

General Accounting Office

§ 83.21

with the system manager or designee of the system of records concerned a concise statement setting forth the reasons for his or her disagreement. Any such statement of disagreement will be treated in accordance with paragraph (c)(4) of § 83.15.

§ 83.17 Fees.

(a) Generally, GAO's policy is to provide the first copy of any record or portion thereof, furnished as a result of this part, at no cost to the data subject or authorized representative. However, in cases where GAO deems it appropriate (for example, where the record is voluminous), the system manager or designee in his or her discretion may charge a fee when the cost for copying the record (at a rate of 20 cents per page) would be in excess of ten dollars (\$10).

(b) There shall be no fees charged or collected from a data subject for the following:

- (1) Search for or retrieval of the data subject's records;
- (2) Review of the records;
- (3) Making a copy of a record when it is a necessary part of the process of making the record available for review;
- (4) Copying at the initiative of GAO without a request from the individual;
- (5) Transportation of the record; and
- (6) Making a copy of an amended record to provide the individual with evidence of the amendment.

(c) Certification of authenticity shall be \$10 for each certificate, which fee may be waived in the discretion of the system manager or designee.

§ 83.18 Rights of legal guardians.

For the purposes of this part, the parent of any minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual.

§ 83.19 Government contractors.

When GAO provides by a contract for the operation by or on behalf of GAO of a system of personnel records to accomplish a function of GAO, GAO shall, consistent with its authority, cause the requirements of this part to be applied to such system. Any such con-

tractor and any employee of such contractor, if such contract is agreed to on or after the effective date of this section, shall be considered, for the purposes of this part, to be an employee of GAO. Contractor employees will be required to observe the confidentiality requirements of this part. Violations of this part by contractor employees may be a sufficient ground for contract termination.

§ 83.20 Mailing lists.

An individual's name and address may not be sold or rented by GAO unless such action is specifically authorized by law. This provision shall not be construed to require the withholding of names and addresses otherwise permitted to be made public.

§ 83.21 Exemptions.

(a) All personnel records are exempted from §§ 83.6(c), 83.12, 83.13, 83.14, and 83.15, relating to making an accounting of disclosures available to the data subject or his authorized representative and access to and amendment of the records and other sections relating to procedural requirements of the above-cited sections if the record is:

(1) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and is in fact classified pursuant to such Executive order. *See* 31 U.S.C. 716(e)(1) and 718(b)(3) concerning the applicability of these requirements to GAO.

(2) Investigatory material compiled for law enforcement purposes: *Provided, however,* That if any individual is denied any right, privilege, or benefit that he would otherwise be entitled to 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 express or implied promise that the identity of the source would be held in confidence;

(3) Maintained in connection with providing protection services to the President of the United States or other individuals pursuant to section 3056 of Title 18, United States Code;

(4) Required by statute to be maintained and used solely as statistical records;

(5) Investigatory material compiled solely for the purposes of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of the 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 express or implied promise that the identity of the source would be held in confidence (*see* §83.5(j)(1) for the procedure to be used to obtain investigative data originated by other Government agencies);

(6) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7) Evaluation material used to determine potential for promotion in the armed services, but only 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 express or implied promise that the

identity of the source would be held in confidence.

APPENDIX I TO PART 83—MEMORANDUM OF UNDERSTANDING

This memorandum of understanding constitutes an agreement between the U.S. Office of Personnel Management (OPM), the National Archives and Records Service of the General Services Administration (NARS), and the U.S. General Accounting Office (GAO) concerning:

(1) The maintenance of the Official Personnel Folder (OPF) of an individual who has been employed in a position subject to the provisions of Title 5, U.S.C. and to the regulations and procedures issued by OPM to govern the Federal civil service, and also in a position subject to the GAO Personnel Act of 1980 (Pub. L. 96-191) and its implementing regulations and procedures;

(2) The exchange of personnel documents and data between the Federal civil service administered by OPM and the personnel system administered by GAO;

(3) The establishment of procedures for processing requests for access to, disclosure from, and amendment of documents in the OPF of an individual who has service under both personnel systems;

(4) The establishment of procedures to be followed by the National Personnel Records Center (NPRC) when responding to requests pertaining to separated employees in any of the following circumstances:

(a) When the OPF contains documentation resulting from employment in both systems;

(b) When a request is received for transfer of an OPF between systems;

(c) When processing a request for an OPF, and that OPF contains only records of GAO employment since October 1, 1980;

(5) The agreement of the parties to consult and cooperate in matters relating to the establishment and revision of personnel procedures which may have mutual effect so as to insure the sharing of essential information while minimizing the recordkeeping burden of all three parties.

SUBCHAPTER G [RESERVED]