



# Department of Defense INSTRUCTION

NUMBER 7650.4  
September 9, 1997

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USD(C)

SUBJECT: Procedures for Responding to General Accounting Office (GAO) and  
Comptroller General Requests for Access to Records

- References: (a) [DoD Directive 7650.1](#), "General Accounting Office (GAO) and  
Comptroller General Access to Records," September 11, 1997  
(b) Office of Management and Budget Circular A-11, "Preparation and  
Submission of Budget Estimates," June 13, 1996  
(c) [DoD Directive 7650.2](#), "General Accounting Office Audits and  
Reports," July 19, 1985  
(d) [DoD Directive 5400.7](#), "DoD Freedom of Information Act  
Program," May 13, 1988  
(e) DoD 5400.7-R, "DoD Freedom of Information Act Program," May  
1997, authorized by DoD Directive 5400.7, May 13, 1988

## 1. PURPOSE

This Instruction under reference (a) implements policy, assigns responsibilities and prescribes procedures for responding to GAO requests for records on announced surveys and reviews. Pertinent provisions of law that are cited in this Instruction are reprinted in enclosure 1.

## 2. APPLICABILITY

This Instruction applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense (OIG, DoD), the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

### 3. DEFINITIONS

Terms used in this Instruction are defined in enclosure 2.

### 4. POLICY

It is DoD policy that the DoD Components cooperate with the GAO and respond quickly, and as completely as practicable, to GAO requests for records related to announced surveys or reviews, and allow the GAO full access to all records that are not exempt from disclosure to the GAO.

### 5. RESPONSIBILITIES

5.1. The Under Secretary of Defense (Comptroller) shall establish and maintain procedures for GAO access to DoD budgetary material and other records.

5.2. The General Counsel of the Department of Defense, in all cases, shall coordinate on certification requests filed with the President or Director, Office of Management and Budget (OMB).

5.3. The Secretaries of the Military Departments and the Heads of the Other DoD Components shall ensure compliance with this Instruction, and ensure that their respective General Counsels shall coordinate on certification requests filed with the President or the Director, OMB.

### 6. PROCEDURES

6.1. Certain types of records require special treatment and should be handled as follows:

6.1.1. Budgetary Material. OMB Circular A-11 (reference (b)) establishes Executive Branch policy on the release of budgetary material and it should be consulted for guidance whenever a request for budgetary material is received. All responses to requests for budgetary material shall be processed through Comptroller channels and shall be coordinated with the Office of the Under Secretary of Defense (Comptroller) (OUSD(C)).

6.1.2. Internal Audit Reports. Such requests shall be referred to the appropriate DoD audit liaison official. When an access request involves final audit reports issued by a DoD Component's internal audit organization, the report and any associated working papers shall be furnished to the GAO upon request. Supplementary materials on such reports and their findings and recommendations, such as management positions on the audit report and any corrective action being taken, shall be furnished either concurrently with the audit report or as soon as practicable thereafter.

6.1.3. Records of a DoD Component Other than the DoD Component Receiving an Access Request. When an access request is submitted to one DoD Component but involves a record of another DoD Component, the request should immediately be referred to that Component for either a direct response to the GAO or for approval of the release of the record. The GAO shall be advised of such referrals. If a request involves a Future Years Defense Program or Program Budget Decisions, the GAO should be requested to seek the information directly from the OUSD(C). If a request involves technical development plans, the GAO should be referred directly to the originating office. If a request is for a record concerning operation plans or support plans involving joint Service participation, the GAO should be referred directly to the Chairman of the Joint Chiefs of Staff.

6.1.4. Records of a Non-DoD Entity. When an access request involves a record of a non-DoD entity, the responsibility for determining the release of that record rests with the non-DoD entity. If a request involves such a record, the GAO should be advised of this fact and asked to request the record directly from the non-DoD entity. Alternatively, such a record may be released by a DoD Component with the consent of the originating entity.

6.1.5. Records Containing Personal Information. Under the provisions of 31 U.S.C. 716(e)(2) (enclosure 1), any record described in Section 552(b)(6) of 5 U.S.C. (enclosure 1), consisting of personnel and medical files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, must be kept by the Comptroller General in a way that prevents unwarranted invasions of personal privacy. Accordingly, any time that such a record is furnished to a GAO representative or to the Comptroller General, the record shall be suitably marked to indicate that it is a personnel or medical record that is subject to the protection provisions of Section 716(e)(2) of 31 U.S.C. (enclosure 1).

