

and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(4) All other requests—Where a request seeks disclosure of records to a person or entity other than one coming within paragraphs (d) (1), (2) and (3) of this section, the requester shall be charged the full cost of search and duplication. However, the first two hours of search time and the first 100 pages of duplication shall be furnished without charge.

(e) *Aggregating of requests.* If there exists a solid basis for concluding that a requester or group of requesters has submitted a series of partial requests for disclosure of records in an attempt to evade assessment of fees, the requests may be aggregated so as to constitute a single request, with fees charged accordingly.

(f) *Unsuccessful searches.* Except as provided in paragraph (d) of this section, the cost of searching for a requested record shall be charged even if the search fails to locate the record or it is determined that the record is exempt from disclosure.

(g) *Interest.* In the event a requester fails to remit payment of fees charged for processing a request under this part within 30 days from the date those fees were billed, interest on the fees may be assessed beginning on the 31st day after the billing date, to be calculated at the rate prescribed in 31 U.S.C. 3717.

(h) *Advance payments.* (1) If, but only if, it is estimated or determined that processing of a request for disclosure of records will result in a charge of fees of more than \$250.00, the requester may be required to pay the fees in advance in order to obtain completion of the processing.

(2) If a requester has previously failed to make timely payment (i.e., within 30 days of billing date) of fees charged under this part, the requester may be required to pay those fees and interest accrued thereon, and to make an advance payment of the full amount of estimated fees chargeable in connection with any pending or new request, in order to obtain processing of the pending or new request.

(3) With regard to any request coming within paragraphs (h) (1) and (2) of this section, the administrative time limits set forth in §§502.11 and 502.12 of this part will begin to run only after the requisite fee payments have been received.

(i) *Non-payment.* In the event of non-payment of billed charges for disclosure of records, the provisions of the Debt Collection Act of 1982 (Pub. L. 97-365), including disclosure to consumer credit reporting agencies and referral to collection agencies, may be utilized to obtain payment.

(j) *Waiver or reduction of charges.* Fees otherwise chargeable in connection with a request for disclosure of a record shall be waived or reduced where—

(1) It is determined that disclosure is in the public interest because it 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; or

(2) It is determined that the cost of collection would be equal to or exceed the amount of those fees. No charges shall be assessed if the fees amount to \$8.00 or less.

## PART 503—PRIVACY ACT AND GOVERNMENT IN THE SUNSHINE REGULATIONS

### Subpart A—Privacy Act Regulations

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## § 503.1

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AUTHORITY: 5 U.S.C. 552a(f).

SOURCE: 66 FR 49844, Oct. 1, 2001, unless otherwise noted.

### Subpart A—Privacy Act Regulations

#### § 503.1 Definitions—Privacy Act.

For the purpose of this part:

*Agency* includes any executive department, military department, government corporation, government controlled corporation, or other establishment in the executive branch of the government (including the Executive Office of the President) or any independent regulatory agency. The Foreign Claims Settlement Commission (“Commission”) is an *agency* within the meaning of the term.

*Individual* means a citizen of the United States or an alien lawfully admitted for permanent residence.

*Maintain* includes maintain, collect, use or disseminate.

*Record* means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, an individual’s education, financial transactions, medical history, and criminal or employment history, and that contains an individual’s name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

*Routine use* means, with respect to the disclosure of a record, the use of that record for a purpose which is compatible with the purpose for which it was collected.

*Statistical record* means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual except as provided by section 13 U.S.C. 8.

*System of records* means a group of any records under the control of any

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agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

#### § 503.2 General policies—Privacy Act.

The Commission will protect the privacy of an individual identified in any information or record systems which it maintains. Accordingly, its officials and employees, except as otherwise provided by law or regulation, will:

(a) Permit an individual to determine what records pertaining to that individual are collected, maintained, used or disseminated by the Commission.

(b) Permit an individual to prevent a record pertaining to that individual obtained by the Commission for a particular purpose from being used or made available for another purpose without the individual’s consent.

(c) Permit an individual to gain access to information pertaining to that individual in Commission records, to have a copy made of all or any portion thereof, and to correct or amend those records.

(d) Collect, maintain, use, or disseminate any record of identifiable personal information in a manner that assures that the Commission’s action is for a necessary and lawful purpose, that the information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of the information.

(e) Permit exemptions from record requirements provided under the Privacy Act only where an important public policy use for the exemption has been determined in accordance with specific statutory authority.

#### § 503.3 Conditions of disclosure.

The Commission will not disclose any record contained in a system of records by any means of communication to any person or any other agency except by written request of or prior written consent of the individual to whom the record pertains unless the disclosure is:

(a) To those officers and employees of the Commission who have a need for the record in the performance of their duties;

(b) Required under the Freedom of Information Act, 5 U.S.C. 552;

(c) For a routine use;

(d) To the Bureau of Census for purposes of planning or carrying out a census or survey or related activity under the provisions of Title 13, United States Code;

(e) To a recipient who has provided the Commission with adequate advance assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(f) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government or for evaluation to determine whether the record has that value;

(g) To another agency or to an instrumentality of any government jurisdiction within or under control of the United States for a civil or criminal law enforcement activity authorized by law, provided the head of the agency or instrumentality has made a prior written request to the Commission, specifying the particular record and the law enforcement activity for which it is sought;

(h) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if, upon disclosure, notification is transmitted to the last known address of the individual;

(i) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of the joint committee;

(j) To the Comptroller General, or any of that official's authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(k) Pursuant to the order of a court of competent jurisdiction.

#### § 503.4 Accounting of certain disclosures.

(a) Except for disclosures under § 503.3(a) and (b) of this part, the Administrative Officer will keep an accurate accounting of each disclosure of a record to any person or to another

agency made under § 503.3(c), (d), (e), (f), (g), (h), (i), (j), and (k) of this part.

(b) Except for a disclosure made to another agency or to an instrumentality of any governmental jurisdiction under § 503.3(g) of this part, the Administrative Officer will make the accounting as required under paragraph (a) of this section available to any individual upon written request made in accordance with § 503.5.

(c) The Administrative Officer will inform any person or other agency about any correction or notation of dispute made in accordance with § 503.7 of this part of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

(d) An accounting of disclosures of records within this section will consist of the date, nature, the purpose of each disclosure of a record to any person or to another agency, and the name and address of the person or agency to whom the disclosure is made.

(e) This accounting shall be retained for 5 years or the life of the record, whichever is longer, after the disclosure for which the accounting is made.

#### § 503.5 Access to records or information.

(a) Upon request in person or by mail, any individual will be informed whether or not a system of records maintained by the Commission contains a record or information pertaining to that individual.

(b) Any individual requesting access to a record or information in person must appear in person at the offices of the Foreign Claims Settlement Commission, 600 E Street, NW., Room 6002, Washington, DC, between the hours of 9 a.m. and 5:30 p.m., Monday through Friday, and

(1) Provide information sufficient to identify the record, *e.g.*, the individual's own name, claim and decision number, date and place of birth, etc.;

(2) Provide identification sufficient to verify the individual's identity, *e.g.*, driver's license, identification or Medicare card; and

(3) Any individual requesting access to records or information pertaining to himself or herself may be accompanied by a person of the individual's own choosing while reviewing the records or

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information. If an individual elects to be so accompanied, advance notification of the election will be required along with a written statement authorizing disclosure and discussion of the record in the presence of the accompanying person at any time, including the time access is granted.

(c) Any individual making a request for access to records or information pertaining to himself or herself by mail must address the request to the Administrative Officer (Privacy Officer), Foreign Claims Settlement Commission, 600 E Street, NW., Room 6002, Washington, DC 20579, and must provide information acceptable to the Administrative Officer to verify the individual's identity.

(d) Responses to requests under this section normally will be made within ten (10) days of receipt (excluding Saturdays, Sundays, and legal holidays). If it is not possible to respond to requests within that period, an acknowledgment will be sent to the individual within ten (10) days of receipt of the request (excluding Saturdays, Sundays, and legal holidays).

