

§ 31.3121(a)(2)–1(d)(3) for payments made on or after December 15, 2005), or  
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**Mark E. Matthews,**

*Deputy Commissioner of Services and Enforcement.*

Approved: December 1, 2005.

**Eric Solomon,**

*Acting Deputy Assistant of the Treasury (Tax Policy).*

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## NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

### 28 CFR Part 906

[NCPCC 113]

#### Outsourcing of Noncriminal Justice Administrative Functions

**AGENCY:** National Crime Prevention and Privacy Compact Council.

**ACTION:** Final rule.

**SUMMARY:** The Compact Council, established pursuant to the National Crime Prevention and Privacy Compact Act of 1998 (Compact), is adopting, as a final rule, without change, an interim final rule which permits the outsourcing of noncriminal justice administrative functions involving access to criminal history record information (CHRI). Procedures established to permit outsourcing are required to conform with the Compact Council's interpretation of Articles IV and V of the Compact.

**DATES:** This rule is effective December 15, 2005.

**FOR FURTHER INFORMATION CONTACT:** Ms. Donna M. Uzzell, Compact Council Chairman, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308–5333, telephone number (850) 410–7100.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Compact, 42 U.S.C. 14616, establishes uniform standards and processes for the interstate and Federal-State exchange of criminal history records for noncriminal justice purposes. The Compact was approved by the Congress on October 9, 1998, (Pub. L. 105–251) and became effective on April 28, 1999, when ratified by the second state. Article VI of the Compact provides for a Compact Council that has the authority to promulgate rules and procedures governing the use of the Interstate Identification Index (III) System for noncriminal justice

purposes. On December 16, 2004, the Compact Council published in the **Federal Register**, 69 FR 75243, an interim final rule with request for comments. This rule permits a third party to perform noncriminal justice administrative functions relating to the processing of CHRI maintained in the III System, subject to appropriate controls, when acting as an agent for a governmental agency or other authorized recipient of CHRI. Published in a notice elsewhere in today's edition of the **Federal Register** is the Security and Management Control Outsourcing Standard which establishes the appropriate controls.

##### II. Discussion of Comments on the Interim Final Rule

The 60-day comment period for the interim final rule closed on February 14, 2005. Two comments were received from a state agency.

The first comment concerned section 906.2(b). The state agency questioned the clarity of what specifically was contemplated in the exceptions to the provision that contractors, agencies, or organizations shall not be permitted to have terminal access to the III System and suggested further explanation or examples of what situations would permit contractors to have direct terminal access to the III System. The Compact, at Article V (c), provides “Direct access to the National Identification Index by entities other than the FBI and State criminal history record repositories shall not be permitted for noncriminal justice purposes” and 42 U.S.C. 14614(b) provides that “Nothing in the Compact shall interfere in any manner with—(1) access, direct or otherwise, to records pursuant to—(the various laws specified in that section) or (2) any direct access to Federal criminal history records authorized by law.” Therefore, authorized agencies (*i.e.*, FBI, state repositories, and certain agencies performing the background checks authorized under 42 U.S.C. 14614(b)) require direct access to III in order to perform their authorized functions. Although these agencies may choose not to outsource these functions, the exception language in the rule was intended to not prohibit that option.

The second comment questioned whether the Outsourcing Rule has any affect on a specific provision of the Security Clearance Information Act (SCIA) (5 U.S.C. 9101) which authorizes a State criminal history record repository to require that fingerprints accompany a SCIA record check request if certain requirements are met. Pursuant to the SCIA, the six covered

federal agencies may have direct terminal access to the III to conduct record checks of individuals being considered for assignment or retention in a position with access to classified information, a critical or sensitive position, a position of public trust, etc. The SCIA also provides that “Such a request to a State criminal history record repository shall be accompanied by the fingerprints of the individual who is the subject of the request if required by State law and if the repository uses the fingerprints in an automated fingerprint identification system.” Accordingly, the Outsourcing Rule has no impact on this SCIA provision nor does the rule affect the state law requiring fingerprints for use in conducting a state automated fingerprint identification system record check for such purposes.

The Compact Council did not believe that any changes to the rule were necessary based on the comments; therefore, the interim final rule is being adopted as final without change.

##### List of Subjects in 28 CFR Part 906

Administrative practice and procedure, Intergovernmental relations, Law Enforcement, Privacy.

#### PART 906—OUTSOURCING OF NONCRIMINAL JUSTICE ADMINISTRATIVE FUNCTIONS

Accordingly, the interim final rule adding part 906 which was published at 69 FR 75243 on December 16, 2004, is adopted as a final rule without change.

Dated: November 23, 2005.

**Donna M. Uzzell,**

*Compact Council Chairman.*

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## PENSION BENEFIT GUARANTY CORPORATION

### 29 CFR Parts 4022 and 4044

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

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying