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1917-3

LIBRARY OF CONGRESS REGULATIONS**LCR 1917-3****SUBJECT: Availability of Library of Congress Records**

SERIES: 1900 Correspondence and Records Management	STATUTORY AUTHORITY: 2 U.S.C. §136 5 U.S.C. §552 17 U.S.C. §701	RESPONSIBLE OFFICE: Office Systems Services, Integrated Support Services
ISSUE DATE: September 18, 1997	LAST DATE REVIEWED: December 1999 REVIEW DATE: December 2004	SUPERSEDES: June 5, 1989, issuance of LCR 1917-3

Contents:Section 1. Purpose and ScopeSection 2. PolicySection 3. Administrative ResponsibilitiesSection 4. DefinitionsSection 5. Records Exempt from DisclosureSection 6. Procedures for Access to and Copying of RecordsSection 7. Public Reading FacilitySection 8. Fees and Charges**Section 1. Purpose and Scope**

- A. This Regulation implements the policy of the Library with respect to the public availability of Library of Congress records. Although the Library is not subject to the Freedom of Information Act, as amended (5 U.S.C. §552), this Regulation follows the spirit of that Act consistent with the Library's duties, functions, and responsibilities to the Congress. The application of that Act to the Library is not to be inferred, nor should this Regulation be considered as conferring on any member of the public a right under that Act of access to or information from the records of the Library. Nothing in this Regulation modifies current instructions and practices in the Library with respect to handling Congressional correspondence.
- B. The Copyright Office, although a service unit of the Library, is by law (17 U.S.C. §701) subject to the provisions of the Freedom of Information Act, as amended, only for purposes of actions taken under the copyright law. The Copyright Office has published its own regulation with respect to the general availability of information (see 37 CFR 201.2) and requests for copyright records made pursuant to the Freedom of Information Act (see 37 CFR 203.1 et seq.) and the Privacy Act (see 37 CFR 204.1 et seq.).

Section 2. Policy

- A. Subject to limitations set out in this Regulation, Library of Congress records shall be available as hereinafter provided and shall be furnished as promptly as possible within the Library to any member of the public at appropriate places and times and for an appropriate fee, if any.
- B. The Library shall not provide records from its files that originate in another federal agency or non-

federal organization to persons who may not be entitled to obtain the records from the originator. In such instances, the Library shall refer requesters to the agency or organization that originated the records.

- C. In order to avoid disruption of work in progress, and in the interests of fairness to those who might be adversely affected by the release of information which has not been fully reviewed to assure its accuracy and completeness, it is the policy of the Library not to provide records which are part of on-going reviews or other current projects. In response to such requests, the Library will inform the requester of the estimated completion date of the review or project so that the requester may then ask for the records. At that time, the Library may release the records unless the same are exempt from disclosure as identified in Section 5, below.

Section 3. Administration Responsibilities

The administration of this Regulation shall be the responsibility of the Chief, Office Systems Services (OSS), Library of Congress, 101 Independence Avenue, S.E., Washington, DC 20540-9440, and to that end, the Chief may promulgate such supplemental rules or guidelines as may be necessary.

Section 4. Definitions

- A. As used herein, the term "records" includes all books, papers, maps, photographs, reports, and other documentary materials, **exclusive of materials in the Library's collections**, regardless of physical form or characteristics, made or received and under the control of the Library in pursuance of law or in connection with the transaction of public business, and retained, or appropriate for retention, by the Library as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the government or because of the informational value of data contained therein. The term refers only to such items in being and under the control of the Library. It does not include the compiling or procuring of a record, nor does the term include objects or articles, such as furniture, paintings, sculpture, three-dimensional models, structures, vehicles, and equipment.
- B. "Identifiable" means a reasonably specific description of a particular record sought, such as the date of the record, subject matter, agency or person involved, etc. which will permit location or retrieval of the record.
- C. "Records available to the public" means records which may be examined or copied or of which copies may be obtained, in accordance with these regulations, by the public or representatives of the press regardless of interest and without specific justification.
- D. "Disclose" or "disclosure" means making available for examination or copying, or furnishing a copy.
- E. "Person" includes an individual, partnership, corporation, association, or public or private organization other than a federal agency.

Section 5. Records Exempt from Disclosure

- A. The public disclosure of Library records provided for by these regulations does not apply to records, or any parts thereof, within any of the categories set out below. Unless precluded by law, the Chief, OSS, nevertheless may release records within these categories, except for

Congressional correspondence and other materials identified in 5.B.(1), after first consulting with the General Counsel.

