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HOUSE BILL 1444

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State of Washington                      58th Legislature                      2003 Regular Session

By Representatives Haigh, Eickmeyer, Clibborn, Dickerson, Rockefeller and Morrell

Read first time 01/27/2003.                      Referred to Committee on State Government.

1            AN ACT Relating to protection of proprietary or confidential  
2 information acquired through state health services purchasing; amending  
3 RCW 42.30.110 and 41.05.026; and reenacting and amending RCW 42.17.310.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 42.30.110 and 2001 c 216 s 1 are each amended to read  
6 as follows:

7            (1) Nothing contained in this chapter may be construed to prevent  
8 a governing body from holding an executive session during a regular or  
9 special meeting:

10            (a) To consider matters affecting national security;

11            (b) To consider the selection of a site or the acquisition of real  
12 estate by lease or purchase when public knowledge regarding such  
13 consideration would cause a likelihood of increased price;

14            (c) To consider the minimum price at which real estate will be  
15 offered for sale or lease when public knowledge regarding such  
16 consideration would cause a likelihood of decreased price. However,  
17 final action selling or leasing public property shall be taken in a  
18 meeting open to the public;

1 (d) To review negotiations on the performance of publicly bid  
2 contracts when public knowledge regarding such consideration would  
3 cause a likelihood of increased costs;

4 (e) To consider, in the case of an export trading company,  
5 financial and commercial information supplied by private persons to the  
6 export trading company;

7 (f) To receive and evaluate complaints or charges brought against  
8 a public officer or employee. However, upon the request of such  
9 officer or employee, a public hearing or a meeting open to the public  
10 shall be conducted upon such complaint or charge;

11 (g) To evaluate the qualifications of an applicant for public  
12 employment or to review the performance of a public employee. However,  
13 subject to RCW 42.30.140(4), discussion by a governing body of  
14 salaries, wages, and other conditions of employment to be generally  
15 applied within the agency shall occur in a meeting open to the public,  
16 and when a governing body elects to take final action hiring, setting  
17 the salary of an individual employee or class of employees, or  
18 discharging or disciplining an employee, that action shall be taken in  
19 a meeting open to the public;

20 (h) To evaluate the qualifications of a candidate for appointment  
21 to elective office. However, any interview of such candidate and final  
22 action appointing a candidate to elective office shall be in a meeting  
23 open to the public;

24 (i) To discuss with legal counsel representing the agency matters  
25 relating to agency enforcement actions, or to discuss with legal  
26 counsel representing the agency litigation or potential litigation to  
27 which the agency, the governing body, or a member acting in an official  
28 capacity is, or is likely to become, a party, when public knowledge  
29 regarding the discussion is likely to result in an adverse legal or  
30 financial consequence to the agency.

31 This subsection (1)(i) does not permit a governing body to hold an  
32 executive session solely because an attorney representing the agency is  
33 present. For purposes of this subsection (1)(i), "potential  
34 litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a)  
35 concerning:

36 (A) Litigation that has been specifically threatened to which the  
37 agency, the governing body, or a member acting in an official capacity  
38 is, or is likely to become, a party;

1 (B) Litigation that the agency reasonably believes may be commenced  
2 by or against the agency, the governing body, or a member acting in an  
3 official capacity; or

4 (C) Litigation or legal risks of a proposed action or current  
5 practice that the agency has identified when public discussion of the  
6 litigation or legal risks is likely to result in an adverse legal or  
7 financial consequence to the agency;

8 (j) To consider, in the case of the state library commission or its  
9 advisory bodies, western library network prices, products, equipment,  
10 and services, when such discussion would be likely to adversely affect  
11 the network's ability to conduct business in a competitive economic  
12 climate. However, final action on these matters shall be taken in a  
13 meeting open to the public;

14 (k) To consider, in the case of the state investment board,  
15 financial and commercial information when the information relates to  
16 the investment of public trust or retirement funds and when public  
17 knowledge regarding the discussion would result in loss to such funds  
18 or in private loss to the providers of this information;

19 (l) To consider proprietary or confidential nonpublished  
20 information related to the development, acquisition, or implementation  
21 of state purchased health care services as provided in RCW 41.05.026.

