

support the provisions pertaining to non-competees in this matter—but my acquiescence to these provisions should not be construed as support for a sweeping condemnation of non-competees more generally.

#### Ban on No-Poach Agreements

The order contains an anti-no-poach provision that prevents DaVita from entering into any agreement that would restrict the divestiture buyer from soliciting DaVita's employees. I highlight this provision because some critics have asserted antitrust enforcement ignores competition for labor as an input.<sup>12</sup> I believe modern antitrust enforcement does, in fact, police the market for unlawful practices impacting competition for labor.<sup>13</sup> Naked no-poach agreements are per se illegal under the antitrust laws, and have been subject to enforcement accordingly.<sup>14</sup>

(“Remove any impediments within the control of Respondents that may deter relevant Divestiture Business Employees from accepting employment with the Acquirer, including removal of any non-compete . . .”); Decision and Order, Stryker et al., No. 201-0014 at VI.B.3 (Dec. 17, 2020), <https://www.ftc.gov/system/files/documents/cases/2010014c4728strykerwrightorder.pdf> (“Remove any impediments within the control of Respondents that may deter Implant Business Employees from accepting employment with the Acquirer, including removal of any non-compete . . .”); Decision and Order, Arko Holdings et al., No. 201-0041 at VI.B.3 (Oct. 7, 2020), [https://www.ftc.gov/system/files/documents/cases/c-4726\\_201\\_0041\\_arko\\_empire\\_order.pdf](https://www.ftc.gov/system/files/documents/cases/c-4726_201_0041_arko_empire_order.pdf) (“Remove any impediments within the control of Respondents that may deter Retail Fuel Employees from accepting employment with an Acquirer . . .”). This consent does contain a new twist on our approach to non-competees. Specifically, DaVita may not enforce non-competees to the extent they prevent competitors or potential competitors from obtaining the services of a nephrologist, which will allow potential competitors to launch a competing dialysis clinic in Utah. Given my understanding of DaVita’s business practices, the nephrologist shortage, and the historical industry context, I believe this remedy constitutes appropriate fencing-in relief.

<sup>12</sup> Testimony of Eric A. Posner on Antitrust and Labor Markets at 2 (Sept. 28, 2021), <https://docs.house.gov/meetings/JU/JU05/20210928/114057/HHRG-117-JU05-Wstate-PosnerE-20210928.pdf> (“Yet, while thousands of antitrust cases have been brought over the years, hardly any have addressed labor market cartelization. The Justice Department and the Federal Trade Commission have reviewed thousands of mergers, approving some and rejecting others, but have not even once analyzed the labor market effects of a merger.”).

<sup>13</sup> Testimony of Commissioner Christine S. Wilson at the Hearing on Reviving Competition, Part 4: 21st Century Antitrust Reforms and the American Worker at 12–14, (Sept. 28, 2021), [https://www.ftc.gov/system/files/documents/public\\_statements/1596880/commissioner\\_wilson\\_hearing\\_on\\_reviving\\_competition\\_part\\_4\\_-21st\\_century\\_antitrust\\_reforms\\_and\\_the.pdf](https://www.ftc.gov/system/files/documents/public_statements/1596880/commissioner_wilson_hearing_on_reviving_competition_part_4_-21st_century_antitrust_reforms_and_the.pdf).

<sup>14</sup> Dep’t of Justice, Antitrust Div. & Fed. Trade Comm’n, Antitrust Guidance for Human Resource Professionals (Oct. 2016), <https://www.justice.gov/atr/file/903511/download>.

With respect to the instant matter, DaVita and its former CEO were recently indicted for agreeing with competitors to refrain from recruiting one another’s employees.<sup>15</sup> In a past consent order, where respondents had entered into no-poach agreements, provisions explicitly prohibiting these agreements have been included in an order.<sup>16</sup> I support the inclusion of an anti-no-poach provision in this order because of the relevant allegations against DaVita and to allow the Commission to pursue an order violation if DaVita attempts to limit competition through anticompetitive no-poach agreements in the future.

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**BILLING CODE 6750-01-P**

## OFFICE OF GOVERNMENT ETHICS

### Privacy Act of 1974; Systems of Records

**AGENCY:** Office of Government Ethics (OGE).

**ACTION:** Notice of Modification of Four Internal Systems of Records and Rescindment of One Internal System of Records.

