

business information requested or include copies of the requested records or record portions containing the information. When notification of a voluminous number of submitters is required, notification may be made by posting or publishing the notice in a place reasonably likely to accomplish it.

(e) *When notice is required.* Notice shall be given to a submitter wherever:

(1) The information has been designated in good faith by the submitter as information considered protected from disclosure under exemption 4; or

(2) OSC has reason to believe that the information may be protected from disclosure under exemption 4.

(f) *Opportunity to object to disclosure.* OSC will allow a submitter a reasonable time to respond to the notice described in paragraph (d) of this section and will specify that time period within the notice. If a submitter has any objection to disclosure, it is required to submit a detailed written statement. The statement must specify all grounds for withholding any portion of the information under any exemption of the FOIA and, in the case of exemption 4, it must show why the information is a trade secret or commercial or financial information that is privileged or confidential. If a submitter fails to respond to the notice within the time specified in it, the submitter will be considered to have no objection to disclosure of the information. Information provided by the submitter that is not received by OSC until after its disclosure decision has been made shall not be considered by OSC. Information provided by a submitter under this paragraph may itself be subject to disclosure under the FOIA.

(g) *Notice of intent to disclose.* OSC shall consider a submitter's objections and specific grounds for nondisclosure in deciding whether to disclose business information. Whenever OSC decides to disclose business information over the objection of a submitter, OSC shall give the submitter written notice, which shall include:

(1) A statement of the reason(s) why each of the submitter's disclosure objections was not sustained;

(2) A description of the business information to be disclosed; and

(3) A specified disclosure date, which shall be a reasonable time subsequent to the notice.

(h) *Exceptions to notice requirements.* The notice requirements of paragraphs (d) and (g) of this section shall not apply if:

(1) OSC determines that the information should not be disclosed;

(2) The information lawfully has been published or has been officially made available to the public;

(3) Disclosure of the information is required by statute (other than the FOIA) or by a regulation issued in accordance with the requirements of Executive Order 12600; or

(4) The designation made by the submitter under paragraph (c) of this section appears obviously frivolous - except that, in such a case, OSC shall, within a reasonable time prior to a specified disclosure date, give the submitter written notice of any final decision to disclose the information.

(i) *Notice of FOIA lawsuit.* Whenever a requester files a lawsuit seeking to compel the disclosure of business information, OSC shall promptly notify the submitter.

(j) *Corresponding notice to requesters.* Whenever OSC provides a submitter with notice and an opportunity to object to disclosure under paragraph (d) of this section, OSC shall also notify the requester(s). Whenever OSC notifies a submitter of its intent to disclose requested information under paragraph (g) of this section, OSC shall also notify the requester(s). Whenever a submitter files a lawsuit seeking to prevent the disclosure of business information, OSC shall notify the requester(s).

#### § 1820.9 Other rights and services.

Nothing in this part shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the FOIA.

#### § 1820.10 Production of official records or testimony in legal proceedings.

No employee or former employee of the Office of Special Counsel shall, in response to a demand of a court or other authority, produce or disclose any information or records acquired as

part of the performance of his official duties or because of his official status without the prior approval of the Special Counsel or the Special Counsel's duly authorized designee.

## PART 1830—PRIVACY

Sec.

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AUTHORITY: 5 U.S.C. 552a(f), 1212(e).

SOURCE: 72 FR 56617, Oct. 4, 2007, unless otherwise noted.

### § 1830.1 General provisions.

This part contains rules and procedures followed by the Office of Special Counsel (OSC) in processing requests for records under the Privacy Act (PA), at 5 U.S.C. 552a. Further information about access to OSC records generally is available on the agency's web site (<http://www.osc.gov/foia.htm>).

### § 1830.2 Requirements for making Privacy Act requests.

(a) *How made and addressed.* A request for OSC records under the Privacy Act should be made by writing to the agency. The request should be sent by regular mail addressed to: Privacy Act Officer, U.S. Office of Special Counsel, 1730 M Street, N.W. (Suite 218), Washington, DC 20036-4505. Such requests may also be faxed to the Privacy Act Officer at the number provided on the FOIA/PA page of OSC's web site (see 1830.1). For the quickest handling, both the request letter and envelope or any fax cover sheet should be clearly marked "Privacy Act Request." A Privacy Act request may also be delivered in person at OSC's headquarters office in Washington, DC. Whether sent by mail or by fax, or delivered in person, a Privacy Act request will not be considered to have been received by OSC until it reaches the Privacy Act Officer.

(b) *Description of records sought.* Requesters must describe the records

sought in enough detail for them to be located with a reasonable amount of effort. Whenever possible, requests should describe any particular record sought, such as the date, title or name, author, recipient, and subject matter.

(c) *Proof of identity.* Requests received by mail, fax, or personal delivery should contain sufficient information to enable OSC to determine that the requester and the subject of the record are one and the same. To assist in this process, an individual should submit his or her name and home address, business title and address, and any other known identifying information such as an agency file number or identification number, a description of the circumstances under which the records were compiled, and any other information deemed necessary by OSC to properly process the request. An individual delivering a request in person may be required to present proof of identity, preferably a government-issued document bearing the individual's photograph.

(d) *Freedom of Information Act processing.* OSC also processes all Privacy Act requests for access to records under the Freedom of Information Act, 5 U.S.C. 552, following the rules contained in part 1820 of this chapter, which gives requesters the benefit of both statutes.

### § 1830.3 Medical records.

When a request for access involves medical records that are not otherwise exempt from disclosure, the requesting individual may be advised, if it is deemed necessary by OSC, that the records will be provided only to a physician designated in writing by the individual. Upon receipt of the designation, the physician will be permitted to review the records or to receive copies by mail upon proper verification of identity.

### § 1830.4 Requirements for requesting amendment of records.

(a) *How made and addressed.* Individuals may request amendment of records pertaining to them that are subject to amendment under the Privacy Act and this part. The request should be sent by regular mail addressed to: Privacy Act Officer, U.S.