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The Office of Administrative Law Judges (OALJ)
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April 2, 2024

Delivered via email

Subject: FOIA Request No. 2024-F-05890

This letter is in response to your Freedom of Information Act (FOIA) request with the U.S. Department of Labor (DOL), Office of Administrative Law Judges (OALJ). OALJ has assigned your request tracking number 2024-F-05890. Your request was received by OALJ on February 16, 2024. You requested the following documents from OALJ's intranet:

- 1) Department of Labor, FOIA Best Practices Guide (SOL/MALS - Office of Information Services August 9, 2013);
- 2) Guidance on FOIA Processing and Implementation of Best Practices (Solicitor of Labor August 16, 2016);
- 3) Email distributing Notice from the Office of the Solicitor of New Notice Requirements (September 16, 2016);
- 4) FOIA Bulletin 16-04, New Requirements for FOIA Response Letters;
- 5) Standard Operating Procedure for Processing Freedom of Information Act Requests (OALJ Ver. 1 Feb 5, 2015);
- 6) Standard Operating Procedures - Solicitor Transmittal Memo (April 30, 2019);
- 7) Departmental Procedures for Handling Coordinated and/or Consolidated FOIA Requests (April 30, 2019).

Attached is a copy of item five above, the Standard Operating Procedure for Processing Freedom of Information Act Requests (OALJ Ver. 1 Feb 5, 2015). It totals seven pages. Another DOL component is processing the other documents you requested under FOIA No. 2024-F-05889 and will be responding separately.

If you need further assistance or would like to discuss any aspect of your request, please do not hesitate to contact me at FOIA2@dol.gov or at (202) 693-7347.

Sincerely,

/s/ Alyssa Kaercher
FOIA Disclosure Officer



OALJ Standard Operating Procedure for Processing FOIA Requests

U.S. DEPARTMENT OF LABOR

Office of Administrative Law Judges (OALJ)

Standard Operating Procedure for Processing Freedom of Information Act (FOIA) Requests

Version 1.0

February 5, 2015

Revision History

Date	Version	Update Description	Author
1/30/15	1.0	Original document	Isaac Livingston
1/30/15	1.0	Review Document	Todd Smyth
2/2/15	1.0	Review Document	Linda Huchn
2/5/15	1.0	Approved Document	P.J. Soto

Contents

- 1. Purpose4
- 2. Authority..... 4
- 3. Background.....4
- 4. Procedures ●ALJ Offices Follow to Implement the FOIA 4
 - A. FOIA Request received by Mail or Fax5
 - B. Secretary’s Information Management System (SIMS FOIA)5
 - C. Fees and Fee Waivers5
 - D. Requests for Expedited Processing.....6
 - E. Notice of Appeal Rights6
 - F. Discretionary Disclosures.....7

1. Purpose

The purpose of this Standard Operating Procedure (SOP) is to provide the Office of Administrative Law Judges' (OALJ) personnel with step-by-step procedures for processing FOIA requests.

2. Authority

What is the Freedom of Information Act?

The Freedom of Information Act (FOIA) is a federal disclosure statute (5 U.S.C. § 552, as amended by Public Law 93-502, Public Law 94-409, and Public Law 99-570) requiring Federal agencies to disclose to "any person" all records within its possession, except for information protected by a FOIA exemption. President Obama has instructed agencies to adopt a presumption in favor of disclosure.

3. Background

How FOIA Request May Be Received

The Department of Labor does not require a special form in order to make a FOIA request. Requests must be in writing and be submitted by fax, courier service or postal mail. Request may be submitted via e-mail to foiarequest@dol.gov.

Requests must reasonably describe the records sought. They do not have to give the record's name or title, but the more specific they are, the more likely it will be that the record sought can be located. For example, if the requester was interviewed by a law enforcement component (such as the Occupational Safety and Health Administration) in connection with an enforcement investigation and they request a copy of the interview report, providing the date and location of the interview, the Department of Labor component involved, and the name of the interviewing agent and subject of the investigation will be helpful in deciding where to search and which records respond to your request.

4. Procedures OALJ Offices Follow to Implement the FOIA

FOIA Disclosure Officer/ FOIA Coordinator must:

- Respond to a FOIA request within twenty working days (20), excluding Saturdays, Sundays, and legal holidays. This period does not begin until the request is actually received by the component that maintains the records sought.

OALJ Standard Operating Procedure for Processing FOIA Requests

- Determine whether the FOIA will be handled by the National Office or referred to one of the seven District Offices.
- Educate all OALJ staff on their FOIA implementation responsibilities.
- Establish a filing system for all processed request for future review of past inquires.
- Establish and maintain an electronic reading room for on-line access.
- Determine which records are the subject of frequent requests and make those records available in the reading room.
- Ensure that all FOIA staff has access to and receive training for using the FOIA Tracking System.
- Make releasable records of major interest available to the public.
- Review and maintain current rules, regulations, and other materials involving their respective areas of responsibility.
- Provide information as required by the provisions of the FOIA.

