

## **Cmte. for Purchase from Blind, Severely Disabled**

## **§ 51-8.8**

a series of requests for the purpose of evading the assessment of fees, the Committee may aggregate any such requests and charge accordingly. Elements to be considered in determining whether a belief would be reasonable include the time period in which the requests have occurred and the subject matter involved.

### **§ 51-8.7 Committee response to requests for records.**

(a) An initial determination whether, and to what extent, to grant each request for records or a fee waiver shall be made by the Executive Director within 10 days (excepting Saturdays, Sundays, and legal public holidays) after receipt of that request. The person making the request shall be notified as soon as the determination is made.

(b) In making an initial determination whether and to what extent requested information will be released, the Committee shall first consider whether the material requested is of a type described in § 51-8.2(a); if it is, the request shall be granted unless the material is exempted by § 51-8.2(b). If the material requested is not a type described in § 51-8.2(a), or is the subject of one or more exemptions, the request may be denied.

(c) If a determination is made to grant a request, the relevant material shall be furnished as soon as possible following the determination to grant the request, and after payment of the fee specified in § 51-8.12 when required, except that copies of less than 10 pages of material requested in person ordinarily will be furnished immediately following the determination to grant the request.

(d) Where portions of the requested material are exempt under § 51-8.2(b), and are reasonably segregable from the remainder of the material, those portions shall be excised from the materials disclosed.

(e) If a determination is made to deny a request, or a portion thereof, the notification shall include a statement of the reasons for such action, shall set forth the name and position of the person responsible for the denial, and shall advise the requester of the right, and the procedures required

under § 51-8.10 to appeal the denial to the Chairperson.

(f) The Committee will require prepayment of fees for search, review, and reproduction which are likely to exceed \$250.00. When the anticipated total fee exceeds \$250.00, the requester will receive notice to prepay and at the same time will be given an opportunity to modify his or her request to reduce the fee. The Committee will also inform the requester that fees for search time will be charged even if the search proves unsuccessful. The Committee will not start processing a request until payment is received.

(g) Whenever duplication fees or search fees are anticipated to exceed \$25.00, but not more than \$250.00 and the requester has not indicated, in advance, a willingness to pay fees as high as those anticipated, the Committee will notify the requester of the amount of the anticipated fee. Similarly, where an extensive and therefore costly successful search is anticipated, the Committee will notify requesters of the anticipated fees. The Committee will not start processing the request until assurance of payment is received.

(h) Photocopies and directives furnished to the public are restricted to one copy of each page.

[54 FR 15189, Apr. 17, 1989. Redesignated at 56 FR 48983, Sept. 26, 1991, and amended at 59 FR 59345, Nov. 16, 1994]

### **§ 51-8.8 Business information.**

(a) When, in responding to an FOIA request, the Committee cannot readily determine whether the information obtained from a person is privileged or confidential business information or when a submitter has labeled information as proprietary at the time of submission, it shall:

(1) Obtain and consider the views of the submitter of the information and provide the submitter at least 10 working days to object to any decision to disclose the information and to provide reasons for the objection;

(2) Provide business information submitters with notice of any determination to disclose such records, to which the submitter has objected to disclosure, 10 working days prior to the disclosure date, and the reasons for which

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its disclosure objection is not sustained;

(3) Notify business information submitters promptly of all instances in which FOIA requesters are bringing suit seeking to compel disclosure of submitted information.

(b) The submitter, in responding to a request under paragraph (a)(1) of this section, must explain fully all grounds upon which disclosure is opposed. For example, if the submitter maintains that disclosure is likely to cause substantial harm to its competitive position, the submitter must explain how disclosure would cause such harm.

(c) When a central nonprofit agency has submitted business information on behalf of a workshop, the workshop shall be considered to be the "business information submitter" for the purposes of this section.

## §51-8.9 Records of other agencies.

(a) When the Committee receives a request to make available current records that are the primary responsibility of another agency, the Committee will refer the request to the agency concerned for appropriate action.

(b) The Committee will notify the requestor of the referral in paragraph (a) of this section and include the name and address of the office to which the request was referred.

## §51-8.10 Appeals.

(a) An appeal to the Chairperson of any denial, in whole or in part, of a request for access to and copies of material may be made by submission of a written request for reconsideration. Such requests shall state the specific reasons for reconsideration that address directly the grounds upon which the denial was based. Requests must be addressed to the Chairperson at the Committee offices and must be received within 30 calendar days of the requester's receipt of the Committee's initial denial.

(b) The Chairperson shall make a determination with respect to any appeal within 20 days (excepting Saturdays, Sundays, and legal public holidays) after receipt of the request for reconsideration. The person making such a

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request shall immediately be notified by mail of the determination.

(c) If the initial denial is reversed by the Chairperson, any material with which the reversal is concerned shall be made available in accordance with §51-8.7(b).

(d) If the denial is upheld, in whole or in part, the Chairperson shall include in the notification a statement of the requester's right of judicial review under 5 U.S.C. 552(a)(4), and the name and position of the person responsible for the denial.

[54 FR 15189, Apr. 17, 1989. Redesignated at 56 FR 48983, Sept. 26, 1991, and amended at 59 FR 59345, Nov. 16, 1994]

## §51-8.11 Extensions of time.

(a) Whenever unusual circumstances exist, such as those set forth in paragraph (b) of this section, the times within which determinations must be made by the Executive Director on requests for access (10 working days), and by the Chairperson on requests for reconsideration (20 working days), may be extended by written notice to the requester for a time not to exceed an aggregate of 30 working days. The notice shall set forth the reasons for such extension, and the date on which a determination is expected to be made. Extensions of time shall be utilized only to the extent reasonably necessary to the proper processing of the particular request.

(b) As used in this section, "unusual circumstances" may mean:

(1) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are the subject of a single request;

(2) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request; or

(3) The need to obtain and consider the views of a business information submitter under §51-8.8.

[54 FR 15189, Apr. 17, 1989. Redesignated at 56 FR 48983, Sept. 26, 1991, and amended at 59 FR 59345, Nov. 16, 1994]

## §51-8.12 Fee schedule.

(a) This schedule sets forth fees to be charged for processing requests for