22 (2) Before convening in executive session, the presiding officer of  
23 a governing body shall publicly announce the purpose for excluding the  
24 public from the meeting place, and the time when the executive session  
25 will be concluded. The executive session may be extended to a stated  
26 later time by announcement of the presiding officer.

27 **Sec. 2.** RCW 41.05.026 and 1991 c 79 s 1 are each amended to read  
28 as follows:

29 (1) When soliciting proposals for the purpose of awarding contracts  
30 for goods or services, the administrator shall, upon written request by  
31 the bidder, exempt from public inspection and copying such proprietary  
32 data, trade secrets, or other information contained in the bidder's  
33 proposal that relate to the bidder's unique methods of conducting  
34 business or of determining prices or premium rates to be charged for  
35 services under terms of the proposal.

36 (2) When soliciting information for the development, acquisition,  
37 or implementation of state purchased health care services, the

1 administrator shall, upon written request by the respondent, exempt  
2 from public inspection and copying such proprietary data, trade  
3 secrets, or other information submitted by the respondent that relate  
4 to the respondent's unique methods of conducting business, data unique  
5 to the product or services of the respondent, or to determining prices  
6 or rates to be charged for services.

7 (3) Actuarial formulas, statistics, cost and utilization data, or  
8 other proprietary information submitted upon request of the  
9 administrator (~~(or)~~), board, or any committee or entity created to  
10 facilitate the development, acquisition, or implementation of state  
11 purchased health care under this chapter by a contracting insurer,  
12 health care service contractor, health maintenance organization, (~~(or)~~)  
13 vendor, or other health services organization may be withheld at any  
14 time from public inspection when necessary to preserve trade secrets or  
15 prevent unfair competition.

16 (~~(3)~~) (4) The board, or any committee or entity created to  
17 facilitate the development, acquisition, or implementation of state  
18 purchased health care under this chapter, may hold an executive session  
19 in accordance with chapter 42.30 RCW during any regular or special  
20 meeting to discuss information submitted in accordance with subsections  
21 (1) (~~(or)(2)~~) through (3) of this section.

22 (5) A person who challenges a request for or designation of  
23 information as exempt under this section is entitled to seek judicial  
24 review pursuant to chapter 42.17 RCW.

25 **Sec. 3.** RCW 42.17.310 and 2002 c 335 s 1, 2002 c 224 s 2, 2002 c  
26 205 s 4, and 2002 c 172 s 1 are each reenacted and amended to read as  
27 follows:

28 (1) The following are exempt from public inspection and copying:

29 (a) Personal information in any files maintained for students in  
30 public schools, patients or clients of public institutions or public  
31 health agencies, or welfare recipients.

32 (b) Personal information in files maintained for employees,  
33 appointees, or elected officials of any public agency to the extent  
34 that disclosure would violate their right to privacy.

35 (c) Information required of any taxpayer in connection with the  
36 assessment or collection of any tax if the disclosure of the  
37 information to other persons would (i) be prohibited to such persons by

1 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the  
2 taxpayer's right to privacy or result in unfair competitive  
3 disadvantage to the taxpayer.

4 (d) Specific intelligence information and specific investigative  
5 records compiled by investigative, law enforcement, and penology  
6 agencies, and state agencies vested with the responsibility to  
7 discipline members of any profession, the nondisclosure of which is  
8 essential to effective law enforcement or for the protection of any  
9 person's right to privacy.

10 (e) Information revealing the identity of persons who are witnesses  
11 to or victims of crime or who file complaints with investigative, law  
12 enforcement, or penology agencies, other than the public disclosure  
13 commission, if disclosure would endanger any person's life, physical  
14 safety, or property. If at the time a complaint is filed the  
15 complainant, victim or witness indicates a desire for disclosure or  
16 nondisclosure, such desire shall govern. However, all complaints filed  
17 with the public disclosure commission about any elected official or  
18 candidate for public office must be made in writing and signed by the  
19 complainant under oath.

20 (f) Test questions, scoring keys, and other examination data used  
21 to administer a license, employment, or academic examination.

22 (g) Except as provided by chapter 8.26 RCW, the contents of real  
23 estate appraisals, made for or by any agency relative to the  
24 acquisition or sale of property, until the project or prospective sale  
25 is abandoned or until such time as all of the property has been  
26 acquired or the property to which the sale appraisal relates is sold,  
27 but in no event shall disclosure be denied for more than three years  
28 after the appraisal.

