

**FREE STATE PETITIONS ACT
NO. 2 OF 2008**

[ASSENTED TO 25 JULY, 2008]
[DATE OF COMMENCEMENT: 25 JULY, 2008]

(English text assented to and signed by the Premier)

This Act was published in *Provincial Gazette* 51 dated 25 July, 2008.

ACT

To provide for the right to submit a petition to the Legislature of the Province of the Free State; to provide for the general principles and procedures for the submission of a petition to the Legislature; to provide for the consideration of a petition by committees of the Legislature; and to provide for incidental matters.

ARRANGEMENT OF SECTIONS

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BE IT ENACTED by the Provincial Legislature of the Free State, as follows:—

1. Definitions.—In this Act, unless the context otherwise indicates—

“**administrative support service**” means employees of the Legislature assigned by the Secretary for purposes of the effective implementation and execution of this Act;

“**Chairperson**” means the chairperson of the Committee;

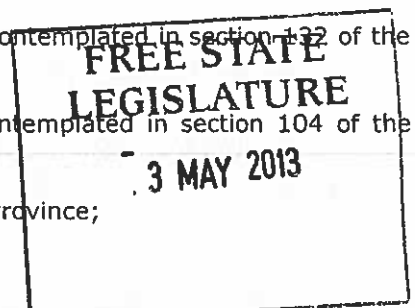
“**Committee**” means a Portfolio Committee of the Legislature, and includes an *ad hoc* Committee established in terms of the Standing Rules and Orders;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**Executive Council**” means the executive council of the Province contemplated in section 132 of the Constitution;

“**Legislature**” means the provincial legislature of the Province contemplated in section 104 of the Constitution;

“**municipal council**” means the local government authority in the Province;



"petition" means a complaint or request or a representation or a submission addressed by a petitioner to the Committee in terms of this Act;

"petitioner" means a person who submits a petition in terms of this Act, and includes a natural or juristic person;

"prescribed" means prescribed by regulation in terms of section 16;

"Province" means the Province of the Free State established in terms of section 103 of the Constitution;

"relevant authority" means a provincial department, municipal council, or other government institution over which the Legislature exercises oversight;

"Secretary" means the Secretary to the Legislature, or any official designated by the Secretary in writing;

"Speaker" means the Speaker of the Legislature elected in terms of section 111 of the Constitution;

"Standing Rules and Orders" means the rules and orders made for the conduct of business of the Legislature in terms of section 116 of the Constitution;

"this Act" includes the regulations promulgated under this Act.

2. Right to petition.—(a) Subject to the provisions of this Act and any other law, a petitioner has the right to petition the Legislature.

(b) The administrative support service must render assistance to a prospective petitioner who wishes to submit a petition to the Legislature.

3. General principles.—(1) A petitioner must submit a petition in writing in any of the official languages of the Republic of South Africa.

(2) The Legislature must—

- (a) respect, protect and promote the rights of a petitioner provided for in this Act;
- (b) take appropriate steps to promote and facilitate participation by the citizens of the Province in the process of governance in the Province, particularly persons previously disadvantaged by unfair discrimination of whatever nature; and
- (c) enhance democracy by exercising maximum accountability and transparency in their consideration of petitions.

(3) The Legislature must promote and facilitate a fair and equitable process of considering petitions submitted to the Legislature in terms of this Act.

4. Petitions.—(1) A petition may be—

- (a) a single petition, which is an individual submission from a single petitioner, concerning a particular complaint or request;
- (b) an association petition, which is an individual submission from an association or single petitioner mandated by an association to submit that petition in writing, concerning a particular complaint or request;
- (c) a collective petition, which is a collection of signatures from a number of petitioners, concerning a particular complaint or request;
- (d) a mass or group petition, which is made up of individual or group submissions from a number of petitioners, concerning the same or substantially similar complaints or requests.