**SUMMARY:** The U.S. Office of Government Ethics (OGE) proposes to revise four and rescind one of its existing internal systems of records under the Privacy Act.

The system of records to be rescinded is OGE/INTERNAL-2, which covers telephone call detail records that were used to verify employee telephone usage and to resolve billing discrepancies.

The four systems of records to be revised are the following:

- OGE/INTERNAL-1 Pay, Leave and Travel Records, which contains records related to OGE employees’ pay, leave, and travel, including information regarding leave accrual rate, usage, and balances, salary withholdings, travel expenses, and usage of the transit fare subsidy program;

<sup>15</sup> Indictment, *United States v. DaVita Inc. et al.*, No. 1:21-cr-00229 (D. Colo. July 14, 2021).

<sup>16</sup> Press Release, Fed. Trade Comm’n, VieVu’s Former Parent Company Safariland Agrees to Settle Charges That It Entered into Anticompetitive Agreements with Body-Worn Camera Systems Seller Axon (April 17, 2020), <https://www.ftc.gov/news-events/press-releases/2020/04/vievus-former-parent-company-safariland-agrees-settle-charges-it> (“According to the complaint, the agreements barred Safariland from competing with Axon now and in the future on all of Axon’s products, limited solicitation of customers and employees by either company, and stifled potential innovation or expansion by Safariland. . . . Under the proposed order, Safariland is required to obtain approval from the Commission before entering into any agreement with Axon that restricts competition between the two companies.”).

- OGE/INTERNAL-3 Grievance Records, which contains records relating to grievances filed by OGE employees;

- OGE/INTERNAL-4 Computer Systems Activity and Access Records, which contains information on the use of official email systems, user access to OGE’s computer networks, and records related to the verification or authorization of an individual’s access to systems, files, or applications; and

- OGE/INTERNAL-5 Employee Locator and Emergency Notification Records, which contains information regarding the organizational location, telephone extension, and hours of duty of OGE employees, as well as their personal contact information and the name, relationship, and telephone number of employees’ emergency contacts.

**DATES:** The revisions and rescindment will be effective on November 10, 2021, subject to a 30-day period in which to comment on the new routine uses, described below. Please submit any comments by December 10, 2021. The new routine uses will be effective on that date.

**ADDRESSES:** Comments may be submitted to OGE by any of the following methods:

*Email:* [usoge@oge.gov](mailto:usoge@oge.gov) (Include reference to “OGE Internal SORNs” in the subject line of the message.)

*Mail, Hand Delivery/Courier:* Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Attention: Jennifer Matis, Associate Counsel, Washington, DC 20005–3917.

*Instructions:* Comments may be posted on OGE’s website, [www.oge.gov](http://www.oge.gov). Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments generally will not be edited to remove any identifying or contact information before posting.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Matis at the U.S. Office of Government Ethics; telephone: 202-482-9216; TTY: 800-877-8339; FAX: 202-482-9237; Email: [jmatis@oge.gov](mailto:jmatis@oge.gov).

**SUPPLEMENTARY INFORMATION:** In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, this document provides public notice that OGE is proposing to revise and update the OGE/INTERNAL-1,-3,-4, and -5 systems of records in several respects, and rescind OGE/INTERNAL-2, Telephone Call Detail Records.

First, OGE proposes to rescind one system of records that is no longer in use by OGE, OGE/INTERNAL-2, Telephone Call Detail Records. OGE no longer maintains these records and has

no plans to do so in the future. All records previously maintained under this system of records notice (SORN) have been destroyed in accordance with the National Archives and Records Administration General Records Schedule.

Second, OGE proposes to amend OGE/INTERNAL-1 Pay, Leave, and Travel Records, OGE/INTERNAL-3 Grievance Records, OGE/INTERNAL-4 Computer Systems Activity and Access Records, and OGE/INTERNAL-5 Employee Locator and Emergency Notification Records by updating the system locations, system managers, records access procedures, and notification procedures, in accordance with OGE's current organizational structure.

