

amount up to the full estimated charges in the case of requestors with no history of payment; or

(2) A requestor has previously failed to pay a fee charged in a timely fashion (i.e., within thirty days of the date of the billing). OA may require the requestor to pay the full amount owed plus any applicable interest as provided above or demonstrate that he or she has in fact paid the fee, and to make an advance payment of the full amount of the estimated fee before the agency begins to process a new request, or a pending request from that requestor.

When OA acts under paragraph (d) (1) or (2) of this section, the administrative time limits prescribed in the FOIA, 5 U.S.C. 552(a)(6) (i.e., ten working days from receipt of initial request and 20 working days from receipt of appeals from initial denial, plus permissible extensions of these time limits) will begin only after OA has received fee payments described above.

(e) *Effect of the Debt Collection Act of 1982 (Pub. L. 97-365)*. OA should comply with the provisions of the Debt Collection Act, including disclosure to consumer reporting agencies and use of collection agencies, where appropriate, to encourage repayment.

[56 FR 5744, Feb. 13, 1991]

**§ 2502.15 Waiver or reduction of charges.**

Fees otherwise chargeable in connection with a request for disclosure of a record shall be waived or reduced where it is determined that disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government and is not primarily in the commercial interest of the requestor.

[56 FR 5744, Feb. 13, 1991]

**§ 2502.16 Information to be disclosed.**

(a) In general, all records of the Office of Administration are available to the public, as required by the Freedom of Information Act. However, the Office claims the right, where it is applicable, to withhold material under the provisions specified in the Freedom of Information Act as amended (5 U.S.C. 552(b)).

(b) *Records from Non-U.S. Government Source*. (1) Upon receipt of a request for a record that was obtained from a non-U.S. Government source, or for a record containing information clearly identified as having been provided by a non-U.S. Government source, including a contract proposal or contract material, the Office will contact the source of the requested record or information requesting advice as to whether release of the record would adversely affect the source's competitive position or invade anyone's privacy. Subsequent to receipt of such advice, the Office will independently examine the requested document and will notify the requester of the final decision.

(2) OA personnel will generally consider two exemptions in the FOIA in deciding whether to withhold from disclosure material from a non-U.S. Government source. Exemption 4 permits withholding of "trade secrets and commercial or financial information obtained from a person and privileged or confidential." Exemption 6 permits withholding certain information, the disclosure of which "would constitute a clearly unwarranted invasion of personal privacy." The source whose material has been requested will be asked to supply convincing justification for any material it wishes withheld under the Act, in accordance with the following general guidelines.

(i) For consideration under *exemption 4*, the supplier of the record or information should identify material that would be likely to cause substantial harm to its present or future competitive position if it were released. If a contractor, the provider should assume that the material will be released to a competitor, even if that is not always the case. A contractor must provide detailed information on why release would be harmful, e.g., the general custom or usage in the business; the number and situation of the persons who have access to the information; the type and degree of risk of financial injury that release would cause; and the length of time the information will need to be kept confidential.

(A) In this respect, the Office of Administration will—as a general rule—look favorably upon recommendations for withholding information about

## § 2502.17

## 5 CFR Ch. XV (1–1–05 Edition)

ideas, methods, and processes that are unique; about equipment, materials, or systems that are potentially patentable; or about a unique use of equipment which is specifically outlined.

(B) OA will not withhold information that is known through custom or usage in the relevant trade, business, or profession, or information that is generally known to any reasonably educated person. Self-evident statements or reviews of the general state of the art will not ordinarily be withheld.

(C) OA will withhold all cost data submitted except the total estimated cost for each year of the contract. Where appropriate, OA will release unit pricing data except where that information would disclose confidential information such as profit margins. It will release these total estimated costs and ordinarily release explanatory material and headings associated with the cost data, withholding only the figures themselves. If a contractor believes some of the explanatory material should be withheld, that material must be identified and a justification be presented as to why it should not be released.

(ii) *Exemption 6* is not a blanket exemption for all personal information. The Office will balance the need to keep a person's private affairs from unnecessary public scrutiny with protection of the public's right to information on Government records.

(A) As a general practice, the Office will release information about any person named in a contract itself or about any person who signed a contract as well as information given in a proposal about any officer of a corporation submitting that proposal. Except for names and other identifying details, the Office usually releases all information in resumes concerning employees, including education and experience. Efforts will be made to identify information that should be deleted and offerors are urged to point out such material for guidance. Any information in the proposal which might constitute an unwarranted invasion of personal privacy if released should be identified and a justification for non-release provided in order to receive proper consideration.

(B) The Office can protect the names of and identifying details about other staff members who are described in a contract proposal if it is clear that identification of these employees would assist competitors in raiding and hiring them away. In this regard, names and other identifying details could be protected under Exemption 4 (harmful to competitive position) and also under Exemption 6 (it would be an unwarranted invasion of personal privacy to release them). In such a case, the Office would withhold names, home addresses, salaries, telephone numbers, social security numbers, marital status and, if these served to identify them, perhaps some details about past employment or professional activities of these persons.

[45 FR 47112, July 14, 1980. Redesignated and amended at 49 FR 28234, July 11, 1984. Redesignated and amended at 56 FR 5744, Feb. 13, 1991]

### § 2502.17 Exemptions.

(a) 5 U.S.C. 552 exempts from all of its publication and disclosure requirements nine categories of records which are described in 552(b). These categories include such matters as national defense and foreign policy information, investigatory files, internal procedures and communications, materials exempted from disclosure by other statutes, information given in confidence and matters involving personal privacy.

(b) Executive Order 12028 (December 4, 1977) provides that the Office of Administration shall upon request, assist the White House office in performing its role of providing those administrative services which are primarily in direct support of the President. Due to this role of providing direct support of the President, members of the public should presume that communications between the Director of the Office of Administration and the President (and their staffs) are confidential or ordinarily will not be released; they will usually fall, at a minimum, within Exemption 5 of the Act.

(c) The records of the Office of Administration which are part of systems of records subject to the Privacy Act of 1974 are exempt from disclosure to the