

THE FREEDOM OF INFORMATION ACT PROGRAM

1. PURPOSE

This Directive establishes the Grain Inspection, Packers and Stockyards Administration's (GIPSA) policy, procedures, and responsibilities for implementing the requirements of the Freedom of Information Act (FOIA) (5 U.S.C. § 552).

2. REPLACEMENT HIGHLIGHTS

This Directive replaces FGIS Directive 1470.1, Freedom of Information Act, dated September 1, 2004.

3. AUTHORITIES

- a. The Freedom of Information Act (5 U.S.C. § 552).
- b. Executive Order (EO) 13392, "Improving Agency Disclosure of Information," dated December 14, 2005.
- c. Electronic Freedom of Information Act Amendments of 1996 (P.L.104-231).
- d. USDA Freedom of Information Act Regulations (7 CFR Part 1).

4. POLICY

GIPSA is committed to responding to citizens' requests for records courteously and appropriately and to providing the fullest possible disclosure of information consistent with the exclusions and provisions of the FOIA. GIPSA is equally committed to protecting the fundamental values that are held by our society. Among them are safeguarding our national security, enhancing the effectiveness of the United States law enforcement agencies, protecting sensitive business information, and preserving individuals' personal privacy.

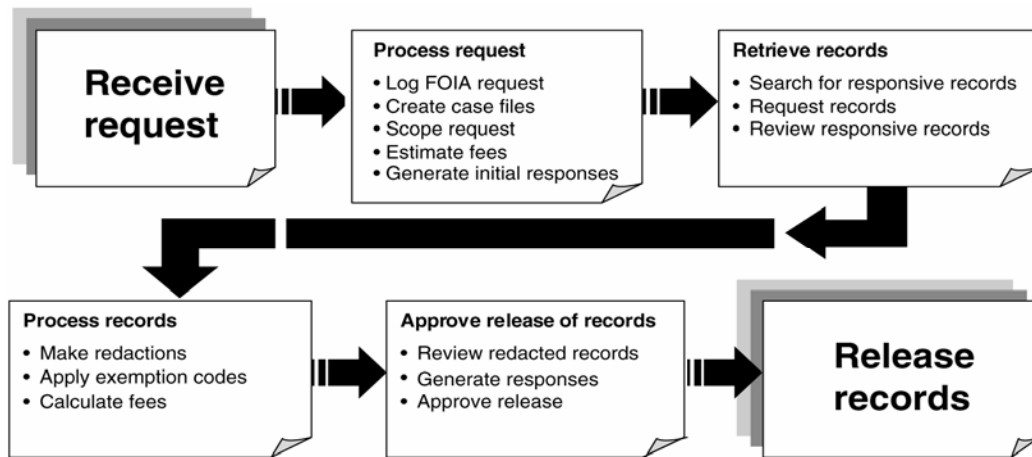
5. INTRODUCTION TO FOIA

The FOIA is the principal federal statute governing access to Government information, thus enabling the public to learn about government operations and decisions. The statute provides that any person has a right, enforceable in court, to obtain access to Federal agency records, except to the extent that such records (or portions of them) are protected from public disclosure by one of nine exemptions or by one of three special law enforcement record exclusions.

The FOIA, which was enacted in 1966, has been a continuously developing Government disclosure mechanism. The most recent change occurred on December 14, 2005, when EO 13392 was issued. It established Government-wide policy that FOIA operations be citizen-centered and results-oriented to improve service and performance. EO 13392 directs, among other statutory requirements, Federal agencies to establish FOIA Requester Service Centers and FOIA Public Liaisons to ensure appropriate communications with FOIA requesters (see Sections 8b. and 8c., RESPONSIBILITIES).

6. THE FOIA REQUEST PROCESS

a. Initial Request. The primary steps in handling a GIPSA FOIA request follows:



Source: GAO analysis of agency information.

GIPSA accepts a FOIA request from any person by mail, by facsimile, or electronically. One of the most important features of FOIA is that the requester need not disclose why he/she wants the record. GIPSA has 20 working days to make a determination on the request.

The request goes through several phases, which includes initial processing, searching for and retrieving responsive records, preparing responsive records for release, approving the release of the records, and releasing the records to the requester.

GIPSA must disclose the record unless it can invoke a specific statutory exemption. If a record contains some material that is exempt and some that is not, GIPSA must redact that information and disclose the non-exempt portion(s). When GIPSA denies, in full or in part, responsive records, GIPSA's response must include the reason(s) for any adverse determination and must give the requester the right to appeal GIPSA's decision to deny access.

- b. FOIA Appeals. A requester may appeal GIPSA's FOIA determination within 45 days by writing to the GIPSA Administrator. GIPSA has 20 working days to respond to the appeal. USDA regulations require that the Assistant General Counsel, General Law Division (GLD), Office of the General Counsel (OGC), review USDA agencies' FOIA appeals and render all necessary assistance to respond to the appeal. GLD/OGC provides legal review and sufficiency assistance to USDA agencies' FOIA appeals on a first-in/first-out basis.