Third, OGE proposes to add two additional routine uses to OGE/INTERNAL-1 Pay, Leave, and Travel Records, OGE/INTERNAL-3 Grievance Records, OGE/INTERNAL-4, Computer Systems Activity and Access Records, and OGE/INTERNAL-5 Employee Locator and Emergency Notification Records in accordance with Office of Management and Budget guidance.

OMB Memorandum M-17-12 Preparing for and Responding to a Breach of Personally Identifiable Information (January 3, 2017) requires Federal agencies to publish routine uses to authorize disclosure of records that may reasonably be needed by a Federal agency or Federal entity in connection with breach response efforts. To satisfy the routine use requirements in OMB M-17-12, OGE proposes to add the two following routine uses to each of the four systems of records described above:

To appropriate agencies, entities, and persons when: (1) OGE suspects or has confirmed that there has been a breach of the system of records; (2) OGE has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the agency (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OGE's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

To another Federal agency or Federal entity, when OGE determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or

entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

Fourth, OGE proposes to update its standard routine uses for all four revised SORNS. It proposes to combine and update the routine uses pertaining to litigation in OGE/INTERNAL-1 Pay, Leave, and Travel Records, OGE/INTERNAL-3 Grievance Records, OGE/INTERNAL-4, Computer Systems Activity and Access Records, and OGE/INTERNAL-5 Employee Locator and Emergency Notification Records in accordance with OMB and Department of Justice guidance and applicable case law. The remaining routine uses have been redesignated accordingly. It also proposes adding a routine use for reporting violations or potential violations of civil or criminal law or regulation to the SORNs that do not currently have such a routine use and making the wording consistent among the SORNs that do currently have it. Finally, OGE proposes to modify in accordance with OMB guidance the routine uses pertaining to congressional requests for assistance in the three systems that have such a routine use.

Fifth, OGE proposes to modify OGE/INTERNAL-1 Pay, Leave, and Travel Records to include records relating to requests for reasonable accommodations pursuant to the Rehabilitation Act of 1973 and Title VII of the Civil Rights Act. These records are similar in nature to those currently covered by the system and are collected and maintained according to similar procedures. OGE further proposes to change the system name to OGE/INTERNAL-1 Pay, Leave, Travel, and Reasonable Accommodation Records.

Accordingly, OGE publishes the following notice of rescindment and revisions:

#### **SYSTEM NAME AND NUMBER (RESCINDMENT):**

OGE/INTERNAL-2, Telephone Call Detail Records

#### **HISTORY:**

68 FR 3097.

#### **SYSTEM NAME AND NUMBER:**

OGE/INTERNAL-1, Pay, Leave, Travel, and Reasonable Accommodation Records.

#### **SECURITY CLASSIFICATION:**

Unclassified.

#### **SYSTEM LOCATION:**

Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005-3917.

#### **SYSTEM MANAGER(S):**

Deputy Director for Compliance, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005-3917, email: usoge@oge.gov.

#### **AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 5525; 5 U.S.C. app. (Ethics in Government Act of 1978); 44 U.S.C. 3101, 3102; 29 U.S.C. 701 *et seq.* (Rehabilitation Act of 1973); 42 U.S.C. 2000e (Title VII of the Civil Rights Act).

#### **PURPOSE(S) OF THE SYSTEM:**

These records are used to administer the pay, leave, and travel requirements of the Office of Government Ethics, including the administration of the transit fare subsidy program. The records are also used to collect and maintain records on employees who request or receive reasonable accommodation as required by the Rehabilitation Act of 1973 and Title VII of the Civil Rights Act.

#### **CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current employees of the Office of Government Ethics. The records may be retained after an employee leaves the Office of Government Ethics.

#### **CATEGORIES OF RECORDS IN THE SYSTEM:**

This system contains various records relating to pay, leave, travel and requests for reasonable accommodations pursuant to the Rehabilitation Act of 1973 and Title VII of the Civil Rights Act. This includes information such as: Name; date of birth; social security number; home address; grade; employing organization; disability status, religious affiliation, accommodation requested and/or granted, timekeeper number; salary; pay plan; number of hours worked; leave accrual rate, usage, and balances; Civil Service Retirement and Federal Employees Retirement System contributions; FICA withholdings; Federal, state, and local tax withholdings; Federal Employee's Group Life Insurance withholdings; Federal Employee's Health Benefits withholdings; charitable deductions; allotments; garnishment documents; travel expenses; and information on the leave transfer program and fare subsidy program.

