

implementing certain EFOIA statutory requirements, including the aggregation of FOIA requests, and the expedited processing of FOIA requests. In addition, EFOIA changes the time limit for responding to a FOIA request from ten to twenty working days, and includes provisions regarding the availability of documents in electronic form, the treatment of electronic records, and the establishment of "electronic reading rooms." This final rule will revise SBA's FOIA regulations to comply with EFOIA and to reflect current SBA FOIA procedures and practices. It also increases the amount SBA can charge for search and review time to \$30 per hour.

The Freedom of Information/Privacy Acts (FOI/PA) Office received one comment, which was not substantive. The commenter suggested that the regulations "should convey the sense of openness associated with the FOIA." The commenter also suggested that the regulations "should require SBA's FOIA Office to post in its electronic reading room* * * those documents which have been released 5 or more times and are likely to be requested again* * *." SBA's regulations are in compliance with both the EFOIA and Department of Justice guidelines. In addition, there is a "Frequently Requested Records" section in the electronic reading room.

Compliance With Executive Orders 12866, 12988, and 13132, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

The Office of Management and Budget has determined that this rule is not a "significant regulatory action" under Executive Order 12866, Regulatory Planning and Review. These amendments are not likely to have an annual economic effect of \$100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the U.S. economy. Instead, these changes will make SBA's FOIA program more streamlined and easier for the public to understand and use.

SBA has determined that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612. Under the FOIA, agencies may recover only the direct costs of searching for, reviewing, and duplicating the records processed for requesters. Thus, fees assessed by SBA are nominal.

For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this rule would not

impose new reporting or record keeping requirements.

For purposes of Executive Order 13132, SBA has determined that this rule does not have any federalism implications warranting the preparation of a Federalism Assessment.

For purposes of Executive Order 12988, SBA has determined that this rule is drafted, to the extent practicable, in accordance with the standards set forth in that order.

List of Subjects in 13 CFR Part 102

Freedom of information, Privacy.

■ For the reasons set forth in the preamble, amend part 102 of title 13 of the Code of Federal Regulations as follows:

PART 102—RECORD DISCLOSURE AND PRIVACY

■ 1. The authority citation for part 102 continues to read as follows:

Authority: 5 U.S.C. 552 and 552a; 31 U.S.C. 1 *et seq.* and 67 *et seq.*; 44 U.S.C. 3501 *et seq.*; E. O. 12600, 3 CFR, 1987 Comp., p. 235.

■ 2. Revise Subpart A of part 102 to read as follows:

Subpart A—Disclosure of Information

Sec.

- 102.1 General provisions.
- 102.2 Public reading rooms.
- 102.3 Requirements pertaining to the submission of requests.
- 102.4 Timing of responses to requests.
- 102.5 Responses to requests.
- 102.6 Fees.
- 102.7 Business information.
- 102.8 Appeals.
- 102.9 Public Index.

Subpart A—Disclosure of Information

§ 102.1 General provisions.

This subpart describes the procedures that the U.S. Small Business Administration (SBA) follows for responding to requests made under the Freedom of Information Act (FOIA) (5 U.S.C. 552).

§ 102.2 Public reading rooms.

(a) SBA maintains a public reading room in the Headquarters Reference Library at 409 3rd St., SW., Suite 5000, Washington, DC 20416 where you may read and copy the following:

- (1) Final SBA opinions and orders issued by the Office of Hearings and Appeals in adjudicating a case,
- (2) Official non-privileged policy statements, opinions, or interpretations,
- (3) Standard operating procedures affecting members of the public,
- (4) Records SBA has released in response to previous FOIA requests which, because of their subject matter,

SBA determines are likely to be requested again, and

(5) An index of the records referred to under paragraph (a)(4) of this section.

(b) The records described in paragraph (a) of this section are available in the SBA Online Reading Room at <http://www.sba.gov/library/>.

(c) Reading room records created on or after November 1, 1996 are available electronically.

§ 102.3 Requirements pertaining to the submission of requests.

(a) You may make a request for SBA records by writing directly to the program or field office that maintains the records, or to the Freedom of Information/Privacy Acts (FOI/PA) Office by mail to 409 3rd St., SW., Washington, DC 20416 or fax to 202–205–7059 or e-mail to foia@sba.gov. The office receiving your request will forward it to the correct office. The correct office will consider your request to be complete only when you:

(1) Describe the records sought in enough detail for an Agency employee to locate the records with a reasonable amount of effort;

(2) Agree to pay applicable fees pursuant to § 102.6, unless you seek a waiver of fees; and

(3) Make an advance payment if either the correct office estimates the fees will exceed \$250 or you owe for past FOIA fees. If you owe past due FOIA fees, you must pay the estimated amount, plus any past due charges and interest.

(b) If you make a request on behalf of another person for information pertaining to that person, your request must include an authorization signed by the latter, allowing SBA to release such information to you.

(c) To make a Privacy Act request for records about yourself, you must follow the procedures detailed in § 102.34(b) of Subpart B.

§ 102.4 Timing of responses to requests.

(a) *In general.* Subject to paragraphs (b) and (c) of this section, once the correct office receives your complete request, that office must respond within 20 working days unless that office notifies you in writing that the time is extended by an additional 10 working days for one or more of the following reasons:

(1) The need to search for and collect the requested records from field facilities or other establishments separate from the office processing the request;

(2) 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