

# DISCLOSURE OF RECORDS POLICY

## 1.0 POLICY STATEMENT

The Bank is not subject to the Freedom of Information Act (5 U.S.C. § 552) ("FOIA"), and therefore evaluates requests for records pursuant to this policy. This policy provides for disclosure of certain Bank records when such disclosure does not adversely affect some legitimate public or private interest, does not violate applicable law, and will not impair the effectiveness of the Bank or the Federal Reserve System in the performance of their respective responsibilities or operations.

Nothing contained in this policy is intended to affect the informational services that are routinely provided by the Bank.

## 2.0 DEFINITIONS

**2.1** "Bank" means the Federal Reserve Bank of Kansas City, and its branches.

**2.2** "Board" means the Board of Governors of the Federal Reserve System.

**2.3** The word "day" means a business day for the Bank.

**2.4** "FOMC" means the Federal Open Market Committee of the Board.

**2.5** "Records of the Bank" means rules, written opinions, memoranda, letters, reports, and other papers or documents, including any such materials stored electronically, that constitute part of the Bank's official files.

Excluded from "Records of the Bank" are: email, personal files, notes and calendars of employees, intellectual property, documents not in existence or not in the Bank's possession or control (e.g., Records of the Board, defined in Section 2.6, are not under the control of the Bank), records prepared or maintained by the Bank in its capacity as Fiscal Agent of the United States, records of certain entities as described in Section 3.2, documents which have been disposed of in accordance with law or established Bank procedure, and documents of federal or state agencies.

**2.6 Records of the Board.** Records of the Board include applications, rules, statements, opinions, orders, memoranda, letters, reports, accounts, and other written material, as well as magnetic tapes, computer printouts of information obtained through use of existing computer programs, maps, photographs, and other materials in non-written or machine readable form that are under the control of the Board, that contain information of the Board, and that (i) constitute part of the Board's official files, or (ii) are maintained for administrative reasons in the regular course of business in official files in any division or office of the Board or any Federal Reserve Bank in connection with the transaction of any official business. Records prepared, received, or maintained by the Bank in connection with supervisory or

regulatory activities conducted on behalf of the Board are deemed to be under the control of the Board and are considered Records of the Board.<sup>1</sup>

**2.7 "Search"** means a search of the Bank's official files that are reasonably likely to contain documents of the kind requested. "Search" does not include research or any other activity that creates rather than retrieves existing documents.

**2.8 "Senior officer"** means the First Vice President and any Senior Vice President.

### **3.0 RECORDS NOT COVERED**

Except as otherwise provided herein, this policy does not apply to information that is not a Record of the Bank, or to the following Records of the Bank:

**3.1** Records of or relating to the FOMC (including economic studies/reports prepared for the use of the Bank's President at FOMC meetings), the United States, the Treasury Department, a federal or state agency, or any entity for which the Bank acts as fiscal agent; and

**3.2** Records maintained by the Bank about a current employee.<sup>2</sup>

### **4.0 REQUEST FOR RECORDS OF THE BANK**

**4.1 Request Must be in Writing.** Any request for Records of the Bank must be submitted in hard copy form<sup>3</sup> to the Bank's General Counsel. The Bank may, in its discretion, honor an oral or telephone request, but if the requester is dissatisfied with the Bank's response and wishes to appeal, the requester first must submit a hard copy request which will be treated as an initial request.

**4.2 Form of Request.** Each request must contain the following:

**4.2.1** the name and address of the person filing the request, and a telephone number at which the requester can be reached during business hours;

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<sup>1</sup> A request for confidential Records of the Board generally must comply with Subpart B of the Board's Regulations Regarding Availability of Information. 12 C.F.R. § 261.1 et seq. A non-FOIA request for confidential supervisory information of the Board should comply with Subpart C of the Board's Regulations Regarding Availability of Information. 12 C.F.R. § 261.20 et seq. A request for the public portion of an application filed under the Bank Holding Company Act, of a notice filed under the Change in Bank Control Act, or of other publicly available reports filed in connection with the Bank's supervision of depository institutions may be made to the Bank's Division of Supervision and Risk Management Records Center.

Unauthorized disclosure of confidential Records of the Board may subject the person disclosing such information to federal criminal penalties. 18 U.S.C § 641 (2011).

<sup>2</sup> The Bank's Human Resources Policies Manual governs a current employee's access to these records.

<sup>3</sup> Submissions received via electronic mail and facsimile formats will not be accepted.

