

INDIAN AFFAIRS MANUAL

Part: 24

Information Resources Management

Chapter: 1

Freedom of Information and Privacy Act

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1.1 Purpose. This chapter provides supplemental information on processing requests for information that are submitted under either the Freedom of Information Act (FOIA) or the Privacy Act (PA).

1.2 Statutes. The following laws establish the requirements and limits on disclosure of records maintained by Federal agencies.

A Title 5, U.S.C. § 552, Freedom of Information Act, and

B. Title 5, U.S.C. § 552a, Privacy Act.

1.3 Regulations. Title 43 CFR, Part 2 -- Records and Testimony: Freedom of Information Act (FOIA); Privacy Act. Implementing regulations for the Department of the Interior are accessible electronically at <http://www.doi.gov/foia/foiaregs.html>

1.4 Guidance.

A OMB Circular A-130, Management of Federal Information Resources: <http://www2.whitehouse.gov/OMB/circulars/a130/a130.html>;

B. U.S. Department of Justice, *Freedom of Information Act Guide & Privacy Act Overview*. The *Guide* is updated annually. Copies are available through the Superintendent of Documents, Government Printing Office, Washington, DC 20402. The *Guide* is also available on the Internet: <http://www.usdoj.gov/04foia/>;

C. Part 383 DM, Public Access to Records; and

D. FOIA Homepages for the Department of the Interior and for the Bureau of Indian Affairs: <http://www.doi.gov/foia> and <http://www.doi.gov/bia/foia/list.htm>

1.5 Definition of Perfected FOIA Request. A perfected FOIA request is one that:

A Describes the records in a way that a professional staff member who is familiar with the subject matter could find the records with a reasonable amount of effort;

B. Is received at the office where the records are actually located; and

C. Had no outstanding questions on the payment of any applicable fees.

1.6 Responsibilities.

A The Director, Office of Management and Administration, is responsible for managing FOIA and Privacy Act implementation within the Bureau of Indian Affairs and for appointing a FOIA Officer for the Bureau.

B. Regional Directors, Central Office Directors, and Education Line Officers are responsible for appointing a FOIA coordinator and for ensuring that the coordinator is properly trained in matters dealing with Freedom of Information Act and Privacy Act requests.

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C. The FOIA Officer is responsible for:

- (1) providing information to the public on the Bureau's FOIA processes;
- (2) offering technical assistance to the various Bureau FOIA Coordinators;
- (3) identifying recurring FOIA requests and making the responses available electronically; and
- (4) submitting the Bureau's report on FOIA activities to the Department.

D. FOIA Coordinators are to:

- (1) assist program and administrative staff in preparing appropriate and timely responses to FOIA requests; and
- (2) submit information on each FOIA request and each FOIA response to the FOIA Officer (Illustration 1); and
- (3) submit supplemental reports on FOIA activities at the end of each fiscal year (Illustrations 2 and 3).

E. All Employees are to track the amount of time they spend processing and reviewing FOIA requests and track other costs associated with responding to the request as shown in Illustration 1.

1.7 Action on Initial Requests. When a perfected FOIA request is received, the cognizant office has 20 days (exclusive of weekends and holidays) in which to notify the requester whether the records will be disclosed. This time may be extended for an additional ten days by providing a written notice to the requester stating why the extension is needed and when a decision will be made.

1.8 Consultation with the Office of the Solicitor is required before making a final decision to:

- A. Withhold release of a requested record;
- B. Release a record that is exempt from disclosure; or
- C. Deny a request for a waiver of fees.

1.9 Fees. All Indian Affairs installations will follow the fee schedule published by the Department of the Interior in 43 CFR, Part 2, Appendix E. For those requests that are subject to fees, records are not to be released until the required payment has been received or until the requester has furnished a TIN or SSN. Letters to requesters identifying the amount of fees will include the following statement:

Fees must either be paid in advance of release of the records or you must provide us with your Taxpayer Identification Number [TIN] or Social Security Number [SSN]. Your certified check or money order should be made payable to the Bureau of Indian Affairs and mailed to us at the following address to the attention of the FOIA Coordinator: [insert the appropriate address]. If we do not receive your check, TIN or SSN within 30 days of the date of this letter, we will close your request for fee-related reasons.

