

#### § 1305.4

OMB for the production of material or the disclosure of information described in §1305.2, he shall immediately notify the General Counsel. If possible, the General Counsel shall be notified before the employee or former employee concerned replies to or appears before the court or other authority.

(b) If information or material is sought by a demand in any case or matter in which OMB is not a party, an affidavit (or, if that is not feasible, a statement by the party seeking the information or material, or by his attorney) setting forth a summary of the information or material sought and its relevance to the proceeding, must be submitted before a decision is made as to whether materials will be produced or permission to testify or otherwise provide information will be granted. Any authorization for testimony by a present or former employee of OMB shall be limited to the scope of the demand as summarized in such statement.

(c) If response to a demand is required before instructions from the General Counsel are received, an attorney designated for that purpose by OMB shall appear, and shall furnish the court or other authority with a copy of the regulations contained in this part and inform the court or other authority that the demand has been or is being, as the case may be, referred for prompt consideration by the General Counsel. The court or other authority

#### 5 CFR Ch. III (1–1–13 Edition)

shall be requested respectfully to stay the demand pending receipt of the requested instructions from the General Counsel.

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#### § 1305.4 Procedure in the event of an adverse ruling.

If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with §1305.3(c) pending receipt of instructions from the General Counsel, or if the court or other authority rules that the demand must be complied with irrespective of the instructions from the General Counsel not to produce the material or disclose the information sought, the employee or former employee upon whom the demand has been made shall respectfully decline to comply with the demand (United States ex rel. *Touhy v. Ragen*, 340 U.S. 462 (1951)).

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#### § 1305.5 No private right of action.

This part is intended only to provide guidance for the internal operations of OMB, and is not intended to, and does not, and may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law by a party against the United States.