

§ 1602.6

from mandatory disclosure pursuant to section 552(b) of the FOIA and §1602.9. Such records will not be made available in the public reading room. Other records maintained in the public reading room may be edited by the deletion of identifying details concerning individuals to prevent a clearly unwarranted invasion of personal privacy. In such cases, the record shall have attached to it a full explanation of the deletion. The extent of the deletion shall be indicated, unless doing so would harm an interest protected by the exemption under which the deletion is made. If technically feasible, the extent of the deletion shall be indicated at the place in the record where the deletion was made.

(d) Records required by the FOIA to be maintained and made available in the public reading room that are created by the Corporation on or after November 1, 1996, shall be made available electronically. This includes the index of published and reading room records, which shall indicate which records are available electronically.

(e) Most electronic public reading room records will also be made available to the public on the Corporation's websites at <http://www.lsc.gov> and <http://oig.lsc.gov>.

[63 FR 41196, Aug. 3, 1998, as amended at 68 FR 7437, Feb. 14, 2003; 73 FR 67793, Nov. 17, 2008]

§ 1602.6 Procedures for use of public reading room.

Any member of the public may inspect or copy records described in §1602.5(b) in the public reading room during regular business hours. Because it will sometimes be impossible to produce records or copies of records on short notice, a person who wishes to inspect or copy records is advised to arrange a time in advance, by telephone or letter request made to the Office of Legal Affairs. Persons submitting requests by telephone will be notified whether a written request would be advisable to aid in the identification and expeditious processing of the records sought. Written requests should identify the records sought in the manner provided in §1602.8(b) and should request a specific date for inspecting the records. The requester will be advised

45 CFR Ch. XVI (10–1–13 Edition)

as promptly as possible if, for any reason, it may not be possible to make the records sought available on the date requested.

[63 FR 41196, Aug. 3, 1998, as amended at 68 FR 7437, Feb. 14, 2003]

§ 1602.7 Index of records.

The Corporation will maintain a current index identifying any matter within the scope of §1602.4 and §1602.5(b) (1) through (5). The index will be maintained and made available for public inspection and copying at the Corporation's office in Washington, DC. The cost of a copy of the index will not exceed the standard charge for duplication set out in §1602.13(e). The Corporation will also make the index available on its websites.

§ 1602.8 Requests for records.

(a) Except for records required by the FOIA to be published in the FEDERAL REGISTER (§1602.4) or to be made available in the public reading room (§1602.5), Corporation records will be made promptly available, upon request, to any person in accordance with this section, unless it is determined that such records should be withheld and are exempt from mandatory disclosure under the FOIA and §1602.9.

(b) Requests. Requests for records under this section shall be made in writing, with the envelope and the letter or e-mail request clearly marked Freedom of Information Act Request. All such requests shall be addressed to the Corporation's Office of Legal Affairs or, in the case of requests for records maintained by the Office of Inspector General, to the Office of Inspector General. Requests by letter shall use the address given in §1602.5(a). E-mail requests shall be addressed to FOIA@lsc.gov or, in the case of requests for records maintained by the Office of Inspector General, FOIA@oig.lsc.gov. Any request not marked and addressed as specified in this paragraph will be so marked by Corporation personnel as soon as it is properly identified, and will be forwarded immediately to the Office of Legal Affairs, or as appropriate, the Office of Inspector General. A request improperly addressed will only be deemed to have been received as in accordance

Legal Services Corporation

§ 1602.8

with paragraph (i) of this section. Upon receipt of an improperly addressed request, the General Counsel or designee (or Counsel to the Inspector General or designee) shall notify the requester of the date on which the time period began.

(c) A request must reasonably describe the records requested so that employees of the Corporation who are familiar with the subject area of the request are able, with a reasonable amount of effort, to determine which particular records are within the scope of the request. If it is determined that a request does not reasonably describe the records sought, the requester shall be so informed and provided an opportunity to confer with Corporation personnel in order to attempt to reformulate the request in a manner that will meet the needs of the requester and the requirements of this paragraph.

(d) To facilitate the location of records by the Corporation, a requester should try to provide the following kinds of information, if known:

- (1) The specific event or action to which the record refers;
- (2) The unit or program of the Corporation which may be responsible for or may have produced the record;
- (3) The date of the record or the date or period to which it refers or relates;
- (4) The type of record, such as an application, a grant, a contract, or a report;
- (5) Personnel of the Corporation who may have prepared or have knowledge of the record;
- (6) Citations to newspapers or publications which have referred to the record.

(e) The Corporation is not required to create a record or to perform research to satisfy a request.

(f) Estimated fees. The Corporation shall advise the requester of any estimated fees as promptly as possible. The Corporation may require that fees be paid in advance, in accordance with §1602.13(i), and the Corporation will advise a requester as promptly as possible if the fees are estimated to exceed \$25 or any limit indicated by the requester.

(g) Any request for a waiver or reduction of fees should be included in the FOIA request, and any such request should indicate the grounds for a waiver

or reduction of fees, as set out in §1602.13(f). The Corporation shall respond to such request as promptly as possible.

(h) Format. The Corporation will provide records in the form or format indicated by the requester to the extent such records are readily reproducible in the requested form or format.

(i)(1)(i) The General Counsel or designee, upon request for any records made in accordance with this section, except in the case of a request for Office of Inspector General records, shall make an initial determination of whether to comply with or deny such request and dispatch such determination to the requester within 20 days (excepting Saturdays, Sundays and legal public holidays) after receipt of such request, except for unusual circumstances, in which case the time limit may be extended for up to 10 working days by written notice to the requester setting forth the reasons for such extension and the date on which a determination is expected to be dispatched.