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1.10 Requests that Require Additional Information. When a FOIA request must be perfected by the requester by more clearly identifying the records that are sought or resolving issues related to the payment of fees, the letter to the requester identifying the matters requiring resolution will include the following statement:

Unless we hear from you within 30 days, or unless an appeal has been filed with the Assistant Secretary - Policy, Management and Budget within 30 working days of the date of this letter, we will close this request due to failure to adequately describe the records sought. This decision that your request is procedurally deficient may be appealed to the Assistant Secretary - Policy Management and Budget as outlined in Title 43 CFR, Part 2, Subpart D – FOIA Appeals and Lawsuits.

1.11 Handling Requests that are Sent to the Wrong Location. If an organization receives a FOIA request for a Bureau record that is located at a different Bureau office, the request should immediately be forwarded to the appropriate office and the requester should be given the name and address of the office that will be processing the request. If the request seeks records of another Interior bureau, the request should be sent to the BIA FOIA Officer who will forward the request to the appropriate bureau.

1.12 Signatory Authority. The following chart outlines signature authority for FOIA requests.

Nature of Response to Request for Records under the Freedom of Information Act or Privacy Act	Directors				Education Line Officers Post-Secondary School Presidents	Superintendents Heads of Field Offices School Principals
	CO	Reg'l	OIEP	M & A		
Provide full disclosure.	X	X	X	X	X	X
Provide partial disclosure.	X	X	X	X	X	X
Deny requests because no records exist.	X	X	X	X	X	X
Deny request because it is too vague to determine what records are sought.	X	X	X	X	X	X
Release a record that is exempt from disclosure.		X	X	X		
Deny request for fee waiver.		X	X	X		
Notification of time extension required to process the request.	X	X	X	X	X	X
Withholding records based upon a statutory exemption.	X	X	X	X	X	X
Withholding records for other reasons.		X	X	X		

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1.13 Reporting Requirements.

A Disposition of Each FOIA/Privacy Act Request. Cognizant offices are to complete the form shown in Illustration 1 for each request as the request is processed. Upon final disposition of the request, the completed form is to be sent to the Bureau's FOIA Coordinator. Headquarters organizations with access to the Bureau's automated correspondence tracking system will enter the information into the system directly. The FOIA Officer will enter the data for all other offices that do not have access to the database program.

B. Year-End Report. Within one month of the end of each fiscal year, supplemental information must be reported to the FOIA Officer for compilation into the Bureau-wide report that is submitted to the Department and subsequently transmitted to the Department of Justice.

(1) Regional Directors, Education Line Officers, and Central Office organizations that do not have access to the automated FOIA data base program are to submit the reports shown in Illustrations 2 and 3.

(2) Central Office organizations that use the FOIA database are to submit the report shown in Illustration 3.

REPORT ON FOIA ACT/PRIVACY ACT REQUESTS

Part 1: General Information

Action Office: _____

Type of Request: ☐ FOIA or ☐ Privacy Act

Name of Requester: _____

Affiliation (if requesting on behalf of a business or organization): _____

Description of Request: _____

Part 2: Dates

Initial Request: _____

Perfected Request (date all issues concerning description of records and payment of fees are resolved): _____

Interim Response (if any): _____

Final Response: _____

Part 3: Disposition of Request

Complete this part only when the office actually has some or all of the requested records. (Check one):

☐ Granted ☐ Partial Grant ☐ Denied

Part 4: Fee Category (check one):

☐ Commercial ☐ Education, Science or Media ☐ Other

Waiver Requested? ☐ Waiver Granted? ☐

Fees Collected: \$ _____

Part 5: Processing Time and Other Costs

A. Time: Enter the number of hours spent by employees in each group to process this request, including time spent on appeals or litigation. Use decimals to indicate portions of an hour.

