SUBCHAPTER F--RECORDS

PART 81--PUBLIC AVAILABILITY OF THE GOVERNMENT ACCOUNTABILITY OFFICE RECORDS

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§ 81.1 Purpose and scope of part.

(a) This part implements the policy of the U.S. Government Accountability Office (GAO) with respect to the public availability of GAO records, except as set forth in paragraph (b) of this section. While GAO is not subject to the Freedom of Information Act (5 U.S.C. 552), GAO's disclosure policy follows the spirit of the act consistent with its duties and functions and responsibilities to the Congress. Application of this act to GAO is not to be inferred from the provisions of these regulations.

(b) GAO published testimonies, reports, decisions, special publications or listings of publications are not included within the scope of this part. These documents may be obtained from the GAO Website, http://www.gao.gov, or by telephone at 202-512-6000, TDD 202-512-2537, or 1-866-801-7077 (toll free). These publications may be downloaded free of charge from the GAO Website. Paper copies requested from GAO are subject to a printing, shipping, and handling fee.

(c) Requests for all other GAO records are within the scope of this part and should be submitted to GAO as directed in paragraph (a) of § 81.4.

[68 FR 33832, June 6, 2003, as amended at 76 FR 12550, Mar. 8, 2011]

§ 81.2 Administration.

(a) GAO's Chief Quality Officer administers this part and may promulgate such supplemental rules or regulations as may be necessary.

(b) Requests for records of GAO's Office of Inspector General (OIG) shall be processed by the Counsel to the Inspector General in accordance with this part. The Inspector General shall decide any administrative appeals of decisions of the Counsel to the Inspector General concerning such requests. However, if any of the requested records of the OIG originated in GAO, the Counsel to the Inspector General shall refer the requester to GAO's Chief Quality Officer for processing of the request for those records in accordance with this part. With regard to any public request to inspect or copy records of the OIG, other than records that originated in GAO, in this part the term "Counsel to this Inspector General" is to be substituted for "Chief Quality Officer" and the term "Inspector General" is to be substituted for "Comptroller General". All requests to inspect or obtain a copy of an identifiable record of the OIG must be submitted in writing to the Counsel to the Inspector General, U.S. Government Accountability Office, Suite 1808, 441 G Street, NW, Washington, DC 20548 or emailed to *OIGRecordsRequest@gao.gov*.

[76 FR 12550, Mar. 8, 2011, as amended at 82 FR 51753, Nov. 8, 2017]

§ 81.3 Definitions.

As used in this part:

(a) "*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.

(b) "*Records*" includes all books, papers, manuals, maps, photographs, reports, and other documentary materials, regardless of physical form or characteristics, including electronically created or maintained materials, under the control of GAO in pursuance of law or in connection with the transaction of public business. As used in this part, the term "records" is limited to an existing record under GAO's control and does not include compiling or procuring records, library or museum material made, acquired, or preserved solely for reference or exhibition purposes, or extra copies of documents preserved only for convenience of reference.

(c) "*Records available to the public*" means records which may be examined or copied or of which copies may be obtained, in accordance with this part, 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.

(f) *"Compelling need"* means that a failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual, or the records are needed urgently, with respect to a request made by a person primarily engaged in disseminating information, for the requester to inform the public concerning actual or alleged Federal Government activity.

§ 81.4 Requests for identifiable records.

(a) A request to inspect or obtain a copy of an identifiable record of GAO must be submitted in writing to the Chief Quality Officer, U.S. Government Accountability Office, 441 G Street, NW, Washington, DC 20548. Requests also may be emailed to *recordsrequest@gao.gov*. The Chief Quality Officer will either acknowledge or honor the request within 20 days of receipt.

(b) The Chief Quality Officer will honor requests for expedited processing before all other requests in cases in which the person requesting the records demonstrates a compelling need. A demonstration of compelling need shall be made by a statement certified by the requester to be true and correct to the best of the requester's knowledge and belief.

(c) In the event of an objection or doubt as to the propriety of providing the requester with a copy of the record sought, every effort will be made to resolve such problems as quickly as possible, including consultation with appropriate GAO elements. If it is determined that the record should be withheld, the Chief Quality Officer 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.

(d) A person whose request is denied in whole or part may administratively appeal the denial within 60 days after the date of the denial by submitting a letter to the Comptroller General of the United States at the address listed in paragraph (a) of this section, explaining why the denial of the request was unwarranted.

[68 FR 33832, June 6, 2003, as amended at 76 FR 12550, Mar. 8, 2011]

§ 81.5 Records originating outside GAO, records of interviews, or records involving work in progress.

(a) It is the policy of GAO not to provide records from its files that originate in another agency or nonfederal organization to persons who may not be entitled to obtain the records from the originator. In such instances, requesters will be referred to the person or organization that originated the records.

(b) It is the policy of GAO that prior to the release of a record of interview created by GAO in connection with an audit, evaluation, or investigation of a program, activity, or funding of a government entity, GAO will notify the agency from which an

interview was obtained of the request. GAO will provide that agency with a reasonable opportunity to indicate whether the record of interview or portions thereof should be exempt from disclosure and the reason(s) for the exemption. The public disclosure of a record of interview remains within the discretion of GAO's Chief Quality Officer, but GAO will consider the views of the agency and the exemptions provided for under § 81.6 or any other law or regulation in deciding whether to release all or portions of a record of interview

(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 GAO not to provide records which are part of ongoing reviews or other current projects. In response to such requests, GAO 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 records may be released unless exempt from disclosure under § 81.6.

