



## PENSION BENEFIT GUARANTY CORPORATION

### Privacy Act of 1974; System of Records

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of modified system of records.

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**SUMMARY:** Pursuant to the Privacy Act of 1974 the Pension Benefit Guaranty Corporation (PBGC) is proposing a change to one of its systems of records notices (SORNs). PBGC is adding a new routine use to allow disclosure of information to other government agencies to allow PBGC to fulfill its statutory responsibilities.

**DATES:** The modification of the system of records described herein will become effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], without further notice, unless comments result in a contrary determination and a notice is published to that effect. Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*] to be assured of consideration.

**ADDRESSES:** You may submit written comments to PBGC by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the website instructions for submitting comments.
- E-mail: [reg.comments@pbgc.gov](mailto:reg.comments@pbgc.gov). Refer to SORN in the subject line.
- Mail or Hand Delivery: Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW, Washington, DC 20005.

Commenters are strongly encouraged to submit public comments electronically. PBGC expects to have limited personnel available to process public comments that are submitted on paper through mail. Until further notice, any comments submitted on paper will be considered to the extent practicable.

All submissions must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and reference this notice. Comments received will be posted without change to PBGC's website, <http://www.pbgc.gov>, including any personal information provided. Do not submit comments that include any personally identifiable information or confidential business information. Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW, Washington, DC 20005, or calling 202-326-4040 during normal business hours. (TTY users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4040.)

**FOR FURTHER INFORMATION CONTACT:** Shawn Hartley, Chief Privacy Officer, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW, Washington, DC 20005, 202-229-6321. For access to any of the PBGC's systems of records, contact D. Camilla Perry, Disclosure Officer, Office of the General Counsel, Disclosure Division, 1200 K Street NW, Washington DC 20005, or by calling 202-229-4040, or go to <https://www.pbgc.gov/about/policies/pg/privacy-at-pbgc/system-of-records-notice>.

**SUPPLEMENTARY INFORMATION:** PBGC is proposing to add a routine use to the system PBGC-19: Office of General Counsel Case Management System (SORN last published at 83 FR 6270 (February 13, 2018)). This routine use would allow disclosure of records to other government agencies to ensure facilitation of responsibilities under the Employee Retirement Income Security Act of 1974 (ERISA), including the special financial assistance program created by the American Rescue Plan (ARP) Act of 2021 (P.L. 117-2). PBGC's responsibilities include coordination and information sharing with the U.S. Department of the Treasury and the U.S. Department of Labor's Employee Benefits Security Administration for proper administration and enforcement of the provisions of ERISA and the Internal Revenue Code applicable to multiemployer plans.

Also, PBGC is proposing to amend the name of the system of records and update the

owner of the system PBGC-19. PBGC is proposing to amend the name of the system of records to more accurately reflect the records maintained in the system. The new name of the system will be PBGC-19: Office of Negotiations and Restructuring/Office of General Counsel Case Management System. PBGC also proposes updating the system owner to reflect that the Office of Negotiations and Restructuring co-owns the system with the Office of General Counsel.

Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit written comments on the proposed change described in this notice. A report has been sent to Congress and the Office of Management and Budget for their evaluation.

For the convenience of the public, the amended SORN is published in full below with changes italicized.

Issued in Washington, DC, by

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**Gordon Hartogensis,**  
Director,  
Pension Benefit Guaranty Corporation.

**SYSTEM NAME AND NUMBER:**

PBGC-19: *Office of Negotiations and Restructuring/Office of General Counsel Case Management System* — PBGC

**SECURITY CLASSIFICATION:**

Unclassified

**SYSTEM LOCATION:**

Pension Benefit Guaranty Corporation (PBGC), 1200 and 1275 K Street NW, Washington, DC 20005. (Records may be kept at an additional location as backup for continuity of operations.)

**SYSTEM MANAGER(S) AND ADDRESS:**

Office of the General Counsel (*OGC*), PBGC, 1200 K Street, NW, Washington, DC 20005.

