**Section 1828.401 Claims by Submitters that Public Records are Exempt from Disclosure**

a) A claim that a public record is exempt from public disclosure pursuant to Section 1828.202 must be made at the time of submittal of the public record.

b) A claim that a public record is exempt from public disclosure must include:

1) A claim letter, stating that the public record is exempt from public disclosure pursuant to Section 1828.202, identifying all exemptions that apply, and briefly describing the public record;

2) A justification for the claim, including:

A) If the public record is a subsequent version of a public record previously granted exempt status by the Agency, a certified statement indicating:

i) The date of submission of the previous public record; and

ii) That the previous justification remains applicable to the current submission; or

B) If the submittal is not a subsequent version of a public record previously granted exempt status by the Agency, the following information:

i) Measures taken by the submitter to prevent disclosure of the public record;

ii) The rights of privacy, if any, that might be an unwarranted invasion of personal privacy by disclosure of the public record;

iii) The competitive value, if any, of the public record to the submitter; and

iv) Any other information that will support the claim for exemption from disclosure;

3) A copy of the public record, marked in accordance with the requirements of subsection (c) of this Section; and

4) If the submitter is currently a party in a proceeding before the Board or a court in which the information is relevant to the issues, the title of the proceeding, docket number, and, if applicable, identification of the court.

c) The submitter must mark a public record or portions thereof claimed exempt from disclosure as follows:

1) Where the public record is claimed to be exempt from disclosure in its entirety, mark the public record with the words "Public Record Claimed Exempt" in red ink on the face or front of the public record. If submitted in electronic format, the public record must be clearly marked in bold at the top or front of the public record with the words "Public Record Claimed Exempt"; or

2) Where less than the entire public record is claimed to be exempt from disclosure:

A) Mark the public record with the words "Public Record Claimed Exempt − in Part" in red ink on the face or front of the public record. If submitted in electronic format, the public record must be clearly marked in bold at the top or front of the public record with the words "Public Record Claimed Exempt − in Part";

B) Indicate on the face or beginning of the public record which portion of the public record is claimed to be exempt from disclosure;

C) Mark every portion of the public record which is claimed to be exempt from disclosure with the words "Public Record Claimed Exempt"; and

D) Furnish the Agency with a second copy of the public record that is marked in accordance with (A) and (B) of this subsection and from which the portion of the public record that is claimed to be exempt from disclosure is deleted.

(Source: Amended at 34 Ill. Reg. 9028, effective June 22, 2010)