29 (h) Valuable formulae, designs, drawings, computer source code or  
30 object code, and research data obtained by any agency within five years  
31 of the request for disclosure when disclosure would produce private  
32 gain and public loss.

33 (i) Preliminary drafts, notes, recommendations, and intra-agency  
34 memorandums in which opinions are expressed or policies formulated or  
35 recommended except that a specific record shall not be exempt when  
36 publicly cited by an agency in connection with any agency action.

37 (j) Records which are relevant to a controversy to which an agency

1 is a party but which records would not be available to another party  
2 under the rules of pretrial discovery for causes pending in the  
3 superior courts.

4 (k) Records, maps, or other information identifying the location of  
5 archaeological sites in order to avoid the looting or depredation of  
6 such sites.

7 (l) Any library record, the primary purpose of which is to maintain  
8 control of library materials, or to gain access to information, which  
9 discloses or could be used to disclose the identity of a library user.

10 (m) Financial information supplied by or on behalf of a person,  
11 firm, or corporation for the purpose of qualifying to submit a bid or  
12 proposal for (i) a ferry system construction or repair contract as  
13 required by RCW 47.60.680 through 47.60.750 or (ii) highway  
14 construction or improvement as required by RCW 47.28.070.

15 (n) Railroad company contracts filed prior to July 28, 1991, with  
16 the utilities and transportation commission under RCW 81.34.070, except  
17 that the summaries of the contracts are open to public inspection and  
18 copying as otherwise provided by this chapter.

19 (o) Financial and commercial information and records supplied by  
20 private persons pertaining to export services provided pursuant to  
21 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to  
22 export projects pursuant to RCW 43.23.035.

23 (p) Financial disclosures filed by private vocational schools under  
24 chapters 28B.85 and 28C.10 RCW.

25 (q) Records filed with the utilities and transportation commission  
26 or attorney general under RCW 80.04.095 that a court has determined are  
27 confidential under RCW 80.04.095.

28 (r) Financial and commercial information and records supplied by  
29 businesses or individuals during application for loans or program  
30 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,  
31 or during application for economic development loans or program  
32 services provided by any local agency.

33 (s) Membership lists or lists of members or owners of interests of  
34 units in timeshare projects, subdivisions, camping resorts,  
35 condominiums, land developments, or common-interest communities  
36 affiliated with such projects, regulated by the department of  
37 licensing, in the files or possession of the department.

1 (t) All applications for public employment, including the names of  
2 applicants, resumes, and other related materials submitted with respect  
3 to an applicant.

4 (u) The residential addresses or residential telephone numbers of  
5 employees or volunteers of a public agency which are held by any public  
6 agency in personnel records, public employment related records, or  
7 volunteer rosters, or are included in any mailing list of employees or  
8 volunteers of any public agency.

9 (v) The residential addresses and residential telephone numbers of  
10 the customers of a public utility contained in the records or lists  
11 held by the public utility of which they are customers, except that  
12 this information may be released to the division of child support or  
13 the agency or firm providing child support enforcement for another  
14 state under Title IV-D of the federal social security act, for the  
15 establishment, enforcement, or modification of a support order.

16 (w)(i) The federal social security number of individuals governed  
17 under chapter 18.130 RCW maintained in the files of the department of  
18 health, except this exemption does not apply to requests made directly  
19 to the department from federal, state, and local agencies of  
20 government, and national and state licensing, credentialing,  
21 investigatory, disciplinary, and examination organizations; (ii) the  
22 current residential address and current residential telephone number of  
23 a health care provider governed under chapter 18.130 RCW maintained in  
24 the files of the department, if the provider requests that this  
25 information be withheld from public inspection and copying, and  
26 provides to the department an accurate alternate or business address  
27 and business telephone number. On or after January 1, 1995, the  
28 current residential address and residential telephone number of a  
29 health care provider governed under RCW 18.130.040 maintained in the  
30 files of the department shall automatically be withheld from public  
31 inspection and copying unless the provider specifically requests the  
32 information be released, and except as provided for under RCW  
33 42.17.260(9).

