

## Department of the Interior Department Manual

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**Effective Date:** 08/05/16

**Series:** Information Resources Management

**Part 383:** Public Access to Records

**Chapter 15:** Freedom of Information Act Policy, Responsibilities, and Procedures

**Originating Office:** Office of the Chief Information Officer

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### 383 DM 15

15.1 **Purpose.** This chapter provides Department of the Interior (Department) policy and guidance for employees to carry out their responsibilities under the Freedom of Information Act (FOIA), as amended (5 U.S.C. 552).

15.2 **Policy.** The policy of the Department is to provide the public prompt access to information in accordance with the requirements and intent of the FOIA.

15.3 **Scope.** This chapter applies to all of the Department's bureaus, as defined in paragraph 15.4 below. If any portion of this chapter is (or becomes) inconsistent with either the FOIA or the Department's FOIA regulations (43 CFR Part 2), that portion of this chapter will be void.

15.4 **Definition.** Bureau is defined, for the purposes of this Chapter, as it is in section 2.70 of the Department's FOIA regulations, as: "any major component of the Department administering its own FOIA program. A list of these components is available at: <http://www.doi.gov/foia/contacts>."

#### 15.5 **Authorities.**

- A. 5 U.S.C. 552.
- B. 43 CFR Part 2.

#### 15.6 **Responsibilities.**

A. **Chief FOIA Officer.** The Department's Chief Information Officer (CIO) is the Department's Chief FOIA Officer and, in that capacity, is responsible for:

- (1) Ensuring that bureaus efficiently and appropriately comply with FOIA policies and requirements;
- (2) Monitoring implementation of the FOIA throughout the Department;

(3) Keeping the Secretary, the Solicitor, the Department of Justice (DOJ), and the Office of Government Information Services (OGIS) appropriately informed of the Department's performance in implementing the FOIA;

(4) Recommending to the Secretary adjustments to the Department's practices, policies, personnel, and funding as may be necessary to improve the Department's implementation of the FOIA;

(5) Reviewing and reporting to DOJ and OGIS, through the Secretary, at such times and in such formats as DOJ may direct, on the Department's performance in implementing the FOIA;

(6) Facilitating public understanding of the purposes of the exemptions located at 5 U.S.C. 552(b);

(7) Designating FOIA Public Liaisons; and

(8) Serving on the Chief FOIA Officers Council.

B. Department FOIA Policy Staff. The Department FOIA Policy Staff includes the Departmental FOIA Officer and other staff in the Office of the Executive Secretariat and Regulatory Affairs (OES). The Department FOIA Policy Staff, on behalf of the Chief FOIA Officer, oversees the Department's FOIA program, including:

(1) Developing procedures (for example, guidelines, standards, handbooks, brochures, training materials, written instructions, and guidance) that relate to implementation of the FOIA (hereinafter "FOIA Procedures"), along with policies and regulations, for Department-wide FOIA implementation;

(2) Reviewing all bureau/office FOIA Procedures before they are distributed, released, issued, or presented;

(3) Maintaining the Department's FOIA website and electronic FOIA Library;

(4) Providing program oversight, technical assistance, and FOIA training to Departmental employees;

(5) Managing the Electronic FOIA tracking system (EFTS); the centralized, web-based application for Department-wide standardized tracking, management, and reporting of FOIA requests;

(6) Monitoring the number of FOIA requests that have not been responded to within the statutory time frame (backlog) through monthly and quarterly reporting;

(7) Preparing the Department's annual report to DOJ, OGIS, and Congress, discussed below in paragraph 15.8;

(8) Providing assistance to the Office of the Secretary (OS) FOIA Officer in coordinating selected high profile and/or multi-bureau requests;

(9) Reducing duplicate efforts among FOIA and Congressional document productions and encouraging accurate, consistent, complete, and timely document productions by facilitating ongoing coordination between Bureau FOIA Officers and OES; and

(10) Administering the FOIA Merit Award, discussed below in paragraph 15.9.

C. Office of the Solicitor. The Office of the Solicitor (SOL) assigns attorneys that are responsible for:

(1) Providing guidance and legal interpretations of FOIA, along with legal reviews of FOIA determinations and appeals, as necessary;

(2) Assisting in the development of FOIA regulations;

(3) Assisting the Department FOIA Policy Staff in training Departmental employees and reviewing bureau FOIA Procedures, when requested; and

(4) Making the final decision on the appropriateness of invoking FOIA exclusions (in coordination with DOJ's Office of Information Policy).

D. FOIA and Privacy Act (PA) Appeals Officer. The FOIA and PA Appeals Officer is responsible for:

(1) Administering the Department's FOIA Appeals Program;

(2) Making decisions on all FOIA appeals that do not appeal a decision of the Office of the Inspector General (OIG).

