

## **PBGC-19: Office of General Counsel Case Management System**

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### [General Routine Uses](#)

#### **System Name:**

Office of General Counsel Case Management System — PBGC

#### **System Classification:**

None

#### **System Location:**

PBGC, 1200 K Street NW, Washington, DC 20005. (*Records may be kept at an additional location as backup for Continuity of Operations*)

#### **Categories of Individuals Covered by the System:**

Individuals who are participants, beneficiaries, and alternate payees in pension plans covered by the Employee Retirement Income Security Act (ERISA); pension plan sponsors, administrators, control group members and third parties, who are responsible for, manage, or have control over ERISA pension plans; other individuals who are identified in connection with investigations conducted pursuant to section 4003(a) of ERISA and/or litigation conducted with regard to ERISA pension plans; individuals (including PBGC employees) who are parties or witnesses in civil litigation or administrative proceedings involving or concerning PBGC or its officers or employees; individuals who are the subject of a breach of personally identifiable information; individuals who are potential contractors or contractors with PBGC or are otherwise personally associated with a contract or procurement matter; individuals who receive legal advice from the Office of General Counsel; and other individuals (including current, former, and potential PBGC employees, contract employees, interns, externs, and volunteers) who are the of or are otherwise connected to an inquiry, investigation, other matter handled by the Office of General Counsel.

#### **Categories of Records in the System:**

Notes, reports, memoranda; settlements; agreements; correspondence; contracts; contract proposal and other procurement documents; plan documents; participant, alternate payee, and beneficiary files; initial and final PBGC determinations of ERISA matters; Freedom of Information Act and the Privacy Act appeals and decisions of those appeals; drafts and legal reviews of proposed personnel actions; personnel records; litigation files; labor relations files; information provided by labor unions or other organizations; witness statements; summonses and subpoenas, discovery requests and responses; and breach reports and supporting documentation.

#### **Authority for Maintenance of the System:**

29 U.S.C. 1055, 1056(d)(3), 1310, 1322a, 1341, 1342, 1343 and 1350; 5 U.S.C. app. 105; 5 U.S.C. 301, 552a(d), 552(a), 7101; 42 U.S.C. 2000e 44 U.S.C. 3101.

**Purpose(s):**

The purpose of this system of records is to catalog, litigate, or otherwise resolve any case or matter handled by the following practice groups of the Office of the General Counsel: General Law and Ethics Group, General Law and Procurement Group, Litigation and Employment Law Group, Legal Technology & Administration Division, and ERISA Counseling Group.

**Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses:**

Information about covered individuals may be disclosed without consent as permitted by the Privacy Act of 1974, 5 U.S.C. 522a(b), and:

1. General Routine Uses G1 through G14 apply to this system of records (see Prefatory Statement of General Routine Uses).
2. A record from this system of records may be disclosed, in furtherance of proceedings under Title IV of ERISA, to a contributing sponsor (or other employer who maintained the plan), including any predecessor or successor, and any member of the same controlled group.
3. Names, addresses, and telephone numbers of employees, former employees, participants, and beneficiaries and information pertaining to debts to PBGC may be disclosed to the Department of Treasury, the Department of Justice, a credit agency, and a debt collection to collect the debt. Disclosure to a debt collection shall be made only under a contract that binds any such contractor or employee of such contractor to criminal penalties of the Privacy Act.
4. Information may be disclosed to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations in response to a court order or in connection with criminal law proceedings.
5. Information may be provided to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.
6. Information may be provided to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.
7. Relevant and necessary information may be disclosed to a former employee of PBGC for the purposes of: (1) responding to an official inquiry by federal, state, or local government entity or professional licensing authority; or, (2) facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where PBGC requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.
8. A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement.
9. A record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent

necessary to assist such country in civil or criminal proceedings in which the United States or one of its officers or agencies has an interest.

10. A record from this system of records may be disclosed to the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures and compliance with the Freedom of Information Act, and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

## **Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System:**

### **Storage:**

Records are maintained manually in paper and/or electronic form, including computer databases, magnetic tapes, and discs. Records are also maintained on PBGC's network back-up tapes.

### **Retrievability:**

Records are indexed by assigned case number and sequential record ID. Records are full-text indexed and thus can be retrieved by any free-form key, which may include names or other personal identifiers.

### **Safeguards:**

PBGC has adopted appropriate administrative, technical, and physical controls in accordance with PBGC's security program to protect the security, integrity, and availability of the information, and to ensure that records are not disclosed to or accessed by unauthorized individuals.

Paper records are kept in file cabinets in areas of restricted access that are locked after office hours. Electronic records are stored on computer networks and protected by assigning both network and system-specific user identification numbers to individuals needing access to the records and by passwords set by authorized users that must be changed periodically.

### **Retention and Disposal:**

Records are maintained in accordance with the General Records Retention Schedules issued by the National Archives and Records Administration (NARA) or a PBGC records disposition schedule approved by NARA.

Records existing on paper are destroyed beyond recognition. Records existing on computer storage media are destroyed according to the applicable PBGC media sanitization practice.

### **System Manager(s) and Address:**

Associate General Counsel, PBGC, K Street, NW, Washington, DC 20005.

### **Notification Procedure:**

Individuals wishing to learn whether this system of records contains information about them should submit a written request to the Disclosure Officer, PBGC, K Street, NW, Washington, DC 20005, and provide the following information:

- a. Full name.
- b. Any available information regarding the type of record involved.
- c. The address to which the record information should be sent.
- d. You must sign your request.

Attorneys or other persons acting on behalf of an individual must provide written authorization from that individual for the representative to act on their behalf.

Individuals requesting access must also comply with PBGC's Privacy Act regulations regarding verification of identity and access to records (29 CFR 4902.3).

#### **Record Access Procedure:**

Individuals wishing to request access to their records should submit a written request to the Disclosure Officer, PBGC, 1200 K Street, NW, Washington, DC 20005, and provide the following information:

- a. Full name.
- b. Any information regarding the type of record involved.
- c. The address to which the record information should be sent.
- d. You must sign your request.

Attorneys or other persons acting on behalf of an individual must provide written authorization from that individual for the representative to act on their behalf.

Individuals requesting access must also comply with PBGC's Privacy Act regulations regarding verification of identity and access to records (29 CFR 4902.3).

#### **Contesting Record Procedure:**

Individuals wishing to request an amendment to their records should submit a written request to the Disclosure Officer, PBGC, 1200 K Street, NW, Washington, DC 20005, and provide the following information:

- a. Full name.
- b. Any available information regarding the type of record involved.
- c. A statement specifying the changes to be made in the records and the justification therefore.
- d. The address to which the response should be sent.
- e. You must sign your request.

Attorneys or other persons acting on behalf of an individual must provide written authorization that individual for the representative to act on their behalf.

#### **Record Source Categories:**

Subject individuals; pension plan participants, sponsors, administrators and third-parties; federal government records; current and former employees, contractors, interns, and externs; PBGC claim and payment files; insurers; the Social Security Administration; labor organizations; court records; articles from publications; and other individuals, organizations, and corporate entities with relevant knowledge/information.

**Systems Exempted From Certain Provisions of the Act:**

Pursuant to 5 U.S.C. 552a(k)(2), records in this system are exempt from the requirements of subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), (I), and (f) of 5 U.S.C. 552a, provided, however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of the material would reveal the identity of a source who furnished information to the Government with an express promise that the identity of the source would be held in confidence.