#### **§ 503.6 Determination of requests for access to records.**

(a) Upon request made in accordance with § 503.5, the Administrative Officer will:

(1) Determine whether or not the request will be granted;

(2) Make that determination and provide notification within a reasonable period of time after receipt of the request.

(b) If access to a record is denied because information has been compiled by the Commission in reasonable anticipation of a civil or criminal action or proceeding, the Administrative Officer will notify the individual of that determination and the reason therefor.

(c) If access to the record is granted, the individual making the request must notify the Administrative Officer whether the record requested is to be copied and mailed to the individual.

(d) If a record is to be made available for personal inspection, the individual must arrange with the Administrative Officer a mutually agreeable time and place for inspection of the record.

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#### **§ 503.7 Amendment of a record.**

(a) Any individual may request amendment of a record pertaining to himself or herself according to the procedure in paragraph (b) of this section, except in the case of records described under paragraph (d) of this section.

(b) After inspection by an individual of a record pertaining to himself or herself, the individual may file a written request, presented in person or by mail, with the Administrative Officer, for an amendment to a record. The request must specify the particular portions of the record to be amended, the desired amendments and the reasons therefor.

(c) Not later than ten (10) days (excluding Saturdays, Sundays, and legal holidays) after the receipt of a request made in accordance with this section to amend a record in whole or in part, the Administrative Officer will:

(1) Make any correction of any portion of the record which the individual believes is not accurate, relevant, timely or complete and thereafter inform the individual of such correction; or

(2) Inform the individual, by certified mail return receipt requested, of the refusal to amend the record, setting forth the reasons therefor, and notify the individual of the right to appeal that determination as provided under Sec. 503.8 of this part.

(d) The provisions for amending records do not apply to evidence presented in the course of Commission proceedings in the adjudication of claims, nor do they permit collateral attack upon what has already been subject to final agency action in the adjudication of claims in programs previously completed by the Commission pursuant to statutory time limitations.

#### **§ 503.8 Appeals from denial of requests for amendment to records.**

(a) An individual whose request for amendment of a record pertaining to the individual is denied may request a review of that determination. The request must be addressed to the Chair of the Commission, and must specify the reasons for which the refusal to amend is challenged.

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(b) If on appeal the refusal to amend the record is upheld, the Commission will permit the individual to file a statement setting forth the reasons for disagreement with the determination. The statement must also be submitted within 30 days of receipt of the denial. The statement will be included in the system of records in which the disputed record is maintained and will be marked so as to indicate:

(1) That a statement of disagreement has been filed, and

(2) Where in the system of records the statement may be found.

### § 503.9 Fees.

Fees to be charged, if any, to any individual for making copies of that individual's record excluding the cost of any search for and review of the record will be as follows:

(a) Photocopy reproductions: each copy \$0.15.

(b) Where the Commission undertakes to perform for a requester, or any other person, services which are clearly not required to be performed under the Privacy Act, either voluntarily or because those services are required by some other law, the question of charging fees for those services will be determined by the official or designee authorized to release the information, under the Federal user charge statute, 31 U.S.C. 583a, any other applicable law, and the provisions of § 502.13 of part 502 of this chapter.

### § 503.10 Exemptions.

No system of records maintained by the Foreign Claims Settlement Commission is exempt from the provisions of 5 U.S.C. 552a as permitted under certain conditions by 5 U.S.C. 552a(j) and (k). However, the Chair of the Commission reserves the right to promulgate rules in accordance with the requirements of 5 U.S.C. 553(b)(1), (2) and (3), and 5 U.S.C. 553(c) and (e) to exempt any system of records maintained by the Commission in accordance with the provisions of 5 U.S.C. 552a(k).

### § 503.11 Reports.

(a) The Administrative Officer or designee will provide adequate advance notice to Congress and the Office of Management and Budget of any pro-

posal to establish or alter any Commission system of records, as required by 5 U.S.C. 552a(o).

