



## UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Federal Investigative  
Services

### **Federal Investigations Notice**

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**Notice No. 15-01**

**Date: October 14, 2014**

### **SUBJECT: Reminder Regarding Requirements of the Fair Credit Reporting Act**

OPM is reminding agencies of the requirements of the Fair Credit Reporting Act (FCRA) as it applies to requests for background investigations and execution of agencies' suitability program responsibilities. Please note that these requirements apply both to agencies requesting investigations from OPM's Federal Investigative Services (FIS) and agencies requesting historical investigations through OPM's file release process.

Section 1681b(b)(1) of title 15 United States Code and OPM have set out requirements that must be met before obtaining a consumer report for employment purposes. A consumer report is commonly called a "credit report," although it may not be limited to financial information. Before a consumer report may be obtained for employment purposes, the following steps must be taken:

- The Government agency must tell the individual that his or her credit report may be requested (in a document solely for this purpose); and,
- The individual must sign an authorization for disclosure.

Agencies for whom OPM obtains credit reports as part of its investigations are to maintain on file a written certification to the consumer reporting agency that:

- The Government agency has told the individual that his or her credit report may be requested (in a document solely for this purpose) and that the subject has provided written authorization to obtain the report;
- The Government agency will comply with the FCRA's adverse action requirements if it decides to base a suitability action in whole or in part on the report; and,
- Information from the consumer report will not be used in violation of any applicable Federal or State equal opportunity law or regulation.

If a negative suitability action is proposed under the procedures outlined in title 5, Code of Federal Regulations, part 731, subpart D, and is based in whole or in part on a consumer credit report, the agency must provide the individual with the following:

- A copy of the credit report relied upon to make the decision; and
- A description of rights under the FCRA as referenced in Appendix K of Part 1022 of title 12, Code of Federal Regulations. This summary of rights is available from the Federal Trade Commission's Consumer Response Center at <http://www.consumer.ftc.gov/articles/pdf-0096-fair-credit-reporting-act.pdf>.

Providing this information at the same time the required written notice of proposed action is issued gives the individual an opportunity to explain any inaccuracies in the report before a final decision is made.

When an agency takes a final negative suitability action based in whole or in part on a consumer credit report the agency must:

- Provide written notification of the negative suitability action to the individual;
- Provide the individual with the name, address, and telephone number of the consumer reporting agency that furnished the report, including a toll-free number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis;
- Provide a statement that the consumer reporting agency did not make the decision to take negative action and is unable to provide the individual with the specific reasons why the action was taken;
- Provide notice to the individual of the right to obtain an additional free copy of the consumer report within 60 days of receiving the notice of adverse action (Consumer rights to free credit reports, annually and under certain circumstances, were expanded by the FACT Act; see [www.consumerfinance.gov/learnmore/](http://www.consumerfinance.gov/learnmore/) and <http://www.consumer.ftc.gov/articles/0157-employment-background-checks> for additional information); and
- Provide notice of the individual's right to dispute, with a consumer reporting agency, the accuracy or completeness of any information in a consumer report furnished by the consumer reporting agency.

If you have questions about agency requirements for complying with the FCRA in the background investigations process, please contact External Liaison. You can also read more at <http://business.ftc.gov/documents/0487-background-checks-what-employers-need-know>.



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Code:	736, Investigations
Distribution:	SOIs/SONs
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