



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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AGENDA ITEM

For Meeting of 4-28-16

April 27, 2016

MEMORANDUM

SUBMITTED LATE

TO: The Commission
FROM: Ann M. Ravel 
SUBJECT: Proposed Statement of Policy Regarding the Public Disclosure of Certain Documents

Below is an alternative proposal for the Commission to supplement its Interim Disclosure Policy with respect to certain documents.

To update the Commission's practice of publicly releasing certain documents, *see* Statement of Policy Regarding Disclosure of Closed Enforcement or Related Files, 68 Fed. Reg. 70,423 (Dec. 20, 2003) ("Interim Disclosure Policy"), the Federal Election Commission is supplementing the list of documents it will routinely place on the public record.

In addition to those documents currently made public under the Interim Disclosure Policy, the Commission will place the following categories of documents on the public record:

1. Attachments to complaints and attachments to responses to complaints;
2. Memoranda and reports from the Office of the General Counsel prepared for the Commission in connection with a specific pending Matter Under Review circulated through the Office of the Secretary for the consideration and deliberation of the Commission;
3. Complaint notification letters;
4. Notifications to respondents that were previously identified as "Unknown Respondents";
5. Correspondence from the Commission to a respondent prior to a finding of reason to believe that notifies the respondent of additional information known to the Commission but not found in the complaint or response, requests or invites a respondent to respond to new information or clarify information in the response, or provides a respondent with notice of an opportunity to respond to new legal theories;
6. Correspondence from respondents submitted in response to items 3, 4, or 5;
7. Tolling agreements;
8. Internal referrals in which the Commission declines to open a Matter Under Review;
9. Statistics related to number of EPS dismissals by fiscal year and current quarter;

10. Statistics related to number of cases closed by fiscal year and current quarter;
11. Case closing processing statistics;
12. Monthly reports from the Department of the Treasury of the balance available in the Presidential Election Campaign Fund;
13. Yearly Long Term Budget Estimates for the Presidential Election Campaign Fund;
14. Memoranda from the Office of the General Counsel prepared for the Commission in connection with debt settlement plans and proposed administrative terminations circulated through the Office of the Secretary for the consideration and deliberation of the Commission in which the Commission ultimately approves the debt settlement plan or administrative termination;
15. Certifications of Commission votes in which the Commission approves a debt settlement plan or administrative termination;
16. Service Contract Inventory Reports submitted by the Commission to the Office of Federal Procurement Policy pursuant to section 743 of Division C of the 2010 Consolidated Appropriations Act;
17. Annual reports of activities performed by the agency that in the judgment of the agency head are not inherently governmental submitted by the Commission to the Office of Management and Budget pursuant to the Federal Activities Inventory Reform Act of 1998;
18. Reports of official travel paid for by non-government sources made to the U.S. Office of Government Ethics pursuant to 31 U.S.C. § 1353;
19. Annual reports of the receipt and disposition of gifts and decorations tendered by foreign governments to federal employees, spouses, and dependents submitted by the Commission to the State Department pursuant to Public Law 95-105;
20. Annual reports made by the Commission pursuant to Equal Employment Opportunity Commission Management Directive 715;
21. Annual reports on the agency's privacy management program submitted by the Commission to the Office of Management and Budget.

The Commission is continuing its practice of not placing the following categories of documents on the public record:

1. *Sua sponte* submissions and accompanying attachments;
2. Memoranda and reports from the Office of the General Counsel prepared for the Commission and circulated through the Office of the Secretary for the consideration and deliberation of the Commission that have been withdrawn by the Office of the General Counsel;
3. Errata memoranda prepared by the Office of the General Counsel;
4. External referrals from other agencies and law enforcement sources in which the Commission declines to open a Matter Under Review;
5. Documents related to debt settlement plans and proposed administrative terminations in which the Commission does not approve the debt settlement plan or administrative termination.

This supplemental policy does not alter the current processes for addressing Freedom of Information Act ("FOIA") requests, reviewing closed enforcement files before release, or

identifying and making redactions based on privilege, FOIA exemption, or the confidentiality provisions of the Act, including the conciliation confidentiality provision at 52 U.S.C. § 30109(a)(4).

This document amends an agency practice or procedure. This document does not constitute an agency regulation requiring notice of proposed rulemaking, opportunities for public comment, prior public notice and delay effective under 5 U.S.C. § 533 of the Administrative Procedure Act (“APA”). The provisions of the Regulatory Flexibility Act, 5 U.S.C. § 605(b), which apply when notice and comment are required by the APA or another statute, are not applicable here.