B. Records exempt from disclosure under these regulations are the following:

1. Congressional correspondence and other materials relating to work performed in response to or in anticipation of Congressional requests, unless authorized for release by officials of the Congress.
2. Materials specifically authorized under criteria established by Executive Order to be withheld from public disclosure in the interest of national defense or foreign policy and that are properly classified pursuant to Executive Orders.
3. Records related solely to the internal personnel rules and practices of the Library. This category includes, in addition to internal matters of personnel administration, internal rules and practices which cannot be disclosed without prejudice to the effective performance of a Library function, such as guidelines and procedures used by auditors, investigators, or examiners in the Office of the Inspector General.
4. Records specifically exempted from disclosure by statute, provided that such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of matters to be withheld.
5. Records containing trade secrets and commercial or financial information obtained from a person as privileged or confidential. This exemption may include, but is not limited to, business sales statistics, inventories, customer lists, scientific or manufacturing processes or development information.
6. Personnel and medical files and similar files the disclosure of which could constitute a clearly unwarranted invasion of personal privacy. This exemption includes all private or personal information contained in files compiled to evaluate candidates for security clearances.
7. Materials and information contained in investigative or other records compiled for law enforcement purposes.
8. Materials and information contained in files prepared in connection with government litigation and adjudicative proceedings, except for those portions of such files which are available by law to persons in litigation with the Library.
9. Records having information contained in or related to examination, operation, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.
10. Inter-agency or intra-agency memoranda, letters or other materials that are part of the deliberative process, the premature disclosure of which would inhibit internal communications or be detrimental to a Library function (e.g., case files in the Manuscript Division).

11. Records containing information customarily subject to protection as privileged in a court or other proceedings such as information protected by the doctor-patient, attorney work product, or attorney-client privilege.
 12. Information submitted by a person to the Library in confidence or which the Library has obligated itself not to disclose such as information received by the Office of the Inspector General through its hotline.
 13. Materials related to specific patron use of the Library's collections, resources, or facilities either on site or off site. This exemption includes:
 - a. **Reader Records.** Library records which identify readers by name, such as registration records, reading room logs or registers, telephone inquiry logs, and charge slips, if retained for administrative purposes.
 - b. **Use Records.** Users of the Library are entitled to privacy with respect to their presence and use of the Library's facilities and resources. Records pertaining to the use of the Library and of Library collections and subjects of inquiry are confidential and are not to be disclosed either to other readers, to members of the staff who are not authorized, or to other inquirers including officials of law enforcement, intelligence, or investigative agencies, except pursuant to court order or administratively by order of The Librarian of Congress.
- C. Any reasonably segregable portion of a record shall be provided to anyone requesting such records after deletion of the portions which are exempt under this section. A portion of a record shall be considered reasonably segregable when segregation can produce an intelligible record which is not distorted out of context, does not contradict the record being withheld, and can reasonably provide all relevant information.

Section 6. Procedures for Access to and Copying of Records

- A. A request to inspect or obtain a copy of an identifiable record of the Library of Congress shall be submitted in writing to the Chief, OSS, Library of Congress, 101 Independence Avenue, S.E., Washington, DC 20540-9440, who shall promptly record and process the request.
- B. Requests for records shall be specific and shall identify the precise records or materials that are desired by name, date, number, or other identifying data sufficient to allow the OSS staff to locate, retrieve, and prepare the record for inspection or copying and to delete exempted matter where appropriate to do so. Blanket or generalized requests (such as "all matters relating to" a general subject) shall not be honored and shall be returned to the requester.
- C. Records shall be available for inspection and copying in person during business hours.
- D. Records in media other than print (e.g., microforms and machine-readable media) shall be available for inspection in the medium in which they exist. Copies of records in machine-readable media shall be made in media determined by the Chief, OSS.
- E. Library staff shall respond to requests with reasonable dispatch. Use of a record by the Library or Library employees, however, shall take precedence over any request. Under no circumstances shall official records be removed from Library control without the written authorization of The

Librarian.

