

**DISABLED****41 CFR Part 51-9****AbilityOne/OIG-001 Case Management System**

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled, Office of Inspector General.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The Committee for Purchase From People Who Are Blind or Severely Disabled (Committee, U.S. AbilityOne Commission, Commission), Office of Inspector General (OIG) is seeking comment on proposed amendments to agency regulations. This NPRM proposes that the OIG's AbilityOne/OIG-001 Case Management System, system of records be exempt from certain sections of the Privacy Act of 1974 pursuant to the general and specific exemptions listed in the act. The law enforcement and investigatory nature of the system of records makes it inappropriate to allow individual access to records under the Privacy Act.

**DATES:** Submit comments on or before July 21, 2023.

**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: U.S. AbilityOne Commission Office of Inspector General, 355 E Street SW (OIG Suite 335), Washington, DC 20024.

*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:** For general questions, please contact: Kamil Ali, Attorney-Advisor, U.S. AbilityOne Commission Office of Inspector General, 355 E Street SW (OIG Suite 335), Washington, DC 20024. Phone: (202) 603-2248, Email:

kali@oig.abilityone.gov. For privacy questions, please contact: Ms. Kamil Ali, Attorney-Advisor, U.S. AbilityOne Commission Office of Inspector General, 355 E Street SW (OIG Suite 335), Washington, DC 20024. Phone: (202) 603-2248, Email: kali@oig.abilityone.gov.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

The Privacy Act of 1974, 5 U.S.C. 522a, governs how the Federal Government collects, maintains, and uses personally identifiable information in systems of record. The Privacy Act requires that federal agencies publish in the Federal Register a system of records notice (SORN) that identifies purpose of data collection, the routine use of its disclosures, and how individuals may get access to their own records and contest it.

The Inspector General Act of 1978, 5 U.S.C. 401-424; 5 U.S.C. App. 3, allows the U.S. AbilityOne Commission/OIG to maintain the system to fulfill its mission. The U.S. AbilityOne Commission/OIG is responsible for conducting and supervising independent and objective audits, inspections, and investigations of the programs and operations of the Committee. OIG promotes economy, efficiency, and effectiveness within the U.S. AbilityOne Commission/OIG and prevents and detects fraud, waste, and abuse in its programs and operations. OIG's Office of Investigations investigates allegations of criminal, civil, and administrative misconduct involving U.S. AbilityOne Commission employees, contractors, grantees, and Departmental programs and activities. This includes investigating for violations of criminal laws by entities regulated by U.S. AbilityOne Commission, regardless of whether they receive Federal funds. These investigations can result in criminal prosecutions, fines, civil monetary penalties, and administrative sanctions.

The investigative and law enforcement nature of the system of records makes it necessary for the system to be exempt from the notice and access requirements. The Privacy Act contains general and specific exemptions for law enforcement purposes that grant these exemptions. The general exemption, 5 USC 552a(j)(2), allows exemptions for system of records that are “maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.” Similarly the specific exemption in 5 USC 552a(k)(2) allows exemptions for systems of records for “investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section: Provided, however, That if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material 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, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.” The data collected by the AbilityOne/OIG-001 Case Management System falls under these categories and for this reason, we are proposing to add 41 CFR 51-9.6.

## List of Subjects in 41 CFR Part 51-9

Privacy.

For reasons stated in the preamble, the Committee proposes to amend 41 CFR part 51-9 as follows:

### **PART 51-9—PRIVACY ACT RULES**

1. The authority citation for part 51-9 continues to read as follows:

**Authority:** [5 U.S.C. 552a](#).

2. Revise subpart 51-9.6 to read as follows:

#### **Subpart 51-9.6 Exemptions**

##### **§ 51-9.601 Office of Inspector General Exemptions.**

(a) Pursuant to section (j) of the Privacy Act of 1974, the Committee has deemed it necessary to adopt the following exemptions to specified provisions of the Privacy Act:

(1) Pursuant to 5 U.S.C. 552a(j)(2), the AbilityOne/OIG-001 Case Management System, System of Records is exempt from the following provisions of the Privacy Act: 5 U.S.C. 552a (c)(3)–(4); (d); (e)(1)–(3); (e)(4)(G)–(I); (e)(5); (e)(8); and (f)–(g) and from 41 CFR 51-9.1, 51-9.2, 51-9.3, 51-9.4, and 51-9.7.

(2) [Reserved]

(b) Pursuant to section (k) of the Privacy Act of 1974, the Committee has deemed it necessary to adopt the following exemptions to specified provisions of the Privacy Act:

(1) Pursuant to 5 U.S.C. 552a(k)(2), AbilityOne/OIG-001 Case Management System, System of Records is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a(c)(3), (d).

(e)(4)(G)–(I) and (f) and from 41 CFR 51-9.1, 51-9.2, 51-9.3, 51-9.4, and 51-9.7.

(2) [Reserved]

(c) Exemptions from the subsections are justified because application of these provision would present a serious impediment to law enforcement. Access to the records contained in this

system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, of the existence of that investigation; of the nature and scope of the information and evidence obtained as to his activities; of the identity of confidential sources, witnesses, and law enforcement personnel, and of information that may enable the subject to avoid detection or apprehension. These factors would present a serious impediment to effective law enforcement where they prevent the successful completion of the investigation, endanger the physical safety of confidential sources, witnesses, and law enforcement personnel, and/or lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony. In addition, granting access to such information could disclose security-sensitive or confidential business information or information that would constitute an unwarranted invasion of the personal privacy of third parties. Finally, access to the records could result in the release of properly classified information which would compromise the national defense or disrupt foreign policy. Amendment of the records would interfere with ongoing investigations and law enforcement activities and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. It is not possible to detect relevance or necessity of specific information in the early stages of a civil, criminal or other law enforcement investigation, case, or matter, including investigations in which use is made of properly classified information. Relevance and necessity are questions of judgment and timing, and it is only after the information is evaluated that the relevance and necessity of such information can be established.

**Michael R. Jurkowski,**  
Acting Director, Business Operations.

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