#### **RECORD SOURCE CATEGORIES:**

Information in this system of records is obtained from:

- The individual to whom the record pertains.
- Office of Government Ethics officials responsible for pay, leave, and travel requirements.

c. Other official personnel documents of the Office of Government Ethics.

**ROUTINE USES:**

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible (hereinafter “responsible agency”) for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when the record either alone or in conjunction with other information indicates a violation or potential violation of civil or criminal law or regulation.

b. To disclose information when OGE determines that the records are arguably relevant to a proceeding before a court, grand jury, or administrative or adjudicative body; or in a proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

c. To disclose information to the National Archives and Records Administration or the General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

d. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

e. To disclose information to a Member of Congress or a congressional office in response to an inquiry made on behalf of, and at the request of, an individual who is the subject of the record.

f. To disclose information to contractors, grantees, experts, consultants, detailees, and other non-OGE employees performing or working on a contract, service, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

g. To disclose information to the Department of Labor in connection with a claim filed by an employee for compensation due to a job-connected injury or illness.

h. To disclose information to the Social Security Administration (SSA) and the Department of the Treasury as required in accordance with their authorized functions, including Federal Insurance Collections Act withholding and benefits for the SSA and the issuance of paychecks and savings bonds for the Treasury.

i. To disclose information to State offices of unemployment compensation.

j. To disclose information to Federal Employees Group Life Insurance or

Health Benefits carriers in connection with survivor annuity or health benefits claims or records reconciliations.

k. To disclose information to the Internal Revenue Service and State and local tax authorities.

l. To disclose information to any source from which additional information is requested relevant to an OGE determination concerning an individual's pay, leave, or travel expenses, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

m. To disclose information to a Federal agency, in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a suitability or security investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

n. To disclose information to the authorized employees of another Federal agency that provides the Office of Government Ethics with manual and automated assistance in processing pay, leave, and travel.

o. To disclose information to officials of the Office of Special Counsel, Office of Personnel Management, Federal Labor Relations Authority, Merit Systems Protection Board or the Equal Employment Opportunity Commission when requested in the performance of their authorized duties, including respectively in connection with cases and appeals, special studies of the civil service and other merit systems, review of personnel matters and practices, investigations of alleged or possible prohibited personnel and discrimination practices, Hatch Act matters, whistleblower protections, compliance with employee selection procedures and investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

p. To disclose information in compliance with orders, interrogatories, and other information requests relevant to garnishment orders that OGE is required to comply with in accordance with 42 U.S.C. 659 (support garnishment) and 5 U.S.C. 5520a (commercial garnishment) to a court of competent jurisdiction, an authorized official, or to an authorized State agency as defined in 5 CFR parts 581 and 582.

q. To provide information to officials of labor organizations recognized under

5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

r. To disclose the names, social security numbers, home addresses, date of birth, date of hire, quarterly earnings, employer identifying information, and State of hire of employees to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for the purposes of locating individuals to establish paternity, establishing and modifying orders of child support, identifying sources of income, and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act, Public Law 104-193, as amended.

s. To disclose information to appropriate agencies, entities, and persons when: (1) OGE suspects or has confirmed that there has been a breach of the system of records; (2) OGE has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the agency (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OGE's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

t. To disclose information to another Federal agency or Federal entity, when OGE determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

These records are maintained in paper and/or electronic form.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

These records are retrieved by the name, social security number, or other identifier assigned to the individual on whom they are maintained.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

These records are retained in accordance with the National Archives and Records Administration General Records Schedule (GRS) as follows:

- a. GRS 2.3: Employee Relations Records;
- b. GRS 2.4: Employee Compensation and Benefits Records; and
- c. GRS 1.1: Financial Management and Reporting Records.

Disposal of paper records is by shredding, and disposal of electronic records is by deletion.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Paper records are maintained in locked file storage areas or in specified areas to which only authorized personnel have access. Electronic records are protected from unauthorized access through password identification procedures, limited access, firewalls, and other system-based protection methods.

**RECORD ACCESS PROCEDURES:**

Individuals requesting access to this system of records must follow the procedures set forth in OGE's Privacy Act regulations at 5 CFR part 2606.

