

## Office of the Secretary of Defense

## § 270.19

funds in trust for the person authorized to receive payment in an interest bearing account until such time as the person complies with the conditions for disbursement set out in this part.

[63 FR 3472, Jan. 23, 1998, as amended at 63 FR 68195, Dec. 10, 1998]

### § 270.12 Payment in full satisfaction of all claims against the United States.

The acceptance of payment by, or with respect to, an eligible person under this part shall constitute full satisfaction of all claims by or on behalf of that person against the United States arising from the person's participation in operations under OPLAN 34A or OP35.

### § 270.13 No right to judicial review or legal cause of action.

Subject to subpart E of this part, all determinations by the Commission pursuant to this part are final and conclusive, notwithstanding any other regulation. Applicants under this part have no right to judicial review, and such review is specifically precluded. This part does not create or acknowledge any legal right or obligation whatsoever.

### § 270.14 Limitation on attorneys fees.

Notwithstanding any contract or agreement, the representative of a person authorized to receive payment under this part may not receive, for services rendered in connection with the claim of, or with respect to, a person under this part, more than 10 percent of a payment made under this part on such claim.

### § 270.15 Waiver of notary requirement.

In exceptional circumstances (e.g., overseas claimant) the requirement for notarizations may be waived at the discretion of the Commission.

## Subpart E—Appeal Procedures

### § 270.16 Notice of the Commission's determinations.

Applicants whose claims for payment are denied in whole or in part by the Commission will be notified in writing of the determination. Applicants may petition the Assistant Secretary of De-

fense, Force Management Policy (or his designee) for a reconsideration of the Commission's determinations, and may submit any documentation in support of such petitions.

### § 270.17 Procedures for filing petitions for reconsideration.

A request for reconsideration must be made to the Secretary, care of the Staff Director of the Commission at the address of the Commission set out in § 270.7, within 45 days of receipt of the notice from the Commission of ineligibility. The Commission may waive that time limit for good cause shown.

### § 270.18 Action on reconsideration.

(a) The Assistant Secretary of Defense, Force Management Policy (or his designee) will:

(1) Review the Commission's administrative record of the original determination.

(2) Review additional information or documentation submitted by the applicant to support his or her petition for reconsideration.

(3) Determine whether the decision of the Commission should be affirmed, modified, or reversed.

(b) When there is a decision affirming the Commission's determinations, the Staff Director will notify the applicant in writing and include a statement of the reason for the affirmance.

(c) A decision of affirmance shall constitute the final action of the Department of Defense. The Secretary (or his designee) may decline to consider any subsequent petitions for reconsideration.

(d) When there is a decision modifying or reversing the Commission's determination, the notification should be immediately made to the Staff Director so as to implement the final action.

## Subpart F—Reports to Congress

### § 270.19 Reports to Congress.

Not later than September 23, 1998, the Commission will prepare and the Secretary will submit to Congress a report on the payment of claims under this part. Subsequent to that initial report, the Commission will prepare and the

**Pt. 270, App. A**

**32 CFR Ch. I (7-1-99 Edition)**

Secretary will submit to Congress annual reports on the status of payment of claims.

**APPENDIX A TO PART 270—APPLICATION FOR COMPENSATION OF VIETNAMESE COMMANDOS**

All persons applying for payment shall submit a properly completed, signed and notarized Application for Compensation of Vietnamese Commandos, along with corroborating documents and information, to: Commission on Compensation, Office of the Secretary of Defense, 4000 Defense Pentagon, Washington, D.C. 20301-4000.

All applicants must sign and have notarized the declaration in Part C of the application. In addition, all applicants must sign and have notarized the declaration in either Part A or Part B of the application (as applicable).

Applicants must file applications within 18 months of the effective date of this part (15 May 1997): that is, *not later than 15 November 1998*.

**Privacy Act Statement:**

**AUTHORITY:** National Defense Authorization Act for Fiscal Year 1997, Public Law 104-201, Section 657.

**Principal Purpose:** To evaluate applications for cash payments for those individuals, or their surviving spouse, children, parents, or siblings, who were captured and incarcerated by North Vietnam as a result of participating in specified joint United States-South Vietnamese operations.

