§ 1800.31 Procedures for business information.

(a) In general. Business information obtained by NACIC by a submitter shall not be disclosed pursuant to a Freedom of Information Act request except in accordance with this section. For purposes of this section, the following definitions apply:

Business information means commercial or financial information in which a legal entity has a recognized property interest;

Confidential commercial information means such business information provided to the United States Government by a submitter which is reasonably believed to contain information exempt from release under exemption (b)(4) of the Freedom of Information Act, 5 U.S.C. 552, because disclosure could reasonably be expected to cause substantial competitive harm;

Submitter means any person or entity who provides confidential commercial information to the United States Government; it includes, but is not limited to, corporations, businesses (however organized), state governments, and foreign governments; and

(b) Designation of confidential commercial information. A submitter of business information will use good-faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, any portions of its submission that it considers to be confidential commercial information and hence protected from required disclosure pursuant to exemption (b)(4). Such designations shall expire ten (10) years after the date of the submission unless the submitter requests, and provides justification for, a longer designation period.

(c) Process in event of FOIA request—

(1) Notice to submitters. NACIC shall provide a submitter with prompt written notice of receipt of a Freedom of Information Act request encompassing business information whenever:

(i) The submitter has in good faith designated the information as confidential commercial information, or

(ii) NACIC believes that disclosure of the information could reasonably be expected to cause substantial competitive harm, and

(iii) The information was submitted within the last ten (10) years unless the submitter requested and provided acceptable justification for a longer designation period.

(2) Form of notice. This notice shall either describe the exact nature of the confidential commercial information at issue or provide copies of the responsive records containing such information.

(3) Response by submitter. (i) Within seven (7) days of the above notice, all claims of confidentiality by a submitter must be supported by a detailed statement of any objection to disclosure. Such statement shall:

(A) Specify that the information has not been disclosed to the public;

(B) Explain why the information is contended to be a trade secret or confidential commercial information;
§ 1800.32 Procedures for information concerning other persons.

(a) In general. Personal information concerning individuals other than the requester shall not be disclosed under the Freedom of Information Act if the proposed release would constitute a clearly unwarranted invasion of personal privacy. See 5 U.S.C. 552(b)(6).

For purposes of this section, the following definitions apply:

Personal information means any information about an individual that is not a matter of public record, or easily discernible to the public, or protected from disclosure because of the implications that arise from Government possession of such information.

Public interest means the public interest in understanding the operations and activities of the United States Government and not simply any matter which might be of general interest to the requester or members of the public.

(b) Determination to be made. In making the required determination under this section and pursuant to exemption (b)(6) of the FOIA, NACIC will balance the privacy interests that would be compromised by disclosure against the public interest in release of the requested information.

(c) Otherwise. A requester seeking information on a third person is encouraged to provide a signed affidavit or declaration from the third person waiving all or some of their privacy rights. However, all such waivers shall be narrowly construed and the Coordinator, in the exercise of his discretion and administrative authority, may seek clarification from the third party prior to any or all releases.