

(ii) An urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information;

(2) You may ask for expedited processing of a request for records at any time.

(3) In order to request expedited processing, you must submit a statement, certified to be true and correct to the best of your knowledge and belief, explaining in detail the basis for requesting expedited processing. For example, if you are a requester within the category in paragraph (d)(1)(ii) of this section, and you are not a full-time member of the news media, you must establish that you are a person whose main professional activity or occupation is information dissemination, though it need not be your sole occupation; you also must establish a particular urgency to inform the public about the government activity involved in the request, beyond the public's right to know about government activity generally. The formality of certification may be waived as a matter of administrative discretion.

(4) Within 10 calendar days of receipt of a request for expedited processing, the Foundation will decide whether to grant it and will notify you of the decision. If a request for expedited treatment is granted, the request will be given priority and processed as soon as practicable. If a request for expedited processing is denied, any appeal of that decision will be acted on expeditiously.

§ 1600.5 Responses to requests.

(a) *Acknowledgments of requests.* On receipt of your request, the Foundation ordinarily will send an acknowledgment letter to you, which will confirm your agreement to pay fees under § 1600.3(d) and provide an assigned request number for further reference.

(b) *Referral to another agency.* When a requester seeks records that originated in another Federal government agency, the Foundation will refer the request to the other agency for response. If the Foundation refers the request to another agency, it will notify the requester of the referral. A request for any records classified by some other

agency will be referred to that agency for response.

(c) *Grants of requests.* Ordinarily, the Foundation will have 20 business days from when your request is received to determine whether to grant or deny your request. Once the Foundation determines to grant a request in whole or in part, it will notify you in writing. The Foundation will inform you in the notice of any fee charged under § 1600.10 and will disclose records to you promptly on payment of any applicable fee. Records disclosed in part will be marked or annotated to show the amount of information deleted, unless doing so would harm an interest protected by an applicable exemption. The location of the information deleted also will be indicated on the record, if technically feasible.

(d) *Adverse determinations of requests.* If the Foundation denies your request in any respect, it will notify you of that determination in writing. Adverse determinations, or denials of requests, consist of: a determination to withhold any requested record in whole or in part; a determination that a requested record does not exist or cannot be located; a determination that a record is not readily reproducible in the form or format sought; a determination that what has been requested is not a record subject to the FOIA; a determination on any disputed fee matter, including a denial of a request for a fee waiver; and a denial of a request for expedited treatment. The denial letter shall be signed by the General Counsel or his/her designee, and shall include:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reason(s) for the denial, including any FOIA exemption applied by the component in denying the request;

(3) An estimate of the volume of records or information withheld, in number of pages or in some other reasonable form of estimation. This estimate does not need to be provided if the volume is otherwise indicated through deletions on records disclosed in part, or if providing an estimate would harm an interest protected by an applicable exemption; and

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(4) A statement that the denial may be appealed under §1600.8(a) and a description of the requirements for appeal.

§ 1600.6 Disclosure of requested records.

(a) The Foundation shall make requested records available to the public to the greatest extent possible in keeping with the FOIA, except that the following records are exempt from the disclosure requirements:

(1) Records specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and which are, in fact, properly classified pursuant to such Executive order;

(2) Records related solely to the internal personnel rules and practices of the Foundation;

(3) Records specifically exempted from disclosure by statute (other than 5 U.S.C. 552(b)), provided that such statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue or that the statute establishes particular criteria for withholding information or refers to particular types of matters to be withheld. An example that applies to the Foundation is the confidentiality protection for dispute resolution communications provided by the Administrative Dispute Resolution Act of 1996 (ADRA, 5 U.S.C. 571-574).

(4) Records containing trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the Foundation;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) could reasonably be expected to interfere with enforcement proceedings;

(ii) would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) could reasonably be expected to disclose the identity of a confidential source, including a State, local or foreign agency or authority or any private institution which furnished information on a confidential basis, and in the case of a recorded or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) could reasonably be expected to endanger the life or physical safety of any individual.

(8) Records contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Geological or geophysical information and data, including maps, concerning wells.

(b) If a requested record contains exempted material along with non-exempted material, all reasonable segregable nonexempt material shall be disclosed.

(c) Even if an exemption described in paragraph (a) of this section may be reasonably applicable to a requested record, or portion thereof, the Foundation may elect under the circumstances of any particular request not to apply the exemption to such requested record, or portion thereof, subject to the provisions in §1600.7 for confidential commercial information. The fact that the exemption is not applied by the Foundation to any requested