

Legal Services Corporation

§ 1602.9

that a request does not reasonably describe the records sought, LSC will inform the requester what additional information is needed or why the request is otherwise insufficient. Requesters who are attempting to reformulate or modify their request may discuss their request with LSC's or OIG's FOIA Analyst or FOIA Public Liaison. If a request does not reasonably describe the records sought, LSC's response to the request may be delayed.

(d) To facilitate the location of records by LSC, a requester should try to provide the following kinds of information, if known:

(1) The specific event or action to which the record refers;

(2) The unit or program of LSC that may be responsible for or may have produced the record;

(3) The date of the record or the date or period to which it refers or relates;

(4) The type of record, such as an application, a grant, a contract, or a report;

(5) Personnel of LSC who may have prepared or have knowledge of the record;

(6) Citations to newspapers or publications which have referred to the record.

(e) Requests may specify the preferred form or format (including electronic formats) for the records sought. LSC will provide records in the form or format indicated by the requester to the extent such records are readily reproducible in the requested form or format. LSC reserves the right to limit the number of copies of any document that will be provided to any one requester or to require that special arrangements for duplication be made in the case of bound volumes or other records representing unusual problems of handling or reproduction.

(f) Requesters must provide contact information, such as their phone number, email address, and/or mailing address, to assist LSC in communicating with them and providing released records.

(g) LSC is not required to create a record or to perform research to satisfy a request.

(h) Any request for a waiver or reduction of fees should be included in the FOIA request, and any such request

should indicate the grounds for a waiver or reduction of fees, as set out in §1602.14(g).

§ 1602.9 Timing and responses to requests for records.

(a)(1) Upon receiving a request for LSC or Inspector General records under §1602.8, the Chief FOIA Officer, Office of Inspector General Legal Counsel or their designees shall make an initial determination of whether to comply with or deny such request. The Chief FOIA Officer, Office of Inspector General Legal Counsel or their designees will send the determination to the requester within 20 business days after receipt of the request and will notify the requester of their right to seek assistance from an LSC FOIA Public Liaison.

(2) The 20-day period under paragraph (a)(1) of this section shall commence on the date on which the request is first received by the appropriate Office, but in no event later than 10 working days after the request has been received by either the Office of Legal Affairs or the Office of Inspector General. The 20-day period shall not be tolled by the Office processing the request except that the processing Office may make one request to the requester for information pursuant to paragraph (b) of this section and toll the 20-day period while

(i) It is awaiting such information that it has reasonably requested from the requester under this section; or

(ii) It communicates with the requester to clarify issues regarding fee assessment.

In either case, the processing Office's receipt of the requester's response to such a request for information or clarification ends the tolling period.

(b) *Consultation.* When records originated with the Office processing the request, but contain within them information of interest to another Office or Federal agency, the Office processing the request should typically consult with that other entity prior to making a release determination.

(c) *Referral.* (1) If the processing Office determines that the other Office or Federal agency is best able to determine whether to disclose the record, the processing Office will typically refer the responsibility for responding

to the request for that record to the other Office or Federal agency. Ordinarily, the Office that originated the record is presumed to be the best Office to make the disclosure determination. However, if the Offices or Federal agency jointly agree that the processing Office is in the best position to respond regarding the record, then the record may be released by the processing Office after consultation with the other Office or Federal agency.

(2) Whenever a referral occurs, the processing Office must document the referral, maintain a copy of the record that it refers, and notify the requester of the referral, informing the requester of the name(s) of the Office or Federal agency to which the record was referred, including that Office's or Federal agency's FOIA contact information.

(d)(1) In unusual circumstances, as specified in paragraph (d)(3) of this section, LSC may extend the time limit for up to 10 working days by written notice to the requester setting forth the reasons for such extension and the date on which LSC expects to send its determination.

(2) LSC may also provide an opportunity to the requester to narrow the request. In addition, to aid the requester, LSC shall make available a FOIA Public Liaison, who shall assist in the resolution of any disputes between the requester and LSC, and shall notify the requester of his right to seek dispute resolution services from the U.S. National Archives and Records Administration's Office of Government Information Services.