**Routine Uses:** To the Immigration and Naturalization Service and the Central Intelligence Agency for purposes of verifying information relating to the claimant's eligibility for payment. To the Department of Justice for purposes of representing the Department of Defense in *Au Dong Quy, et al./Lost Commandos v. The United States*.

**Disclosure:** Voluntary. However, if portions are not completed the Commission may draw adverse inferences from the incomplete portions.

**Social Security Number:** Providing a social security number is voluntary. If one is not provided, the application for payment will still be processed.

This application shall be executed by the person applying for eligibility, or his surviving spouse, children, parents, or siblings, or designated representatives of such persons.

Part A—Complete the following information on the person whose status as a former operative is the basis for applying for payment:

(1) Current legal name or legal name at death:

(a) Aliases: \_\_\_\_\_  
(b) Former, or other legal names used: \_\_\_\_\_

(2) Current address or last address prior to death: \_\_\_\_\_  
\_\_\_\_\_

(3) Mailing address for compensation check in the event compensation is approved (may be different from commando's current/last address): \_\_\_\_\_  
\_\_\_\_\_

(4) Telephone Number(s): \_\_\_\_\_

(5) Identification Numbers:  
(a) U.S. Social Security Number (optional): \_\_\_\_\_

(b) U.S. Immigration & Naturalization Service (INS) Number: \_\_\_\_\_

(c) Vietnamese Identification Card Number: \_\_\_\_\_

(6) Date of Birth: \_\_\_\_\_

(7) Place of Birth: \_\_\_\_\_

(8) Distinguishing marks (e.g., scars): \_\_\_\_\_

(9) Family Identification:

(a) Parents:

Father: \_\_\_\_\_

Mother: \_\_\_\_\_

(b) Spouse: \_\_\_\_\_

(c) Children: \_\_\_\_\_

(d) Brothers: \_\_\_\_\_

(e) Sisters: \_\_\_\_\_

(f) Others: \_\_\_\_\_

(10) Team name: \_\_\_\_\_

(11) Team role/duties (e.g., team leader, radio man): \_\_\_\_\_  
\_\_\_\_\_

(12) Place of insertion: \_\_\_\_\_

(13) Method of insertion (e.g., parachute, boat): \_\_\_\_\_  
\_\_\_\_\_

(14) Date of insertion: \_\_\_\_\_

(15) Date and place of capture: \_\_\_\_\_

(16) Detailed Record of confinement:

First Prison Name: \_\_\_\_\_

Date Arrived: \_\_\_\_\_

Next Prison Name: \_\_\_\_\_

Date Transferred: \_\_\_\_\_

Next Prison Name: \_\_\_\_\_

Date Transferred: \_\_\_\_\_

Next Prison Name: \_\_\_\_\_

Office of the Secretary of Defense

Pt. 270, App. A

Date Transferred: \_\_\_\_\_
Next Prison Name: \_\_\_\_\_
Date Transferred: \_\_\_\_\_
Next Prison Name: \_\_\_\_\_
Date Transferred: \_\_\_\_\_
Next Prison Name: \_\_\_\_\_
Date Transferred: \_\_\_\_\_
Date of Final Release from Confinement: \_\_\_\_\_

Name of Prison/Camp/Location of Final Release: \_\_\_\_\_

(17) Name, address, and telephone number of counsel or attorney (if any): \_\_\_\_\_

(18) Required Declaration only for commandos filing on their own behalf (complete the applicable declaration, 34A or 35—not both):

FOR OPLAN 34A OR PREDECESSOR OPERATIONS (MISSIONS INTO NORTH VIETNAM)

I served pursuant to OPLAN 34A or its predecessor operation and was captured and imprisoned by North Vietnam as a result of those activities. I did not serve in the People's Army of Vietnam or provide active assistance to the Government of the Democratic Republic of Vietnam (North Vietnam). I did not serve in or provide active assistance to forces opposed to the Government of the Republic of Vietnam (South Vietnam) or forces opposed to the United States during the period from 1958 through 1975. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Signature: \_\_\_\_\_
Date: \_\_\_\_\_
Sworn to and subscribed before me on \_\_\_\_\_

