

## Privacy and Civil Liberties Oversight Board

## § 1001.2

1001.6 Responsibility for responding to requests.

1001.7 Administrative appeals.

1001.8 Time frame for Board response.

1001.9 Business information.

1001.10 Fees.

AUTHORITY: 5 U.S.C. 552, as amended; Executive Order 12600.

SOURCE: 78 FR 66997, Nov. 8, 2013, unless otherwise noted.

### § 1001.1 Purpose and scope.

The regulations in this part implement the provisions of the FOIA.

### § 1001.2 Definitions.

The following definitions apply to this part:

*Board* means the Privacy and Civil Liberties Oversight Board, established by the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–53.

*Chairman* means the Chairman of the Board, as appointed by the President and confirmed by the Senate under section 801(a) of the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–53, or any person to whom the Board has delegated authority for the matter concerned.

*Chief FOIA Officer* means the senior official to whom the Board delegated responsibility for efficient and appropriate compliance with the FOIA, currently delegated to the Chief Administrative Officer.

*Commercial use request* means a FOIA request from or on behalf of a person who seeks information for a use or purpose that furthers his or her commercial, trade, or profit interests, including pursuit of those interests through litigation.

*Confidential business information* means trade secrets and confidential, privileged, or proprietary business or financial information submitted to the Board by a person.

*Direct costs* mean in the case of commercial use requesters those expenses the Board has actually incurred to search for, duplicate, and review documents in response to a FOIA request. Direct costs include, but are not limited to, the salary of the employee performing the work and costs associated with duplication.

*Educational institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate or graduate higher education, an institution of professional education, or an institution of vocational education, which operates a program or programs of scholarly research.

*Fee waiver* means the waiver or reduction of processing fees if a requester can demonstrate that OMB's Fee Guidelines' standards are satisfied, including that the information is in the public interest and is not a commercial interest.

*FOIA* means the Freedom of Information Act, 5 U.S.C. 552, as amended. The FOIA applies to third-party requests for documents concerning the general activities of the government and the Board in particular. A request by a U.S. citizen or an individual lawfully admitted for permanent residence for access to his or her own records is considered a Privacy Act request, under the Privacy Act of 1974, 5 U.S.C. 552a, as amended. *See* 6 CFR 1002.3.

*FOIA Officer* means the individual to whom the Board has delegated authority to carry out the Board's day-to-day FOIA administration.

*FOIA Public Liaison* means the individual designated by the Chairman to assist FOIA requesters with concerns about the Board's processing of their FOIA request, including assistance in resolving disputes.

*Non-commercial scientific institution* means an organization operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any product or research, and not operated on a commercial basis.

*Person* includes an individual, partnership, corporation, association, or public or private organization other than an agency.

*Record* means any writing, drawing, map, recording, diskette, DVD, CD-ROM, tape, film, photograph, or other documentary material, regardless of medium, by which information is preserved, including documentary material stored electronically.

*Redact* means delete or mark over.

### § 1001.3

### 6 CFR Ch. X (1–1–15 Edition)

*Representative of the news media* means any person or entity that gathers information of potential public interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.

*Requester category* means one of the three categories in which requesters will be placed for the purpose of determining whether a requester will be charged fees for search, review, or duplication. They are:

- (1) Commercial requestors,
- (2) Non-commercial scientific or educational institutions or news media requestors, and
- (3) All other requestors.

*Submitter* means any person or entity from whom the Board obtains confidential business information, directly or indirectly.

*Unusual circumstances* means, to the extent reasonably necessary for the proper processing of a FOIA request:

- (1) The need to search for and collect the requested records from physically separate facilities;
- (2) 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
- (3) 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.

#### § 1001.3 Availability of records.

(a) In accordance with 5 U.S.C. 552(a)(1), the Board publishes the following records in the FEDERAL REGISTER and makes an index of the records publicly available:

- (1) Descriptions of the Board's organization and the established places at which, the employees from whom, and the methods by which, the public may obtain information, submit documents, or obtain decisions;
- (2) Statements of the general course and method by which the Board's functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;
- (3) Rules of procedure, descriptions of forms available or the places at which

forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(4) Substantive rules of general applicability adopted as authorized by law and statements of general policy or interpretations of general applicability formulated and adopted by the Board; and

(5) Each amendment, revision, or repeal of any material listed in paragraphs (a)(1) through (4) of this section.

(b) In accordance with 5 U.S.C. 552(a)(2), the Board shall make the following materials available for public inspection and copying:

(1) Statements of policy and interpretation that have been adopted by the Board and not published in the FEDERAL REGISTER;

(2) Administrative staff manuals and instructions to staff that affect a member of the public;

(3) Copies of all records, regardless of the form or format, which have been released to any person under paragraph (c) of this section and that, because of their nature or subject matter, the Board determines have become or are likely to become the subject of subsequent requests for substantially the same records; and

(4) A general index of the records referred to in paragraph (b)(3) of this section.

(c) In accordance with 5 U.S.C. 552(a)(3), the Board shall make available, upon proper request, as described in section 5 of this part, all non-exempt Board records, or portions of records, not previously made public under paragraphs (a) and (b) of this section.

(d) The FOIA applies only to Board records in existence at the time of the request; the FOIA does not require that the Board create new records in order to respond to FOIA requests. When responsive records are located, the Board adopts a presumption of disclosure and openness.

#### § 1001.4 Categories of exemptions.

(a) The FOIA does not require disclosure of matters that are:

- (1) Specifically authorized under criteria established by an executive order to be kept secret in the interest of national defense or foreign policy and