

Federal Reserve Bank of New York

Freedom of Information Policy

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FREEDOM OF INFORMATION POLICY

GENERAL PROVISIONS

1.0 POLICY STATEMENT

The Freedom of Information Act (5 U.S.C. § 552) (“FOIA”) requires that agencies of the Federal government make their records available to the public, unless the records are specifically exempted by one or more provisions in FOIA.

The Federal Reserve Bank of New York is not an “agency” as that term is defined in FOIA and is, therefore, not subject to its provisions. However, the Bank has committed to comply with the spirit of FOIA. Accordingly, this Policy provides for disclosure of Bank records, unless such records fall within one of several exemptions set forth below.

Nothing contained in this Policy is intended to affect the informational services that are routinely provided by the Bank, nor any other obligations to disclose information pursuant to law (*e.g.*, Section 1103 of the Dodd-Frank Wall Street Reform and Consumer Protection Act) or other legal process.

2.0 DEFINITIONS

- 2.1 “Bank” means the Federal Reserve Bank of New York and its offices.
- 2.2 “Board” means the Board of Governors of the Federal Reserve System.
- 2.3 “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, accounts, and other papers or documents, including any such materials stored digitally, that are (a) created or obtained by the Bank and (b) under the Bank’s control.

“Records of the Bank” does not include: handwritten notes, personal files of employees, daily calendars and telephone logs not incorporated into a system of records, intellectual property, documents not in existence, documents which have been disposed of in accordance with law or established Bank procedure.

In addition, “records of the Bank” does not include records that, while maintained by the Bank, are not in the control of the Bank, including records of Board,¹ records of the FOMC,² records of the U.S. Department

¹Requests for records of the Board generally must comply with the Board’s Rules Regarding Availability of

of Treasury,³ and records of other Federal or state agencies. Such records include, but are not limited to, records pertaining to supervisory matters wherein the Bank acts pursuant to authority delegated from the Board, records pertaining to the execution of monetary policy on behalf of the FOMC and, in some instances, records pertaining to the Bank's activities as fiscal agent for the Treasury. The Bank will not release information/documents of any party for which it serves as agent unless the principal has expressly authorized the disclosure.

- 2.6 "Search" means a search of the Bank's official files which are reasonably likely to contain documents of the kind requested.
- 2.7 "Search" does not include research or any other activity which creates rather than retrieves existing documents.
- 2.8 "Senior officer" means the President, First Vice President, and any Executive Vice President or any Senior Vice President.

PROCEDURE FOR REQUEST

3.0 REQUEST FOR RECORDS OF THE BANK

3.1 Request Must be in Writing. Any request for Records of the Bank shall be submitted in writing to the Corporate Secretary of the Bank. 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 must submit a written request which shall be treated as an initial request.

3.2 Form of Request

Each request must contain the following:

- 3.2.1 The name and address of the person filing the request, and a telephone number at which the requester can be reached during business hours;
- 3.2.2 A sufficient description of the records requested so that Bank staff can identify and locate the records without undue difficulty;
- 3.2.3 The name of any pending litigation to which the request relates, and

Information. 12 C.F.R. § 261.1 et seq.

² Requests for records of the FOMC generally must comply with the FOMC's Rules Regarding Availability of Information. 12 C.F.R. § 271.1 et seq.

³ Requests for records of the Treasury generally must comply with the Treasury's FOIA regulations. 31 C.F.R. § 1.1 et seq.

the court and its location; and

- 3.2.4 The agreement of the requester to pay the Bank for any fees owed in accordance with the Fee Schedule contained in Appendix A, or a request for waiver of such fees (see Section 5).
- 3.3 Advance Payment of Fees. The Bank may request that any fees be paid in advance as a condition to further processing of the request.
- 3.4 Improper Request. Any request which does not comply with the requirements of Section 3.2 need not be processed by the Bank. The Bank will advise the requester if the Bank determines that the request is improper.
- 3.5 Determination. Within twenty (20) business days after receiving a request, the Bank's Corporate Secretary, after consulting with other appropriate persons, shall determine whether the information requested will be disclosed. The requester will be promptly notified in writing of the decision. If the request is denied, in whole or in part, the requester shall be advised of the Bank's request for reconsideration procedure.
- 3.6 Time extension. The Bank's Secretary may extend the time for responding to any request, but the requester shall be notified in writing of any extension and the reason for the same.
- 3.7 Media Inquiries. In responding to any media inquiry for information or records, Bank employees should adhere to the Bank's current media contact policy, as contained in the Bank's *Policy on Communicating with the Public*.

4.0 REQUEST FOR RECONSIDERATION

Any person whose request for information is denied, in whole or in part, may file a request for reconsideration with the Bank's Corporate Secretary. Any request for reconsideration must be in writing and must be sent by the requester within ten (10) business days after receipt of notification by the Bank's Corporate Secretary of the denial. In considering a request for reconsideration, the Corporate Secretary shall consult with the President of the Bank, or such senior officer as the President may designate, and shall make a determination with respect to the request within twenty (20) business days after the request is received. The requesting party shall be notified of the Bank's decision.

5.0 FEE WAIVER

- 5.1 Fee Waiver. The Bank, in its discretion, may grant a fee waiver if it

determines that the disclosure of the requested information is in the public interest because it contributes significantly to the public understanding of the operations or activities of the Bank, and the disclosure is not in the commercial interest of the requester.

5.2 Form of Request for Fee Waiver

A request for a fee waiver must include the following:

- 5.2.1 A clear statement of the requester's interest in the requested document and the basis for the requester's claim that a waiver of the fee is appropriate;
 - 5.2.2 The use proposed for the document(s) and whether the requester will derive a benefit, monetary or otherwise, from such use;
 - 5.2.3 A statement of how the public will benefit from the information; and
 - 5.2.4 If specialized use of the information requested is contemplated, a statement of the requester's relevant qualifications which would justify specialized use.
- 5.3 Minimum Fees Waived. Fees that total less than five dollars (\$5.00) will automatically be waived.

DISCLOSURE OF RECORDS

6.0 RECORDS SUBJECT TO DISCLOSURE

- 6.1 Unless otherwise exempt, information which falls into one of the following classifications will be disclosed upon request:
 - 6.1.1 Information which describes 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) substantive rules and policy statements adopted by the Bank including any amendments or revisions thereto.
 - 6.1.2 Opinions and orders published by the Bank, policy statements adopted by the Bank, and administrative staff manuals and instructions that affect members of the public in dealing with the Bank.

- 6.1.3 Pursuant to the Board’s Rules Regarding Availability of Information (12 C.F.R. Part 261), the public portion of applications filed under the Bank Holding Company Act, of notices filed under the Change in Bank Control Act, and of other reports filed in connection with the Bank’s supervision of depository institutions.

A request for any of the foregoing need not be directed to the Bank’s Secretary and may be made to the Public Information Function.

- 6.2 Notwithstanding anything to the contrary, the Bank may, consistent with applicable law, decline to make information available if disclosure would materially interfere with the Bank’s performance of its responsibilities as mandated by statute or regulation.

7.0 RECORDS NOT SUBJECT TO DISCLOSURE

- 7.1 The Bank may, in its sole discretion, decline to make available certain records in accordance with the exemptions set forth in Section 7.2.
- 7.2 The following categories of records are exempt from disclosure under this Policy:
- 7.2.1 *Exemption 1:* Those records specifically authorized by an Executive Order to be kept secret in the interest of national defense or foreign policy;
 - 7.2.2 *Exemption 2:* Those records related solely to the internal personnel rules and practices of the Bank;⁴
 - 7.2.3 *Exemption 3:* Those records specifically exempted from disclosure by statute or regulation of the Board;
 - 7.2.4 *Exemption 4:* Those records containing trade secrets and privileged or confidential commercial or financial information obtained from a person or organization;
 - 7.2.5 *Exemption 5:* Inter-department or intra-department memoranda, notes or letters consisting of analysis, minutes, opinions or recommendations and including those records that are privileged and confidential attorney work product, attorney-client communications, pre-decisional, or otherwise privileged and confidential;

⁴ In addition, note that the Privacy Act (5 U.S.C. § 552a) generally prohibits Government agencies from disclosing information about individuals contained in systems of records absent permission of those individuals. It is the Bank’s policy to withhold information of the kind that Government agencies may not disclose under the Privacy Act.

- 7.2.6 *Exemption 6:* Personnel and medical files and similar files or information the disclosure of which could constitute a clearly unwarranted invasion of personal privacy;
- 7.2.7 *Exemption 7:* Those records that are related to the security procedures of this Bank or are investigatory records compiled for law enforcement or security purposes;
- 7.2.8 *Exemption 8:* Those records 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);
- 7.2.9 *Exemption 9:* Those records related to specific extensions of credit made by the Bank;⁵
- 7.2.10 *Exemption 10:* Those records contained in statements of account or which reflect entries made to any account maintained at the Bank; and
- 7.2.11 *Exemption 11:* Those records containing data, formulas or other information used by the Bank in determining the prices to be charged for Federal Reserve services.

8.0 REASONABLY SEGREGABLE PORTIONS OF A RECORD

Any reasonably segregable portion of a record or item of information not otherwise exempt under Section 7 shall be provided to any person after deletion of portions which are not meant to be disclosed. The term “reasonably segregable portion” means any portion of the records which is not exempt from disclosure and which after deletion of the exempt material still conveys meaningful information which is not misleading.

9.0 BANK’S DISCRETION TO DISCLOSE EXEMPT RECORDS

- 9.1 If the disclosure of the record is not prohibited by law, certain information which is exempt from disclosure may nonetheless be disclosed if the Bank’s Corporate Secretary 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.
- 9.2 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

⁵ This Policy shall not abrogate or otherwise override the disclosure requirements related to the Bank’s lending activities set forth in the Dodd-Frank Wall Street Reform & Consumer Protection Act.

similar information under the same or substantially similar circumstances in the future.

10.0 EMPLOYEE DISCLOSURE OF RECORDS

Except as provided in Section 6 or in any other Policy regarding disclosure of Records of the Bank, no employee of the Bank shall disclose or permit Records of the Bank to be disclosed 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 any non-Bank employee to copy or inspect Bank records without appropriate authorization from Bank management.

DISCLOSURE OF CONTRACT INFORMATION

11.0 DISCLOSURE OF CONTRACT INFORMATION

11.1 Upon the awarding of a contract, the Bank will disclose the following information to competing, but unsuccessful, offerors, and to other persons upon request.

11.1.1 The name, address and bottom line offer amount of the successful offeror, the number of participants in the procurement, and in general terms, the reason for rejection of the unsuccessful offer.

11.2 In certain instances, subject to the Bank's discretion, information (other than information exempt from disclosure for which the offeror has requested confidentiality) contained in the proposal of the successful offeror may be disclosed to unsuccessful offerors and others.

SERVICE OF SUBPOENA

12.0 SERVICE ON BANK

12.1 Service During Business Hours. Any process server who attempts to serve a subpoena on Bank premises must contact the Bank's Corporate Secretary. If the subpoena involves a suit or action being brought against the Bank, or against any Bank employee arising from performance of his or her work, or if the subpoena requires the production of Bank records or other Bank information, including testimony by a Bank employee, the Bank's Corporate Secretary may accept service of the subpoena. The Legal Function should be notified immediately thereafter. If the subpoena involves a Bank employee in an individual capacity, in a matter not connected with his or her work, the Bank's Corporate Secretary, subject to the approval of the Legal Function, may notify and make available the employee to receive process, but in a private area away from the employee's department in order to effectuate service, provided that such would not be

disruptive to the business of the Bank.

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

12.3 Service Through the Mail. Any service of process received through the mail should promptly be referred to the Legal Department.

13.0 SERVICE ON BOARD

13.1 Records of Board. A subpoena for Records of the Board must be served on the Board and should not be served on the Bank. Any attempt to subpoena Records of the Board by serving the Bank is ineffective.

APPENDIX A

14.0 FEE SCHEDULE

Duplication:

Photocopy, per standard page..... \$0.10
Paper copies of microfiche, per frame..... 0.10
Duplicate microfiche, per microfiche..... 0.30

Search and Review:

Clerical/ Technical, hourly rate..... 17.00
Professional/Supervisory, hourly rate 32.00
Manager/Senior Professional, hourly rate... 53.00

Computer Search and Production:

Operator search time, hourly rate.....\$25.00
Compact disc..... 5.00
PC or mainframe computer output..... Actual Cost

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