

- (b) Made confidential by law; e.g., 18 U.S.C. 1905;
- (c) Information precluded by reason of national interest; e.g., investigative reports and material received in confidence by the Department. For particular instances of regulatory or statutory restrictions, see individual bureau and office responses. In addition, certain matters relating to proposed or pending legislation and budget requests are required to be kept confidential, as set forth in Administrative Orders Nos. 201-13 and 203-1, copies attached; and
- (d) Certain matters pertaining solely to internal management; e.g., working papers and drafts, internal memorandums, individual personnel actions, and other individual personnel information. (See Administrative Order 202-22, attached.)

Question 8. In what circumstances are private parties dealing with your agency required in any manner to resort to organization or procedure not published in the Federal Register? (See sec. 3(a) of the Administrative Procedure Act.)

We know of no case where private parties dealing with the Department are required in any manner to resort to organization or procedure not published in the Federal Register.

Question 9. In what types of cases has your agency refrained from publishing rules where there is involved any function of the United States requiring secrecy in the public interest, pursuant to section 3(1) of the Administrative Procedure Act or other authority?

The Department has not refrained from publishing rules where there is involved any function of the United States requiring secrecy in the public interest.

Question 10. In what circumstances has your agency refrained from publishing rules where there is involved any matter relating solely to internal agency management, pursuant to section 3(2) of the Administrative Procedure Act or other authority?

The Department does not publish rules involving any matter relating solely to internal agency management.

Question 11. What is your agency's definition of "official record" as used in section 3(c) of the Administrative Procedure Act?

The Department, as such, has no definition of "official record." However, generally, we feel that the definition of "record" as used in the Federal Records Act (44 U.S.C. 366) defines the scope of "official record," as used in official functions of the Department.

In response to the last paragraph of the letter of the subcommittee chairman, there are attached two copies of each document issued to implement 5 U.S.C. 1002. These are:

- Department Order No. 64, "Release of Information and Records."
- Administrative Order No. 201-13 (revised), "Legislative Activities."
- Administrative Order No. 201-22 (revised), "Clearance and Filing of Federal Register Material."
- Administrative Order No. 202-22, "Release of Information and Records Relating to Personnel."
- Administrative Order No. 203-1, "Appropriations and Related Public Funds Activities."

REPLY FROM DEPARTMENT OF DEFENSE

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., March 29, 1965.

Hon. JOHN E. MOSS,
Chairman, Foreign Operations and Government Information Subcommittee,
Committee on Government Operations, House of Representatives.

DEAR MR. CHAIRMAN: As requested in your letter of February 12, 1965, answers are supplied below for the 11 questions raised by you concerning the application of section 3 of the Administrative Procedure Act of 1946 (5 U.S.C. 1002) by the Department of Defense.

Question 1. Generally, to what functions of your agency does 5 U.S.C. 1002 apply? Are there any divisions, bureaus, branches, or other constituent units of your agency to which the section does not apply?

Answer. Section 1002 of title 5, United States Code (sec. 3 of the Administrative Procedure Act), generally applies to all functions of the Department of