

Office of the Secretary of Defense

Pt. 197, App. A

Branch requesters must have a Department of Energy issued "Q" clearance to access CNWDI information.

§ 197.5 Responsibilities.

(a) The Director of Administration and Management, Office of the Secretary of Defense, (DA&M, OSD), or designee shall, according to the Deputy Secretary of Defense Memorandum dated August 25, 1993, be the approval authority for access to DoD classified information in OSD Component files and in files at the National Archives, Presidential libraries, and other similar institutions.

(b) The Heads of the OSD Components, when requested, shall:

(1) Determine whether access is for a lawful and authorized Government purpose or in the interest of national security.

(2) Determine whether the specific records requested are within the scope of the proposed historical research.

(3) Determine the location of the requested records.

(4) Provide a point of contact to the OSD Records Administrator.

(c) The OSD Records Administrator shall:

(1) Exercise overall management of the Historical Research Program.

(2) Maintain records necessary to process and monitor each case.

(3) Obtain all required authorizations.

(4) Obtain, when warranted, the legal opinion of the General Counsel of the Department of Defense regarding the requested access.

(5) Perform a mandatory declassification review on documents selected by the researchers for use in unclassified projects.

(6) Provide to prospective researchers the procedures necessary for requesting access to OSD Component files.

(d) The Researcher shall provide any information and complete all forms necessary to process a request for access.

§ 197.6 Procedures.

The procedures for processing and/or researching for access to OSD Component files are in appendices B, C, and D to this part.

APPENDIX A TO PART 197—EXPLANATION OF FREEDOM OF INFORMATION ACT (5 U.S.C. 552) EXEMPTIONS

A. Exemptions

Exemption	Explanation
(b)(1)	Applies to information that is currently and properly classified pursuant to an Executive Order in the interest of national defense or foreign policy (See E.O. 12958 and DoD 5200.01-R) (Sec 1.4. Classification Categories from E.O. 12958 are provided on the next page);
(b)(2)	Applies to information that pertains solely to the internal rules and practices of the Agency; this exemption has two profiles, "high" and "low." The "high" profile permits withholding a document which, if released, would allow circumvention of an Agency rule, policy, or statute, thereby impeding the Agency in the conduct of its mission. The "low" profile permits withholding if there is no public interest in the document, and it would be an administrative burden to process the request;
(b)(3)	Applies to information specifically exempted by a statute establishing particular criteria for withholding. The language of the statute must clearly state that the information will not be disclosed;
(b)(4)	Applies to information such as trade secrets and commercial or financial information obtained from a company on a privileged or confidential basis which, if released, would result in competitive harm to the company;
(b)(5)	Applies to inter- and intra-Agency memoranda that are deliberative in nature; this exemption is appropriate for internal documents that are part of the decision-making process, and contain subjective evaluations, opinions, and recommendations;
(b)(6)	Applies to information the release of which could reasonably be expected to constitute a clearly unwarranted invasion of the personal privacy of individuals; and
(b)(7)	Applies to records or information compiled for law enforcement purposes that could reasonably be expected to interfere with law enforcement proceedings; would deprive a person of a right to a fair trial or impartial adjudication; could reasonably be expected to constitute an unwarranted invasion of the personal privacy of others; disclose the identity of a confidential source; disclose investigative techniques and procedures; or could reasonably be expected to endanger the life or physical safety of any individual.

See Chapter III of DoD 5400.07-R for further information.

B. Extract From E.O. 12958

Section 1.4. Classification Categories. Information shall not be considered for classification unless it concerns:

- (a) Military plans, weapons systems, or operations;
- (b) Foreign government information;
- (c) Intelligence activities (including special activities), intelligence sources or methods, or cryptology;