34 (x) Information obtained by the board of pharmacy as provided in  
35 RCW 69.45.090.

36 (y) Information obtained by the board of pharmacy or the department  
37 of health and its representatives as provided in RCW 69.41.044,  
38 69.41.280, and 18.64.420.

1 (z) Financial information, business plans, examination reports, and  
2 any information produced or obtained in evaluating or examining a  
3 business and industrial development corporation organized or seeking  
4 certification under chapter 31.24 RCW.

5 (aa) Financial and commercial information supplied to the state  
6 investment board by any person when the information relates to the  
7 investment of public trust or retirement funds and when disclosure  
8 would result in loss to such funds or in private loss to the providers  
9 of this information.

10 (bb) Financial and valuable trade information under RCW 51.36.120.

11 (cc) Client records maintained by an agency that is a domestic  
12 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape  
13 crisis center as defined in RCW 70.125.030.

14 (dd) Information that identifies a person who, while an agency  
15 employee: (i) Seeks advice, under an informal process established by  
16 the employing agency, in order to ascertain his or her rights in  
17 connection with a possible unfair practice under chapter 49.60 RCW  
18 against the person; and (ii) requests his or her identity or any  
19 identifying information not be disclosed.

20 (ee) Investigative records compiled by an employing agency  
21 conducting a current investigation of a possible unfair practice under  
22 chapter 49.60 RCW or of a possible violation of other federal, state,  
23 or local laws prohibiting discrimination in employment.

24 (ff) Business related information protected from public inspection  
25 and copying under RCW 15.86.110.

26 (gg) Financial, commercial, operations, and technical and research  
27 information and data submitted to or obtained by the clean Washington  
28 center in applications for, or delivery of, program services under  
29 chapter 70.95H RCW.

30 (hh) Information and documents created specifically for, and  
31 collected and maintained by a quality improvement committee pursuant to  
32 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW  
33 4.24.250, regardless of which agency is in possession of the  
34 information and documents.

35 (ii) Personal information in files maintained in a data base  
36 created under RCW 43.07.360.

37 (jj) Financial and commercial information requested by the public



1 stadium authority from any person or organization that leases or uses  
2 the stadium and exhibition center as defined in RCW 36.102.010.

3 (kk) Names of individuals residing in emergency or transitional  
4 housing that are furnished to the department of revenue or a county  
5 assessor in order to substantiate a claim for property tax exemption  
6 under RCW 84.36.043.

7 (ll) The names, residential addresses, residential telephone  
8 numbers, and other individually identifiable records held by an agency  
9 in relation to a vanpool, carpool, or other ride-sharing program or  
10 service. However, these records may be disclosed to other persons who  
11 apply for ride-matching services and who need that information in order  
12 to identify potential riders or drivers with whom to share rides.

13 (mm) The personally identifying information of current or former  
14 participants or applicants in a paratransit or other transit service  
15 operated for the benefit of persons with disabilities or elderly  
16 persons.

17 (nn) The personally identifying information of persons who acquire  
18 and use transit passes and other fare payment media including, but not  
19 limited to, stored value smart cards and magnetic strip cards, except  
20 that an agency may disclose this information to a person, employer,  
21 educational institution, or other entity that is responsible, in whole  
22 or in part, for payment of the cost of acquiring or using a transit  
23 pass or other fare payment media, or to the news media when reporting  
24 on public transportation or public safety. This information may also  
25 be disclosed at the agency's discretion to governmental agencies or  
26 groups concerned with public transportation or public safety.

27 (oo) Proprietary financial and commercial information that the  
28 submitting entity, with review by the department of health,  
29 specifically identifies at the time it is submitted and that is  
30 provided to or obtained by the department of health in connection with  
31 an application for, or the supervision of, an antitrust exemption  
32 sought by the submitting entity under RCW 43.72.310. If a request for  
33 such information is received, the submitting entity must be notified of  
34 the request. Within ten business days of receipt of the notice, the  
35 submitting entity shall provide a written statement of the continuing  
36 need for confidentiality, which shall be provided to the requester.  
37 Upon receipt of such notice, the department of health shall continue to  
38 treat information designated under this section as exempt from

1 disclosure. If the requester initiates an action to compel disclosure  
2 under this chapter, the submitting entity must be joined as a party to  
3 demonstrate the continuing need for confidentiality.