- (2) A petition may be submitted by a person acting—
- (a) in his or her own interest;
 - (b) in the interest of another person who is not in a position for whatever reason to submit a petition in his, her or its own name;
 - (c) as a member of or in the interest of a group or section of a community; or
 - (d) in the public interest.
- (3) A petition may subject to subsection (4) address any matter—
- (a) within the legislative authority of the Province contemplated in the Constitution;
 - (b) within the executive authority of the Province contemplated in the Constitution;
 - (c) assigned to a member of the Executive Council in terms of the Constitution; or
 - (d) relating to the provincial supervision of local government contemplated in the Constitution.
- (4) The Legislature must not consider a petition—
- (a) falling outside the scope of matters contemplated in subsection (3);
 - (b) concerning a matter pending in a court of law or other tribunal or forum contemplated in the Constitution;
 - (c) in connection with the conviction and sentencing by a criminal court of law of a person to a period of imprisonment; or
 - (d) addressing a matter, which falls within the scope of a commission of inquiry established in terms of section 127 (2) (e) of the Constitution.
- (5) The Legislature may not consider a petition which—
- (a) is illegible;
 - (b) does not state the correct name and contact details of the petitioner and, where applicable, the name of the association or group on whose behalf the petition has been submitted;
 - (c) has not been signed by the petitioner, except in the case of a petitioner who is unable to write and—
 - (i) who has made a mark on the petition as a symbol of his or her authority to submit the petition; and
 - (ii) that mark was made in the presence of two witnesses who are able to write and who by signing that petition certify that the mark is that of the petitioner;
 - (d) address a matter previously considered by the Committee except if that petition contains new information that may materially impact on the outcome of the consideration of the matter;
 - (e) contains defamatory statements or improper language;
 - (f) if applicable, addresses a matter that the petitioner has not yet brought to the attention of the relevant authority, or if the petitioner has brought it to the attention of the relevant authority, the relevant authority has not been afforded reasonable time to consider the matter.

5. Submission of petition.—(1) The Speaker must, subject to this Act and the Standing Rules and Orders, consider every petition submitted to him or her for approval.

(2) If the Legislature is sitting, the Legislature, by way of resolution, refers a petition to the relevant

Committee.

(3) If the Legislature is not sitting, the Speaker refers a petition to the relevant Committee in accordance with the provisions of the Standing Rules and Orders.

6. Functions of Committee.—The Committee must—

- (a) subject to this Act, consider every petition referred to it with a view to settling the matter to the satisfaction of the petitioner and report to the Legislature;
- (b) before it considers a petition, record and reduce to writing oral submission or evidence of a petitioner given in terms of section 7 (a);
- (c) require the person or body to report to the Committee in writing on the steps taken by that person or body to address the complaint, request, recommendation or instruction by the Committee, as the case may be;
- (d) if it refuses to consider a petition in terms of section 4 (3), (4) and (5) or because it has not been submitted in accordance with this Act, report that fact to the Legislature;
- (e) as determined by the Legislature, report to the Legislature on the petitions referred to it and all its activities in respect thereof, including:
 - (i) the responsiveness, efficiency and timeousness with which petitions were dealt with; and
 - (ii) the efficacy of the petition process and procedures; and
- (f) instruct the administrative support service to inform a petitioner timeously—
 - (i) from time to time, of progress in respect of the consideration of a petition;
 - (ii) if the petitioner has been invited by the Committee to make oral submission or call a witness, of the date, time and venue the petition is to be considered and that the petitioner may attend that sitting of the Committee; and
 - (iii) of the fact that the petitioner has access to the petition file at all reasonable times as prescribed;
- (g) where applicable, recommend to the Legislature other appropriate remedies available to the petitioner.

7. Powers of Committee.—The Committee may—

- (a) invite a petitioner to—
 - (i) supplement his or her petition with additional oral or written submissions;
 - (ii) call a witness to present oral or written evidence to the Committee;
- (b) invite public submissions from interested parties on a petition under consideration;
- (c) make a recommendation to the Legislature with a view to settling the request or complaint contained in the petition to the satisfaction of the petitioner;
- (d) make a recommendation to the Legislature in respect of the general approach to be followed in future in settling a request or complaint;
- (e) if requested to do so by a petitioner, resolve a dispute or complaint, reverse an Act, rectify an omission, regarding matters other than those prescribed by legislation by means of mediation or negotiation;
- (f) make a recommendation to the Legislature to refer the petition to another committee of the Legislature;

- (g) conclude its consideration of a petition and report to the Legislature, if it resolves that no steps, or no further steps, as the case may be, can be taken to settle the matter to the satisfaction of the petitioner;
- (h) if the complaint or request in the petition has since its submission been settled to the satisfaction of the petitioner, conclude its consideration of a petition and report that fact to the Legislature;
- (i) subject to this Act, appoint a subcommittee in accordance with the Standing Rules and Orders to perform and exercise any of the functions or powers of the Committee.