*Office of Negotiations and Restructuring (ONR), PBGC, 1200 K Street, NW, Washington, DC 20005.*

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

29 U.S.C. 1055, 1056(d)(3), 1302, 1303, 1310, 1321, 1322a, 1341, 1342, 1343, 1350; 1431, and 1432; 5 U.S.C. app. 105; 5 U.S.C. 301, 552(a), 552a(d), 7101; 42 U.S.C. 2000e, et seq.; 44 U.S.C. 3101.

**PURPOSE(S) OF THE SYSTEM:**

The purpose of this system of records is to catalog, litigate, review or otherwise resolve any case or matter handled by the *ONR or the* OGC.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who are participants, beneficiaries, and alternate payees in pension plans covered by the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1301, et seq.; pension plan sponsors, administrators, control group members and third parties, who are responsible for, manage, or have control over ERISA pension plans; other individuals who are identified in connection with investigations conducted pursuant to 29 U.S.C. 1303 or litigation conducted with regard to ERISA pension plans; individuals (including PBGC employees) who are parties or witnesses in civil litigation or administrative proceedings involving or concerning PBGC or its officers or employees; individuals who are the subject of a breach of personally identifiable information; individuals who are potential contractors or contractors with PBGC or are otherwise personally associated with a contract or procurement matter; individuals who receive legal advice from OGC; and other individuals (including current, former, and potential PBGC employees, contract employees, interns, and externs) who are the subject of or are otherwise connected to an inquiry, investigation, other matter handled by the OGC.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Draft and final versions of notes, reports, memoranda; settlements; legal opinions; agreements; correspondence; contracts; contract proposals and other procurement documents; plan documents; participant, alternate payee, and beneficiary files; initial and final PBGC determinations of ERISA matters; Freedom of Information Act (FOIA) and the Privacy Act of 1974 disclosures, determinations, appeals and decisions of those appeals; records and information obtained from other Federal, state, tribal, and local agencies and departments, including, but not limited to: Office of Personnel Management, Social Security Administration, Department of Treasury and Department of Justice; drafts and legal reviews of proposed personnel actions; ethics inquiries; personnel records; financial records; individual tax returns; litigation files; labor relations files; information provided by labor unions or other organizations; witness statements; summonses, subpoenas, discovery requests and responses; and breach reports and supporting documentation.

**RECORD SOURCE CATEGORIES:**

Subject individuals; pension plan participants, sponsors, administrators and third parties; Federal government records; current and former employees, contractors, interns, and externs; PBGC debt and disbursement records; insurers; the Social Security Administration; labor organizations; court records; articles from publications; and other individuals, organizations, and corporate entities with relevant knowledge/information.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Information about covered individuals may be disclosed without consent as permitted by the Privacy Act of 1974, 5 U.S.C. 552a(b), and:

1. General Routine Uses G1 through G15 apply to this system of records (see Prefatory Statement of General Routine Uses).
2. A record from this system of records may be disclosed, in furtherance of proceedings under Title IV of ERISA, to a contributing sponsor (or other employer who maintained the plan), including any predecessor or successor, and any member of the same control group.
3. Names, addresses, and telephone numbers of employees, former employees, participants, and beneficiaries and information pertaining to debts to PBGC may be disclosed to the Department of Treasury, the Department of Justice, a credit agency, and a debt collection to collect the debt. Disclosure to a debt collection may be made only under a contract that binds any such contractor or employee of such contractor to criminal penalties of the Privacy Act.
4. Information may be disclosed to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations in response to a court order or in connection with criminal law proceedings.
5. Information may be provided to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.
6. Information may be provided to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.
7. Relevant and necessary information may be disclosed to a former employee of PBGC for the purposes of: (1) responding to an official inquiry by Federal, state, tribal or local government entity or professional licensing authority; or (2) facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where PBGC requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.
8. A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement.
9. A record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in civil or criminal proceedings in which the United States or one of its officers or agencies has an interest.
10. A record from this system of records may be disclosed to the National Archives and Records Administration (NARA), Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures and compliance with the FOIA, and to facilitate use of OGIS' mediation services.
11. A record from this system may be disclosed to a consumer reporting agency in accordance with 31 U.S.C. 3711(e).
12. *A record from this system of records may be disclosed under a Memorandum of Understanding or an Interagency Agreement to: (1) the Department of Treasury (USDT) or (2) the Department of Labor's Employee Benefits Security Administration (EBSA) to facilitate an investigation or inquiry relating to a multiemployer plan's compliance with applicable provisions*

