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Description of document: Fish and Wildlife Service (FWS) Freedom of Information Act ( FOIA) Standard Operating Procedure (SOP) 2019

Requested date: 22-May-2022

Release date: 11-July-2022

Posted date: 18-November -2024

Source of document: Freedom of Information Act Request  
U.S. Fish & Wildlife Service  
5275 Leesburg Pike  
MS: IRTM  
Falls Church, VA 22041  
[Department of Interior FOIA Public Access Link \(PAL\)](#)  
[FOIA.gov](#)

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**United States Department of the Interior**  
**FISH AND WILDLIFE SERVICE**

5275 Leesburg Pike, MS: MB  
Falls Church, VA 22041



In Reply Refer To:  
DOI-FWS-2022-003875

July 11, 2022

The U.S. Fish and Wildlife Service Headquarters Freedom of Information Act (FOIA) Office received your FOIA request dated May 22, 2022, and assigned it control number DOI-FWS-2022-003875. Please cite this number in any future communications with our office regarding your request. You requested the following:

- *a copy of each (internal) FOIA Standard Operating Procedure (SOP) at the Fish and Wildlife Service main FOIA Office. Please apply the foreseeable harm test, and discretionary release of what might otherwise be considered records exempt under b(5), and the presumption of openness.*

### **Response**

We are writing to respond to your request. Enclosed are two (2) documents containing four (4) pages which are being released to you in their entirety. We are also providing you with links for the Department of Interior and the U.S. Fish and Wildlife FOIA pages: [FWS Freedom of Information Act \(FOIA\) | U.S. Fish & Wildlife Service](#) and [Freedom of Information Act \(FOIA\) Requests | U.S. Department of the Interior \(doi.gov\)](#).

### **Fees**

We do not bill requesters for FOIA processing fees when their fees are less than \$50.00, because the cost of collection would be greater than the fee collected. See [43 C.F.R. § 2.37\(g\)](#). Therefore, there is no billable fee for the processing of this request.

### **Conclusion**

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of FOIA. See [5 U.S.C. 552\(c\)](#). This response is limited to those records that are subject to the requirements of FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

This is our final response and closes your request DOI-FWS-2022-003875. If you have any questions about our response to your request, you may contact me by email at [tiffany\\_joseph@fws.gov](mailto:tiffany_joseph@fws.gov), or by mail at U.S. Fish and Wildlife Service; ATTN: FOIA Office; 5275 Leesburg Pike; MS: IRTM; Falls Church, VA 22041.

Sincerely,

TIFFANY JOSEPH

Digitally signed by  
TIFFANY JOSEPH

Date: 2022.07.11  
10:21:12 -04'00'

For Cathy Willis  
FWS FOIA Officer

## COORDINATORS SOP FOIA PROCESSING

### RECEIPT OF NEW REQUEST

1. FOIA Coordinator logs the request into EFTS to obtain a control number
2. FOIA Coordinator reviews the request and will address fee, scope, or requester category issues before sending the request to the program POC.<sup>1</sup> **Note:** This is a very important step. You must define the scope of the request in order to properly address the fee and the category of the request. If the scope is not clear, you must talk to a SME for assistance with the scope. The SME is the best source to assist with the scope, as they are most familiar with the issue. The program POC can help you with identifying the SME.

### REQUEST IS PERFECTED – Search begins

1. Send the request to the POC for assignment to the SME.
2. In your email to the POC, if you do not already know, ask the POC to provide you with the name of the SME, once the request has been assigned.
3. Contact the SME to provide guidance on how to process the request. You should identify the method for the search, how to organize the docs for submission (docs for withholding, docs for release), the format and how to submit the docs to you, and how to calculate the cost (even if we will not charge, i.e. outside timeframe, fee waiver). **Note:** depending on the SME, you may need to provide an overview of what type of document/information could be withheld, i.e. PII, Attorney Client, deliberative (do not forget to discuss the foreseeable harm.) I recommend you keep the overview simple. Once you conduct your review, you will be able to further discuss with the SME, their rationale for suggesting the withholding.

### SEARCH for RESPONSIVE RECORDS COMPLETE – Review begins

1. Once the documents are received from the SME, you need to review the documents. You should conduct a cursory review of the documents for release, and if possible, provide a partial release of these documents.
2. Review the documents identified for withholding. Work with the SME regarding any documents identified for withholding, in which you do not understand or disagree with the withholding. For example, the SME is recommending to withhold information as deliberative, when the document is clearly factual information, or portions of the document are factual. Remember the Statutory Segregation Requirement. <https://www.justice.gov/oip/blog/foia-update-oip-guidance-reasonable-segregation-obligation>

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<sup>1</sup> Every program should assign an employee to serve as a POC. The POC is responsible for assigning the request to a Subject Matter Expert (SME). The SME is responsive for searching for responsive documents.