**4.2.2** a sufficient description of the records requested so that Bank staff can identify and locate the records without undue difficulty;

**4.2.3** the name of any pending litigation to which the request relates, and the court and its location; and,

**4.2.4** the agreement of the requester to pay the Bank any fees owed in accordance with the Fee Schedule contained in Appendix A, or a request for waiver of such fees (see Section 8). Prepayment of the fee is required if the fees are estimated to exceed \$250 or if the requester previously has failed to pay any fee.

**4.3 Improper Request.** Any request which does not comply with the requirements of Section 4.2 will not be handled by the Bank. The Bank will advise the requester if the Bank determines that the request is improper.

**4.4 Request for Certain Records Not Covered by Policy.** If a person requests a record not covered by this policy, the Bank may, in its sole discretion, forward the request to the proper party or return the request to the requester. If the Bank elects to forward the request to another party, the Bank promptly will so advise the requester.

The Bank will not release records of any party for which it serves as agent unless the principal expressly has authorized the disclosure.

**4.5 Determination.** Within twenty (20) days after receiving a request, the Bank's General Counsel, after consulting with appropriate persons, shall determine whether the record requested will be disclosed. The requester promptly will be notified in writing of the decision. If the request is denied, in whole or in part, the requester will be advised of the Bank's appeal procedure.

**4.6 Time Extension.** If circumstances warrant, the Bank's General Counsel may extend the time for responding to any request, but the requester shall be notified in writing of any extension.

## **5.0 RECORDS SUBJECT TO DISCLOSURE**

**5.1** Unless otherwise exempt, a Record of the Bank that falls into one of the following classifications will be disclosed upon request:

**5.1.1** Records that describe the Bank's organization and the manner in which the public can obtain information, make submittals or requests, and obtain decisions including:

a) descriptions of the Bank's operations;

b) procedures and any forms generally available to the public or depository institutions; and,

c) Operating Circulars adopted by the Bank, including any amendments thereto.

**5.1.2** Opinions published by the Bank, policy statements adopted by the Bank, and those portions of administrative staff manuals that affect a member of the public in dealing with the Bank.

**5.2** Notwithstanding anything to the contrary, the Bank may decline to make information available if disclosure would interfere with the Bank's performance of its responsibilities as mandated by statute or regulation.

## **6.0 RECORDS NOT SUBJECT TO DISCLOSURE**

The Bank may, in its sole discretion, decline to make available records:

**6.1** specifically authorized by an Executive Order to be kept secret in the interest of national defense or foreign policy;

**6.2** specifically exempted from disclosure by statute or regulation of the Board;

**6.3** that constitute trade secrets and/or privileged or confidential commercial or financial information obtained from a person or organization;

**6.4** in the form of inter-department or intra-department memoranda, notes or letters consisting of analysis, opinions or recommendations;

**6.5** related to the security procedures of this Bank;

**6.6** in the form of personnel and medical files and similar files or information;

**6.7** for which disclosure would constitute a clearly unwarranted invasion of personal privacy with respect to a current or former employee, an applicant, or any other person with respect to whom the Bank has such records;<sup>4</sup>

**6.8** that constitute privileged and confidential attorney work product and attorney-client communications;

**6.9** related to specific extensions of credit made by the Bank;

**6.10** contained in statements of account or which reflect entries made to any account maintained at the Bank;

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<sup>4</sup> In addition, the Privacy Act (5 U.S.C. §552A (2011)) generally prohibits a Government agency from disclosing information about individuals contained in systems of records absent permission of those individuals. Though the Bank is not subject to the Privacy Act, it is the Bank's policy to withhold information of the kind that a Government agency may not disclose under the Privacy Act.

**6.11** that include data, formulas or other information used by the Bank in determining the prices to be charged for Federal Reserve services;

**6.12** in the form of investigatory records compiled for law enforcement or security purposes;

**6.13** in the form of minutes of meetings of the Bank's Management Committee or the Bank's Board of Directors (and its committees);

**6.14** in the form of internal policies or procedures;

**6.15** contained in or related to examination, operating, or condition reports related to the regulation or supervision of financial institutions (to the extent such records are deemed to be records of the Bank); and

**6.16** that are unduly burdensome to locate, access, collect or disclose.

## **7.0 APPEAL PROCEDURE**

Any person whose request for Records of the Bank is denied, in whole or in part, may file an appeal with the Bank's General Counsel. Any request for review of a denial must be submitted in hard copy form and sent by the requester within ten (10) days after the Bank's General Counsel notifies the requester of the denial. The President of the Bank, or such senior officer as the President may designate, shall make a determination with respect to the appeal within twenty (20) days after the appeal is received. The appealing party promptly shall be notified of the Bank's decision. The determination of the President or his/her delegee is final.