8. Procedure for consideration of petition.—The procedure for the consideration of a petition is as prescribed in the regulations and in accordance with the Standing Rules and Orders

9. Sitting of Committee.—(1) The Committee may for purposes of hearing evidence and considering a petition sit at a date, time and place in the Province determined by the Committee in accordance with the Standing Rules and Orders.

(2) The Chairperson must give notice of a sitting of the Committee in accordance with the Standing Rules and Orders.

(3) The Chairperson must instruct the administrative support service to timeously—

- (a) ensure that subpoenas for witnesses have been properly issued and served as prescribed;
- (b) inform the petitioner in writing of any matter that the petitioner is entitled to be informed of in terms of this Act, any other law or the Standing Rules and Orders;
- (c) if necessary, ensure that the contents of a petition file are translated into a working language of the Committee;
- (d) perform any additional duty, which will enable the Committee to properly consider a petition and exercise its other functions in terms of this Act and the Standing Rules and Orders.

(4) Evidence presented before the Committee must be heard in public unless it is—

- (a) in the interests of justice; or
- (b) in the interests of the safety of the petitioner or a witness.

(5) The administrative support service must provide the Chairperson with a list of petitions which have not been finalized by the Committee, for tabling at each meeting of the Committee.

10. Accountability of Committee.—(1) The Committee must report to the Legislature as contemplated in section 6.

(2) A debate on an issue raised in a report of the Committee to the Legislature must take place if more than three members of the Legislature so demand.

(3) The Legislature may refer any matter contained in a report submitted to the Legislature by the Committee back to the Committee for reconsideration.

(4) A member of the Legislature has access to the petition file at any reasonable time.

(5) The Legislature may whilst the Committee is considering a petition only conduct an interpellation in respect of that petition to the process of considering the petition and not in respect of the merits thereof.

(6) A member of the Legislature may whilst the Committee is considering a petition only put a question in respect of that petition relating to the process of considering the petition and not in respect of the merits thereof.

- (iii) refuse or fail to produce any book, document, object or other material of evidence in his or her possession or under his or her control which he or she has been instructed to produce;
 - (b) properly subpoenaed in terms of section 11 who produces any book, object or other material of evidence before the Committee which he or she knows is false, fabricated, falsified or unlawfully or falsely altered;
 - (c) who destroys, conceals, falsifies, fabricates or unlawfully or falsely alters any book, document, object or other material of evidence which he or she knows or may be reasonably expected to know may be relevant to a petition being considered or to be considered by the Committee; or
 - (d) who knowingly furnishes the Committee with information or makes a statement before it which is false or misleading, is guilty of an offence.
- (4) Any person who wilfully obstructs or unduly influences the Committee, any member of the Committee or any member of the administrative support service from doing or not doing anything authorized in terms of this Act is guilty of an offence.
- (5) Any person who fails or refuses to comply with a resolution of the Legislature taken in terms of this Act is guilty of an offence.

14. Communication to Petitioner.—The Secretary shall, in writing, communicate to the petitioner any resolution taken by the Legislature in respect of a petition and of the reasons thereof.

15. Penalties.—A person convicted of an offence under section 13 is liable to a fine or to imprisonment for a period not exceeding 12 months or to both such fine and imprisonment.

16. Regulations.—(1) The Speaker may make regulations in respect of—

- (a) the process and procedures for the submission of a petition;
- (b) the registration of a petition and opening of a petition file by the Secretary;
- (c) the preliminary investigation of a petition by the administrative support service;
- (d) the process and procedures for the referral of a petition to a Committee;
- (e) the process and procedures for the handling of a petition when the Legislature is not in session; and
- (f) the procedure to deal with conflicts of interest.

