COMMITTEE FOR PURCHASE FROM
PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

November 19, 1999

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ADMINISTRATIVE MEMORANDUM NO. 6

SUBJECT: Safeguarding Confidential Commercial Information

1. Purpose

This memorandum prescribes the procedures the Committee will follow prior to releasing documents requested under the Freedom of Information Act (FOIA), 5 U.S.C. 552, which may contain confidential commercial information, in accord with the Committee FOIA regulation on business information, 41 CFR 51-8.8. This memorandum supersedes Administrative Memorandum No. 6, dated April 26, 1993, and Workshop Memorandum No. 14, dated January 24, 1991.

2. General

National Industries for the Blind (NIB), NISH and the nonprofit agencies participating in the Javits-Wagner-O'Day (JWOD) Program are required to submit certain information needed by the Committee to carry out its responsibilities, which may be properly classified as privileged or confidential commercial or financial information under exemption 4 to FOIA (5 U.S.C 552(b)(4)) or which may be protected and exempted from release under other provisions of law.

3. Screening Documents

a. The Committee will not release, under FOIA, confidential commercial information contained in the following documents without first obtaining the views of the affected organization (NIB, NISH or the nonprofit agency concerned):

- any of the Committee forms in the attached list,
- any document which an affected nonprofit agency has notified the Committee contains information that should be exempted from disclosure, or
- any other document the Committee believes may contain information that should be exempted from disclosure.

b. When the Committee forms in the attached list are submitted to the Committee initially, they should not be annotated or stamped to indicate which information is considered privileged or confidential commercial or financial data. Such markings are unnecessary since they will be referred automatically to the affected party for markup and clearance, prior to their release under FOIA. It is also not necessary that such forms be accompanied

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by a letter objecting to their release under FOIA in advance of an actual request for disclosure of the documents under FOIA.

c. With respect to the submission of other documents that, in the view of the affected party, contain information that should be exempted from disclosure, the document(s) should be accompanied by a letter signed by the chief operating officer of the affected nonprofit agency. The letter should indicate which information in the documents should be withheld.

4. Procedure

a. When the Committee receives a request for the release under FOIA or any of the documents listed in paragraph 3.a. above, it will provide a copy of the requested document to the affected party and request that it indicate, using a red pen or pencil, which specific words, diagrams, numbers, or other information should be withheld by enclosing the information in brackets or by lightly lining through the information. The affected party shall return the document to the Committee within 10 working days, together with an explanation of how the release of the information it has indicated on the document could harm the nonprofit agency's competitive position or of another legal basis for withholding the information. This submission shall include a statement which indicates what steps the nonprofit agency has taken or is taking to protect the information involved from release to outside sources. When the amount of information subject to possible withholding is limited, the views of the nonprofit agency may be obtained by telephone and confirmed in a letter from the agency to the Committee.

b. After consideration of the comments received, but prior to its release of a document under FOIA, the Committee shall notify the affected nonprofit agency of any information the nonprofit agency has requested be withheld which the Committee has determined cannot be properly withheld under FOIA. In cases where the Committee has determined it must disclose information over a nonprofit agency's objection, disclosure will take place no earlier than 10 working days from the nonprofit agency's receipt of the Committee's decision to disclose.

c. The Committee will promptly notify the affected nonprofit agency if a FOIA requester brings suit to compel disclosure of information that has been withheld.

Beverly L. Milkman
Executive Director

Attachment