## **8.0 FEE WAIVER**

**8.1 Fee Waiver.** The Bank, in its discretion, may grant a fee waiver if it determines that the disclosure of the requested record is in the public interest because it contributes significantly to public understanding of the operations or activities of the Bank, and the disclosure is not primarily in the commercial interest of the requester.

### **8.2 Form of Request for Fee Waiver.**

A request for a fee waiver must include the following:

**8.2.1** A clear statement of the requester's interest in the requested record, and the basis for the requester's claim that a waiver of the fee is appropriate;

**8.2.2** The use proposed for the record(s) and whether the requester will derive a benefit, monetary or otherwise, from such use; and,

**8.2.3** A statement of how the public will benefit from the record.

## **9.0 REASONABLY SEGREGABLE PORTIONS OF A RECORD**

Any reasonably segregable portion of a record or item of information not otherwise disclosable under Section 6 shall be provided to any person after deletion of portions which are not appropriate for disclosure. The term "reasonably segregable portion" means any portion of the record which is not exempt from disclosure and which, after deletion of the exempt material, still conveys meaningful information which is not misleading.

## **10.0 BANK'S DISCRETION TO DISCLOSE EXEMPT RECORDS**

**10.1** If the disclosure of the record is not prohibited by statute or by regulation of the Board, certain information which is exempt from disclosure may nonetheless be disclosed if the Bank's General Counsel concludes that such action is consistent with the effective performance by the Bank of its statutory responsibilities, and if disclosure will not cause injury to a public or private interest intended to be protected by the exemption.

**10.2** The fact that the Bank discloses otherwise exempt information in a specific instance shall not be construed as a waiver of the right to refuse to disclose similar information under the same or substantially similar circumstances in the future.

## **11.0 EMPLOYEE DISCLOSURE OF RECORDS**

Except as provided elsewhere in this policy or in any other policy of the Bank, no employee of the Bank shall disclose or permit disclosure of Records of the Bank or Records of the Board to any person other than a Bank employee entitled to the information in the performance of his or her duties. This prohibition includes, but is not limited to, giving out or furnishing records or copies of records or allowing anyone to copy or inspect such records.

## **DISCLOSURE OF CONTRACT INFORMATION**

### **12.0 REQUEST FOR CONTRACT INFORMATION**

**12.1** Upon request from a competing but unsuccessful bidder, the following information will be disclosed following execution of a contract between the Bank and the successful bidder.

**12.1.1** The name, address and bottom line bid amount of the successful bidder.

**12.1.2** An explanation of the basis for the award if the award was made to other than the lowest bidder.

**12.2** In certain instances, subject to the Bank's discretion, information (other than confidential information) contained in the proposal of the successful bidder may be disclosed to an unsuccessful bidder(s).

## SERVICE OF SUBPOENA

### 13.0 SERVICE ON BANK

**13.1 Service During Business Hours.** Any process server who attempts to serve a subpoena on Bank premises first must contact an attorney from the Bank's Legal Department (or the Branch Executive or another officer at a branch office). The attorney (or Branch officer) shall be responsible for accepting any subpoena served on the Bank. If a subpoena is to be served on an employee, the attorney (or Branch officer) shall make the employee available to receive process but in a private area away from the employee's department.

**13.2 Service After Hours.** Any process server who attempts to serve a subpoena on Bank premises after customary business hours shall be asked to return to the Bank during customary business hours.

**13.3 Service Through the Mail.** Any subpoena received through the mail should promptly be referred to the Bank's Legal Department.

### 14.0 SERVICE ON BOARD

**14.1 Records of Board.** A subpoena for Records of the Board must be served on the Board and should not be served on the Bank.<sup>5</sup> Any attempt to subpoena Records of the Board by serving the Bank is ineffective. The Board's General Counsel should be notified promptly upon receipt of any subpoena seeking Records of the Board.

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<sup>5</sup> Service of a subpoena on the Board should comply with the Board's Regulations Regarding Availability of Information. 12 C.F.R. § 261.3(c).

## Appendix A

### FEE SCHEDULE

#### ***Duplication***

Photocopy, per standard page \$0.10  
Paper copies of microfiche, per frame \$0.10  
Duplicate microfiche, per microfiche \$0.35

#### ***Search and review***

Clerical or technical, hourly rate \$20.00  
Professional or supervisory, hourly rate \$38.00  
Manager or senior professional, hourly rate \$65.00

#### ***Computer search and production***

Computer operator search, hourly rate \$32.00  
Tapes, per tape \$9.00 - \$18.00, depending on type  
CD, per CD \$5.00  
DVD, per DVD \$10.00  
Computer output (PC), per minute \$0.10  
Computer output (mainframe), actual cost