(3) Developing FOIA Procedures for the Department's FOIA Appeals Program;

(4) Assisting the Department FOIA Policy Staff in providing program oversight, technical assistance, and training to Departmental employees to ensure compliance with the FOIA;

(5) Maintaining the information required by the Department's FOIA regulations on all FOIA appeals that do not appeal a decision of the OIG; and

(6) Providing timely, accurate, and complete information when requested by the Department FOIA Policy Staff, including for the Annual Report.

E. The OIG's General Counsel. The OIG's General Counsel is responsible for:

- (1) Making decisions on all FOIA appeals that appeal a decision of the OIG.
- (2) Maintaining the information required by the Department's FOIA regulations on all FOIA appeals that appeal a decision of the OIG; and
- (3) Providing timely, accurate, and complete information when requested by the Department FOIA Policy Staff, including for the Annual Report.

F. Heads of Bureaus. Heads of bureaus are responsible for:

- (1) Ensuring compliance with the FOIA, the Department's FOIA regulations and Handbook, this chapter, and the Department's FOIA Procedures (for example, by issuing internal FOIA Procedures as needed (after the Department FOIA Policy Staff's concurrence is obtained));
- (2) Designating both a Bureau FOIA Officer and an alternate to implement the bureau FOIA program and to serve as the primary contacts with the Department FOIA Policy Staff for FOIA activities;
- (3) Confirming that the Bureau FOIA Officer's responsibilities are met;
- (4) Ensuring compliance with the public information requirements prescribed in 5 U.S.C. 552(a)(2) (including making available for public inspection and copying: final opinions, unpublished statements of policy and interpretations adopted by the agency, certain administrative staff manuals, and certain frequently requested records, along with creating a general index of the frequently requested records);
- (5) Promoting employee awareness of FOIA obligations (including the obligation to provide thorough and prompt responses to FOIA requests and identify information that should be made available proactively); and
- (6) Designating, in writing, offices and/or employees authorized to make final decisions on FOIA requests for the bureau (hereinafter "Action Offices").

G. Bureau FOIA Officers. Bureau FOIA Officers are responsible for:

- (1) Reviewing all incoming requests, logging them into the EFTS within one business day of their arrival (unless that function has been delegated to an Action Office) using the criteria discussed below in paragraph H, and determining the Action Office responsible for preparing the response;
- (2) Tracking and managing, in the EFTS, all FOIA requests the bureau is responsible for to ensure that:

(a) Responses are accurate, complete, and prepared in a timely manner in accordance with applicable laws, policies, and FOIA Procedures; and

(b) Fees are assessed and collected, as appropriate;

(3) Coordinating with other Departmental staff and bureaus, as appropriate, including always contacting the relevant Bureau FOIA Officer(s) in other bureaus before referring or forwarding a request to them and advising the OS FOIA Officer whenever a request is received that involves multiple bureaus and may require coordination;

(4) Maintaining contemporaneous documentation of all actions taken in processing each FOIA request, which may support responses to potential appeals and litigation;

(5) Providing timely, accurate, and complete information when requested by the Department FOIA Policy Staff, including for the Annual Report;

(6) Maintaining at least one email address for requesters to use when submitting electronic requests;

(7) Monitoring the portion of the Department's backlog attributable to the bureau;

(8) Reducing the backlog attributable to the bureau by a rate of at least 10 percent per year and ensuring that the bureau fully responds to its 10 oldest FOIA requests each year;

(9) Developing and maintaining a FOIA home page, electronic FOIA library, and electronic index of frequently requested records, in compliance with the mandates of the FOIA, the Department's web publishing requirements, applicable information quality guidelines, and any applicable appropriations provisions;

(10) Reviewing the information on their FOIA website(s) regularly to ensure that it is current, of high quality, accurate, and usable;

(11) Providing technical assistance and training on at least an annual basis to ensure that, at a minimum, bureau employees responsible for processing FOIA requests, are familiar with the FOIA, and able to properly and promptly respond to requests (while the scope of the training is at the Bureau FOIA Officers' discretion, the Department FOIA Policy Staff's concurrence must be obtained before the training is presented);

(12) Ensuring that employees who have access to data in the EFTS are aware of the appropriate maintenance, use, and other handling requirements, including those established by the PA;

(13) Ensuring that bureaus' EFTS entries are accurate, consistent, complete, and entered in a timely manner in accordance with applicable laws, policies, and FOIA Procedures;

(14) Ensuring each Action Office has at least one individual with sufficient expertise in FOIA to be able to respond properly to a request; and

(15) Cross-referencing OES's Congressional document productions regularly to find coordination opportunities that will reduce duplicative efforts and encourage accurate, consistent, complete, and timely FOIA and Congressional document productions.