(3) *Unusual circumstances.* As used in this part, *unusual circumstances* are limited to the following, but only to the extent reasonably necessary for the proper processing of the particular request:

(i) The need to search for and collect the requested records from establishments that are separate from the office processing the request;

(ii) 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

(iii) The need for consultation, which shall be conducted with all practicable

speed, with another Office, Federal agency, or organization having a substantial interest in the determination of the request.

(c)(1) When the processing Office cannot send a determination to the requester within the applicable time limit, the Chief FOIA Officer, Office of the Inspector General Legal Counsel, or their designees shall inform the requester of the reason for the delay, the date on which the processing Office expects to send its determination, and the requester's right to treat the delay as a denial and to appeal to LSC's President or Inspector General, in accordance with §1602.13, or to seek dispute resolution services from a FOIA Public Liaison or the Office of Government Information Services.

(2) If the processing Office has not sent its determination by the end of the 20-day period or the last extension thereof, the requester may deem the request denied, and exercise a right of appeal in accordance with §1602.13, or seek dispute resolution services from LSC's or OIG's FOIA Public Liaison or the National Archives and Records Administration's Office of Government Information Services. The Chief FOIA Officer, Office of Inspector General Legal Counsel, or their designees may ask the requester to forego appeal until a determination is made.

(d) After the processing Office determines that a request will be granted, LSC or the OIG will act with due diligence in providing a substantive response.

(e)(1) *Expedited treatment.* Requests and appeals will be taken out of order and given expedited treatment whenever the requester demonstrates a compelling need. A compelling need means:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) An urgency to inform the public about an actual or alleged LSC activity and the request is made by a person primarily engaged in disseminating information;

(iii) The loss of substantial due process rights; or

(iv) A matter of widespread and exceptional media interest raising questions about LSC's integrity which may affect public confidence in LSC.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time. For a prompt determination, a request for expedited processing must be properly addressed and marked and received by LSC pursuant to §1602.8.

(3) A requester who seeks expedited processing must submit a statement demonstrating a compelling need and explaining in detail the basis for requesting expedited processing. The requester must certify that the statement is true and correct to the best of the requester's knowledge and belief.

(4) Within 10 calendar days of receiving a request for expedited processing, the Chief FOIA Officer, Office of Inspector General Legal Counsel or their designees shall decide whether to grant the request and shall notify the requester of the decision. If a request for expedited treatment is granted, the request shall be given priority and shall be processed as soon as practicable. If a request for expedited processing is denied, the requester may appeal in writing to LSC's President or Inspector General in the format described in §1602.13(a). Any appeal of a denial for expedited treatment shall be acted on expeditiously by LSC.

§ 1602.10 Exemptions for withholding records.

(a) LSC shall—

(1) Withhold information under this section only if—

(i) LSC reasonably foresees that disclosure would harm an interest protected by an exemption described in paragraph (b); or

(ii) Disclosure is prohibited by law; and

(2)(i) Consider whether partial disclosure of information is possible whenever LSC determines that a full disclosure of a requested record is not possible; and

(ii) Take reasonable steps necessary to segregate and release nonexempt information;

(b) LSC may withhold a requested record from public disclosure only if

one or more of the following exemptions authorized by the FOIA apply:

(1)(i) Matter that is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy; and

(ii) Is in fact properly classified pursuant to such Executive Order;

(2) Matter that is related solely to the internal personnel rules and practices of LSC;

(3) Matter that is specifically exempted from disclosure by statute (other than the exemptions under FOIA at 5 U.S.C. 552(b)), provided that such statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or establishes particular criteria for withholding, or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Inter-agency or intra-agency memoranda or letters that would not be available by law to a party other than an agency in litigation with LSC, provided that the deliberative process privilege shall not apply to records created 25 years or more before the date on which the records were requested;

(6) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, including enforcing the Legal Services Corporation Act or any other law, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person or a recipient of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution that furnished information on a confidential basis, and in