

director with the most votes will be the representative.

(b) *Method of transmission.* The Commissioner may distribute the ballots relating to the election under this part by electronic mail or other methods the Commissioner determines to be appropriate and may specify the methods through which votes are to be cast.

(c) *Vacancies.* If a representative does not complete the term, the Commissioner shall conduct an election to elect a replacement for the remainder of the term using the procedures described in paragraph (a) and (b) of this section.

## PART 70—PRODUCTION OR DISCLOSURE OF INFORMATION OR MATERIALS

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APPENDIX A TO PART 70—DISCLOSURE OFFICERS

APPENDIX B TO PART 70—FREEDOM OF INFORMATION/PRIVACY ACT COORDINATORS

AUTHORITY: 5 U.S.C. 301, 5 U.S.C. 552, as amended; Reorganization Plan No. 6 of 1950, 5 U.S.C. Appendix; E.O. 12600, 52 FR 23781 (June 25, 1987).

SOURCE: 54 FR 23144, May 30, 1989, unless otherwise noted.

### Subpart A—General

#### § 70.1 Purpose and scope.

This part contains the regulations of the Department of Labor implementing the Freedom of Information Act (*FOIA*), as amended, 5 U.S.C. 552 and Executive Order 12600. It also implements the public information provisions of the Labor Management Reporting and Disclosure Act (LMRDA), 29 U.S.C. 435, 461. Subpart A contains general information about Department of Labor policies and procedures; subpart B sets forth the procedures for obtaining access to records of the Department; subpart C contains the Department's regulations on fees; and subpart D sets forth the procedures for obtaining access to certain public records. Appendix A contains a list of all Department of Labor disclosure officers from whom records may be obtained.

#### § 70.2 Definitions.

As used in this part:

(a) The terms *agency*, *person*, *party*, *rule*, *order*, and *adjudication* have the meaning attributed to these terms by the definition in 5 U.S.C. 551.

(b) *Component* means each separate bureau, office, board, division, commission, service or administration of the Department of Labor.

(c) *Disclosure officer* means an official of the Department of Labor who has authority to disclose records under the FOIA and to whom requests to inspect or copy records in his/her custody may be addressed. Department of Labor disclosure officers are listed in Appendix A.

### § 70.3

(d) The *Secretary* means the Secretary of Labor.

(e) The *Department* means the Department of Labor.

(f) *Request* means any request for records made pursuant to 5 U.S.C. 552(a)(3).

(g) *Requester* means any person who makes a request to a component.

(h) *Confidential commercial information* means records provided to the government by a submitter that arguably contain material exempt from release under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm.

(i) *Business submitter* means any person or entity who provides confidential commercial information to the government. The term *business submitter*, includes, but is not limited to corporations, labor organizations, state governments and foreign governments.

### § 70.3 Policy.

All agency records, except those specifically exempted from mandatory disclosure by one or more provisions of 5 U.S.C. 552(b) shall be made promptly available to any person submitting a written request in accordance with the procedures of this part.

### § 70.4 Public access to certain materials.

(a) To the extent required by 5 U.S.C. 552(a)(2), each component within the Department shall make the following materials available for public inspection and copying (unless they are published and copies are offered for sale):

(1) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(2) Those statements of policy and interpretation which have been adopted by the agency and are not published in the FEDERAL REGISTER; and

(3) Administrative staff manuals and instructions to staff that affect a member of the public, and which are not exempt from disclosure under section (b) of the FOIA.

(b) Each component of the Department shall also maintain and make available current indexes providing

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identifying information regarding any matter issued, adopted or promulgated after July 4, 1967, and required by paragraph (a) of this section to be made available or published. Each component shall publish and make available for distribution, copies of such indexes and supplements thereto at least quarterly, unless it determines by Notice published in the FEDERAL REGISTER that publication would be unnecessary and impracticable. After issuance of such Notice, the component shall provide copies of any index upon request at a cost not to exceed the direct cost of duplication.

(c) Whenever it is determined to be necessary to prevent a clearly unwarranted invasion of personal privacy, identifying details may be deleted from any record covered by this subsection that is published or made available for inspection.

(d) Certain records of the Department are available for examination or copying without the submission of a formal request under the FOIA, *e.g.*, records maintained in public reference facilities. Information about the availability of records for examination and copying may be obtained by addressing an inquiry to the component which has custody of the records, or if the appropriate component is unknown, to the Assistant Secretary for Administration and Management.

[54 FR 23144, May 30, 1989; 54 FR 25204, June 13, 1989]

### § 70.5 Compilation of new records.

Nothing in 5 U.S.C. 552 or this part requires that any agency or component create a new record, either manually from preexisting files or through creation of a computer program, in order to respond to a request for records.

### § 70.6 Disclosure of originals.

No original document or record in the custody of the Department of Labor, or of any agency or officer thereof, shall on any occasion be given to any agent, attorney, or any other person not officially connected with the Department without the written consent of the Secretary or the Solicitor of Labor.