(b) If at any time a system of records maintained by the Commission is determined to be exempt from the application of 5 U.S.C. 552a in accordance with the provisions of 5 U.S.C. 552a(j) and (k), the number of records contained in such system will be separately listed and reported to the Office of Management and Budget.

### § 503.12 Notices.

The Commission will publish in the FEDERAL REGISTER at least annually a notice of the existence and character of the systems of records which it maintains. Such notice will include:

(a) The name and location of each system;

(b) The categories of individuals on whom the records are maintained in each system;

(c) The categories of records maintained in each system;

(d) Each routine use of the records contained in each system including the categories of users and the purpose of each use;

(e) The policies and practices of the Commission regarding storage, retrievability, access controls, retention, and disposal of the records;

(f) The title and business address of the agency official who is responsible for each system of records;

(g) Commission procedures whereby an individual can be notified if a system of records contains a record pertaining to that individual;

(h) Commission procedures whereby an individual can be notified how to gain access to any record pertaining to that individual contained in a system of records, and how to contest its content, and

(i) The categories of sources of records in each system.

## Subpart B—Government in the Sunshine Regulations

AUTHORITY: 5 U.S.C. 552b.

### § 503.20 Definitions.

For purposes of this part: *Closed meeting* and *closed portion of a meeting* mean, respectively, a meeting or that part of

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a meeting designated as provided in § 503.27 as closed to the public by reason of one or more of the closure provisions listed in § 503.24.

*Commission* means the Foreign Claims Settlement Commission, which is a collegial body that functions as a unit composed of three individual members, appointed by the President with the advice and consent of the Senate.

*Meeting* means the deliberations of at least two (quorum) members of the Commission where such deliberations determine or result in joint conduct or disposition of official Commission business.

*Member* means any one of the three members of the Commission.

*Open meeting* means a meeting or portion of a meeting which is not a closed meeting or a closed portion of a meeting.

*Public observation* means the right of any member of the public to attend and observe, but not participate or interfere in any way, in an open meeting of the Commission within the limits of reasonable and comfortable accommodations made available for such purpose by the Commission.

### § 503.21 Notice of public observation.

(a) A member of the public is not required to give advance notice of an intention to exercise the right of public observation of an open meeting of the Commission. However, in order to permit the Commission to determine the amount of space and number of seats which must be made available to accommodate individuals who desire to exercise the right of public observation, those individuals are requested to give notice to the Commission at least two business days before the start of the open meeting of the intention to exercise that right.

(b) Notice of intention to exercise the right of public observation may be given in writing, in person, or by telephone to the official designated in § 503.29.

(c) Individuals who have not given advance notice of intention to exercise the right of public observation will not be permitted to attend and observe the open meeting of the Commission if the available space and seating are necessary to accommodate individuals

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who gave advance notice of such intention.

### § 503.22 Scope of application.

The provisions of this part 503, §§ 503.20 through 503.29, apply to meetings of the Commission, and do not apply to conferences or other gatherings of employees of the Commission who meet or join with others, except at meetings of the Commission to deliberate on or conduct official agency business.

### § 503.23 Open meetings.

Every meeting of the Commission will be open to public observation except as provided in § 503.24.

### § 503.24 Grounds for closing a meeting.

(a) Except in a case where the Commission determines otherwise, a meeting or portion of a meeting may be closed to public observation where the Commission determines that the meeting or portion of the meeting is likely to:

(1) Disclose matters that are:

(i) Specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and

(ii) In fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of the Commission;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552) provided that such statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

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

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of the records or information would:

(i) Interfere with enforcement proceedings,

(ii) Deprive a person of a right to a fair trial or an impartial adjudication,

(iii) Constitute an unwarranted invasion of personal privacy,

(iv) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source,

(v) Disclose investigative techniques and procedures, or

(vi) Endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the Commission;

(9) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed action of the Commission, provided the Commission has not already disclosed to the public the content or nature of its proposed action, or is not required by law to make the disclosure on its own initiative prior to taking final action on the proposal; or

(10) Specifically concern the Commission's issuance of a subpoena or the Commission's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Commission of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554, or otherwise involve a determination on the record after opportunity for a hearing.