*under ERISA or the Internal Revenue Code, including the special financial assistance program created by the American Rescue Plan (ARP) Act of 2021 (P.L. 117-2).*

#### **POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records are maintained manually in paper and/or electronic form (including computer databases or discs). Records may also be maintained on back-up tapes, or on a PBGC or a contractor-hosted network.

#### **POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records are indexed by assigned case number and sequential record identifier. Records are full-text indexed and information from this system may be retrieved using any free-form key, which may include names, social security number, address, representative or any other personal identifiers. For certain systems, only individuals assigned to the particular matter may retrieve associated records.

#### **POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records are maintained and destroyed in accordance with the National Archives and Record Administration's (NARA) Basic Laws and Authorities (44 U.S.C. 3301, et seq.) or a PBGC records disposition schedule approved by NARA.

#### **ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

PBGC has established security and privacy protocols that meet the required security and privacy standards issued by the National Institute of Standards and Technology (NIST). Records are maintained in a secure, password protected electronic system that utilizes security hardware and software to include multiple firewalls, active intruder detection, and role-based access controls. PBGC has adopted appropriate administrative, technical, and physical controls in accordance with PBGC's security program to protect the confidentiality, integrity, and availability of the information, and to ensure that records are not disclosed to or accessed by unauthorized individuals. Paper records are kept in file folders in areas of restricted access that are locked after office hours.

Electronic records are stored on computer networks, which may include cloud-based systems, and protected by controlled access with Personal Identity Verification (PIV) cards, assigning user accounts to individuals needing access to the records and by passwords set by authorized users that must be changed periodically. Further, for certain systems covered by this notice, heightened security access is required. Such access is granted by the specific permissions group assigned to monitor that particular system and only authorized employees of the agency may retrieve, review or modify those records.

#### **RECORD ACCESS PROCEDURES:**

Individuals, or third parties with written authorization from the individual, wishing to request access to their records in accordance with 29 CFR 4902.4, should submit a written request to the Disclosure Officer, PBGC, 1200 K Street, NW, Washington, DC 20005, providing their name, address, date of birth, and verification of their identity in accordance with 29 CFR 4902.3(c).

#### **CONTESTING RECORD PROCEDURES:**

Individuals, or third parties with written authorization from the individual, wishing to amend their records must submit a written request, *in accordance with 29 CFR 4902.5*, identifying the

information they wish to correct in their file, in addition to following the requirements of the Record Access Procedure above.

**NOTIFICATION PROCEDURES:**

Individuals, or third parties with written authorization from the individual, wishing to learn whether this system of records contains information about them should submit a written request to the Disclosure Officer, PBGC, 1200 K Street, NW, Washington, DC 20005, providing their name, address, date of birth, and verification of their identity in accordance with 29 CFR 4902.3(c).

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

Pursuant to 5 U.S.C. 552a(k)(2), records in this system are exempt from the requirements of subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), (I), and (f) of 5 U.S.C. 552a, provided, however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material will be provided to the individual, except to the extent that the disclosure of the material would reveal the identity of a source who furnished information to the Government with an express promise that the identity of the source would be held in confidence.

**HISTORY:**

PBGC – 19, Office of General Counsel Case Management System (last published at *83 FR 6270 (February 13, 2018)*).

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