(Date)
Notary Public: \_\_\_\_\_
Date: \_\_\_\_\_
My commission expires on \_\_\_\_\_

(Date)

FOR OP 35 OPERATIONS (MISSIONS INTO LAOS OR ALONG THE VIET-LAO BORDER)

I served as a Vietnamese operative pursuant to OP 35, and was captured and imprisoned by North Vietnam as a result of my participation in operations in Laos or along the Lao-Vietnamese border under the direction of OP 35. I did not serve in the People's Army of Vietnam or provide active assistance to the Government of the Democratic Republic of Vietnam (North Vietnam). I did not serve in or provide active assistance to

forces opposed to the Government of the Republic of Vietnam (South Vietnam) or forces opposed to the United States during the period from 1958 through 1975. I have not previously received payment from the United States Government as compensation for the period of captivity. I remained in captivity after 1973. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Signature: \_\_\_\_\_
Date: \_\_\_\_\_
Sworn to and subscribed before me on \_\_\_\_\_

(Date)

Notary Public: \_\_\_\_\_
Date: \_\_\_\_\_
My commission expires on \_\_\_\_\_

(Date)

Part B—In addition to PART A, above, any applicant who is a surviving spouse, child, parent, or sibling by blood of a deceased commando must complete Part B, below, with information on themselves.

(1) Current Legal name: \_\_\_\_\_

(a) Aliases: \_\_\_\_\_
(b) Former, or other names used: \_\_\_\_\_

(2) Current Address: \_\_\_\_\_

(3) Telephone Number(s): \_\_\_\_\_

(4) Identification Numbers:
(a) U.S. Social Security Number (optional): \_\_\_\_\_

(b) U.S. Immigration and Naturalization Service (INS) Number: \_\_\_\_\_

(c) Vietnamese Identification Card Number: \_\_\_\_\_

(5) Date of birth: \_\_\_\_\_

(6) Place of birth: \_\_\_\_\_

(7) Relationship to deceased person: \_\_\_\_\_

(8) Date and place of marriage (if surviving spouse): \_\_\_\_\_

(9) If you are a surviving child and there is no surviving spouse, list the names and addresses of all other children of the deceased person, including all recognized natural children, step-children who lived with the deceased person, and adopted children. Provide the date of death for any who are deceased.

- (10) If you are a surviving parent, the deceased person described in PART A has no surviving spouse or children, list the name and address of the other parent of the deceased person.
- (11) If you are a surviving sibling, the deceased person described in Part A has no surviving spouse, children, or parents, list the names and addresses of all other siblings of the deceased person, including half-brothers or half-sisters. Provide the date of death for any who are deceased.
- (12) Name, address, and telephone number of counsel/attorney (if any):

(13) Required Declaration (Note: If Commando is deceased, applicant must sign one of the two following declarations here and part C, below):

FOR SURVIVING SPOUSE, CHILD, PARENT, OR SIBLING OF DECEASED COMMANDO (OPLAN 34A OR PREDECESSOR OPERATIONS-MISSIONS INTO NORTH VIETNAM)

To the best of my information, knowledge, and belief, my deceased family member served pursuant to OPLAN 34A or its predecessor operation and was captured and imprisoned by North Vietnam as a result of those activities. He did not serve in the People's Army of Vietnam or provide active assistance to the Government of the Democratic Republic of Vietnam (North Vietnam). He did not serve in or provide active assistance to forces opposed to the Government of the Republic of Vietnam (South Vietnam) or forces opposed to the United States during the period from 1958 through 1975. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Signature: \_\_\_\_\_  
Date: \_\_\_\_\_  
Sworn to and subscribed before me on

(Date) \_\_\_\_\_  
Notary Public: \_\_\_\_\_  
Date: \_\_\_\_\_  
My commission expires on

(Date) \_\_\_\_\_  
FOR SURVIVING SPOUSE, CHILD, PARENT, OR SIBLING OF DECEASED COMMANDO (OP 35 UNITS-MISSIONS INTO LAOS OR ALONG THE VIET-LAO BORDER)

