

## Freedom of Information Act

### Purpose

The Office of Sponsored Research Services (OSRS) periodically receives requests from the National Institutes of Health (NIH) for access to various information (to include research plans, progress report summaries, cost projections, etc.) from certain grant applications.

Under the Freedom of Information Act (FOIA), NIH is required to release the grant application. Once an application is funded, it is releasable. FOIA Law dictates NIH to release all documents in the possession of the government. NIH/PI can withhold or redact certain information which is protected under the exemptions to the FOIA. The exemptions which apply to funded grants are Exemptions 4 and 6, which are detailed below. Should the PI not respond to NIH in the timeframe requested, by law, NIH will release the entire application to the requesting party. The two types of exemptions that apply to grants, Exemption 4 & Exemption 6 are detailed below.

Exemption 4 - protects any commercial or proprietary information with the grant application. The PI would need to identify such information and then NIH would need to review the request. This is a very strict test. The information, if released, would have to cause commercial harm to Washington University. The fact that information is unpublished alone does not protect it from release. The PI would need to articulate to NIH the harm that would be caused if NIH released the information. The PI and OTM (if necessary) should review the grant application and identify any specific information which could be justified as needing to be protected under Exemption 4. The PI should then send NIH a copy of the grant with the information highlighted or a detailed list clearly explaining the items he/she wishes to be withheld and the explanation of the harm that would be caused.

Exemption 6 - covers personal information, the release of which would violate an individual's personal privacy. This includes but is not limited to: institutional base salary, date of birth, social security number, home address. NIH is responsible for identifying any information that would be covered under Exemption 6. The PI is welcome to provide NIH a copy of the application with these items lined-through or highlighted to be removed.

Always feel free to contact the NIH contact handling the FOIA request for more information.

### Procedure

- Whether or not redactions are requested, OSRS should send all FOIA requests to:
  - Associate Vice Chancellor for Research Integrity and Ethics (i.e. Jeneane Braden)
  - Office of General Counsel (OGC) (i.e. Patty Hastings)
    - OGC should be involved if portions of grant are to be redacted.
  - CC: Public Affairs, Attention: Assoc Vice Chan & Exec Dir Med Pub Affairs (i.e., Joni Westerhouse)
    - For informational purposes only (no specific detail required).
- Typically, the PI, with the help of Jeneane's office and OGC, prepares a letter explaining in detail the reasons for the redactions.
- OSRS can sign the letter or communicate with agency as requested by Jeneane or Patty.

Note for OSRS: See the Freedom of Information Act reference folder in the General Reference Files Cabinet.