

to the investigative jurisdiction of another agency. Such information cannot readily be identified.

(5) From subsection (e)(2), because in a law enforcement investigation it is usually counterproductive to collect information to the greatest extent practicable directly from the subject thereof. It is not always feasible to rely upon the subject of an investigation as a source for information which may implicate him or her in illegal activities. In addition, collecting information directly from the subject could seriously compromise an investigation by prematurely revealing its nature and scope, or could provide the subject with an opportunity to conceal criminal activities, or intimidate potential sources, in order to avoid apprehension.

(6) From subsection (e)(3), because providing such notice to the subject of an investigation, or to other individual sources, could seriously compromise the investigation by prematurely revealing its nature and scope, or could inhibit cooperation, permit the subject to evade apprehension, or cause interference with undercover activities.

(b) [Reserved].

#### § 2003.9 Specific exemptions.

(a) The systems of records entitled "Investigative Files of the Office of Inspector General," "Hotline Complaint Files of the Office of Inspector General" and "Name Indices System of the Office of Inspector General" consist, in part, of investigatory material compiled by the OIG for law enforcement purposes. Therefore, to the extent that information in these systems falls within the coverage of exemption (k)(2) of the Privacy Act, 5 U.S.C. 552a(k)(2), these systems of records are exempt from the requirements of the following subsections of the Privacy Act, for the reasons stated below.

(1) From subsection (c)(3), because release of an accounting of disclosures to an individual who is the subject of an investigation could reveal the nature and scope of the investigation and could result in the altering or destruction of evidence, improper influencing of witnesses, and other evasive actions that could impede or compromise the investigation.

(2) From subsection (d)(1), because release of investigative records to an individual who is the subject of an investigation could interfere with pending or prospective law enforcement proceedings, constitute an unwarranted invasion of the personal privacy of third parties, reveal the identity of confidential sources, or reveal sensitive investigative techniques and procedures.

(3) From subsection (d)(2), because amendment or correction of investigative records could interfere with pending or prospective law enforcement proceedings, or could impose an impossible administrative and investigative burden by requiring the OIG to continuously retrograde its investigations attempting to resolve questions of accuracy, relevance, timeliness and completeness.

(4) From subsection (e)(1), because it is often impossible to determine relevance or necessity of information in the early stages of an investigation. The value of such information is a question of judgment and timing; what appears relevant and necessary when collected may ultimately be evaluated and viewed as irrelevant and unnecessary to an investigation. In addition, the OIG may obtain information concerning the violation of laws other than those within the scope of its jurisdiction. In the interest of effective law enforcement, the OIG should retain this information because it may aid in establishing patterns of unlawful activity and provide leads for other law enforcement agencies. Further, in obtaining evidence during an investigation, information may be provided to the OIG which relates to matters incidental to the main purpose of the investigation but which may be pertinent to the investigative jurisdiction of another agency. Such information cannot readily be identified.

(b) The systems of records entitled "Investigative Files of the Office of Inspector General," "Hotline Complaint Files of the Office of Inspector General" and "Name Indices System of the Office of Inspector General" consist in part of investigatory material compiled by the OIG for the purpose of determining suitability, eligibility, or

qualifications for Federal civilian employment or Federal contracts, the release of which would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence. Therefore, to the extent that information in these systems falls within the coverage of Exemption (k)(5) of the Privacy Act, 5 U.S.C. 552a(k)(5), these systems of records are exempt from the requirements of subsection (d)(1), because release would reveal the identity of a source who furnished information to the Government under an express promise of confidentiality. Revealing the identity of a confidential source could impede future cooperation by sources, and could result in harassment or harm to such sources.

#### PART 2004—PRODUCTION IN RESPONSE TO SUBPOENAS OR DEMANDS OF COURTS OR OTHER AUTHORITIES

Sec.

2004.1 Purpose and scope.

2004.2 Service of an Inspector General subpoena.

2004.3 Production or disclosure prohibited unless approved by the Inspector General.

2004.5 Procedure in the event of a demand for production or disclosure.

2004.7 Procedure in the event of an adverse ruling.

AUTHORITY: Inspector General Act of 1978, as amended (5 U.S.C. app.); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)), unless otherwise noted.

SOURCE: 49 FR 11168, Mar. 26, 1984, unless otherwise noted.

##### §2004.1 Purpose and scope.

This part contains provisions for service of a subpoena issued by the Inspector General and procedures with regard to demands of courts or other authorities for Office of Inspector General (OIG) documents or testimony by employees of the OIG. For purposes of this part, the term “employees of the Office of Inspector General” includes all officers and employees of the United States appointed by, or subject

to the supervision of, the Inspector General.

[57 FR 2228, Jan. 21, 1992]

##### §2004.2 Service of an Inspector General subpoena.

Service of a subpoena issued by the Inspector General may be accomplished as follows:

(a) *Personal service.* Service may be made by delivering the subpoena to the person to whom it is addressed. If the subpoena is addressed to a corporation or other business entity, it may be served upon an employee of the corporation or entity. Service made to an employee, agent or legal representative of the addressee shall constitute service upon the addressee.

(b) *Service by mail.* Service may also be made by mailing the subpoena, certified mail—return receipt requested, to the addressee at his or her last known business or personal address.

[57 FR 2228, Jan. 21, 1992]

##### §2004.3 Production or disclosure prohibited unless approved by the Inspector General.

(a) The rules and procedures in paragraphs (b) and (c) of this section shall be followed when a subpoena, order or other demand (hereinafter referred to as a “demand”) of a court or other authority is issued for the production of documents or disclosure of testimony concerning:

(1) Any material contained in the files of the Office of Inspector General;

(2) Any information relating to material contained in the files of the Office of Inspector General; or

(3) Any information or material which an individual acquired while an employee of the Office of Inspector General as a part of the performance of official duties or because of his or her official status.

(b) Without prior approval of the Inspector General, no employee or former employee of the Office of Inspector General shall, in response to a demand of a court or other authority, produce any material contained in the files of the Office of Inspector General, or disclose any information relating to material contained in the files of the Office of Inspector General, or disclose