6.1.6. Foreign Intelligence and Counter Intelligence Information.

Although the Comptroller General may be prevented from compelling access to this information, such information should not be denied categorically. Such information may be furnished to GAO representatives having a legitimate need to know it. Therefore, denials of access to such information must be carefully considered and supported legitimately.

## 6.2. Responding to an Access Request

6.2.1. All relationships with the GAO, including relationships involving access to records, are subject to the provisions of DoD Directive 7650.2 (reference (c)). Under the provisions of that Directive, the Inspector General is the primary liaison for all matters concerning the relationships between the Comptroller General, the GAO, and the Department of Defense. Therefore, if an access request has been received and it is not apparent that the Office of the Inspector General knows about it, that office shall be immediately informed about the access request.

6.2.2. Most access requests can be handled informally and should be accommodated at the lowest possible organizational level. If any delays are encountered in the course of processing an access request, the GAO shall be informed of the status of the request including, when appropriate, the reason for the delay.

6.2.3. In responding to an access request, every effort should be made to satisfy the request to the maximum extent feasible. This includes developing mutually acceptable alternatives to providing physical copies of requested documents if they are voluminous, extremely sensitive, highly classified, or their physical production and transmittal to the GAO otherwise is impractical or unwarranted because of security, personal privacy, or other legitimate reasons that might exist for limiting the dissemination of records.

6.2.4. If a record being furnished may be incomplete or subject to misinterpretation, clarifying information or remarks may be furnished to accompany the record so that the GAO will be in a better position to present a complete and accurate analysis or discussion of the matter being reviewed. The provision of such information or remarks, however, should not delay the release of the requested record.

6.2.5. If an access request involves several different records, some of which are releasable and some of which may be exempt, prompt action must be taken to provide access to the releasable documents and to resolve the issues related to records that may be exempt.

6.2.6. If it is determined that an access request involves a potentially exempt record, access may be denied pending resolution of whether an exemption applies to the record and whether a valid reason exists for denying access to the record. Immediately upon a determination that an exempt record may be involved in an access request, legal counsel, up to and including the General Counsel of the Department of Defense (GC, DoD), if necessary, shall be consulted to determine whether any criterion exists to establish a record as exempt. Every effort should be made to resolve any legal issue involving a potentially exempt record at the lowest possible level.

6.2.7. If it is determined that the record is not an exempt record, it should be released to the GAO.

6.2.8. If the DoD Component initially determined that the record is an exempt record, the GAO shall be so advised. If the record falls within one of the two statutory Freedom of Information Act exemptions, referred to in Section 716(d)(1)(C) of 31 U.S.C. (enclosure 1) before advising the GAO that the record is exempt, an appropriate policy making official shall also make the additional determination required with respect to that record that its disclosure “could reasonably be expected to impair substantially the operations of the Government.”

6.2.9. Detailed records shall be kept on all actions taken about denials of exempt records.

6.2.10. When a record is withheld on the basis that it is exempt, every effort shall be made to accommodate the General Accounting Office’s need for information through mutually acceptable alternative means so that a situation resulting in a written Comptroller General request can be avoided.

6.2.11. In all cases involving a final denial of an access request, action shall be taken to advise the Secretary of Defense, or the Secretary of the Military Department concerned, of the denial and the reason for the denial of the access request. Such notifications shall be coordinated with the GC, DoD, about such advice to the Secretary of Defense and with the General Counsel of the Military Department concerned, about such advice to the Secretary of a Military Department.

### 6.3. Responding to Written Comptroller General Requests

6.3.1. When a written request to the Secretary of Defense or the Secretary of a Military Department is received from the Comptroller General, it will be referred

immediately to the appropriate DoD Component and office within that Component that is responsible for the record being requested. In addition, the GC, DoD; the General Counsel of a Military Department, in the case of a Military Department's record; and the Deputy Director for GAO Affairs, OIG, DoD; shall be advised of the receipt of the request, and a copy of the request will be furnished to each office.