(2) The Speaker may make regulations in respect of—

- (a) the rights of a petitioner contemplated in this Act;
- (b) any duty or function not provided for in subsection (1), which the Committee is required to perform;
- (c) any duty or function not provided for in subsection (1), which the administrative support service is required to perform;
- (d) any timeframe to be adhered to during any process or for any procedure contemplated in this Act;
- (e) the archiving or disposal of a petition file that has been closed;
- (f) the procedures and process for the issuing and serving of a subpoena for purposes of this Act;

- (g) any measures to be taken by the Legislature, the Committee to promote and facilitate participation by the citizens of the Province in the process of governance in the Province; or
- (h) in general, any matter not provided for in this section that may be necessary to prescribe in order to achieve or promote the objects of this Act.

17. **Short title.**—This Act is called the Free State Petitions Act, 2008.

REGULATIONS IN TERMS OF THE FREE STATE PETITIONS ACT NO. 2 OF 2008

[PROVINCIAL NOTICE NO. 232 OF 2008]
[DATE OF COMMENCEMENT: 4 AUGUST, 2008]

These Regulations have been updated to *Provincial Gazette* 60, dated 8 August, 2008.

FREE STATE PETITIONS REGULATIONS, 2008

as amended by

Provincial Notice No. 236 of 2008

REGULATIONS

The Speaker of the Free State Provincial Legislature, Hon. H.S. Ntombela, acting in terms of section 16 of the Free State Petitions Act, 2008 (Act No. 2 of 2008) made the regulations set out in the SCHEDULE.

[Paragraph substituted by Provincial Notice No. 236 of 2008.]

SCHEDULE

1. **Definitions.**—In these regulations, unless the context indicates otherwise, any word or expression defined in the Act has that meaning, and—

“**this Act**” means the Free State Petitions Act, 2008 (Act No. 2 of 2008);

“**Committee**” means a Portfolio Committee of the Legislature, and includes an *ad hoc* Committee established in terms of the Standing Rules and Orders;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**Legislature**” means the Provincial Legislature of the Province contemplated in section 104 of the Constitution;

“**Petition**” means a complaint or request or a representation or a submission addressed by a petitioner to the Committee in terms of this Act;

“**Petitions Office**” has corresponding meaning with administrative support services defined in this Act and includes petitions unit, directorate or one or more of staff members assigned therein; and

“**Province**” means the Province of the Free State established in terms of section 103 of the Constitution.

2. **Application of regulations.**—These regulations apply to any petition referred to in this Act.

3. Submission.—(1) Subject to Rule 39 (1) of the Standing Rules and Orders, a petition may be submitted to the Petitions Office in one of the following:

- (a) mail, whether postal or electronic transmission thereof;
- (b) facsimile transmission;
- (c) delivered personally at Legislature's offices or any designated area;
- (d) online through the Legislature's website;
- (e) at any of constituency offices of the Legislature listed in ANNEXURE "E" of the Act;
- (f) through a Member of the Legislature.

(2) A petition submitted in accordance with paragraph (a), (b), (c) and (d) of sub-regulation (1), must be processed and or registered within 2 working days of its submission and receipt by Petitions Office.

(3) For any petition submitted in accordance with paragraph (e) and (f) of sub-regulation (1); administrators of constituency offices and Members of the Provincial Legislature must send them, using any of provisions of paragraphs (a) to (d) of sub-regulation (1), not later than 3 working days from date of receipt from a petitioner.

(4) Petitions Office must, on receipt of a petition, complete the form prescribed in ANNEXURE "A" of the Act, reflecting:

- (a) the name of the person or persons who made the petition, or the name of the group or section of a community on whose behalf that person has made that petition;
- (b) the capacity contemplated in paragraphs (a), (b), (c) and (d) of section 4 (1) of the Act in which the petitioner is acting;
- (c) the contact details of the person making the petition;
- (d) the subject matter of the petition;
- (e) any matter which the Speaker or the Committee may require to be detailed.

(5) The Petitions Office must consider a petition in order to determine whether it meets the requirements of the Act to be considered by the Committee and enter an opinion in this regard in the petition file.

(6) For purposes of administration, save the provisions of sub-regulation (3), time frames relating to a petition shall start to count from the day it reaches the Petitions Office, irrespective of where and how it was submitted.

4. Registration.—(1) The Petitions Office must, subject to regulation 3 (2), register such petition in a petitions register prescribed in ANNEXURE "B" of the Act, and—

- (a) open a petition file which must contain the form contemplated in regulation 3 (4) and all information or other material particular to the petition which the Petitions Office obtains or produces;
- (b) assign a file number to the petition file contemplated in paragraph (a);
- (c) inform the person who made the petition of the registration thereof and the file number assigned to that petition.

