

§ 2.22 How will the bureau grant requests?

(a) Once the bureau makes a determination to grant a request in full or in part, it must notify you in writing.

(b) The notification will inform you of any fees charged under subpart G of this part.

(c) The bureau will release records (or portions of records) to you promptly upon payment of any applicable fees (or before then, in accordance with § 2.37(c) of this part).

(d) If the records (or portions of records) are not included with the bureau's notification, the bureau will advise you how, when, and where the records will be made available.

§ 2.23 When will the bureau deny a request or procedural benefits?

(a) A bureau denies a request when it makes a decision that:

(1) A requested record is exempt, in full or in part;

(2) The request does not reasonably describe the records sought;

(3) A requested record does not exist, cannot be located, or is not in the bureau's possession; or

(4) A requested record is not readily reproducible in the form or format you seek.

(b) A bureau denies a procedural benefit only, and not access to the underlying records, when it makes a decision that:

(1) A fee waiver, or another fee-related issue, will not be granted; or

(2) Expedited processing will not be provided.

(c) The bureau must consult with the Office of the Solicitor before it denies a fee waiver request or withholds all or part of a requested record.

§ 2.24 How will the bureau deny requests?

(a) The bureau must notify you in writing of any denial of your request.

(b) The denial notification must include:

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

(2) A brief statement of the reasons for the denial, including a reference to any FOIA exemption(s) applied by the bureau to withhold records in full or in part;

(3) An estimate of the volume of any records or information withheld, for example, by providing the number of pages or some other reasonable form of estimation, unless such an estimate would harm an interest protected by the exemption(s) used to withhold the records or information;

(4) The name and title of the Office of the Solicitor attorney consulted (if the bureau is denying a fee waiver request or withholding all or part of a requested record); and

(5) A statement that the denial may be appealed under subpart H of this part and a description of the requirements set forth therein.

§ 2.25 What if the requested records contain both exempt and non-exempt material?

If responsive records contain both exempt and nonexempt material, the bureau will consult with the Office of the Solicitor, as discussed in § 2.23(c). After consultation, the bureau will partially grant and partially deny the request by:

(a) Segregating and releasing the nonexempt information, unless the nonexempt material is so intertwined with the exempt material that disclosure of it would leave only meaningless words and phrases;

(b) Indicating on the released portion of the record the amount of information deleted and the FOIA exemption under which the deletion was made, unless doing so would harm an interest protected by the FOIA exemption used to withhold the information; and

(c) If technically feasible, placing the information required by paragraph (b) of this section at the place in the record where the deletion was made.

Subpart F—Handling Confidential Information

SOURCE: 77 FR 76906, Dec. 31, 2012, unless otherwise noted.

§ 2.26 How will the bureau interact with the submitter of possibly confidential information?

(a) The Department encourages, but does not require, submitters to designate confidential information in good faith at the time of submission. Such

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designations assist the bureau in determining whether information obtained from the submitter is confidential information, but will not always be determinative.

(b) If, in the course of responding to a FOIA request, a bureau cannot readily determine whether information is confidential information, the bureau will:

(1) Consult with the submitter under §§ 2.27 and 2.28; and

(2) Provide the submitter an opportunity to object to a decision to disclose the information under §§ 2.30 and 2.31 of this subpart.

§ 2.27 When will the bureau notify a submitter of a request for their possibly confidential information?

(a) Except as outlined in § 2.29 of this subpart, a bureau must promptly notify a submitter in writing when it receives a FOIA request if either:

(1) The requested information has been designated in good faith by the submitter as information considered protected from disclosure under Exemption 4 of the FOIA, found at 5 U.S.C. 552(b)(4); or

(2) The bureau believes that requested information may be protected from disclosure under Exemption 4.

(b) If a large number of submitters are involved, the bureau may publish a notice in a manner reasonably calculated to reach the attention of the submitters (for example, in newspapers or newsletters, the bureau's Web site, or the FEDERAL REGISTER) instead of providing a written notice to each submitter.

§ 2.28 What information will the bureau include when it notifies a submitter of a request for their possibly confidential information?

A notice to a submitter must include:

(a) Either a copy of the FOIA request or the exact language of the request;

(b) Either a description of the possibly confidential information located in response to the request or a copy of the responsive records, or portions of records, containing the information;

(c) A description of the procedures for objecting to the release of the possibly confidential information under §§ 2.30 and 2.31 of this subpart;

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(d) A time limit for responding to the bureau—no less than 10 workdays from receipt or publication of the notice (as set forth in § 2.27(b) of this subpart)—to object to the release and to explain the basis for the objection;

(e) Notice that information contained in the submitter's objections may itself be subject to disclosure under the FOIA;

(f) Notice that the bureau, not the submitter, is responsible for deciding whether the information will be released or withheld;

(g) A request for the submitter's views on whether they still consider the information to be confidential if the submitter designated the material as confidential commercial or financial information 10 or more years before the request; and

(h) Notice that failing to respond within the time frame specified under § 2.28(d) of this subpart will create a presumption that the submitter has no objection to the disclosure of the information in question.

§ 2.29 When will the bureau not notify a submitter of a request for their possibly confidential information?

The notice requirements of § 2.28 of this subpart will not apply if:

(a) The information has been lawfully published or officially made available to the public; or

(b) Disclosure of the information is required by a statute other than the FOIA or by a regulation (other than this part) issued in accordance with the requirements of Executive Order 12600.

§ 2.30 How and when may a submitter object to the disclosure of confidential information?

(a) If a submitter has any objections to the disclosure of confidential information, the submitter should provide a detailed written statement to the bureau that specifies all grounds for withholding the particular information under any FOIA exemption (see § 2.31 of this subpart for further discussion of Exemption 4 objection statements).

(b) A submitter who does not respond within the time period specified under § 2.28(d) of this subpart will be considered to have no objection to disclosure of the information. Responses received