(b) If the Commission determines that the public interest would require that a meeting to be open, it may nevertheless so hold.

**§ 503.25 Announcement of meetings.**

(a) The Commission meets in its offices at 600 E Street, NW, Washington, DC, from time to time as announced by timely notice published in the FEDERAL REGISTER.

(b) At the earliest practicable time, which is estimated to be not later than eight days before the beginning of a meeting of the Commission, the Commission will make available for public inspection in its offices, and, if requested, will furnish by telephone or in writing, a notice of the subject matter of the meeting, except to the extent that the information is exempt from disclosure under the provisions of § 503.24.

**§ 503.26 Procedures for closing of meetings.**

(a) The closing of a meeting will occur when:

(1) A majority of the membership of the Commission votes to take that action. A separate vote of the Commission members will be taken with respect to each Commission meeting, a portion or portions of which are proposed to be closed to the public pursuant to § 503.24, or with respect to any information which is proposed withheld under § 503.24. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning that series of meetings, so long as each meeting in the series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in the series. The vote of each Commission member participating in the voting will be recorded and no proxies will be allowed.

(2) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Commission close that portion to the public for any of the reasons referred to in § 503.24(e), (f), or (g), the Commission, upon request of any one of its Commission members, will take a recorded vote, whether to close that portion of the meeting.

(b) Within one day of any vote taken, the Commission will make publicly available a written copy of the voting

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reflecting the vote of each member on the question and a full written explanation of its action closing the entire or portion of the meeting together with a list of all persons expected to attend the meeting and their affiliation.

(c) The Commission will announce the time, place and subject matter of the meeting at least eight days before the meeting.

(d) For every closed meeting, before the meeting is closed, the Commission's Chair will publicly certify that the meeting may be closed to the public, and will state each relevant closure provision. A copy of the certification, together with a statement setting forth the time and place of the meeting, and the persons present, will be retained by the Commission.

### § 503.27 Reconsideration of opening or closing, or rescheduling a meeting.

The time or place of a Commission meeting may be changed following the public announcement only if the Commission publicly announces such changes at the earliest practicable time. The subject matter of a meeting, or the determination of the Commission to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement only if a majority of the Commission members determines by a recorded vote that Commission business so requires and that no earlier announcement of the changes was possible, and the Commission publicly announces the changes and the vote of each member upon the changes at the earliest practicable time.

### § 503.28 Record of closed meetings, or closed portion of a meeting.

(a) The Commission will maintain a complete transcript or electronic recording adequate to record fully the proceedings of each closed meeting or closed portion of a meeting, except that in the case of a meeting or portion of a meeting closed to the public pursuant to § 503.24(d), (h), or (j), the Commission will maintain either a transcript or recording, or a detailed set of minutes.

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(b) Any minutes so maintained will fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote. All documents considered in connection with any action will be identified in the minutes.

(c) The Commission will promptly make available to the public, in its offices, the transcript, electronic recording, or minutes, of the discussion of any item on the agenda of a closed meeting, or closed portion of a meeting, except for the item or items of discussion which the Commission determines to contain information which may be withheld under § 503.24. Copies of the transcript or minutes, or a transcription of the recording, disclosing the identity of each speaker, will be furnished to any person at the actual cost of duplication or transcription.

(d) The Commission will maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each closed meeting or closed portion of a meeting for a period of two years after the date of the closed meeting or closed portion of a meeting.

(e) All actions required or permitted by this section to be undertaken by the Commission will be by or under the authority of the Chair of the Commission.

### § 503.29 Requests for information.

Requests to the Commission for information about the time, place, and subject matter of a meeting, whether it or any portions thereof are closed to the public, and any requests for copies of the transcript or minutes or of a transcript of an electronic recording of a closed meeting, or closed portion of a meeting, to the extent not exempt from disclosure by the provisions of § 503.24, must be addressed to the Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW, Room 6002, Washington, DC 20579, telephone (202) 616-6975.