(2) The Petitions Office must keep additional two registers separately, in which the following types of submissions shall be entered—

- (a) for submissions qualifying as petitions, but do not fall within the competence of the

Legislature because they are within exclusive jurisdiction of national sphere/parliament;

- (b) for submissions that do not qualify as petitions due to one or more of provisions of section 4 (4) (b) to (d), or other reasons excluding those provided for in paragraph (a).
- (3) Petitions Office must retain a legible and full copy of the petition file.

5. Preliminary investigation of petition.—(1) The Petitions Office must after registration of a petition and the opening of a file as contemplated in regulation 4, conduct a preliminary investigation in respect of that petition and—

- (a) if applicable, obtain all information or documents on policy held by the executive authority of either or both national and province; or any other relevant official body, which is relevant to the petition;
- (b) endeavour to obtain the input of the Department which is responsible for a function of the executive of the Province which is relevant to the petition;
- (c) if applicable, obtain all information or documents on policy held by a municipal council of a local government on the petition;
- (d) endeavour to obtain the input of the municipal council of a local government, which is responsible for a function within its jurisdiction which is relevant to the petition;
- (e) if necessary, cause the petition and any other relevant information or document to be translated in accordance with provisions of this Act or the Standing Rules and Orders; and
- (f) if the petition pertains to—
 - (i) a question of law;
 - (ii) the interpretation of legislation;
 - (iii) a legislative proposal;
 - (iv) a bill tabled in the legislature, require a legal advisor of the Legislature or the executive authority of the Province to render advice or express an opinion on that matter.

(2) Petitions Office or the legal advisor contemplated in paragraph (f) of subregulation (1) may for purposes of this regulation, request any person or body other than that contemplated in sub-regulation (1) to comment on or provide information held by him, her or it in respect of the statement or complaint which may reasonably be required to complete the preliminary investigation.

(3) Petitions Office must, if it has in terms of—

- (a) paragraphs (a), (b), (c), or (d) of sub-regulation (1) or subregulation (2), requested information, documents on policy or official comment;
- (b) paragraph (e) requested a translation of the petition and other information; or
- (c) paragraph (f) requested legal advice or a legal opinion, request the Department, body, municipal council, local government, translator or legal advisor concerned, as the case may be, to provide such information, documents on policy or official comment within 10 working days after receipt of that request.

(4) Petitions Office must conduct its preliminary investigation without favour or prejudice to the petitioner or the petition and in accordance with any code of conduct applicable to an employee of the Legislature.

(5) Petitions Office must submit the petition file to the Secretary to the Free State Provincial Legislature within 60 working days of its registration, subject to Rule 40 of the Standing Rules and Orders.

(6) Petition File contemplated in sub-regulation (5) must contain separate reports in respect of—

- (a) the preliminary investigation into the petition, including—

- (i) any opinion held or recommendation made by the petitions office in respect of the petition;
- (ii) any opinion or comment on the matter furnished by a legal advisor contemplated in paragraph (f) of sub-regulation (1);
- (b) the steps taken by the petitions office in accordance with sub-regulation (1); and
- (c) the name of any person or body who was requested to provide information in respect of or comment on the petition who or which failed or refused to do so and, if available, his or her or its reasons for failing or refusing to do so.

6. Tabling or referral.—The Speaker must, subject to section 5 of the Act, upon receipt of the petition file, not later than 2 working days, examine the file and—

- (a) table in the Legislature or refer the petition file to the Committee for consideration within 14 working days of approval in terms of Rule 40 of the Standing Rules and Orders, whichever occur first; or
- (b) may refer the file back to the petitions office with instructions that he or she may deem appropriate, including an instruction in respect of the period of time within which the petitions office must comply; or
- (c) may cause the petition contemplated in regulation 4 (2) (a) to be referred to delegates representing the province in the National Council of Provinces for consideration by the Parliament.

7. Consideration by the Committee and archiving of the petition.—(1) The Committee must consider and deal with the petition referred to it by the Legislature by way of resolution or the Speaker, not later than 14 working days of such referral, where after it may—

- (a) recommend that the Speaker refers a petition in whole or in part to person or body contemplated in section 6 (c) of the Act;
- (b) instruct the Petitions Office to inform the petitioner in writing of interim developments in respect of the consideration of a particular petition.

