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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 316

[Docket ID: DoD-2014-OS-0128]

Privacy Act of 1974; Implementation

AGENCY: Defense Information Systems Agency, DoD.

ACTION: Direct final rule with request for comments.

SUMMARY: The Defense Information Systems Agency is proposing to exempt a new system of records, K890.23, entitled "DISA Inspector General Investigative Tracker (DIGit)" from 5 U.S.C. 552a(j)(2), (k)(2), and (k)(5), subsections (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) of the Privacy Act of 1974, as amended.

DATES: This rule will be effective on [INSERT DATE 70 DAYS AFTER THE DATE OF PUBLICATION IN FEDERAL REGISTER] unless adverse comments are received by [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN FEDERAL REGISTER]. If adverse comment is received, the Department of Defense will publish a timely withdrawal of the rule in the Federal Register.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* Federal Rulemaking Portal: <http://www.regulations.gov>.

Follow the instructions for submitting comments.

* Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350-3100.

Instructions: All submissions received must include the agency name and docket number for this Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Jeanette Weathers-Jenkins, DISA Privacy Officer, Chief Information Office, 6916 Cooper Avenue, Fort Meade, MD 20755-7901, or by phone at (301)225-8158.

SUPPLEMENTARY INFORMATION:

This direct final rule makes no substantive changes to the Defense Information Systems Agency Privacy Program rules. These changes will allow the Office to add an exemption rule to the Defense Information Systems Agency Privacy Program rules that will exempt applicable records and/or material from certain portions of the Privacy Act. This will improve the efficiency and effectiveness of DoD's program by preserving the exempt status of the applicable records and/or material when the purposes underlying the exemption(s) are valid and necessary.

This rule is being published as a direct final rule as the Department of Defense does not expect to receive any adverse comments, and so a proposed rule is unnecessary.

Direct Final Rule and Significant Adverse Comments

DoD has determined this rulemaking meets the criteria for a direct final rule because it involves nonsubstantive changes dealing with DoD's management of its Privacy Programs. DoD expects no opposition to the changes and no significant adverse comments. However, if DoD receives a significant adverse comment, the Department will withdraw this direct final rule by publishing a notice in the Federal Register. A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, DoD will consider whether it warrants a substantive response in a notice and comment process.

Executive Order 12866, "Regulatory Planning and Review" and Executive Order 13563, "Improving Regulation and Regulatory Review"

It has been determined that this rule is not a significant rule. This rule does not (1) Have an annual effect on the economy of

\$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in these Executive orders.

Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

It has been certified that this rule will not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense. A Regulatory Flexibility Analysis is not required.

Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been determined that this rule does not contain any information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"

It has been determined that this rule does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that it will not significantly or uniquely affect small governments.

Executive Order 13132, "Federalism"

It has been determined that this rule does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, no Federalism assessment is required.

List of Subjects in 32 CFR Part 316

Privacy.

Accordingly, 32 CFR part 316 is amended as follows:

PART 316-DEFENSE INFORMATION SYSTEMS AGENCY PRIVACY PROGRAM

1. The authority citation for 32 CFR part 316 continues to read as follows:

Authority: Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

2. In §316.8, add paragraph (a), and add and reserve paragraph (b), to read as follows:

§316.8 Exemptions.

* * * * *

(a) *System identifier and name*: K890.23, DISA Inspector General Investigative Tracker (DIGit).

(1) Exemptions: Any portion of this record system which falls within the provisions of 5 U.S.C. 552a (j) (2), (k) (2) and (k) (5) may be exempt from the following subsections of 5 U.S.C. 552a: (c) (3), (d), (e) (1), (e) (4) (G), (e) (4) (H), (e) (4) (I).

(2) Authority: 5 U.S.C. 552a(j) (2), (k) (2), and (k) (5).

(3) Reasons: To ensure the integrity of the privacy and civil liberties process. The execution requires that information be provided in a free and open manner without fear of retribution or harassment in order to facilitate a just, thorough, and timely resolution of the complaint or inquiry. Disclosures from this system can enable individuals to conceal their wrongdoing or mislead the course of the investigation by concealing, destroying, or fabricating evidence or documents. In addition, disclosures can subject sources and witnesses to harassment or intimidation which may cause individuals not to seek redress for wrongs through privacy and civil liberties channels for fear of retribution or harassment.

(b) [Reserved]

Dated: October 27, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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