6.3.2. Suspense dates shall be established so that the 20-day response time specified in 31 U.S.C. 716 (enclosure 1) will be met. Detailed records shall be kept of all actions taken in response to a written Comptroller General request for use should the Comptroller General seek to enforce a claimed right to access under the provisions of 31 U.S.C. 716 (enclosure 1).

6.3.3. Immediate action shall be taken to obtain a review by the Secretary of Defense or the Secretary of a Military Department of all prior DoD Component decisions to deny any access request(s) on the record involved. If that review results in a determination that the record should be released, the record shall be furnished to the Comptroller General. If it is determined that the record still should not be released, an effort will be made to determine whether it is possible to resolve the matter by using alternative means to satisfy the Comptroller General's request.

6.3.4. If a record is released after its denial is reconsidered, the Secretary of Defense or the Secretary of a Military Department will notify the Comptroller General that the record has been released and that no further action is contemplated. If a record is not released, but there has been an agreement on alternative means to satisfy the Comptroller General's request, this fact shall be confirmed in writing to the Comptroller General along with an indication that any later written Comptroller General request for the record itself will be considered to be new request that will be governed by a new 20-day response time. Copies of this letter shall be furnished promptly to all offices notified of the initial request.

6.3.5. If a determination is made that the record should still not be released after its denial is reconsidered, a letter shall be prepared for the Secretary of Defense or the Secretary of a Military Department, as appropriate, that advises the Comptroller General that the record will still be withheld. This letter shall specify the precise statutory basis for withholding the record and, if the record is one covered by either of the two Freedom of Information Act exemptions referred to in Section 716(d)(1)(C) of 31 U.S.C. (enclosure 1), it also shall contain a determination that the release of the record could be expected to impair substantially the operations of the Government.

6.3.6. A letter denying a written Comptroller General request shall be coordinated with the GC, DoD, in all cases and with the General Counsel of the Military Department concerned, if the record is a record of a Military Department.

6.3.7. When there is a written Comptroller General request involving a record covered by one of the two Freedom of Information Act exemptions referred to in Section 716(d)(1)(C) of 31 U.S.C. (enclosure 1), a request for a certification by the President or the Director, OMB, shall be processed contemporaneously with the processing of the denial of the written Comptroller General request. Such processing is necessary because of the short time period for obtaining such a certification should the Comptroller General file a report following the denial of a written request.

6.4. Presidential or Director of OMB Certifications. If a written Comptroller General request is not approved, the Comptroller General may file a Comptroller General Report. If a record covered by one of the two Freedom of Information Act exemptions referred to in Section 716(d)(1)(C) of 31 U.S.C. (enclosure 1) is involved, it will be an exempt record only if the President or the Director of OMB makes the certification required by Section 716(d)(1)(C) of 31 U.S.C. (enclosure 1) within 20 days after the report is filed. Accordingly, as directed in paragraph 6.3.7., above, when a written Comptroller General request involving such a record is not approved, the following shall apply:

6.4.1. In all but the most extraordinary circumstances, a certification that the release of a record covered by one of the two Freedom of Information Act exemptions referred to in Section 716(d)(1)(C) of 31 U.S.C. (enclosure 1) could reasonably be expected to impair substantially the operations of the Government shall be prepared for the signature of the Director, OMB. It shall be prepared by the same office that prepared the denial of the written Comptroller General request.

6.4.2. The certification shall be supported with all pertinent information necessary to justify:

6.4.2.1. The basis for the record falling within the applicable Freedom of Information Act (reference (d)) exemption; and,

6.4.2.2. The conclusion that the disclosure of the record reasonably could be expected to impair substantially the operation of the Government.

(A copy of the record that has been denied shall accompany the certification unless its

volume or sensitivity prevents such action. If the record cannot accompany the certification, arrangements shall be made for OMB review of the record. In addition, the material forwarded shall also provide an option for the President or the Director, OMB, to direct an alternative resolution of the access issue, including release of the record in question.)

6.4.3. A certification request shall be coordinated with the GC, DoD, in all cases and with the General Counsel of the Military Department concerned, if the record is a record of a Military Department.

6.4.4. All certification requests shall be transmitted to the President or the Director, OMB, by the Secretary of Defense.

6.4.5. If the President or the Director of OMB decides that a certification should not be made and that the record should be furnished to the Comptroller General, the materials shall be provided to the Comptroller General.

