appear or before which any of the following is a party to litigation or has an interest in litigation, provided, however, that the agency determines that the use of such records is relevant and necessary to the litigation, and that, in each case, the agency determines that disclosure of the records to a court or other adjudicative body is a use of the information contained in the records that is compatible with the purpose for which the records were collected:

- (1) The agency, or any component thereof;
- (2) Any employee of the agency in his or her official capacity;
- (3) Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee; or
- (4) The United States Government, where the agency determines that litigation is likely to affect the agency or any of its components.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS:

STORAGE:

Self-contained system and computer disks.

RETRIEVAL:

Subjects' name, company name, case number, agent's name, Social

Security Number or agent's identification number.

SAFEGUARDS:

Access to and use of these records is limited to those persons whose official duties require such access; computers are protected by password and user identification codes.

In accordance with Standard Operating Procedure 00 41 2 Items 90:10 and 90:12. Retained on computer disks indefinitely. Hard copies are made monthly, retained for five years before being destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations or designee. See Appendix A.

NOTIFICATION PROCEDURES:

An individual may submit a record inquiry either in person or in writing to the Systems Manager or PA Officer.

ACCESS PROCEDURES:

Systems Manager or PA Officer will determine procedures.

CONTESTING PROCEDURES:

Notify the official listed above and state reason(s) for contesting and the proposed amendment sought.

SOURCE CATEGORIES:

Subject individual, Agency personnel, informants, the Federal Bureau of Investigation and other investigative Government agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552(a)(k)(2) and (k)(5), all investigatory material in the record compiled for law enforcement purposes or for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified requirements (under 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Agency regulations. This exemption is necessary in order to fulfill commitments made to protect the confidentiality of sources and to protect subjects of investigations from frustrating the investigatory process.

SBA 18