

FOIA Bulletin Number: 19-01

Subject: Use of the eMail Enterprise Records and Document Management System for Freedom of Information Act Searches

1. Purpose. This FOIA Bulletin and Appendix updates the Department's policy on the use of the "eMail Enterprise Records and Document Management System" (eERDMS) to search for emails responsive to Freedom of Information Act (FOIA) requests by: (1) establishing the criteria for utilizing eERDMS for FOIA searches; (2) outlining the responsibilities of Department FOIA personnel who utilize eERDMS; and (3) establishing reporting procedures and accountability measures.

2. Effective Date. This policy is effective August 19, 2019.

3. Authorities.

- [Title 5 of the United States Code, Section 552](#)
- [383 DM 15](#)
- [Secretary's Order No. 3371, "The Department of the Interior Freedom of Information Act Program,"](#) issued November 20, 2018

4. Coverage. This policy applies to all FOIA personnel within the bureaus/offices of the Department (except the Office of the Inspector General) and supersedes any conflicting Departmental or bureau/office policies or procedures. Bureaus/Offices may issue implementing procedures consistent with this policy, however, prior to implementation, the Departmental FOIA Office (DFO) must review and approve, in writing, all such procedures. This policy does not supersede the Office of the Chief Information Officer's eERDMS Rules of Behavior.

5. Policy. FOIA personnel may use eERDMS to conduct reasonable searches for emails responsive to FOIA requests when:

- A current or former employee is reasonably likely to have responsive emails and/or calendars and his/her emails and/or calendars cannot be searched for outside of eERDMS;
- The request, for emails, specifically identifies search criteria including the keywords, custodians (via name, title, email domain, and/or office location), and date range; *or*
- The current head of the bureau/office (for example, the Director) has requested, in writing, that eERDMS be used to search his/her emails on either a categorical or case-by-case basis and has provided a designee who will help the FOIA personnel identify appropriate and reasonable search criteria.

If a portion of a request is appropriate for eERDMS usage under the criteria above, FOIA personnel may use eERDMS to search for emails *only* for that portion of the request. FOIA personnel must handle the remainder of the request through their usual search process.

6. Responsibilities.

A. Before eERDMS is utilized for retrieving records responsive to a FOIA request, the Bureau FOIA Officer must place a dated, written statement in the case file documenting:

- The criteria relied upon (see section 5, above) for utilizing eERDMS or that a waiver was provided (see section 7, below); *and*
- The search terms that will be used in the eERDMS search; *and*
- The reason(s) the search terms reflect a reasonable search:

This responsibility may be delegated by the Bureau FOIA Officer to other FOIA personnel, in writing, in advance of the search.

B. If a FOIA requester agrees to modify his/her request to meet the second criteria in section 5 above, FOIA personnel must:

- Provide written confirmation to the requester of the agreed upon change to the request before conducting a search in eERDMS; and
- Maintain that written confirmation in the request's case file.

7. Waiver. FOIA personnel who wish to utilize eERDMS to search for emails in circumstances other than those set out in section 5 above may seek a waiver from the DFO after obtaining written concurrence from their Bureau FOIA Officer. Such exceptions are solely at the discretion of the DFO. If the DFO issues a waiver, it will do in writing and the bureau/office must keep it the case file for the request.

8. Misuse of eERDMS. The use of eERDMS is monitored and audited. Misuse of eERDMS by violating this policy and/or the eERDMS Rules of Behavior may result in disciplinary consequences for FOIA personnel and official consequences for bureaus/offices, such as those in [370 DM 752](#).

9. Distribution. This policy will be distributed to all FOIA personnel upon issuance. Bureau FOIA Officers are responsible for distributing it to all FOIA personnel new to the Department as part of their orientation materials. This policy also will be made available to all FOIA personnel on the Department's FOIA website accessible at <https://www.doi.gov/foia/news/guidance/>, which also provides additional FOIA resources.

10. Rights and Benefits. This policy is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or FOIA personnel, or any other person.

Appendix

1. *What are the circumstances under which current or former employees emails cannot be searched for outside of eERDMS?*

- Legacy emails (created before the migration to BisonConnect on January 23, 2013) are in eERDMS, but the bureau/office is unable to access the legacy emails;
- A previous employee of a bureau/office (who now works for another bureau/office) created emails before he/she left the original bureau/office and the original bureau/office is unable to reach the emails through its email program or its own servers; or
- The bureau/office/Department has intentionally disabled a current employee's network and email accounts.

2. *What is an example of a request that “specifically identifies search criteria including the keywords, custodians (via name, title, email domain, and/or office location), and date range”?*

A request asking for “all emails from Jane Doe in Office X that include the word ‘cake’ from 8/16/17 to 9/08/17” would qualify.

3. *What is an example of a request that does not “specifically identif[y] search criteria including the keywords, custodians (via name, title, email domain, and/or office location), and date range”?*

A request asking for “any materials discussing baked goods” would not.

4. *If a request qualifies under the criteria, may FOIA personnel work with the requester to further clarify the appropriate scope of the search and reduce false positives?*

Yes. Indeed, if an identified keyword gets a large amount of results and a related keyword would help target the search, FOIA personnel should ask the requester if they would agree to narrow the scope of the search by using the alternative keyword. For example, if in the scenario discussed above “cake” has 980 hits, but “Bundt cake” has 12 hits, FOIA personnel should ask the requester if he/she would rather have the “Bundt cake” results.

5. *What if it is not clear whether a request clearly identifies keywords?*

FOIA personnel must work with the requester before using eERDMS. For example, if a requester says they want requests “about cake” from a particular person during a particular date range, FOIA personnel must ask if using “cake” as a keyword would be acceptable and act accordingly when the requester responds.

6. *What do we mean by saying “[i]f a portion of a request is appropriate for eERDMS usage, FOIA personnel may use eERDMS to search for emails only for that portion of the request. FOIA personnel must handle the remainder of the request through their usual search process”?*

An example is that request asking for “all records from Jane Doe in Office X that include the word ‘cake’ from 8/16/17 to 9/08/17” would qualify for an eERDMS search as to emails, as noted above, but Jane Doe would need to conduct a search for non-email records that include the word “cake.”

7. *How do I document that I worked with a requester to clarify or adjust the scope of his/her request so the request specifically fits within the second criteria discussed in section 5, above?*

An example is an email stating that: “You originally requested ‘all records relating to baked goods,’ but have modified your request in our conversation today to seek only ‘all records from Jane Doe in Office X that include the word cake from 8/16/17 to 9/08/17.’ If I have misunderstood our conversation in any way, please let me know immediately.”