#### 6.5. Responding to Comptroller General Reports

6.5.1. Whenever a Comptroller General report is filed, the DoD Component whose records are the subject of the report will review it to determine whether a Presidential or OMB certification was required because the record is covered by one of the two Freedom of Information Act exemptions referred to in Section 716(d)(1)(C) of 31 U.S.C. (enclosure 1). If the actions required by paragraph 6.3.7. and section 6.4., above, have not been taken, immediate action shall be taken to obtain a Presidential or Director of OMB certification.

6.5.2. Any Comptroller General report filed with the Secretary of Defense or the Secretary of a Military Department shall be referred immediately to the GC, DoD; the General Counsel of the Military Department concerned, if the report concerns the record of a Military Department; and to the office having primary responsibility for the record that has been denied.

6.5.3. The office having primary responsibility for the record that has been denied shall prepare immediately a complete report on all of the facts and circumstances surrounding the denial of access to the record.

6.5.4. The report shall include:

6.5.4.1. A copy of the record itself or a detailed summary of the record if its volume or sensitivity prevents inclusion of the actual record;

6.5.4.2. The basis for its denial and all relevant information about the denial of the record;

6.5.4.3. All actions taken to afford the Comptroller General access to the information that has been sought about the record, including all attempts to accommodate the needs of the GAO or the Comptroller General for information through alternatives to furnishing the record;

6.5.4.4. All actions taken, and information used, in response to the written Comptroller General request that preceded the filing of the report, including all information that was provided to the Secretary of Defense or the Secretary of the Military Department concerned in connection with the reevaluation of prior denials following the receipt of the written Comptroller General request and any additional information that was used in denying the written Comptroller General request; and,

6.5.4.5. The response that was transmitted to the Comptroller General in response to the written Comptroller General request.

6.5.5. In addition, if the report involves a record for which a certification was sought from the President or the Director of OMB and the certification has been made, it shall be included with the report. If the certification has not been made, the Director of OMB shall be requested immediately for the certification so that it may be made by the 20th day after the filing of the Comptroller General report.

6.5.6. Both the report and any Presidential or Director of OMB certification shall be transmitted to the Secretary of Defense, through the GC, DoD, who shall determine whether it is necessary or appropriate to transmit the report to the President; the Director, OMB; the Attorney General; or to the Congress.

7. EFFECTIVE DATE

This Instruction is effective immediately.

A handwritten signature in black ink, appearing to read 'Alice C. Maroni', with a large, stylized flourish at the end.

Alice C. Maroni  
Principal Deputy Under Secretary  
of Defense (Comptroller)

Enclosures - 2

1. Selected Provisions of Law
2. Definitions

E1. ENCLOSURE 1

SELECTED PROVISIONS OF LAW  
TITLE 31, UNITED STATES CODE  
31 U.S.C. 716

§716. Availability of information and inspection of records

(a) Each agency shall give the Comptroller General information the Comptroller General requires about the duties, powers, activities, organization, and financial transactions of the agency. The Comptroller General may inspect an agency record to get the information. This subsection does not apply to expenditures made under section 3524 or 3526(e) of this title.

(b)(1) When an agency record is not made available to the Comptroller General within a reasonable time, the Comptroller General may make a written request to the head of the agency. The request shall state the authority for inspecting the records and the reason for the inspection. The head of the agency has 20 days after receiving the request to respond. The response shall describe the record withheld and the reason the record is being withheld. If the Comptroller General is not given an opportunity to inspect the record within the 20-day period, the Comptroller General may file a report with the President, the Director of the Office of Management and Budget, the Attorney General, the head of the agency, and Congress.

(2) Through an attorney the Comptroller General designates in writing, the Comptroller General may bring a civil action in the district court of the United States for the District of Columbia to require the head of the agency to produce a record--

(A) after 20 days after a report is filed under paragraph (1) of this subsection; and

(B) subject to subsection (d) of this section.

(3) The Attorney General may represent the head of the agency. The court may punish a failure to obey an order of the court under this subsection as a contempt of court.

(c)(1) Subject to subsection (d) of this section, the Comptroller General may subpoena a record of a person not in the United States Government when the record is not made available to the Comptroller General to which the Comptroller General

has access by law or by agreement of that person from whom access is sought. A subpoena shall identify the record and the authority for the inspection by the Comptroller General. The Comptroller General may have an individual serve a subpoena under this subsection by delivering a copy to the person named in the subpoena or by mailing a copy of the subpoena by certified or registered mail, return receipt requested, to the residence or principal place of business of the person. Proof of service is shown by a verified return by the individual serving the subpoena that states how the subpoena was served or by the return receipt signed by the person served.