A. FOIA Request received by Mail or Fax

If a FOIA request is received through the mail or fax, that FOIA request is given to the designated FOIA Disclosure Officer/FOIA Coordinator. Upon receiving the request the information must be entered into the Secretary's Information Management System (SIMS FOIA) to be tracked.

B. Secretary's Information Management System (SIMS FOIA)

This corresponding tracking system is used by the Department of Labor and all of its Agencies to upload and transfer all FOIA related information. Upon being tasked with a FOIA request the FOIA Disclosure Officer/FOIA Coordinator must:

- Fill out the highlighted portions within the system with the requester's information.
- Upload all documents related to the request.
- Ensure that the FOIA request is closed out in the system upon completion.

C. Fees and Fee Waivers

There is no initial fee to file a FOIA request and in many cases no fees are charged for processing. However, by law, an agency is entitled to charge certain fees, which depend upon the category into which the request falls.

For the purpose of fees only, the FOIA divides requesters into four categories:

OALJ Standard Operating Procedure for Processing FOIA Requests

- Commercial requesters who may be charged fees for searching, reviewing, and photocopying records.
- Educational or noncommercial scientific institutions may be charged for photocopying, only after the first 100 pages.
- Representatives of the news media are charged for photocopying after the first 100 pages.
- All other requesters (requesters who do not fall into any of the other three categories) are charged for photocopying after 100 pages and for time spent searching for records in excess of two hours. The Department of Labor charges **\$0.15 per page** for photocopying. Actual costs are charged for formats other than paper, such as computer tapes, disks and videotapes.

A requester may make a specific statement limiting the amount of fees that he/she is willing to pay. If such statement is not made, the FOIA Disclosure Officer/FOIA Coordinator may assume that the requester is willing to pay fees up to **\$250**. If OALJ estimates that the fees for processing a request will exceed **\$250**, FOIA Disclosure Officer/FOIA Coordinator must notify the requester of the estimate and offer the requester an opportunity to narrow the scope of their request in order to reduce the fees.

A requester may request in writing a waiver of those fees. Fee waivers are granted when the disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of the government and is not primarily in the commercial interest of the requester. A non-profit organization or a member of the media does not, in and of itself, qualify for a fee waiver. Requests for fee waivers from individuals who are seeking records pertaining to them usually do not meet this standard. In addition, a requester's inability to pay is not a legal basis for granting a fee waiver.

D. Requests for Expedited Processing

Where the FOIA requester asks for expedited processing, a determination must be made within 10 calendar days whether or not to expedite the request. The Department of Labor ordinarily will only expedite a FOIA request in cases in which there is a threat to someone's life or physical safety; the requester is primarily engaged in disseminating information and has established that the request is urgently needed to inform the public concerning some actual or alleged government activity; or where an individual will suffer the loss of substantial due process rights if the records are not processed on an expedited basis.

E. Notice of Appeal Rights

Under the FOIA's administrative appeal provision, a requester has the right to administratively appeal any adverse determination an agency makes on a FOIA request. DOL FOIA regulations state adverse determinations include the following:

OALJ Standard Operating Procedure for Processing FOIA Requests

- Denials of records in full or in part;
- Records cannot be located or have been destroyed;
- Denials of requests for fee waivers; and
- Failure to respond within the time limits set forth in the FOIA.

The following notification of the right to appeal *must* be included in the response when an adverse determination has been made on a FOIA request:

You may file an appeal of this decision with the Solicitor of Labor within 90 days from the date of this letter. The appeal must state, in writing, the grounds for the appeal, including any supporting statement or arguments. In order to facilitate processing of the appeal, please include your mailing address and daytime telephone number, as well as a copy of the initial request and this letter. The envelope and letter of the appeal should be clearly marked "Freedom of Information Act Appeal." Any amendment to the appeal must be made in writing and received prior to a decision. The appeal should be addressed to the Solicitor of Labor, Division of Management and Administrative Legal Services, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N-2420, Washington, D.C. 20210. Appeals may also be submitted by email to foiaappeal@dol.gov. Appeals submitted to any other email address will not be accepted.

F. Discretionary Disclosures

DOL encourages agencies to make discretionary disclosures – in other words, making disclosures even though the document or portions of a document could have been withheld pursuant to a FOIA exemption. DOL tracks discretionary disclosures in SIMS for reporting on the FOIA Annual Report and Chief FOIA Officer Report. SIMS' users won't be able to close requests until "Yes" or "No" is entered for Discretionary Disclosure. If "Yes" is entered, then the user must also enter the exemption that would have been used if information had been withheld.

Because OALJ conducts public hearings, most of our disclosures are non-discretionary.