To the best of my information, knowledge, and belief, my deceased family member served as a Vietnamese operative pursuant to OP 35, and was captured and imprisoned by North Vietnam as a result of his participation in operations in Laos or along the

Lao-Vietnamese border under the direction of OP 35. He did not serve in the People's Army of Vietnam or provide active assistance to the Government of the Democratic Republic of Vietnam (North Vietnam). He did not serve in or provide active assistance to forces opposed to the Government of the Republic of Vietnam (South Vietnam) or forces opposed to the United States during the period from 1958 through 1975. He did not previously receive payment from the United States Government as compensation for the period of captivity. He remained in captivity after 1973. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Signature: \_\_\_\_\_  
Date: \_\_\_\_\_  
Sworn to and subscribed before me on

(Date) \_\_\_\_\_  
Notary Public: \_\_\_\_\_  
Date: \_\_\_\_\_  
My commission expires on

(Date) \_\_\_\_\_

Part C—Required Documents:

All documents submitted in support of an application for payment should be originals when possible, or copies of the originals certified by the official custodian of the documents. If certified copies cannot be obtained, uncertified copies should be submitted. If uncertified copies cannot be obtained, submit sworn affidavits from two or more persons who have personal knowledge of the information sought.

FOR THE COMMANDO/OPERATIVE (PERSON DESCRIBED IN PART A, ABOVE)

(1) Identification. A document with his current legal name and address (or legal name and address at death if deceased).

(2) Two or more sworn affidavits from individuals having personal knowledge of the person's identity (these should be submitted in addition to the document with current name and address).

(3) One document of date of birth. A birth certificate, or if unavailable, other proof of birth (e.g., passport).

(4) One document of name change, if the person's current legal name is not the same as when he was sent on the OPLAN 34A or OP 35 missions.

(5) One document of evidence of guardianship. This is only required if you are executing this document as the guardian of the person identified in Part A. If you are a legally-appointed guardian, submit a certificate executed by the proper official of the

court appointment. If you are not such a legally-appointed guardian, submit an affidavit describing your relationship to the person and the extent to which you are responsible for the care of the person, or your position as an officer of the institution in which the person is institutionalized.

(6) One document of evidence of imprisonment. This should be a document issued by the government of North Vietnam showing the dates of the person's imprisonment.

(7) Any documents of evidence of participation in covered operations. These documents should be contracts, orders, or other operational documentation corroborating participation in clandestine operations under OPLAN 34A (or its predecessor) or OP 35.

FOR A SURVIVING SPOUSE, CHILD, PARENT, OR SIBLING OF A DECEASED PERSON DESCRIBED IN PART A, ABOVE

In addition to documents (1) through (7) above concerning the deceased person described in Part A, submit the following:

(8) One of the following documents as evidence of the Commando's death:

(a) A certified copy of extract from the public records of death, coroner's report of death, or verdict of a coroner's jury;

(b) A certificate by the custodian of the public record of death;

(c) A statement of the funeral director or attending physician or intern of the institution where death occurred;

(d) A certified copy, or extract from an official report or finding of death made by an agency or department of the United States government; or

(e) If death occurred outside the United States, an official report of death by a United States Consul or other employee of the State Department, or a copy of public record of death in the foreign country.

(f) If you cannot obtain any of the above evidence of the commando/operative's death, you must submit other convincing evidence, such as signed sworn statements of two or more persons with personal knowledge of the death, giving the place, date, and cause of death.

(g) If you are submitting an application as a surviving spouse, submit another document of the same type as evidence of the Commando's spouse's death.