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to request amendment of records about themselves should contact the System Manager. Individuals must furnish the following information for their records to be located and identified:

- a. Full name.
- b. Social Security Number.
- c. Dates of employment.

Individuals requesting amendment must also follow OGE's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 2606).

**NOTIFICATION PROCEDURES:**

Individuals wishing to inquire whether this system of records contains information about themselves must follow the procedures set forth in OGE's Privacy Act regulations at 5 CFR part 2606.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

**HISTORY:**

68 FR 3097.

**SYSTEM NAME AND NUMBER:**

OGE/INTERNAL-3, Grievance Records.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005-3917.

**SYSTEM MANAGER(S):**

Deputy Director for Compliance, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005-3917, email: [usoge@oge.gov](mailto:usoge@oge.gov).

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. app. (Ethics in Government Act of 1978); 5 U.S.C. 7121; 5 CFR part 771.

**PURPOSE(S) OF THE SYSTEM:**

These records are used to process grievances submitted by OGE employees for personal relief in a matter of concern or dissatisfaction.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current or former OGE employees who have filed grievances under OGE's administrative grievance procedures or under a negotiated grievance procedure.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system contains records relating to grievances filed by OGE employees under administrative procedures authorized by 5 CFR part 771, and records of negotiated grievance and arbitration systems that OGE has or may establish through negotiations with recognized labor organizations in accordance with 5 U.S.C. 7121. These files contain all documents related to the grievance, which may include statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original decision, and related correspondence and exhibits, employment history, arbitrator's decision or report, record of appeal to the Federal Labor Relations Authority, and a variety of employment and personnel records associated with the grievance.

**RECORD SOURCE CATEGORIES:**

Information in this system of records is obtained from:

- a. The individual on whom the record is maintained.
- b. Testimony of witnesses.
- c. OGE officials.
- d. Related correspondence from organizations or persons.
- e. Union officials (if information deals with a negotiated grievance matter).
- f. Department of Labor, Federal Labor Relations Authority, or arbitrators involved in the grievance (if information deals with a negotiated grievance matter).

**ROUTINE USES:**

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible (hereinafter "responsible agency") for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when the record either alone or in conjunction with other information indicates a violation or potential violation of civil or criminal law or regulation.

b. To disclose information when OGE determines that the records are arguably relevant to a proceeding before a court, grand jury, or administrative or adjudicative body; or in a proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

c. To disclose information to the National Archives and Records Administration or the General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

d. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

e. To disclose information to a Member of Congress or a congressional office in response to an inquiry made on behalf of, and at the request of, an individual who is the subject of the record.

f. To disclose information to contractors, grantees, experts, consultants, detailees, and other non-OGE employees performing or working on a contract, service, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

g. To disclose information to any source from which additional information is required in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

h. To disclose information to a Federal agency in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to requesting the agency's decision on the matter.

i. To disclose information to officials of the Merit Systems Protection Board; the Office of Special Counsel; the Federal Labor Relations Authority; or the Equal Employment Opportunity Commission when requested in performance of their authorized duties, including respectively in connection with cases and appeals, special studies of the civil service and other merit systems, review of personnel matters and practices, investigations of alleged or possible prohibited personnel and discrimination practices, Hatch Act matters, whistleblower protections, compliance with employee selection procedures and investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

j. To provide information to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

k. To provide information the Department of Labor in carrying out its functions regarding labor-management relations in the Federal service.

l. To disclose information to appropriate agencies, entities, and persons when: (1) OGE suspects or has confirmed that there has been a breach of the system of records; (2) OGE has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the agency (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OGE's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

m. To disclose information to another Federal agency or Federal entity, when OGE determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

#### POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

These records are maintained in paper and/or electronic form.

#### POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by the names of the individuals on whom they are maintained.

#### POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

These records are retained in accordance with the National Archives and Records Administration General Records Schedule (GRS) 2.3 Employee Relations Records. Disposal of paper records is by shredding, and disposal of electronic records is by deletion.

#### ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records are maintained in locked file storage areas or in specified areas to which only authorized personnel have access. Electronic records are protected from unauthorized access through password identification procedures, limited access, firewalls, and other system-based protection methods.

