

National Science Foundation

§612.3

records or information otherwise exempt under the FOIA whenever disclosure would not foreseeably harm an interest protected by a FOIA exemption. This policy, however, does not create any right enforceable in court. When individuals seek records about themselves under the Privacy Act of 1974, 5 U.S.C. 552a, NSF processes those requests under both NSF's Privacy regulations at part 613 of this chapter, and this part.

(b) As used in this part, NSF includes one component, the Office of the Inspector General (OIG) of the National Science Foundation.

§612.2 Public reading room.

(a) The Foundation maintains a public reading room located in the NSF Library at 4201 Wilson Boulevard, Suite 225, Arlington, Virginia, open during regular working hours Monday through Friday. It contains the records that the FOIA requires to be made regularly available for public inspection and copying and has computers and printers available for public use in accessing records. Also available for public inspection and copying are current subject matter indexes of reading room records.

(b) Information about FOIA and Privacy at NSF and copies of frequently requested FOIA releases are available online at www.nsf.gov/policies/foia/jsp. Most NSF policy documents, staff instructions, manuals, and other publications that affect a member of the public, are available in electronic form through the "Publications" option on the tool bar on NSF's Home Page on the World Wide Web at www.nsf.gov.

§612.3 Requirements for making requests.

(a) *Where to send a request.* You may make a FOIA request for records of the National Science Foundation by writing directly to the NSF FOIA Officer, Office of the General Counsel, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, VA 22230. Requests may also be sent by facsimile to (703) 292-9041 or by email to foia@nsf.gov.

The National Science Foundation includes one agency component, the NSF Office of the Inspector General (OIG).

For records maintained by the NSF OIG, you may write directly to the Office of Inspector General, National Science Foundation, 4201 Wilson Boulevard, Suite 1135, Arlington, VA 22230. Requests may also be sent to the OIG by facsimile to (703) 292-9158. The NSF FOIA Officer and the OIG component will also forward requests as appropriate.

(b) *Form of request.* A FOIA request need not be in any particular format, but it must be in writing, include the requester's name and mailing address, and be clearly identified both on the envelope and in the letter, or in a facsimile or electronic mail message as a Freedom of Information Act or "FOIA" request. It must describe the records sought with sufficient specificity to permit identification, and include agreement to pay applicable fees as described in §612.10. NSF and its OIG component are not obligated to act upon a request until it meets these procedural requirements.

(c) *Personal records.* (1) If you are making a request for records about yourself and the records are not contained in a Privacy Act system of records, your request will be processed only under the FOIA, since the Privacy Act does not apply. If the records about you are contained in a Privacy Act system of records, NSF will respond with information on how to make a Privacy Act request (see NSF Privacy Act regulations at 45 CFR 613.2).

(2) If you are making a request for personal information about another individual, either a written authorization signed by that individual in accordance with §613.2(f) of this chapter permitting disclosure of those records to you, or proof that that individual is deceased (for example, a copy of a death certificate or a published obituary) will help the agency process your request.

(d) *Description of records sought.* Your request must describe the records that you seek in enough detail to enable NSF personnel to locate them with a reasonable amount of effort. A record must have been created or obtained by NSF and be under the control of NSF at the time of the request to be subject to the FOIA. NSF has no obligation under the FOIA to create, compile, or

§ 612.4

obtain a record to satisfy a FOIA request. Whenever possible, your request should include specific descriptive information about each record sought, such as the date, title or name, author, recipient, and subject matter of the record. As a general rule, the more specific you are about the records or type of records that you want, the more likely the Foundation will be able to locate those records in response to your request, and the more likely fees will be reduced or eliminated. If NSF determines that your request does not reasonably describe records, you will be advised what additional information is needed to perfect your request or why your request is otherwise insufficient.

(e) *Agreement to pay fees.* Your request must state that you will promptly pay the total fees chargeable under this regulation or set a maximum amount you are willing to pay. NSF does not charge if fees total less than \$25.00. If you seek a waiver of fees, please see § 612.10(k) for a discussion of the factors you must address. If you place an inadequate limit on the amount you will pay, or have failed to make payments for previous requests, NSF may require advance payment (see § 612.10(i)).

(f) *Receipt date.* A request that meets the requirements of this section will be considered received on the date it is properly received by the Office of the General Counsel or the Office of the Inspector General. In determining which records are responsive to a FOIA request, the NSF will include only records in its possession as of the date the NSF or OIG begins its search. If any other date is used, the NSF or OIG shall inform the requester of that date.

(g) *Publications excluded.* For the purpose of public requests for records the term "record" does not include publications which are available to the public in the FEDERAL REGISTER, or by sale or free distribution. Such publications may be obtained from the Government Printing Office, the National Technical Information Service, or through NSF's Home Page on the World Wide Web at <http://www.nsf.gov/publications/>. Requests for such publications will be referred to or the requester informed of the appropriate source.

45 CFR Ch. VI (10–1–13 Edition)

§ 612.4 Processing requests.

(a) *Monitoring of requests.* The NSF Office of the General Counsel (OGC), or such other office as may be designated by the Director, will serve as the central office for administering these regulations. For records maintained by the Office of Inspector General, that Office will control incoming requests made directly or referred to it, dispatch response letters, and maintain administrative records. For all other records maintained by NSF, OGC (or such other office as may be designated by the Director) will control incoming requests, assign them to appropriate action offices, monitor compliance, consult with action offices on disclosure, approve necessary extensions, dispatch denial and other letters, and maintain administrative records.

(b) *Consultations and referrals.* When the NSF receives a request for a record in its possession that originated with another agency or in which another agency has a substantial interest, it may decide that the other agency of the Federal Government is better able to determine whether the record should or should not be released under the FOIA.

(1) If the NSF determines that it is the agency best able to process the record in response to the request, then it will do so, after consultation with the other interested agencies where appropriate.

(2) If it determines that it is not the agency best able to process the record, then it will refer the request regarding that record (or portion of the record) to the agency that originated or has a substantial interest in the record in question (but only if that agency is subject to the FOIA). Ordinarily, the agency that originated a record will be presumed to be best able to determine whether to disclose it.

(3) Whenever NSF refers all or any part of the responsibility for responding to a request to another agency, it ordinarily will notify the requester of the referral and inform the requester of the name of each agency to which the request has been referred and of the part of the request that has been referred, unless such notification would disclose information otherwise exempt.