(2) If a person residing, found, or doing business in a judicial district refuses to comply with a subpoena issued under paragraph (1) of this subsection, the Comptroller General, through an attorney the Comptroller General designates in writing, may bring a civil action in that district court to require the person to produce the record. The court has jurisdiction of the action and may punish a failure to obey an order of the court under this subsection as a contempt of court.

(d)(1) The Comptroller General may not bring a civil action for a record withheld under subsection (b) of this section or issue a subpoena under subsection (c) of this section if-

(A) the record related to activities the President designates as foreign intelligence or counterintelligence activities;

(B) the record is specifically exempted from disclosure to the Comptroller General by a statute that-

(i) without discretion requires that the record be withheld from the Comptroller General;

(ii) establishes particular criteria for withholding the record from the Comptroller General; or

(iii) refers to particular types of records to be withheld from the Comptroller General; or

(C) by the 20th day after a report is filed under subsection (b)(1) of this section, the President or the Director certifies to the Comptroller General and Congress that a record could be withheld under section 552(b)(5) or (7) of title 5 and disclosure reasonably could be expected to impair substantially the operations of the Government.

(2) The President or the Director may not delegate certification under paragraph (1)(C) of this subsection. A certification shall include a complete explanation of the reasons for the certification.

(e)(1) The Comptroller General shall maintain the same level of confidentiality for a record made available under this section as is required of the head of the agency from which it is obtained. Officers and employees of the General Accounting Office are subject to the same statutory penalties for unauthorized disclosure or use as officers or employees of the agency.

(2) The Comptroller General shall keep information described in section 552(b)(6) of title 5 that the Comptroller General obtains in a way that prevents unwarranted invasions of personal privacy.

(3) This section does not authorize information to be withheld from Congress.

### 31 U.S.C. 3524

#### § 3524. Auditing expenditures approved without vouchers

(a)(1) The Comptroller General may audit expenditures, accounted for only on the approval, authorization, or certificate of the President or an official of an executive agency, to decide if the expenditure was authorized by law and made. Records and related information shall be made available to the Comptroller General in conducting the audit.

(2) The Comptroller General may release the results of the audit or disclose related information only to the President or head of the agency, or, if there is an unresolved discrepancy, to the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the committees of Congress having legislative or appropriation oversight of the expenditure.

(b) Before December 1 of each year, the Director of the Office of Management and Budget shall submit a report listing each account that may be subject to this section to the Committees on the Budget and Appropriations of both Houses of Congress, the Committee on Governmental Affairs, and to the Committee on

Government Operations, and to the Comptroller General.

(c) The President may exempt from this section a financial transaction about sensitive foreign intelligence or foreign counter-intelligence activities or sensitive law enforcement investigations if an audit would expose the identifying details of an active investigation or endanger investigative or domestic intelligence sources involved in the investigation. The exemption may apply to a class or category of financial transactions.

(d) This section does not-

(1) apply to expenditures under section 102, 103, 105(d)(1), (3), or (5), or 106(b)(2) or (3) of title 3; or

(2) affect authority under section 8(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j(b)).

(e) Information about a financial transaction exempt under subsection (c) of this section or a financial transaction under section 8(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j(b)) may be reviewed by the Permanent Select Committee on Intelligence of the House and the Select Committee on Intelligence of the Senate.

(f) Subsections (a)(1) and (d)(1) of this section may be superseded only by a law enacted after April 3, 1980, specifically repealing or amending this section.

### 31 U.S.C. 3526(e)

#### § 3526. Settlement of accounts

(e) When an amount of money is expended under law for a treaty or relations with a foreign country, the President may-

(1) authorize the amount to be accounted for each year specifically by settlement of the Comptroller General when the President decides the amount expended may be made public; or

(2) make, or have the Secretary of State make, a certificate of the amount expended if the President decides the amount is not to be accounted for specifically.

The certificate is a sufficient voucher for the amount stated in the certificate.