H. Action Office. The office and/or employee that will be making a final decision on a particular FOIA request for the bureau is responsible for:

(1) Acknowledging receipt of the request promptly in writing, including informing the requester of the FOIA control number and contact information;

(2) Making determinations on fee waiver and expedited processing requests within the statutory time limits;

(3) Notifying the requester, within the statutory deadline, whether it will comply with their request;

(4) Conducting a reasonable search and ensuring that any records found responsive to the request are reviewed consistently with FOIA and the Department's FOIA regulations;

(5) Consulting with the Bureau FOIA Officer before referring or forwarding a request to another bureau and consulting with appropriate DOI staff, including SOL staff, before deciding to withhold any portion of a responsive record under a FOIA exemption, voluntarily release a record that is exempt from disclosure, utilize a FOIA exclusion, or deny a fee waiver;

(6) Obtaining any necessary review and concurrences from the Department FOIA Policy Staff and SOL;

(7) Following-up to make sure legible copies of the records are sent to the requester (and/or made available for inspection and copying), if copies are not sent with the initial response;

(8) Keeping a record of information that has been released or withheld, which may serve as a reference for future requests (to determine whether the material is in the public domain) and to support any potential appeal(s) and/or litigation;

(9) Annotating the official file to show which offices and individuals conducted a search in response to the request, what was searched, and when and how the search was conducted, to support any potential appeal(s) and/or litigation and to help the FOIA Officer maintain contemporaneous documentation of all actions taken in processing each FOIA request;

(10) Obtaining written assurance of payment or advance payment as necessary and preparing the Bill for Collection when it is not prepared by the bureau finance office; and

(11) Entering a copy of the response into the EFTS or ensuring that the Bureau FOIA Officer receives a copy to enter into the EFTS.

I. OS FOIA Officer. When records on the same subject are requested from multiple bureaus or when the Department receives a request that involves potentially controversial or sensitive issues that affect multiple bureaus, the OS FOIA Officer is responsible for:

(1) Consulting with other Bureau FOIA Officers and the Department FOIA Policy Staff;

(2) Considering which bureaus have a major interest in the records and which bureau is in possession of most of the records; and

(3) Coordinating the Department's response or designating another bureau to coordinate the response.

J. EFTS Users. All FOIA/PA Officers, and certain other employees with a need to know the information contained within it, are authorized to use the EFTS. All EFTS users are responsible for:

(1) Complying with any training and/or certification requirements of the Department's FOIA Policy Office;

(2) Completing all required and/or appropriate data fields in an accurate, consistent, complete, and timely manner (i.e., within one business day of receipt or other change in status); and

(3) Immediately notifying the Department FOIA Policy Staff of any technical or operational EFTS concerns, including improperly altered EFTS entries.

K. FOIA Public Liaison. Each bureau must have a FOIA Public Liaison (who is preferably not the Bureau FOIA Officer) who is responsible for:

(1) Assisting individuals in locating records and framing their requests;

(2) Reporting to the Department's Chief FOIA Officer;

(3) Serving as supervisory officials to whom a requester can raise concerns about the service they have received; and

(4) Assisting in reducing delays, increasing transparency and understanding of the status of requests, and dispute resolution.

L. Employees. All employees of the Department are responsible for:

(1) Responding promptly and accurately to FOIA-related requests (for example, requests to search for and provide responsive records); and

(2) Complying with the requirements of FOIA and the Federal Records Act, 44 U.S.C. Chapter 31.

**15.7 Uniform Fee Schedule.** The Department's fee schedule for processing FOIA requests is published in 43 CFR Part 2 and can be found on the Department's FOIA webpage, <https://www.doi.gov/foia>.

**15.8 Annual Report.**

A. On or before February 1 of each year, in accordance with 5 U.S.C. 552(e), the Department must submit a report to DOJ and OGIS about its FOIA activities in the preceding fiscal year.

B. The Department FOIA Policy Staff prepares the Annual Report based on information from the EFTS and additional information provided by bureaus.

**15.9 FOIA Merit Award.**

A. The Department FOIA Policy Staff may occasionally choose to issue a FOIA Merit Award (the Award) to recognize:

(1) Superior accomplishment of regularly assigned duties;

(2) Exceptional achievement of project goals;

(3) Noteworthy accomplishments over a sustained period; or

(4) Specific contributions to an organization's mission.

B. The Award must meet the requirements in 370 DM 451.5.

C. Nominations for the Award may be:

(1) Solicited by the Department FOIA Policy Staff; or

(2) Submitted to the Department FOIA Policy Staff, in writing, by any person aware of an achievement that may deserve recognition.