Clerical Professional Managerial

Search: _____

Review: _____

B. Other Costs:

Actual cost of special search of computer records or computer processing time: _____

Number of copies run on standard machines: _____

Number of certifications of authenticity: _____

Actual mail/delivery costs if sent by other than first class mail: _____

Actual cost of non-standard copies: _____

Other direct expenses of processing request: _____

Part 6: FOIA Exemption(s) Invoked to Deny Request

If the requested information was available and was not provided, check the exemption(s) invoked.

- ☐ 1. National security.
- ☐ 2. Records related solely to the internal personnel rules and practices of Indian Affairs.
- ☐ 3. Records are exempt from disclosure under statute. (If this exemption is cited, complete **Part 7**.)
- ☐ 4. Trade secrets and commercial or financial information obtained from a person that is privileged or confidential.
- ☐ 5. Documents that would not be available by law to a party other than one in litigation with the Department.
- ☐ 6. Personnel, medical, or similar files when disclosure would constitute an invasion of personal privacy.
- ☐ 7. Records or information compiled for law enforcement purposes that if disclosed:
 - ☐ (A) could interfere with enforcement proceedings;
 - ☐ (B) would deprive a person of the right to a fair trial or adjudication;
 - ☐ (C) would constitute an invasion of personal privacy;
 - ☐ (D) could disclose the identity of a confidential source;
 - ☐ (F) could endanger the physical safety of a person;
- ☐ 8. Records related to the supervision or regulation of financial institutions.
- ☐ 9. Geological and geophysical information concerning wells.

Part 7: Other Statutory Exemption(s). If FOIA exemption 3 is cited, identify the specific law that allows or requires the records to be withheld.

Part 8: Privacy Act. If the Privacy Act was invoked to withhold records, identify the exemption.

- ☐ 1. Information gathered for a civil action.
- ☐ 2. Information relates to enforcement of criminal laws.
- ☐ 3. National security.
- ☐ 4. Information related to law enforcement investigation.
- ☐ 5. Secret Service records.
- ☐ 6. Information required to be used only as statistical records.
- ☐ 7. Source identification in background checks.
- ☐ 8. Testing or examination material.
- ☐ 9. Military source; identification; evaluations.

Part 9: Other Reasons Records Not Provided.

Complete this part only if Part 3 and Part 8 are blank.

- ☐ 1. No records.
- ☐ 2. Referred outside of the Interior Department.
- ☐ 3. Request was withdrawn.
- ☐ 4. Fee-related (including denials of fee waiver requests).
- ☐ 5. Records were not reasonably described.
- ☐ 7. Not a proper FOIA request for some other reason.
- ☐ 8. Not a record of the Bureau of Indian Affairs.
- ☐ 9. Duplicate request.
- ☐ 10. Other (specify): _____

Mail Completed form to: Bureau of Indian Affairs, Attn: FOIA Officer, 1849 "C" St., NW, MS 4140 MIB, Washington, DC 20240.

FOIA Requests Pending at the end of the Fiscal Year

Instructions: Identify all perfected FOIA requests received by the installation prior to September 30 of each year that remain to be processed. Submit the report to the FOIA Officer no later than October 30 of each year. Use as many lines as required.

Name of Requester	Records Requested	Date of Request

Reporting Office

Prepared by

Telephone Number

Annual Report of Selected FOIA Staffing Costs

Instructions: Report only those costs that are over and above the costs identified in reports on individual FOIA requests (24 IAM, Illustration 1).

A. Staffing Levels

1. Number of full-time FOIA personnel: _____
2. Full-time equivalent of others with part-time or occasional FOIA duties: _____

B. Costs

1. Salary and benefit costs of the personnel identified in A: _____
2. FOIA/Privacy Act training: _____
3. Development/maintenance of FOIA Homepage _____
4. Other costs associated with FOIA processing (provide description below): _____

Description of other costs: _____

Reporting Office

Prepared by

Telephone Number