(2) The Secretary to the Free State Provincial Legislature must—

- (a) notify the petitioner in writing of the outcome of the petition; and
- (b) archive the petition file in accordance with any applicable law pertaining to the archiving of documents.

8. Legislature not in session.—(1) The—

- (a) provisions of the Act or the Standing Rules and Orders; and
- (b) the duties and obligations placed on a person or body, including the Legislature, in terms of the Act or the Standing Rules and Orders, are not suspended in respect of a petition solely because the Legislature is in recess, at the end of a legislative term or for whatever other reason not in sitting.

(2) A petition submitted before the Legislature goes in recess or is at the end of a legislative term must be dealt with in accordance with the Act, or the Standing Rules and Orders as if the Legislature is still sitting.

(3) If—

- (a) the term of office of the Legislature expires;

- (b) the Legislature is dissolved in terms of section 109 of the Constitution; or
- (c) the Premier has called an election for the Legislature, and the Legislature has not yet finalized its consideration of the petition, the Legislature must immediately cease its consideration of the petition and instruct the Petitions Office to hold over the petition until a new Legislature has been elected and has met for its first sitting contemplated in section 110 (1) of the Constitution.

(4) If the Petitions Office is investigating a petition in a period during which a Legislature has not yet been elected, it must hold the petition over until the new Legislature has been elected and has met for the first sitting contemplated in section 110 (1) of the Constitution.

(5) Petitions Office must inform in writing a petitioner if a situation contemplated in this regulation arises.

9. Conflict of interests.—(1) Any Member of the Committee or member of staff of the Petitions Office must, if he or she has direct pecuniary interest in any petitioner, in respect of any petitioner or in the outcome of a petition immediately upon becoming aware of that interest—

- (a) in writing notify the Committee of that interest in the case of a Member, and the Secretary to the Free State Provincial Legislature in the case of a member of staff, and details thereof; and
- (b) cause a copy of that notification to the Secretary to the Free State Provincial Legislature to be lodged in the petition file.

(2) Sub-regulation (1) does not in any way derogate from the provisions of—

- (a) the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004 (Act No. 4 of 2004); or
- (b) any code of ethics or code of conduct applicable to any member of the Committee or member of staff of the petitions office.

10. Short title.—These regulations are called the Free State Petitions Regulations, 2008.

**ANNEXURE A
PETITION FORM [PF1]**

[Prescribed form in terms of regulation 3 (4)]

Date			
Full Names		Surname	
Gender	Male	Female	Title
I.D. No.		Contacts:	
		Telephone:	
		Fax:	
		Cell:	
		E-mail:	
Address	Residential:		Alternative contact details/person
	Postal:		
		Telephone:	
		Fax:	
		Cell:	
		E-mail:	
Type of submission	Individual	Group	

How did you hear about Legislature or Petitions Office?	
What is your statement or complaint?	
What is your expectation?	Where have you taken your complaint before, if so, what is the outcome?
Home language:	Preferred language of communication
Did you attach additional statements in a separate document(s), if yes how many?	Signature:
FOR OFFICE USE ONLY:	
Date received:	Handled by:
Appropriate register:	FILE NUMBER:

ANNEXURE B
PETITIONS REGISTER [PRP1]

[Prescribed register in terms of regulation 4 (1)]

No.	Name of petitioner(s)	Registration date	Department/Insti	File number	Assigned official

ANNEXURE C
PETITIONS REGISTER: NCOP [PRN2]

[Prescribed register in terms of regulation 4 (2) (a)]

No.	Name of petitioner(s)	Registration date	Department/Insti	File number	Assigned official

ANNEXURE D
REGISTER FOR OTHER SUBMISSIONS [SR3]
 [Prescribed register in terms of regulation 4 (2) (b)]

<i>No.</i>	<i>Name of Complainant</i>	<i>Submission date</i>	<i>Advice rendered and reasons thereof</i>	<i>Reference number</i>	<i>Responsible official</i>

ANNEXURE E
STITUENCY OFFICES

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ion	Department/Insti	File number	Assigned official