3. For any exemption 5, deliberative process privilege, a foreseeable harm analysis needs to be done. The foreseeable harm analysis should be documented, as you may need it for reference later. See attached.
4. If any Ex 4 material identified, a submitters notice MUST be completed prior to applying that exemption. <https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#sp43.1.2.f>
5. Once your review is complete, if exemptions are identified, you must request SOL review and work through any issues identified by the SOL.

#### **REVIEW COMPLETE – Draft response (interim or final)**

1. The FOIA Coordinator will draft a final response to ensure all required language is provided.
2. The response is mailed to the requester with cc to the appropriate program.

#### **RECORD RETENTION**

1. The FOIA Coordinator is **required** for maintaining the official record for each FOIA request. **ALL** records provided as a result of any search will be a part of this file. Duplicates, non-responsive, or like records, will be labeled as such and not be released to the requester. It helps to keep a folder of how the records were originally provided so you have reference should the request be appealed or litigated.

#### **Things to know:**

1. The FOIA Coordinator **will** draft and send all FOIA correspondence to the requester.
2. Scope clarification or narrowing the scope. The Handbook states the FOIA Coordinator will seek clarification or narrow the scope with the requester, however, this is better done in coordination with the SME, as the SME will better understand what it is the requester is looking for and able to speak to what can be provided or how the request is too broad as stated.
  - a. If holding a conference call with the SME and requester, ensure to document what was discussed and decided in an email to both the requester and the SME. This will ensure that all parties are on the same page.

**When in doubt, contact the FOIA Officer with questions.**

## SEARCH GUIDANCE DOCUMENT for SME

**Note:** *Even if no records are located, you must complete Section IV and return to the FOIA Coordinator.*

- I. **The SEARCH.** The SME is **responsible** for obtaining records **from everyone** who has responsive records. Ensure the search is reasonable. For all searches, you must keep a record of the 5 “W’s”:
  1. Who searched;
  2. Where you searched - offices, databases, software, and files;
  3. What was your search criteria, such as key words or phrases used when conducting your search;
  4. When you searched - the date the searched was started and how much time was spent; and
  5. Why the search conducted was thought to be reasonable.
  
- II. **REVIEW the Documents.** Please make sure of the following:
  1. The documents are relevant to the specifics to the request.
  2. All attachments and enclosures are attached to the document.
  3. Any sensitive information such as attorney-client, PII, pre-decisional etc. are separated into separate categories as described below in **Section III**.
  4. Each email/document is its own pdf or format requested by the FOIA Coordinator. Please refrain from scanning multiple documents into one document.
  
- III. **PREPARING Documents for Submission to Coordinator.** Please work with your FOIA Coordinator to provide records in the format requested. If requested, please sort your documents in the following categories:
  1. Documents that can be released. Federal agencies are **required** to disclose any information requested under the FOIA unless it falls under one of the exemptions which protect interests such as personal privacy, interagency predecisional/deliberative documents, attorney client documents, and law enforcement.
  2. Documents subject to Withhold. The following are common exemptions used for withholding of information in a document or the entire document:
    - Classified information.
    - Information specifically protected by other statutes; for example contracting information.

- Trade secrets or commercial or financial information that is privileged or confidential and submitted to the agency by an outside party.
- Interagency predecisional and deliberative documents or information (see foreseeable harm statement attached); attorney work product; attorney-client privilege.
- Personal privacy information about an individual (PII).
- Information compiled for law enforcement purposes.
- Documents submitted by outside Entity (includes internal documents discussing information submitted by outside entity).

**If you are unsure as to whether a document(s)/information should be released or withheld, contact your FOIA Coordinator for guidance.**

**IV. SEARCH and REVIEW Time.** Beside each process, indicate time spent (in exact minute(s)/hour(s)) by managerial, professional and/or clerical staff. Provide this information to the FOIA Coordinator.

	Managerial GS-13 and above	Professional Time GS-8 thru 12	Clerical Time GS-7 and below
	Total Hours/Min	Total Hours/Min	Total Hours/Min
Searching for Responsive Records			
Reviewing Records for Release			
TOTAL			

**V. TRANSMITTING DOCUMENTS and SEARCH and REVIEW Time.** Contact your FOIA Coordinator for the best way to transmit the category of documents and search and review time to the Coordinator.

**Please feel free to contact your FOIA Coordinator with any questions.**