

Small Business Administration

§ 102.27

to the PA Officer specifying the particular portion desired and the law enforcement activity for which the record is sought;

(i) To a person showing compelling circumstances affecting the health or safety of an individual. Upon disclosure, SBA will notify such individual at his or her last known address;

(j) To either House of Congress, or, to the extent of matters within its jurisdiction, any committee or subcommittee thereof, or any joint committee of Congress or subcommittee of any such joint committee;

(k) To the Comptroller General, or any of his or her authorized representatives, in the course of the performance of the duties of the General Accounting Office;

(l) Pursuant to the order of a court of competent jurisdiction; or

(m) To a consumer reporting agency in accordance with 31 U.S.C. 3711(f).

§ 102.23 Are there special rules about personnel and equal employment opportunity files?

(a) The provisions of parts 293 and 297 of title 5 of the Code of Federal Regulations govern all SBA files which the Office of Personnel Management determines are personnel files.

(b) The provisions of part 1611 of title 29 of the Code of Federal Regulations govern all Equal Employment Opportunity complaint files.

§ 102.24 What is a record?

A record is information which SBA maintains on an individual and which includes either his name or an identifying symbol (such as a fingerprint, a social security number (“SSN”), or a photograph).

§ 102.25 What is a system of records?

A system of records is one or more records which SBA routinely keeps for official purposes, and from which SBA can retrieve records by using a name or personal identifier.

§ 102.26 What does this subpart mean by “person to whom a record pertains” or “you”?

When this subpart refers to the “person to whom a record pertains” or uses the pronoun “you”, it refers to a

United States citizen or a lawfully admitted alien. It does not refer to a corporation, partnership, or sole proprietorship.

§ 102.27 What records are partially exempt from the provisions of the Privacy Act?

(a) The following systems of records are exempt from certain provisions of the PA: Audit Reports (system of records #SBA 015), Litigation and Claims Files (#SBA 070), Personnel Security Files (#SBA 100), Security and Investigations Files (#SBA 120), Office of Inspector General Referrals (#SBA 125), Investigations Division Management Information System (#SBA 130), and Standards of Conduct Files (#SBA 140).

(b) The provisions of the PA from which these systems of records are exempt are subsections (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(1), 4G, H, and I (Agency Requirements), and (f) (Agency Rules).

(c) The systems of records described in paragraph (a) of this section are exempt from the provisions of the Privacy Act described in paragraph (b) of this section in order to:

(1) Prevent the subject of investigations from frustrating the investigatory process;

(2) Protect investigatory material compiled for law enforcement purposes;

(3) Fulfill commitments made to protect the confidentiality of sources and to maintain access to necessary sources of information; or

(4) Prevent interference with law enforcement proceedings.

(d) In addition to the foregoing exemptions in paragraphs (a) through (c) of this section, the systems of records described in paragraph (a) of this section numbered SBA 015, 100, 120, 125 and 130 are fully exempt from the Privacy Act to the extent that they contain:

(1) Information compiled to identify individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, confinement, release, and parole and probation status;

(2) Information, including reports of informants and investigators, associated with an identifiable individual