FOR THE SPOUSE OF A DECEASED PERSON DESCRIBED IN PART A ABOVE

In addition to documents described in Part C items (1) through (8), above, each surviving spouse should submit the following:

(9) One of the following documents as evidence of your marriage to the deceased person:

(a) A copy of the public records of marriage, certified or attested, or an abstract of the public records, containing sufficient in-

formation to identify the parties, the date and place of marriage, and the number of prior marriages by either party if shown on the official record, issued by the officer having custody of the record or other public official authorized to certify the record, or a certified copy of the religious record of marriage;

(b) An official report from a public agency as to a marriage which occurred while the deceased person was employed by such agency;

(c) An affidavit of the clergyman or magistrate who officiated;

(d) The certified copy of a certificate of marriage attested to by the custodian of the records;

(e) The affidavits of two or more eyewitnesses to the ceremony; or

(f) In jurisdictions where "common law" marriages are recognized, an affidavit by the surviving spouse setting forth all of the facts and circumstances concerning the alleged marriage, such as the agreement between the parties at the beginning of their cohabitation, places and dates of residences, and whether children were born as the result of the relationship. This evidence should be supplemented by affidavits from two or more persons who know as the result of personal observation the reputed relationship which existed between the parties to the alleged marriage, including the period of cohabitation, places of residences, whether the parties held themselves out as husband and wife and whether they were generally accepted as such in the communities in which they lived.

(g) If you cannot obtain any of the above evidence of your marriage, you must submit any other evidence that would reasonably support a belief that a valid marriage actually existed.

(10) In addition, submit the following documents about yourself:

(a) Identification. A document with your current legal name and address plus two or more sworn affidavits from individuals having personal knowledge of your identity (these should be submitted in addition to the document with current name and address).

(b) One document of date of birth. A birth certificate, or if unavailable, other proof of birth (e.g. passport).

(c) One document of name change. If your current legal name is the same as that during the marriage, this section does not apply. Spouses whose current legal name is different than that used when married should submit a document or affidavits to corroborate the name change.

(d) One document of evidence of guardianship. If you are executing this document as the guardian of the spouse, you must submit evidence of your authority. If you are a legally-appointed guardian, submit a certificate executed by the proper official of the

court appointment. If you are not such a legally-appointed guardian, submit an affidavit describing your relationship to the spouse and the extent to which you are responsible for the care of the spouse or your position as an officer of the institution in which the spouse is institutionalized.

#### FOR THE SURVIVING CHILDREN

In addition to documents described in Part C items (1) through (8), above, each surviving child should submit the following:

(1) One document as evidence of your relationship to your parent (the deceased person described in Part A, above), as follows:

If A Natural Child:

(a) Birth certificate showing that the deceased person was your parent.

(b) If the birth certificate does not show the deceased person as your parent, a certified copy of:

(i) An acknowledgment in writing signed by the deceased person;

(ii) A judicial decree ordering the deceased person to contribute to your support;

(iii) The public record of birth or a religious record showing that the deceased person was named as your parent;

(iv) Affidavit of a person who knows that the deceased person accepted you as his child; or

(v) Public records, such as records of school or welfare agencies, which show that with the deceased person's knowledge, the deceased individual was named as your parent.

If An Adopted Child:

An adopted child must submit a certified copy of the decree of adoption.

If a Step-Child:

Submit all three of the following documents as evidence of the step-child relationship:

(a) One document as evidence of birth to the spouse of the deceased person, or other evidence that reasonably supports the existence of a parent-child relationship between you and the spouse of the deceased person;

(b) One document as evidence that you were either living with or in a parent-child relationship with the deceased person at the time of his death; and

(c) One document as evidence of the marriage of the deceased person and the spouse, such as a certified copy of the record of marriage, or an abstract of the public records containing sufficient information to identify the parties and the date and place of marriage issued by the officer having custody of the record, or a certified copy of a religious record of marriage.

(12) In addition, submit the following documents about yourself:

(a) Identification. A document with your current legal name and address plus two or more sworn affidavits from individuals having personal knowledge of your identify

(these should be submitted in addition to the document with current name and address).

(b) One document of date of birth. A Birth certificate, or if unavailable, other proof of birth (e.g., passport).

(c) One document of name change. If your current legal name is the same as that shown on documents attesting to your birth, this section does not apply. Persons whose current legal name is different than that used on such documents should submit a document or affidavit to corroborate the name change.

(d) One document of evidence of guardianship. If you are executing this document as the guardian of the person identified as a surviving child of a deceased person, you must submit evidence of your authority. If you are a legally-appointed guardian, submit a certificate executed by the proper official of the court appointment. If you are not such a legally-appointed guardian, submit an affidavit describing your relationship to the child and the extent to which you are responsible for the care of the child, or your position as an officer of the institution in which the child is institutionalized.

