



[Billing Code 1610-02-P]

GOVERNMENT ACCOUNTABILITY OFFICE

4 CFR Part 81

Public Availability of Government Accountability
Office Records

AGENCY: Government Accountability Office.

ACTION: Proposed rule.

SUMMARY: These proposed revisions would clarify procedures to obtain Government Accountability Office (GAO) records. Specifically, the proposed revisions would add procedures for requesting records of GAO's Office of Inspector General. The proposed revisions would also clarify that documents prepared by GAO or GAO's Office of Inspector General for referral to another agency for law enforcement purposes are not subject to the regulations in this Part. The existing regulatory language on this point is imprecise.

DATES: Comments must be received on or before [INSERT DATE THAT IS 45 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments may be submitted by any of the following methods:

E-Mail: bielecj@gao.gov.

Mail: Government Accountability Office, Office of the General Counsel, Attn: Legal Services, Room 7838, 441 G Street, NW., Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: John A. Bielec, Assistant General Counsel, 202-512-2846.

SUPPLEMENTARY INFORMATION: GAO is not subject to the Administrative Procedure Act and accordingly is not required by law to seek comments before issuing a final rule. However, GAO has decided to invite interested persons to participate in this rulemaking by submitting written comments regarding the proposed revisions. Application of the Administrative Procedure Act to GAO is not to be inferred from this invitation for comments.

GAO will consider all comments received on or before the closing date for comments. GAO may change the proposed revisions based on the comments received.

GAO proposes to amend section 81.2 by specifically providing that GAO's Office of Inspector General (OIG) will process any requests under this Part for OIG records. The OIG, which was established by statute in 2008, audits and investigates matters related to GAO's

operations. The OIG executes its responsibilities independently of and free from interference or control by any other office or body within GAO. In keeping with and to best preserve this independence, the OIG itself should process requests for its records. In doing so, consistent with its independent role and section 81.5(a), when the OIG receives a request for records that originated in GAO, the OIG will refer the requester to GAO. These revisions would provide that with respect to any request for OIG records, throughout this Part the term "Counsel to the Inspector General" would be substituted for "Chief Quality Officer" and the term "Inspector General" would be substituted for "Comptroller General".

In addition, paragraph 81.6(g) would be amended to clarify that documents prepared by GAO for referral to another agency for law enforcement purposes are exempt from the procedures in this Part. Paragraph 81.6(g) currently provides that records that GAO has already provided to another agency for law enforcement purposes are exempt. However, paragraph 81.6(g) does not specifically address requests for records that GAO, including the OIG, created for referral to

another agency for law enforcement purposes, but has not yet provided to another agency. For instance, during an investigation into possible criminal activity, the GAO OIG creates documents that may be forwarded to another agency for law enforcement purposes at the conclusion of the OIG's investigation. The current regulations are unclear as to whether such records, which have not yet been forwarded to another agency, would be subject to this Part if requested before the conclusion of the investigation. The proposed changes would clarify that records compiled for referral to another agency for law enforcement purposes are exempt from this Part.

List of Subjects in 4 CFR Part 81

Administrative practice and procedure, Archives and records, Freedom of information, Requests for records.

For the reasons stated in the preamble, the Government Accountability Office proposes to amend 4 CFR Part 81 as follows:

PART 81--PUBLIC AVAILABILITY OF GOVERNMENT

ACCOUNTABILITY OFFICE RECORDS

1. The authority citation for part 81 continues to read as follows:

Authority: 31 U.S.C. 711.

2. Amend §81.2 as follows:

a. redesignate the existing text as paragraph (a);

b. add paragraph (b) to read as follows:

§81.2 Administration.

* * * * *

(b) Requests for records of GAO's Office of Inspector General (OIG) shall be processed by the Counsel to the Inspector General in accordance with this Part. The Inspector General will decide any administrative appeals of decisions of the Counsel to the Inspector General concerning such requests. Accordingly, with regard to any public request to inspect or copy records of the OIG, in this Part the term "Counsel to the Inspector General" is to be substituted for "Chief Quality Officer" and the term "Inspector General" is to be substituted for "Comptroller General". All requests to inspect or obtain a copy of an identifiable record of the OIG must be submitted in writing to the Counsel to the

Inspector General, U.S. Government Accountability
Office, Suite 1808, 441 G Street, NW, Washington, D.C.
20548 or emailed to oighotline@.gov.

3. Amend §81.6 by revising paragraph (g) to read
as follows:

§81.6 Records which may be exempt from disclosure.

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(g) Records compiled for law enforcement purposes
that originate in another agency, or records prepared
for referral to and/or provided by GAO or the OIG to
another agency for law enforcement purposes.

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Dated July 27, 2017

Susan A. Poling,
General Counsel.

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