

## Information for Prospective Requesters Seeking Contract Documents

Requesters who ask for contracts into which a proposal has been incorporated usually want to receive only material that will help in understanding the process that led to the award or to improve their own methods of drafting proposals.

Before we release a contract into which a proposal has been incorporated, we will ask the contract holder for input concerning any commercial or proprietary information that may be contained in the proposal.<sup>1</sup> We will consider that input and, if we agree, we will redact that information before releasing the documents to you.<sup>2</sup>

### Proposals

The term “proposal” means a proposal, white paper, or abstract, including a technical, management, or cost proposal, submitted by an organization in response to the requirements of a solicitation for a competitive proposal.<sup>3</sup> Federal law prohibits the Department of Health & Human Services (DHHS) from releasing Proposals received by the government except for those proposals incorporated into a subsequent contract.<sup>4</sup> Accordingly, if you request a copy of an unsuccessful proposal or a successful proposal that has not been incorporated into a final award document, please understand that we will not be able to release it to you.

### Requests for contracts

If you request a copy of an awarded contract into which a proposal has not been incorporated, we will redact any pricing information or other proprietary information that will cause commercial harm to the contractor if released.

If we redact any proprietary information from the contract or contract records you requested, we will explain that in our final response to you. If you have any questions about the information that may have been redacted from the records you receive in

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<sup>1</sup> 45 CFR 5.42(a): How does HHS process FOIA requests for confidential commercial information? (Pre Disclosure Notification Process.)

<sup>2</sup> 5 U.S.C. 552(b)(4): Trade secrets and commercial or financial information obtained from a person that is privileged or confidential.

<sup>3</sup> See 41 U.S. Code § 4702..

<sup>4</sup> See 5 U.S. Code § 552(b)(3) and 41 U.S. Code § 4702.

response to a FOIA request, you are encouraged to contact the FOIA Coordinator who processed your request. A list of the [HHS FOIA and Privacy Act Contacts](#) can be found at this site.

### Other Useful Links

- Code of Federal Regulations (eCFR)
  - [Subpart C. Exemptions to Disclosure](#)
  - [Subpart D. Confidential Commercial Information](#)
- United States Code, Title 41 “Public Contracts” [§253b\(m\). Prohibition on release of contractor proposals.](#)