

Subpart G—Measures To Protect the Integrity of the Compensation Program

§ 104.71 Procedures to prevent and detect fraud.

(a) *Review of claims.* For the purpose of detecting and preventing the payment of fraudulent claims and for the purpose of assuring accurate and appropriate payments to eligible claimants, the Special Master shall implement procedures to:

(1) Verify, authenticate, and audit claims;

(2) Analyze claim submissions to detect inconsistencies, irregularities, duplication, and multiple claimants; and

(3) Ensure the quality control of claims review procedures.

(b) *Quality control.* The Special Master shall institute periodic quality control audits designed to evaluate the accuracy of submissions and the accuracy of payments, subject to the oversight of the Inspector General of the Department of Justice.

(c) *False or fraudulent claims.* The Special Master shall refer all evidence of false or fraudulent claims to appropriate law enforcement authorities.

Subpart H—Attorney Fees

§ 104.81 Limitation on attorney fees.

(a) *In general—(1) In general.* Notwithstanding any contract, the representative of an individual may not charge, for services rendered in connection with the claim of an individual under this title, including expenses routinely incurred in the course of providing legal services, more than 10 percent of an award paid under this title on such claim. Expenses incurred in connection with the claim of an individual in this title other than those that are routinely incurred in the course of providing legal services may be charged to a claimant only if they have been approved by the Special Master.

(2) *Certification.* In the case of any claim in connection with which services covered by this section were rendered, the representative shall certify his or her compliance with this section and shall provide such information as the Special Master requires to ensure such compliance.

(b) *Limitation—(1) In general.* Except as provided in paragraph (b)(2) of this section, in the case of an individual who was charged a legal fee in connection with the settlement of a civil action described in section 405(c)(3)(C)(iii) of the Act, the representative who charged such legal fee may not charge any amount for compensation for services

rendered in connection with a claim filed by or on behalf of that individual under this title.

(2) *Exception.* If the legal fee charged in connection with the settlement of a civil action described in section 405(c)(3)(C)(iii) of the Act of an individual is less than 10 percent of the aggregate amount of compensation awarded to such individual through such settlement, the representative who charged such legal fee to that individual may charge an amount for compensation for services rendered to the extent that such amount charged is not more than Ten (10) percent of such aggregate amount through the settlement, minus the total amount of all legal fees charged for services rendered in connection with such settlement.

(c) *Discretion to lower fee.* In the event that the Special Master finds that the fee limit set by paragraph (a) or (b) of this section provides excessive compensation for services rendered in connection with such claim, the Special Master may, in the discretion of the Special Master, award as reasonable compensation for services rendered an amount lesser than that permitted for in paragraph (a) of this section.

Dated: June 13, 2016.

Sheila L. Birnbaum,

Special Master.

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Allocation of Assets in Single-Employer Plans; Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans to prescribe interest assumptions under the benefit payments regulation for valuation dates in July 2016 and interest assumptions under the asset allocation regulation for valuation dates in the third quarter of 2016. The interest assumptions are used for valuing and paying benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective July 1, 2016.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy (Murphy.Deborah@PBGC.gov), Deputy Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005, 202-326-4024. (TTY/TDD users may call the Federal relay service toll free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

SUPPLEMENTARY INFORMATION: PBGC's regulations on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) and Benefits Payable in Terminated Single-Employer Plans (29 CFR part 4022) prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits under terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions in the regulations are also published on PBGC's Web site (<http://www.pbgc.gov>).

The interest assumptions in Appendix B to Part 4044 are used to value benefits for allocation purposes under ERISA section 4044. PBGC uses the interest assumptions in Appendix B to Part 4022 to determine whether a benefit is payable as a lump sum and to determine the amount to pay. Appendix C to Part 4022 contains interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using PBGC's historical methodology. Currently, the rates in Appendices B and C of the benefit payment regulation are the same.

The interest assumptions are intended to reflect current conditions in the financial and annuity markets. Assumptions under the asset allocation regulation are updated quarterly; assumptions under the benefit payments regulation are updated monthly. This final rule updates the benefit payments interest assumptions for July 2016 and updates the asset allocation interest assumptions for the third quarter (July through September) of 2016.

The third quarter 2016 interest assumptions under the allocation regulation will be 2.50 percent for the first 20 years following the valuation date and 2.85 percent thereafter. In comparison with the interest assumptions in effect for the second quarter of 2016, these interest assumptions represent no change in the select period (the period during which the select rate (the initial rate) applies), a decrease of 0.27 percent in the select rate, and a decrease of 0.01 percent in the ultimate rate (the final rate).

The July 2016 interest assumptions under the benefit payments regulation will be 0.75 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. In comparison with the interest assumptions in effect for June 2016, these interest assumptions are unchanged.

PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the valuation and payment of benefits under plans with valuation dates during July 2016,

PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 273, as set forth below, is added to the table.