[68 FR 33832, June 6, 2003, as amended at 72 FR 50643, Sept. 4, 2007]

§ 81.6 Records which may be exempt from disclosure.

The public disclosure of GAO records contemplated by this part does not apply to records, or parts thereof, within any of the categories listed below. Unless precluded by law, the Chief Quality Officer may nevertheless release records within these categories.

(a) Records relating to work performed in response to a congressional request (unless authorized by the congressional requester), congressional correspondence, and congressional contact memoranda.

(b) Records specifically required by an Executive Order to be kept secret in the interest of national defense or foreign policy. An example of this category is a record classified under Executive Order 12958, Classified National Security Information.

(c) Records related solely to the internal personnel rules and practices of an agency. 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 an agency function. Examples within the purview of this exemption are guidelines and procedures for auditors, investigators, or examiners, and records concerning an agency's security practices or procedures.

(d) 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.

(e) Records containing trade secrets and commercial or financial information obtained from a person that are 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.

(f) Personnel and medical files and similar files the disclosure of which could constitute a clearly unwarranted invasion of personal privacy. This exemption excludes from disclosure all personnel and medical files, and all private or personal information contained in other files, which, if disclosed to the public, would amount to a clearly unwarranted invasion of the privacy of any person. An example of such other files within the exemption would be files compiled to evaluate candidates for security clearance.

(g) Records compiled for law enforcement purposes that originate in another agency, or records prepared for referral to and/or provided by GAO or the OIG to another agency for law enforcement purposes.

(h) 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.

(i) Records containing geological and geophysical information and data (including maps) concerning wells.

(j) Inter-agency or intra-agency memoranda, letters, or other materials that are part of the deliberative process. For example, this exemption includes internal communications such as GAO or other agency draft reports and those portions of internal drafts, memoranda, and workpapers containing opinions, recommendations, advice, or evaluative remarks of GAO employees. This exemption seeks to avoid the inhibiting of internal communications and the premature disclosure of documents which would be detrimental to an agency decision making.

(k) Records in addition to those described in paragraph (j) of this section 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 lawyer-client privilege.

(l) Records GAO has obligated itself not to disclose, including but not limited to, records for which GAO officials have made a pledge of confidentiality, and records the release of which would adversely impact significant property interests or negatively affect public safety.

(m) Unsolicited records containing information submitted by any person to GAO in confidence. Records obtained by the GAO Forensic Audits and Special Investigations (GAO FraudNet) are an example of records that could contain information covered by this exemption.

[68 FR 33832, June 6, 2003, as amended at 72 FR 50644, Sept. 4, 2007; 76 FR 12550, Mar. 8, 2011; 82 FR 51753, Nov. 8, 2017]

§ 81.7 Fees and charges.

(a) No fee or charge will be made for:

(1) Records provided under this part when the direct costs involve less than one hour of search time and 50 pages of photocopying.

(2) Staff-hours spent in resolving any legal or policy questions pertaining to the request.

(3) Copies of records, including those certified as true copies, furnished for official use to a federal government officer or employee.

(4) Copies of pertinent records furnished to a party having a direct and immediate interest in a matter pending before GAO, when necessary or desirable to the performance of a GAO function.

(b) The fees and charges described below will be assessed for the direct costs of search, review, and reproduction of records available to the public under this part.

(1) The cost for reproduction per page shall be 20 cents.

(2) The cost for a certification of authenticity shall be $10 for each certificate.

(3) Manual search and review for records by office personnel will be assessed at $12, $25, or $45 per hour, depending on the rate of pay of the individual actually conducting the search or review, and the complexity of the search.

(4) Other direct costs related to the request may be charged for such items as computer searches.

(5) Except as noted immediately below, requesters generally will be charged only for document duplication. However, there may be times when a search charge will be added, for example, if records are not described with enough specificity to enable them to be located within one hour. Requesters seeking records for commercial use will be charged for document duplication, search, and review costs. Additionally, representatives of the news media, in support of a news gathering or dissemination function, and education or noncommercial scientific institutions not seeking records for commercial use will be charged only for document duplication, unless such request requires extraordinary search or review.

(c) GAO shall notify the requester if an advance deposit is required.

(d) Fees and charges shall be paid by check or money order payable to the U.S. Government Accountability Office.

(e) The Chief Quality Officer may waive or reduce the fees under this section upon a determination that disclosure of the records requested is in the public interest, 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 such waiver or fee reduction may be required to submit a statement setting forth the intended purpose for which the records are requested, indicate how disclosure will primarily benefit the public and, in appropriate cases, explain why the volume of records requested is necessary. Determinations pursuant to this paragraph are solely within the discretion of GAO.

§ 81.8 Public reading facility.

GAO maintains a public reading facility in the Law Library at the Government Accountability Office Building, 441 G Street NW, Washington, DC. To determine if a record is part of the public reading facility collection and to schedule an appointment to visit the facility, contact the Library reference desk at 202-512-2585. The facility is open to the public from 8:30 a.m. to 4:00 p.m. except Saturdays, Sundays, and Federal holidays.

[68 FR 33832, June 6, 2003, as amended at 76 FR 12550, Mar. 8, 2011]