- F. The Chief, OSS, shall make the initial determination on whether (1) the record described in a request can be identified and located pursuant to a reasonable search, and (2) the record (or portions thereof) may be made available or withheld from disclosure under the provisions of this Regulation. In making the initial determinations, the Chief shall consult with any unit in the Library having a continuing substantial interest in the record requested. Where the Chief finds no valid objection or doubt as to the propriety of making the requested record available, the Chief shall honor the request upon payment of prescribed fees, if any are required by Section 8, below.
- G. If the Chief, OSS, determines that a requested record should be withheld, the Chief shall inform the requester in writing that the request has been denied; shall identify the material withheld; and shall explain the basis for the denial. The Chief shall inform the requester that further consideration of the denied request may be obtained by a letter to the General Counsel setting out the basis for the belief that the denial of the request was unwarranted.
- H. The General Counsel shall make the final determination on any request for reconsideration and shall notify the requester in writing of that determination. The decision of the General Counsel shall be the final administrative review within the Library.
 - 1. If the General Counsel's decision reverses in whole or in part the initial determination by the Chief, OSS, the Chief shall make the requested record, or parts thereof, available to the requester, subject to the provisions of Section 8, below.
 - 2. If the General Counsel's decision sustains in whole or in part the initial determination by the Chief, OSS, the General Counsel shall explain the basis on which the record, or portions thereof, will not be made available.

Section 7. Public Reading Facility

- A. The Chief, OSS, shall maintain a reading facility for the public inspection and copying of Library records. This facility shall be open to the public from 8:30 a.m. to 4:30 p.m., except Saturdays, Sundays, holidays, and such other times as the Library shall be closed to the public.
- B. The General Counsel shall advise the Chief, OSS, of the records to be available in the public reading facility following consultation with the Library managers who may be concerned.

Section 8. Fees and Charges

- A. The Library will charge no fees for:
 - 1. Access to or copies of records under the provisions of this Regulation when the direct search and reproduction costs are less than \$10.
 - 2. Records requested which are not found or which are determined to be exempt under the provisions of this Regulation.
 - 3. Staff time spent in resolving any legal or policy questions pertaining to a request.
 - 4. Copies of records, including those certified as true copies, that are furnished for official use

to any officer or employee of the federal government.

5. Copies of pertinent records furnished to a party having a direct and immediate interest in a matter pending before the Library, when furnishing such copies is necessary or desirable to the performance of a Library function.
- B. When the costs for services are \$10 or more, the Chief, OSS, shall assess and collect the fees and charges set out in the Appendix to this Regulation for the direct costs of search and reproduction of records available to the public.
- C. The Chief, OSS, is authorized to waive fees and charges, in whole or in part, where it is determined that the public interest is best served to do so, because waiver 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 requester. Persons seeking a waiver or reduction of fees may be required to submit a written statement setting forth the intended purpose for which the records are requested or otherwise indicate how disclosure will primarily benefit the public and, in appropriate cases, explain why the volume of records requested is necessary. Determinations made pursuant to the authority set out herein are solely within the discretion of the Chief, OSS.
- D. Fees and charges for services identified in the Appendix to this Regulation shall be paid in full by the requester before the records are delivered. Payment shall be made in U.S. funds by personal check, money order, or bank draft made payable to the Library of Congress. The Chief, OSS, shall remit all fees collected to the Director, Financial Services, who shall cause the same to be credited to appropriate accounts or deposited with the U.S. Treasury as miscellaneous receipts.
- E. The Chief, OSS, shall notify a requester and may require an advance deposit where the anticipated fees will exceed \$50.



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Fees and Charges for Services Provided to Requesters of Records

A. Searches.

1. There is no charge for searches of less than one hour.
2. Fees charged for searches of one hour or more are based on prevailing rates. Currently, those charges are:

Personnel searches (clerical)\$15 per hour
Personnel searches (professional)...\$25 per hour
Reproduction costs.....\$.50 per page
Shipping and mailing fees.....variable

3. In situations involving the use of computers to locate and extract the requested information, charges will be based on the direct cost to the Library, including labor, material, and computer time.

B. Duplication of Records. Fees charged for the duplication of records shall be according to the prevailing rates established by the Library's Photoduplication Service, or in the case of machine media duplication, by the Resources Management Staff, Information Technology Services.

C. Certifications. The fee charges for certification of a record as authentic or a true copy shall be \$10.00 for each certificate.

D. Other Charges. When no specific fee has been established for a service required to meet the request for records, the Chief, Office Systems Services, shall establish an appropriate fee based on direct costs in accordance with the Office of Management and Budget Circular No. A-25.