#### RECORD ACCESS PROCEDURES:

Individuals requesting access to this system of records must follow the procedures set forth in OGE's Privacy Act regulations at 5 CFR part 2606.

#### CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records which have been the subject of an administrative, judicial, or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the ruling on the case, and will not include a review of the merits of the action, determination, or finding. Individuals wishing to request amendment of their records to correct factual errors should contact the OGE Office of Administration and Information Management. Individuals must furnish the following information for their records to be located and identified:

- a. Name.
- b. Approximate date of closing of the case and kind of action taken.
- c. Organizational component involved.

Individuals requesting amendment must also follow OGE's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 2606).

#### NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them must follow the procedures set forth in OGE's Privacy Act regulations at 5 CFR part 2606.

#### EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

#### HISTORY:

68 FR 3097.

#### SYSTEM NAME AND NUMBER:

OGE/INTERNAL-4, Computer Systems Activity and Access Records.

#### SECURITY CLASSIFICATION:

Unclassified.

#### SYSTEM LOCATION:

Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005-3917.

#### SYSTEM MANAGER(S):

Chief Information Officer, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005-3917, email: [usoge@oge.gov](mailto:usoge@oge.gov).

#### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. app. (Ethics in Government Act of 1978); 40 U.S.C. 1441 note.

#### PURPOSE(S) OF THE SYSTEM:

The data in this system of records is used by OGE systems and security personnel, or persons authorized to assist these personnel, to plan and manage system services, to monitor for improper use, and to otherwise perform their official duties.

#### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who access OGE network computers or servers, including individuals who send and receive electronic communications, access internet sites, or access system databases, files, or applications from OGE computers or who send electronic communications to OGE computers; and individuals attempting to access OGE computers or systems without authorization.

#### CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system of records may include: records on the use of OGE email systems, including the email address of the sender and receiver of the email message, subject, date, and time; records on user access to OGE's office networks; records relating to verification or authorization of an individual's access to systems, files, or applications, such as user IDs, user names, title, and agency.

#### RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

- a. Individuals who access the systems.
- b. Office of Government Ethics employees and contractors responsible for managing the systems.

c. Computer activity logs and tracking systems.

**ROUTINE USES:**

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible (hereinafter “responsible agency”) for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when the record either alone or in conjunction with other information indicates a violation or potential violation of civil or criminal law or regulation.

b. To disclose information when OGE determines that the records are arguably relevant to a proceeding before a court, grand jury, or administrative or adjudicative body; or in a proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

c. To disclose information to the National Archives and Records Administration or the General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

d. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

e. To disclose information to contractors, grantees, experts, consultants, detailees, and other non-OGE employees performing or working on a contract, service, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

f. To disclose information to a Member of Congress or a congressional office in response to an inquiry made on behalf of, and at the request of, an individual who is the subject of the record.

g. To disclose information to a Federal, State, local, tribal or foreign agency, or a private contractor, in response to its request in connection with the hiring or retention of any employee, the issuance of a security clearance, the conduct of a security or suitability investigation, the reporting of an investigation on an employee, the letting of a contract, or the issuance of a grant, license, or other benefit to an employee by the agency, but only to the extent that the information disclosed is relevant and necessary to the agency’s decision on the matter.

i. To disclose information to appropriate agencies, entities, and persons when: (1) OGE suspects or has

confirmed that there has been a breach of the system of records; (2) OGE has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the agency (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OGE’s efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

j. To disclose information to another Federal agency or Federal entity, when OGE determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

These records are maintained in paper and/or electronic form.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

These records may be retrieved by user name, user ID, email address, or other identifying search term employed, depending on the record category.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

These records are retained in accordance with General Records Schedule (GRS) 3.2 Information Systems Security Records. Disposal of paper records is by shredding, and disposal of electronic records is by deletion.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

These records are located in locked storage areas with controlled entry, or automated systems to which only authorized personnel have access. The use of password protection identification features and other automated data processing system protection methods also restrict access.

**RECORD ACCESS PROCEDURES:**

Individuals requesting access to this system of records must follow the procedures set forth in OGE’s Privacy Act regulations at 5 CFR part 2606.