4 (pp) Records maintained by the board of industrial insurance  
5 appeals that are related to appeals of crime victims' compensation  
6 claims filed with the board under RCW 7.68.110.

7 (qq) Financial and commercial information supplied by or on behalf  
8 of a person, firm, corporation, or entity under chapter 28B.95 RCW  
9 relating to the purchase or sale of tuition units and contracts for the  
10 purchase of multiple tuition units.

11 (rr) Any records of investigative reports prepared by any state,  
12 county, municipal, or other law enforcement agency pertaining to sex  
13 offenses contained in chapter 9A.44 RCW or sexually violent offenses as  
14 defined in RCW 71.09.020, which have been transferred to the Washington  
15 association of sheriffs and police chiefs for permanent electronic  
16 retention and retrieval pursuant to RCW 40.14.070(2)(b).

17 (ss) Credit card numbers, debit card numbers, electronic check  
18 numbers, card expiration dates, or bank or other financial account  
19 numbers supplied to an agency for the purpose of electronic transfer of  
20 funds, except when disclosure is expressly required by law.

21 (tt) Financial information, including but not limited to account  
22 numbers and values, and other identification numbers supplied by or on  
23 behalf of a person, firm, corporation, limited liability company,  
24 partnership, or other entity related to an application for a liquor  
25 license, gambling license, or lottery retail license.

26 (uu) Records maintained by the employment security department and  
27 subject to chapter 50.13 RCW if provided to another individual or  
28 organization for operational, research, or evaluation purposes.

29 (vv) Individually identifiable information received by the work  
30 force training and education coordinating board for research or  
31 evaluation purposes.

32 (ww) Those portions of records assembled, prepared, or maintained  
33 to prevent, mitigate, or respond to criminal terrorist acts, which are  
34 acts that significantly disrupt the conduct of government or of the  
35 general civilian population of the state or the United States and that  
36 manifest an extreme indifference to human life, the public disclosure  
37 of which would have a substantial likelihood of threatening public  
38 safety, consisting of:

1 (i) Specific and unique vulnerability assessments or specific and  
2 unique response or deployment plans, including compiled underlying data  
3 collected in preparation of or essential to the assessments, or to the  
4 response or deployment plans; and

5 (ii) Records not subject to public disclosure under federal law  
6 that are shared by federal or international agencies, and information  
7 prepared from national security briefings provided to state or local  
8 government officials related to domestic preparedness for acts of  
9 terrorism.

10 (xx) Commercial fishing catch data from logbooks required to be  
11 provided to the department of fish and wildlife under RCW 77.12.047,  
12 when the data identifies specific catch location, timing, or  
13 methodology and the release of which would result in unfair competitive  
14 disadvantage to the commercial fisher providing the catch data.  
15 However, this information may be released to government agencies  
16 concerned with the management of fish and wildlife resources.

17 (yy) Sensitive wildlife data obtained by the department of fish and  
18 wildlife. However, sensitive wildlife data may be released to  
19 government agencies concerned with the management of fish and wildlife  
20 resources. Sensitive wildlife data includes:

21 (i) The nesting sites or specific locations of endangered species  
22 designated under RCW 77.12.020, or threatened or sensitive species  
23 classified by rule of the department of fish and wildlife;

24 (ii) Radio frequencies used in, or locational data generated by,  
25 telemetry studies; or

26 (iii) Other location data that could compromise the viability of a  
27 specific fish or wildlife population, and where at least one of the  
28 following criteria are met:

29 (A) The species has a known commercial or black market value;

30 (B) There is a history of malicious take of that species; or

31 (C) There is a known demand to visit, take, or disturb, and the  
32 species behavior or ecology renders it especially vulnerable or the  
33 species has an extremely limited distribution and concentration.