Read the following statement carefully before signing this document. A false statement may be grounds for punishment by fine or imprisonment or both. This sworn declaration must accompany all documents submitted to the Commission, whether with or separate from the application.

#### FOR THE SURVIVING PARENT

In addition to documents described in Part C items (1) through (8), above, each surviving parent should submit the following:

(13) An affidavit certifying that the deceased individual described in Part A, above, has no surviving spouse.

(a) In addition to the above affidavit, if the individual described in Part A, above, was divorced at the time of his death, a copy of the divorce decree from his spouse shall be submitted as additional proof that he has no surviving spouse.

(b) In addition to the above affidavit, if the individual described in Part A, above, had been married at some point prior to his death, and his spouse pre-deceased him, one of the following documents as evidence of the death of the spouse of the individual described in Part A, above, shall be submitted as additional proof that he has no surviving spouse:

(i) A certified copy of extract from the public records of death, coroner's report of death, or verdict of a coroner's jury;

(ii) A certificate by the custodian of the public record of death;

(iii) A statement of the funeral director or attending physician or intern of the institution where death occurred;

(iv) A certified copy, or extract from an official report or finding of death made by an

agency or department of the United States government; or

(v) If death occurred outside the United States, an official report of death by a United States Consul or other employee of the State Department, or a copy of public record of death in the foreign country.

(vi) If you cannot obtain any of the above evidence of death of the spouse of the deceased individual described in Part A, above, you must submit other convincing evidence, such as signed sworn statements of two or more persons with personal knowledge of the death, giving the place, date, and cause of death.

(14) One of the following documents as evidence of the death of all of the children (if any), of the deceased individual described in Part A, above:

(a) A certified copy of extract from the public records of death, coroner's report of death, or verdict of a coroner's jury;

(b) A certificate by the custodian of the public record of death;

(c) A statement of the funeral director or attending physician or intern of the institution where death occurred;

(d) A certified copy, or extract from an official report or finding of death made by an agency or department of the United States government; or

(e) If death occurred outside the United States, an official report of death by a United States Consul or other employee of the State Department, or a copy of public record of death in the foreign country.

(f) If you cannot obtain any of the above evidence of death of all of the children of the deceased individual described in Part A, above, you must submit other convincing evidence, such as signed sworn statements of two or more persons with personal knowledge of the death, giving the place, date, and cause of death.

(15) One document as evidence of your relationship to your child (the deceased person described in Part A, above), as follows:

If a Natural Parent:

(a) Birth certificate showing that the deceased person was your child.

(b) If the birth certificate does not show the deceased person as your child, a certified copy of:

(i) An acknowledgement in writing signed by the deceased person;

(ii) The public record of birth or a religious record showing that the deceased person was named as your child.

(iii) Public records, such as records of school or welfare agencies, which show that the deceased individual was named as your child; or

(iv) Other convincing evidence, such as signed, sworn statements of two or more persons who know that the deceased person was your child.

If An Adoptive Parent:

An adoptive parent must submit a certified copy of the decree of adoption. If the adoption took place outside of the United States and there is no decree of adoption, other convincing evidence must be submitted, such as signed, sworn statements of two or more persons with personal knowledge of the adoptive relationship, or a government official who can attest to the adoptive relationship.

If a Step-Parent:

Submit all three of the following documents as evidence of the step-parent relationship:

(a) One document as evidence of birth of the deceased person to the natural parent, or other convincing evidence that reasonably supports the existence of a parent-child relationship between the deceased person and the natural parent (see "If a Natural Parent," above).