(ii) In the case of a request for any Office of Inspector General records made in accordance with this section, the Counsel to the Inspector General or designee shall make an initial determination of whether to comply with or deny such request and dispatch such determination to the requester within 20 days (excepting Saturdays, Sundays and legal public holidays) after receipt of such request, except for unusual circumstances, in which case the time limit may be extended for up to 10 working days by written notice to the requester setting forth the reasons for such extension and the date on which a determination is expected to be dispatched.

(i)(2)(i) If the General Counsel or designee determines that a request or portion thereof is for the Office of Inspector General records, the General Counsel or designee shall promptly refer the request or portion thereof to the Office of Inspector General and send notice of such referral to the requester. If the Counsel to the Inspector General or designee determines that a request or portion thereof is for Corporation records not maintained by the Office of Inspector General, the Counsel to the

§ 1602.8

Inspector General or designee shall promptly refer the request or portion thereof to the Office of Legal Affairs and send notice of such referral to the requester.

(ii) The 20-day period under paragraph (i)(1) of this section shall commence on the date on which the request is first received by the appropriate Office (the Office of Legal Affairs or the Office of Inspector General), but in no event later than 10 working days after the request has been received by either the Office of Legal Affairs or the Office of Inspector General. The 20-day period shall not be tolled by the Office processing the request except that the processing Office may make one request to the requester for information pursuant to paragraph (c) of this section and toll the 20-day period while it is awaiting such information that it has reasonably requested from the requester under this section; or, if necessary to clarify with the requester issues regarding fee assessment. In either case, the processing Office's receipt of the requester's response to such a request for information or clarification ends the tolling period.

(3) Unusual circumstances. As used in this part, "unusual circumstances" are limited to the following, but only to the extent reasonably necessary for the proper processing of the particular request:

(i) The need to search for and collect the requested records from establishments that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency or organization, such as a recipient, having a substantial interest in the determination of the request or among two or more components of the Corporation having substantial subject matter interest therein.

(j) If a request is particularly broad or complex so that it cannot be completed within the time periods stated in paragraph (i) of this section, the

45 CFR Ch. XVI (10–1–13 Edition)

Corporation may ask the requester to narrow the request or agree to an additional delay.

(k) When no determination can be dispatched within the applicable time limit, the General Counsel or designee or the Counsel to the Inspector General or designee shall inform the requester of the reason for the delay, the date on which a determination may be expected to be dispatched, and the requester's right to treat the delay as a denial and to appeal to the Corporation's President or Inspector General, in accordance with §1602.12. If no determination has been dispatched by the end of the 20-day period, or the last extension thereof, the requester may deem the request denied, and exercise a right of appeal in accordance with §1602.12. The General Counsel or designee or the Counsel to the Inspector General or designee may ask the requester to forego appeal until a determination is made.

(1) After it has been determined that a request will be granted, the Corporation will act with due diligence in providing a substantive response.

(m)(1) Expedited treatment. Requests and appeals will be taken out of order and given expedited treatment whenever the requester demonstrates a compelling need. A compelling need means:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) An urgency to inform the public about an actual or alleged Corporation or Federal government activity and the request is made by a person primarily engaged in disseminating information;

(iii) The loss of substantial due process rights; or

(iv) A matter of widespread and exceptional media interest in which there exist possible questions about the Corporation's or the Federal government's integrity which affect public confidence.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time. For a prompt determination, a request for expedited processing must be properly addressed and marked and

Legal Services Corporation

§ 1602.9

received by the Corporation pursuant to paragraphs (b) of this section.

(3) A requester who seeks expedited processing must submit a statement demonstrating a compelling need that is certified by the requester to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing.

(4) Within ten calendar days of its receipt of a request for expedited processing, the General Counsel or designee or the Inspector General or designee shall decide whether to grant the request and shall notify the requester of the decision. If a request for expedited treatment is granted, the request shall be given priority and shall be processed as soon as practicable. If a request for expedited processing is denied, any appeal of that decision shall be acted on expeditiously by the Corporation.

[63 FR 41196, Aug. 3, 1998, as amended at 68 FR 7437, Feb. 14, 2003; 73 FR 67793, Nov. 17, 2008]

§ 1602.9 Exemptions for withholding records.

(a) A requested record of the Corporation may be withheld from public disclosure only if one or more of the following categories exempted by the FOIA apply:

(1) Matter which is related solely to the internal personnel rules and practices of the Corporation;

(2) Matter which is specifically exempted from disclosure by statute (other than the exemptions under FOIA at 5 U.S.C. 552(b)), provided that such statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issues, or establishes particular criteria for withholding, or refers to particular types of matters to be withheld;

(3) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(4) Inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the Corporation;

(5) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(6) Records or information compiled for law enforcement purposes including enforcing the Legal Services Corporation Act or any other law, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person or a recipient of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(b) In the event that one or more of the exemptions in paragraph (a) of this section apply, any reasonably segregable portion of a record shall be provided to the requester after deletion of the portions that are exempt. The amount of information deleted and the exemption under which the deletion is being made shall be indicated on the released portion of the record, unless doing so would harm the interest protected by the exemption under which the deletion is made. If technically feasible, the amount of information deleted and the exemption under which the deletion is being made shall be indicated at the place in the record where the deletion occurs.

(1) A summary of information in the exempt portion of a record; or