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

* * * * *

| Rate set | For plans with a valuation date | | Immediate annuity rate (percent) | Deferred annuities (percent) | | | | |
|----------|---------------------------------|-------------|----------------------------------|------------------------------|-----------|-----------|--------|--------|
| | On or after | Before | | i_1 | i_2 | i_3 | n_1 | n_2 |
| * 273 | * 7-1-16 | * 8-1-16 | * 0.75 | * 4.00 | * 4.00 | * 4.00 | * 7 | * 8 |

■ 3. In appendix C to part 4022, Rate Set 273, as set forth below, is added to the table.

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

* * * * *

| Rate set | For plans with a valuation date | | Immediate annuity rate (percent) | Deferred annuities (percent) | | | | |
|----------|---------------------------------|-------------|----------------------------------|------------------------------|-----------|-----------|--------|--------|
| | On or after | Before | | i_1 | i_2 | i_3 | n_1 | n_2 |
| * 273 | * 7-1-16 | * 8-1-16 | * 0.75 | * 4.00 | * 4.00 | * 4.00 | * 7 | * 8 |

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 5. In appendix B to part 4044, a new entry for July–September 2016, as set forth below, is added to the table.

Appendix B to Part 4044—Interest Rates Used To Value Benefits

* * * * *

| For valuation dates occurring in the month— | The values of i_t are: | | | | | |
|---|--------------------------|-----------|-------------|-----------|----------|-----------|
| | i_t | for $t =$ | i_t | for $t =$ | i_t | for $t =$ |
| * July–September 2016 | * 0.0250 | * 1–20 | * 0.0285 | * >20 | * N/A | * N/A |

Issued in Washington, DC, on this 9th day of June 2016.

Judith Starr,

General Counsel, Pension Benefit Guaranty Corporation.

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DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD-2016-OS-0063]

32 CFR Part 311

Privacy Act of 1974; Implementation

AGENCY: Office of the Secretary, DoD.

ACTION: Direct final rule.

SUMMARY: The Office of the Secretary of Defense is exempting those records contained in DMDC 24 DoD, entitled "Defense Information System for Security (DISS)," when investigatory material is compiled solely for the purpose 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 such material would reveal the identity of a confidential source.

This direct final rule establishes a new exemption to the Office of the Secretary Privacy Program. The Defense Information System for Security is the new DoD enterprise-wide information system for personnel security; it provides a common, comprehensive medium to request, record, document, and identify personnel security actions within the Department including: Determinations of eligibility and access to classified information, national security, suitability and/or fitness for employment, and HSPD-12 determination for Personal Identity Verification (PIV) to access government facilities and systems, submitting adverse information, verification of investigation and or adjudicative status, support of continuous evaluation and insider threat detection, prevention, and mitigation activities. DISS consists of two applications, the Case Adjudication Tracking system (CATS) and the Joint Verification System (JVS). CATS is used by the DoD Adjudicative Community for the purpose of recording eligibility determinations. JVS is used by DoD Security Managers and Industry Facility Security Officers for the purpose of verifying eligibility, recording access determinations, submitting incidents for subsequent adjudication, and visit requests from the field (worldwide). The records may also be used as a

management tool for statistical analyses, tracking, reporting, evaluating program effectiveness, and conducting research. This direct final rule is consistent with the rule currently published regarding DMDC 11, Investigative Records Repository.

DATES: The rule is effective on September 13, 2016 unless adverse comments are received by August 15, 2016. If adverse comment is received, the Department of Defense will publish a timely withdrawal of the rule in the **Federal Register**.

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:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Alexandria, VA 22350-1700.

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: Mrs. Luz D. Ortiz, 571-372-0478.

SUPPLEMENTARY INFORMATION: This rule is being published as a direct final rule as the Department of Defense does not expect to receive any adverse comments, and so a proposed rule is unnecessary.

Direct Final Rule and Significant Adverse Comments

DoD has determined this rulemaking meets the criteria for a direct final rule because it involves non-substantive changes dealing with DoD's management of its Privacy Programs. DoD expects no opposition to the changes and no significant adverse comments. However, if DoD receives a significant adverse comment, the Department will withdraw this direct final rule by publishing a notice in the **Federal Register**. A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a

comment necessitates withdrawal of this direct final rule, DoD will consider whether it warrants a substantive response in a notice and comment process.

Executive Order 12866, "Regulatory Planning and Review" and Executive Order 13563, "Improving Regulation and Regulatory Review"

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in these Executive orders.

Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

It has been determined that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense. A Regulatory Flexibility Analysis is not required.

Public Law 95-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been determined that this Privacy Act rule for the Department of Defense imposes no additional information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1074.

Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"

It has been determined that this Privacy Act rule for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that this rulemaking will not significantly or uniquely affect small governments.