7. RECORDS SUBJECT TO FOIA

Records, typically, are written documents which can be copied and provided to the requester. GIPSA records subject to a FOIA request include, but are not limited to:

- a. Documents collected by the Federal Grain Inspection Service and the Packers and Stockyards Program during the course of performing their statutory responsibilities and activities;
- b. Grain, livestock, meat, and poultry-related business records;
- c. Internal and external correspondence and memoranda, electronic mail, telephone logs, and notes;
- d. Statistical data, information in electronic databases, and data analyses;
- e. Inspection and weighing work records and official certificates, test results, scale test reports; and
- f. Complaints filed, review and monitoring reports, investigation reports and supporting documentation.

8. RESPONSIBILITIES

- a. The **GIPSA Administrator** is responsible for establishing GIPSA's FOIA policy regarding the availability of records and information. The GIPSA Administrator is the official to whom requesters may administratively appeal GIPSA's initial FOIA determination.
- b. The **Director, Management Support Staff**, administers the GIPSA FOIA program and is designated GIPSA's FOIA Public Liaison to whom a FOIA requester can raise concerns about the service he/she has received from GIPSA's FOIA Requester Service Center.
- c. The **GIPSA FOIA Officer, Management Support Staff**, will:
 - (1) Serve as GIPSA's FOIA Service Center, which is the first place a FOIA requester can seek information concerning the status of his/her FOIA request and information about the Agency's FOIA response.
 - (2) Serve as liaison between GIPSA and USDA on FOIA program matters;
 - (3) Develop policies and procedures governing GIPSA's FOIA program;
 - (4) Provide guidance to the Administrator, Deputy Administrators, Division/Staff Directors, Field Office Managers, Regional Supervisors, and GIPSA personnel regarding FOIA policies and procedures;
 - (5) Request that GIPSA offices conduct file searches to locate responsive records; and work with such offices when GIPSA's response requires their assistance;
 - (6) Review documents located by GIPSA offices to determine their responsiveness and to determine the extent of accessibility to the requester;
 - (7) Redact from records to be made available to the public, portions that are determined to be exempt from disclosure, unless disclosure is determined to be in the public interest;
 - (8) Prepare GIPSA's response to FOIA requests and appeals in accordance with FOIA guidelines;
 - (9) Consult with the Office of General Counsel and obtain its approval on initial FOIA determinations and on all appeal determinations;
 - (10) Collect fees for FOIA processing pursuant to USDA regulations.

- (11) Prepare required reports documenting GIPSA's FOIA activities and submit to appropriate reporting officials;
- (12) Ensure that GIPSA's FOIA web site is up to date and that documents subject to the FOIA are posted;
- (13) Maintain necessary records to document the receipt and processing status of FOIA requests and appeals;
- (14) Maintain GIPSA's official file copy of FOIA requests and administrative appeals pursuant to the MRP Records Management Program guidelines;
- (15) Notify GIPSA's Special Assistant to the Administrator and appropriate Program Deputy Administrator(s) when requests for GIPSA records or for any information (public and non-public) are received from national media/wire services and congressional offices; and
- (16) Notify GIPSA's Special Assistant to the Administrator and appropriate Program Deputy Administrator(s) promptly of any developments after the release of information to representatives of the national media/wire services and congressional offices to ensure that departmental officials are apprised of the situation and have the necessary information to respond to questions that may arise.

d. **The Deputy Administrators, Federal Grain Inspection Service (FGIS) and Packers and Stockyards Program (P&SP); Staff Directors, Division Directors, Field Office Managers, and Regional Supervisors will:**

- (1) Forward requests for records to the GIPSA FOIA Officer;
- (2) Search files to locate responsive records and forward to the FOIA Officer for processing;
- (3) Assist in preparing the initial determination response, if necessary; and
- (4) Notify GIPSA's Special Assistant to the Administrator and appropriate Program Deputy Administrator when requests for GIPSA records or for any information (public and non-public) are received from national media/wire services and congressional offices.

e. **Official Service Provider Managers will:**

- (1) Forward requests for records to the GIPSA FOIA Officer;
- (2) Search files to locate responsive records and forward to the GIPSA FOIA Officer for processing; and

- (3) Assist in preparing the initial determination response, if necessary.

9. INQUIRIES

- a. Direct inquiries regarding the GIPSA FOIA program to the GIPSA FOIA Officer, Management Support Staff, at (202) 720-8087.
- b. This Directive is available on the Internet at http://www.aphis.usda.gov/library/gipsa/pdf/GIPSA1470_1.pdf
- c. The statutory requirements and guidelines are available on the Internet at http://www.usdoj.gov/oip/foia_guide07.htm

/s/

James E. Link
Administrator