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to request amendment of records about themselves

should contact the System Manager. Individuals must furnish the following information for their records to be located and identified:

- a. Full name.
- b. Assigned computer location.
- c. Description of information being sought (including the time frame during which the record(s) may have been generated).

Individuals requesting amendment must also follow OGE’s Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 2606).

**NOTIFICATION PROCEDURE:**

Individuals wishing to inquire whether this system of records contains information about themselves must follow the procedures set forth in OGE’s Privacy Act regulations at 5 CFR part 2606.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

**HISTORY:**

68 FR 3097.

**SYSTEM NAME AND NUMBER:**

OGE/INTERNAL-5, Employee Locator and Emergency Notification Records.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005-3917.

**SYSTEM MANAGER(S):**

Deputy Director for Compliance, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005-3917, email: usoge@oge.gov.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. app. (Ethics in Government Act of 1978); 44 U.S.C. 3101.

**PURPOSE(S) OF THE SYSTEM:**

Information is collected for this system in order to identify an individual for OGE officials to contact, should an emergency of a medical or other nature involving the employee occur while the employee is on the job. Also, these records may be used by authorized OGE personnel to contact individuals working from home or at an authorized alternative worksite or, on infrequent occasions, to contact individuals absent from work about work-related issues.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current employees of the Office of Government Ethics.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system contains information regarding the organizational location, telephone extension, and hours of duty of individual OGE employees. The system also contains the home address and telephone number of the employee and the name, relationship, and telephone number of an individual or individuals to contact in the event of a medical or other emergency involving the employee. The system contains an additional freeform “note” field for personal medical information for employees who choose to voluntarily complete it.

**RECORD SOURCE CATEGORIES:**

Information in this system of records is obtained from:

- a. The individual on whom the record is maintained.

**ROUTINE USES:**

a. To disclose information when OGE determines that the records are arguably relevant to a proceeding before a court, grand jury, or administrative or adjudicative body; or in a proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

c. To disclose information to appropriate agencies, entities, and persons when: (1) OGE suspects or has confirmed that there has been a breach of the system of records; (2) OGE has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the agency (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OGE’s efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

d. To disclose information to another Federal agency or Federal entity, when OGE determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

e. To disclose pertinent information to the appropriate Federal, State, or local agency responsible (hereinafter “responsible agency”) for investigating,

prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when the record either alone or in conjunction with other information indicates a violation or potential violation of civil or criminal law or regulation.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records are maintained in paper and/or electronic form.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

These records are retrieved by the name of the individual on whom they are maintained.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

These records are retained in accordance with the National Archives and Records Administration General Records Schedule (GRS) 5.3: Continuity and Emergency Planning Records. Disposal of paper records is by shredding, and disposal of electronic records is by deletion.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Paper records are maintained in locked file storage areas or in specified areas to which only authorized personnel have access. Electronic records are maintained in a secured electronic system accessible only to on-site OGE employees. An individual OGE employee has access only to his or her own record. In addition, individual records in the system are available to authorized OGE personnel whose duties require access.

**RECORD ACCESS PROCEDURES:**

Individuals requesting access to this system of records must follow the procedures set forth in OGE’s Privacy Act regulations at 5 CFR part 2606.

**CONTESTING RECORD PROCEDURES:**

OGE employees have full access to and complete control over their individual record and may amend information at any time, or they may contact the System Manager. Individuals must furnish the following information for their records to be located and identified:

- a. Full name.

Individuals requesting amendment must also follow OGE’s Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 2606).

**NOTIFICATION PROCEDURE:**

Individuals wishing to inquire whether this system of records contains

information about themselves must follow the procedures set forth in OGE’s Privacy Act regulations at 5 CFR part 2606.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

**HISTORY:**

68 FR 3097.

Approved: November 5, 2021.

**Emory Rounds,**

*Director, U.S. Office of Government Ethics.*

[FR Doc. 2021-24567 Filed 11-9-21; 8:45 am]

**BILLING CODE 6345-03-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Centers for Medicare & Medicaid Services**

**[Document Identifier: CMS-368 and -R-144]**

**Agency Information Collection Activities: Proposed Collection; Comment Request**

**AGENCY:** Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS’ intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency’s functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments must be received by January 10, 2022.

**ADDRESSES:** When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways: