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be denied. The Board may, at its discretion, communicate with you to request additional information if necessary. However, the Board must make a determination on the fee waiver request within the statutory time limit, even if the Board has not received such additional information. In certain circumstances, a partial fee waiver may be appropriate, if some, but not all, of the requested records are likely to contribute significantly to public understanding of the operations and activities of the government.

(b) The Board will waive fees (in whole or part) if disclosure of all or part of the information is in the public interest because its release:

(1) Is likely to contribute significantly to public understanding of the operations or activities of the government; and

(2) Is not primarily in the commercial interest of the requester.

§ 201.12 Denials.

(a) When denying a request in any respect, the Board shall notify the requestor of that determination in writing. The types of denials include:

(1) Denials of requests, including a determination:

(i) To withhold any requested record in whole or in part;

(ii) That a requested record does not exist or cannot be located;

(iii) That a record is not readily reproducible in the form or format sought;

(iv) That what has been requested is not a record subject to the FOIA; and

(v) That the material requested is not a Board record (e.g., material produced by another agency or organization).

(2) A determination on any disputed fee matter, including a denial of a request for a fee waiver.

(3) A denial of a request for expedited processing.

(b) The denial letter shall be signed by the FOIA Officer or designee and shall include all of the following:

(1) The name and title of the person responsible for the denial.

(2) A brief statement of the reason(s) for the denial, including any FOIA exemptions applied in denying the request.

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(3) An estimate of the volume of records withheld, in number of pages or in some other reasonable form of estimation. This estimate does not need to be provided if it would harm an interest protected by an applicable exemption.

(4) A statement that the denial may be appealed under § 201.14 and a description of the requirements of § 201.14.

§ 201.13 Business information.

(a) *In general.* Business information obtained by the Board from a submitter shall be disclosed under the FOIA only under this section.

(b) *Definitions.* For purposes of this section:

(1) Business information—commercial or financial records obtained by the Board that may be protected from disclosure under Exemption 4 of the FOIA.

(2) Submitter—any person or entity from which the Board obtains business records, either directly or indirectly. The term includes but is not limited to corporations and state, local, tribal, and foreign governments.

(c) *Designation of business information.* Submitters of business information shall designate any part of the record considered to be protected from disclosure under Exemption 4 of the FOIA by appropriately marking the material. This may be done either at the time the record is submitted or at a reasonable time thereafter. This designation lasts for 10 years after submittal unless the submitter requests and provides justification for a longer period.

(d) *Notice to submitters.* The Board shall provide a business submitter with prompt written notice of any FOIA request or appeal that seeks its business information under paragraph (e) of this section, except as provided in paragraph (h) of this section, to give the submitter an opportunity to object to that disclosure under paragraph (f) of this section. The notice shall either describe the records requested or include copies of the records.

(e) *Required notice.* The Board shall give notice of a FOIA request seeking business information when:

(1) The submitter has designated that the information is considered protected

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from disclosure under Exemption 4 of the FOIA; or

(2) The Board has reason to believe that the information may be protected from disclosure under Exemption 4 of the FOIA.

(f)(1) *Objecting to disclosure.* A submitter shall have 30 days to respond to the notice described in paragraph (d) of this section. If a submitter has an objection to disclosure, it is required to submit a detailed written statement including:

(i) All grounds for withholding any of the information under any exemption of the FOIA, and

(ii) In the case of Exemption 4, the reason why the information is a trade secret, commercial, or financial information that is privileged or confidential.

(2) If a submitter fails to respond to the notice in paragraph (d) of this section within 30 days, the Board shall assume that the submitter has no objection to disclosure. The Board shall not consider information not received by the Board until after a disclosure decision has been made. Information provided by a submitter under this paragraph might itself be subject to disclosure under the FOIA.

(g) *Notice of intent to disclose.* The Board shall consider a submitter's objections and specific grounds for non-disclosure in deciding whether to disclose the business records. Whenever the Board decides to disclose business records over the objection of a submitter, it shall give the submitter written notice, that will include:

(1) A statement of the reason(s) the submitter's objections were not sustained;

(2) A description of the business records to be disclosed; and

(3) A specified disclosure date at a reasonable time subsequent to the notice.

(h) *Exceptions to notice requirements.* The notice requirements in paragraphs (d) and (g) of this section shall not apply if:

(1) The Board determines that the information should not be disclosed;

(2) The information has been published legally or has been officially made available to the public;

(3) Disclosure of the information is required by another statute or by a regulation issued in accordance with Executive Order 12600 (3 CFR, 1987 Comp., p. 235); or

(4) The objection made by the submitter under paragraph (f) of this section appears frivolous. In such a case, the Board shall promptly notify the submitter of its decision using the guidelines in paragraph (g) of this section.

(i) *Notice of FOIA lawsuit.* When a requestor files a lawsuit seeking to compel the disclosure of business information, the Board shall promptly notify the submitter.

(j) *Corresponding notice to requestors.* When the Board provides a submitter with either notice and an opportunity to object to disclosure under paragraph (d) of this section or with its intent to disclose requested information under paragraph (g) of this section, the Board also shall notify the requestor(s). When a submitter files a lawsuit seeking to prevent the disclosure of business information, the Board shall notify the requestor(s).

§ 201.14 Appeals.

(a)(1) *Appeals of adverse determinations.* If you are dissatisfied with the Board's response to your request, you may appeal to the Board's Executive Director:

(i) By mail to: Recovery Accountability and Transparency Board, 1717 Pennsylvania Avenue, NW., Suite 700, Washington, DC 20006;

(ii) By e-mail to: FOIA@ratb.gov; or

(iii) By fax to: 202-254-7970.

(2) The appeal must be in writing and must be received within 30 days of the date of the Board's response. The appeal letter, e-mail or fax may include as much or as little related information as you wish, as long as it clearly identifies the Board determination that you are appealing, including the assigned request number, if known. For prompt handling, please mark your appeal "Freedom of Information Act Appeal."

(b) *Responses to appeals.* Requestors shall be notified in writing of the decision on the appeal. A decision affirming an adverse determination shall include a statement of the reason(s) for