**Section 1828.402 Agency Review of Claims of Exemption from Disclosure**

a) The Agency shall review a claim that a public record is exempt from disclosure when the Agency determines that any of the following criteria applies:

1) There is reasonable anticipation of requests or an actual request from the public for disclosure of the public record;

2) To facilitate public participation in proceedings before the Agency where notice and comment periods are short relative to the time required for a final determination in accordance with the requirements of this Part;

3) There is reasonable doubt that the public record is exempt from disclosure and there has been a practice, on the part of the submitter of the public record, of indiscriminately claiming that public records submitted to the Agency are exempt from disclosure;

4) A specific regulation requires that a determination of whether the public record is exempt from disclosure be made at the time the public record is submitted to the Agency; or

5) Determination of the validity of the claim will facilitate the timely performance of Agency responsibilities.

b) Following a determination that review of a claim is required under subsection (a) of this Section, the Agency shall review the claim for completeness. If the claim fails to meet all of the requirements of Section 1828.401, the Agency shall so notify the submitter in writing, within 30 days of the date that the Agency determines that review of the claim is required under subsection (a) of this Section. In such notice, the Agency must identify the deficiency or deficiencies in the claim and provide the opportunity to cure the deficiency or deficiencies within 10 business days of the date of the notification letter.

c) In the absence of a contemporaneous FOIA request, the Agency shall determine whether the public record is exempt from disclosure within 45 days of the date that the Agency finds a claim to be complete in accordance with subsection (b) of this Section.

d) In the absence of a contemporaneous FOIA request, the submitter may extend the time period for the Agency's decision by submitting a written waiver of the decision deadline to the Agency.