34 (zz) The personally identifying information of persons who acquire  
35 recreational licenses under RCW 77.32.010 or commercial licenses under  
36 chapter 77.65 or 77.70 RCW, except name, address of contact used by the  
37 department, and type of license, endorsement, or tag. However, the

1 department of fish and wildlife may disclose personally identifying  
2 information to:

3 (i) Government agencies concerned with the management of fish and  
4 wildlife resources;

5 (ii) The department of social and health services, child support  
6 division, and to the department of licensing in order to implement RCW  
7 77.32.014 and 46.20.291; and

8 (iii) Law enforcement agencies for the purpose of firearm  
9 possession enforcement under RCW 9.41.040.

10 (aaa)(i) Discharge papers of a veteran of the armed forces of the  
11 United States filed at the office of the county auditor before July 1,  
12 2002, that have not been commingled with other recorded documents.  
13 These records will be available only to the veteran, the veteran's next  
14 of kin, a deceased veteran's properly appointed personal representative  
15 or executor, a person holding that veteran's general power of attorney,  
16 or to anyone else designated in writing by that veteran to receive the  
17 records.

18 (ii) Discharge papers of a veteran of the armed forces of the  
19 United States filed at the office of the county auditor before July 1,  
20 2002, that have been commingled with other records, if the veteran has  
21 recorded a "request for exemption from public disclosure of discharge  
22 papers" with the county auditor. If such a request has been recorded,  
23 these records may be released only to the veteran filing the papers,  
24 the veteran's next of kin, a deceased veteran's properly appointed  
25 personal representative or executor, a person holding the veteran's  
26 general power of attorney, or anyone else designated in writing by the  
27 veteran to receive the records.

28 (iii) Discharge papers of a veteran filed at the office of the  
29 county auditor after June 30, 2002, are not public records, but will be  
30 available only to the veteran, the veteran's next of kin, a deceased  
31 veteran's properly appointed personal representative or executor, a  
32 person holding the veteran's general power of attorney, or anyone else  
33 designated in writing by the veteran to receive the records.

34 (iv) For the purposes of this subsection (1)(aaa), next of kin of  
35 deceased veterans have the same rights to full access to the record.  
36 Next of kin are the veteran's widow or widower who has not remarried,  
37 son, daughter, father, mother, brother, and sister.

1 (bbb) Those portions of records containing specific and unique  
2 vulnerability assessments or specific and unique emergency and escape  
3 response plans at a city, county, or state adult or juvenile  
4 correctional facility, the public disclosure of which would have a  
5 substantial likelihood of threatening the security of a city, county,  
6 or state adult or juvenile correctional facility or any individual's  
7 safety.

8 (ccc) Information compiled by school districts or schools in the  
9 development of their comprehensive safe school plans pursuant to RCW  
10 28A.320.125, to the extent that they identify specific vulnerabilities  
11 of school districts and each individual school.

12 (ddd) Information regarding the infrastructure and security of  
13 computer and telecommunications networks, consisting of security  
14 passwords, security access codes and programs, access codes for secure  
15 software applications, security and service recovery plans, security  
16 risk assessments, and security test results to the extent that they  
17 identify specific system vulnerabilities.

18 (eee) Information obtained and exempted or withheld from public  
19 inspection by the health care authority under RCW 41.05.026, whether  
20 retained by the authority, transferred to another state purchased  
21 health care program by the authority, or transferred by the authority  
22 to a committee created to facilitate the development, acquisition, or  
23 implementation of state purchased health care under chapter 41.05 RCW.

24 (2) Except for information described in subsection (1)(c)(i) of  
25 this section and confidential income data exempted from public  
26 inspection pursuant to RCW 84.40.020, the exemptions of this section  
27 are inapplicable to the extent that information, the disclosure of  
28 which would violate personal privacy or vital governmental interests,  
29 can be deleted from the specific records sought. No exemption may be  
30 construed to permit the nondisclosure of statistical information not  
31 descriptive of any readily identifiable person or persons.

32 (3) Inspection or copying of any specific records exempt under the  
33 provisions of this section may be permitted if the superior court in  
34 the county in which the record is maintained finds, after a hearing  
35 with notice thereof to every person in interest and the agency, that  
36 the exemption of such records is clearly unnecessary to protect any  
37 individual's right of privacy or any vital governmental function.

1           (4) Agency responses refusing, in whole or in part, inspection of  
2 any public record shall include a statement of the specific exemption  
3 authorizing the withholding of the record (or part) and a brief  
4 explanation of how the exemption applies to the record withheld.

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