(b) One document as evidence that you had established a parent-child relationship with the deceased person; and

(c) One of the following documents as evidence that you were married to the natural parent of the deceased person:

(i) A copy of the public records of marriage, certified or attested, or an abstract of the public records, containing sufficient information to identify the parties, the date and place of marriage, and the number of prior marriages by either party if shown on the official record, issued by the officer having custody of the record or other public official authorized to certify the record, or a certified copy of the religious record of marriage;

(ii) An official report from a public agency as to a marriage which occurred while either parent was employed by such agency;

(iii) An affidavit of the clergyman or magistrate who officiated;

(iv) The certified copy of a certificate of marriage attested to by the custodian of the records;

(v) The affidavits of two or more eye-witnesses to the ceremony; or

(vi) In jurisdictions where "common law" marriages are recognized, an affidavit by the parent setting forth all of the facts and circumstances concerning the alleged marriage, such as the agreement between the parties at the beginning of their cohabitation, places and dates of residences, and whether children were born as the result of the relationship. This evidence should be supplemented by affidavits from two or more persons who know as a result of personal observation the reputed relationship which existed between the parties to the alleged marriage, including the period of cohabitation, places of residences, whether the parties held themselves out as husband and wife and whether they were generally accepted as such in the communities in which they lived.

(vii) If you cannot obtain any of the above evidence of your marriage to the natural

parent, you must submit any other evidence that would reasonably support a belief that a valid marriage actually existed.

(16) In addition, submit the following documents about yourself:

(a) Identification. A document with your current legal name and address plus two or more sworn affidavits from individuals having personal knowledge of your identity (these should be submitted in addition to the document with current name and address).

(b) One document of date of birth. A Birth certificate, or if unavailable, other proof of birth (e.g., passport).

(c) One document of name change. If your current legal name is the same as that shown on documents attesting to your birth, this section does not apply. Persons whose current legal name is different than that used on such documents should submit a document or affidavit to corroborate the name change.

(d) One document of evidence of guardianship. If you are executing this document as the guardian of the person identified as a surviving parent of the deceased person described in Part A, above, you must submit evidence of your authority. If you are a legally-appointed guardian, submit a certificate executed by the proper official of the court appointment. If you are not such a legally-appointed guardian, submit an affidavit describing your relationship to the parent and the extent to which you are responsible for the care of the parent, or your position as an officer of the institution in which the parent is institutionalized.

#### FOR THE SURVIVING SIBLING BY BLOOD

In addition to documents described in Part C items (1) through (8), above, each surviving sibling by blood should submit the following:

(17) An affidavit certifying that the deceased individual described in Part A, above, has no surviving spouse.

(a) In addition to the above affidavit, If the individual described in Part A, above, was divorced at the time of his death, a copy of the divorce decree from his spouse shall be submitted as additional proof that he has no surviving spouse.

(b) In addition to the above affidavit, If the individual described in Part A, above, had been married at some point prior to his death, and his spouse pre-deceased him, one of the following documents as evidence of the death of the spouse of the deceased individual described in Part A, above, shall be submitted as additional proof that he has no surviving spouse:

(i) A certified copy of extract from the public records of death, coroner's report of death, or verdict of a coroner's jury;

(ii) A certificate by the custodian of the public record of death;

(iii) A statement of the funeral director or attending physician or intern of the institution where death occurred;

(iv) A certified copy, or extract from an official report or finding of death made by an agency or department of the United States government; or

(v) If death occurred outside the United States, an official report of death by a United States Consul or other employee of the State Department, or a copy of public record of death in the foreign country.

(vi) If you cannot obtain any of the above evidence of death of the spouse of the deceased individual described in Part A, above, you must submit other convincing evidence, such as signed sworn statements of two or more persons with personal knowledge of the death, giving the place, date, and cause of death.

(18) One of the following documents as evidence of the death of all of the children (if any), of the deceased individual described in Part A, above:

(a) A certified copy of extract from the public records of death, coroner's report of death, or verdict of a coroner's jury;

(b) A certificate by the custodian of the public record of death;

(c) A statement of the funeral director or attending physician or intern of the institution where death occurred;

(d) A certified copy, or extract from an official report or finding of death made by an agency or department of the United States government; or

(e) If death occurred outside the United States, an official report of death by a United States Consul or other employee of the State Department, or a copy of public record of death in the foreign country.

(f) If you cannot obtain any of the above evidence of death of the children of the deceased individual described in Part A, above, you must submit other convincing evidence, such as signed sworn statements of two or more persons with personal knowledge of the death, giving the place, date, and cause of death.