TITLE 5, UNITED STATES CODE<sup>1</sup>  
5 U.S.C. 552(b)(5), (6) and (7)

§ 552. Public information; agency rules, opinions, orders, records, and proceedings

(b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;

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<sup>1</sup> The Freedom of Information Act has been implemented within the Department of Defense by DoD Directive 5400.7 and DoD 5400.7-R, both entitled "DoD Freedom of Information Act Program" (references (d) and (e)). These documents may, and should, be consulted for specific questions concerning the DoD's Freedom of Information Act Program.

## E2. ENCLOSURE 2

### DEFINITIONS

E2.1.1. Access. Either providing GAO representatives with copies of a DoD record, or pertinent extracts of a DoD record or permitting GAO representatives to inspect and review a record in DoD custody without physical removal of the record, or a copy of the record, from the custody of the Department of Defense.

E2.1.2. Access Request. An oral or written request from GAO representatives, including heads of GAO field offices and headquarters officials, for access to a record in connection with the conduct of an authorized survey or review.

E2.1.3. Comptroller General Report. A report that may be filed by the Comptroller General under the provisions of 31 U.S.C. 716(b)(1) (enclosure 1) if the Comptroller General is not given an opportunity to inspect a record within 20 days after a written Comptroller General Request is submitted to the Secretary of Defense or the Secretary of a Military Department. Such a report is filed with the President; the Director, OMB; the Attorney General; the Secretary concerned, and the Congress.

E2.1.4. Exempt Record. A record that is exempt under the provisions of Section 716(d) of 31 U.S.C. (enclosure 1) from compulsory production under a subpoena issued by the Comptroller General or under a civil action initiated by the Comptroller General under the provisions of Section 716 of 31 U.S.C.(enclosure 1). A record subject to exemption is:

E2.1.4.1. A record related to activities the President designates as foreign intelligence or counter intelligence activities;

E2.1.4.2. A record specifically exempted from disclosure to the Comptroller General by a statute that:

E2.1.4.2.1. Without discretion, requires that the record be withheld from the Comptroller General;

E2.1.4.2.2. Establishes particular criteria for withholding the record from the Comptroller General; or

E2.1.4.2.3. Refers to particular types of records to be withheld from the Comptroller General.

E2.1.4.3. A record that falls within the Freedom of Information Act<sup>1</sup> exemptions specified in 5 U.S.C. 552(b)(5) (relating to certain inter- or intra- agency memoranda) (enclosure 1) and in 5 U.S.C. 552(b)(7) (relating to certain records compiled for law enforcement purposes) (enclosure 1). To qualify as an exempt record under this provision:

E2.1.4.3.1. Either the President or the Director of the OMB must personally certify to the Comptroller General and the Congress that the record is one falling within one of the two exemptions and that its disclosure could reasonably be expected to impair substantially the operations of the Government; and

E2.1.4.3.2. The certification must be made not later than 20 days after the Comptroller General has filed a Comptroller General Report (see definition three).

E2.1.4.4. Records pertaining to expenditures under 31 U.S.C. 3524 and 3526(e) (enclosure 1) are not subject to the provisions of 31 U.S.C. 716 (enclosure 1).

E2.1.5. Non-DoD Entity. Any governmental or nongovernmental agency or individual outside of the Department of Defense.

E2.1.6. Record. All written information, including books, documents, papers, correspondence, memoranda and all other records, including maps, photographs, machine readable materials, or other documentary materials regardless of physical form or characteristics, which provide information about the duties, powers, activities, organization, and financial activities and financial transactions of the Department of Defense.

E2.1.7. Written Comptroller General Request. A written request submitted by the Comptroller General under the provisions of 31 U.S.C. 716(b)(1) (enclosure 1), which provides that when an agency record is not made available within a reasonable time, the Comptroller General may make a written request to the head of an agency. Such written requests shall state the authority for inspecting the records and the reason for the request. Once made, the head of an agency has 20 days after receiving the request to respond and, if a record is withheld, the response must describe the record being withheld and provide the reason the record is being withheld.

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<sup>1</sup> The Freedom of Information Act has been implemented within the Department of Defense by DoD Directive 5400.7 and DoD 5400.7-R, both entitled "DoD Freedom of Information Act Program" (references (d) and (e)). These documents may, and should, be consulted for specific questions concerning the DoD's Freedom of Information Act Program.