(19) One of the following documents as evidence of the death of the parents of the deceased individual described in Part A, above:

(a) A certified copy of extract from the public records of death, coroner's report of death, or verdict of a coroner's jury;

(b) A certificate by the custodian of the public record of death;

(c) A statement of the funeral director or attending physician or intern of the institution where death occurred;

(d) A certified copy, or extract from an official report or finding of death made by an agency or department of the United States government; or

(e) If death occurred outside the United States, an official report of death by a

Office of the Secretary of Defense

§ 271.1

United States Consul or other employee of the State Department, or a copy of public record of death in the foreign country.

(f) If you cannot obtain any of the above evidence of death of the parents of the deceased individual described in Part A, above, you must submit other convincing evidence, such as signed sworn statements of two or more persons with personal knowledge of the death, giving the place, date, and cause of death.

Each surviving sibling should submit the following:

(20) One document as evidence of your relationship to your sibling (the deceased individual described in Part A, above), as follows:

(a) Birth certificate showing that at least one of your deceased parents was also the natural parent of the deceased person described in Part A, above;

(b) If the birth certificate does not show the deceased individual described in Part A, above, as your sibling, a certified copy of:

(i) An acknowledgement in writing signed by the deceased person;

(ii) The public record of birth or a religious record showing that the deceased person was named as your sibling.

(iii) Affidavit of a person who knows that the deceased person was your sibling; or

(iv) Public records, such as records of school or welfare agencies, which show that the deceased individual was named as your sibling.

(v) If you cannot obtain any of the above evidence of your sibling relationship to the deceased individual described in Part A, above, you must submit any other evidence that would reasonably support a belief that a valid sibling relationship actually existed.

(21) In addition, submit the following documents about yourself:

(a) Identification. A document with your current legal name and address plus two or more sworn affidavits from individuals having personal knowledge of your identity (these should be submitted in addition to the document with current name and address).

(b) One document of date of birth. A Birth certificate, or if unavailable, other proof of birth (e.g., passport).

(c) One document of name change. If your current legal name is the same as that shown on documents attesting to your birth, this section does not apply. Persons whose current legal name is different than that used on such documents should submit a document or affidavit to corroborate the name change.

(d) One document of evidence of guardianship. If you are executing this document as the guardian of the person identified as a surviving sibling by blood of the deceased individual described in Part A, above, you must submit evidence of your authority. If you are a legally-appointed guardian, submit

a certificate executed by the proper official of the court appointment. If you are not such a legally-appointed guardian, submit an affidavit describing your relationship to the sibling and the extent to which you are responsible for the care of the sibling, or your position as an officer of the institution in which the sibling is institutionalized.

FOR ALL APPLICANTS

I declare under penalty of perjury under the laws of the United States of America that the foregoing documents provided in Part C are true and correct.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Sworn to and subscribed before me on

\_\_\_\_\_  
(Date)

Notary Public: \_\_\_\_\_

Date: \_\_\_\_\_

My commission expires on

\_\_\_\_\_  
(Date)

[63 FR 3472, Jan. 23, 1998, as amended at 63 68195, Dec. 10, 1998]

PART 271—OBTAINING INFORMATION FROM FINANCIAL INSTITUTIONS

Sec.

271.1 Purpose and applicability.

271.2 Policy.

271.3 Procedures.

271.4 Reports.

AUTHORITY: 12 U.S.C. 3401 et seq.

SOURCE: 46 FR 880, Jan. 5, 1981, unless otherwise noted. Redesignated at 56 FR 64482, Dec. 10, 1991.

§ 271.1 Purpose and applicability.

(a) This part establishes procedures for the National Security Agency/Central Security Service (NSA/CSS) to obtain records from financial institutions and implements 12 U.S.C. 3401-3422, 92 Stat. 3697 (Pub. L. 95-630).

(b) The provisions of this part apply only to financial records maintained by any office of a bank, savings bank, credit card issuer, industrial loan company, trust company, savings and loan, building and loan, homestead association (including cooperative banks), credit union, or consumer finance institution that is located in any district, state or territory of the United States.