

February 4, 2009

**PROCEDURES FOR PROCESSING REQUESTS FOR SMITHSONIAN
INFORMATION AND FOR APPEALS**

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Responsibilities

- 1. Office of the General Counsel (OGC)** — OGC shall provide the equivalent of a Freedom of Information Act (FOIA) Requester Center. The General Counsel shall serve as the equivalent of a Chief FOIA Officer and shall have the authority to effectuate this directive. The General Counsel shall appoint at least one member of his or her staff to serve as the equivalent of a FOIA Officer, who shall be referred to as the Information Requests Officer.

The Officer, under the supervision of the General Counsel, will review, redact, and provide records to the public in a manner consistent with this directive, guided by the spirit of FOIA, and by federal regulations, Executive Orders, judicial decisions, and other federal laws relevant to FOIA. The Officer also will prepare reports and provide information to the public about how to request Smithsonian documents. The Officer's name and contact information will be posted on the Smithsonian website.

The General Counsel will consult with the Office of the Secretary as needed, and recommend to the Secretary such adjustments to agency practices, policies, personnel, and funding as may be necessary to improve the implementation of this directive.

Responsibilities
(continued)

- 2. Office of Public Affairs (OPA)** — OPA, in consultation with OGC, is responsible for serving as the Institution's liaison when a requester is a member of the media or press, or asks for records that involve the media, press, or public relations. OPA, in consultation with OGC and the Office of the Chief Information Officer, is responsible for posting information on the home page of the Smithsonian website (www.smithsonian.org) that explains the policies and procedures for obtaining SI records.
- 3. Office of the Chief Information Officer (OCIO)** — OCIO is responsible for providing technical support to locate and retrieve electronic records. OCIO, in consultation with OGC and OPA, is responsible for developing the Requests for Smithsonian Information link on the Smithsonian website (www.smithsonian.org) and for posting information as requested by OGC and OPA.
- 4. Office of Human Resources (OHR)** — OHR will respond to requests from current and former employees for copies of their personnel records in a manner consistent with this directive and relevant federal law. OHR will refer other requests for OHR records to OGC.
- 5. Directors** — Smithsonian office and unit directors are responsible for:
 - a. referring to OGC requests for records or requests that cite this directive or FOIA;
 - b. designating a contact person within the office to coordinate the search for documents and provide documents to OGC;
 - c. ensuring that staff make reasonable efforts to search for relevant records;
 - d. providing responsive records to OGC within a reasonable time;

Responsibilities
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- e. identifying information in any responsive record for which there appears to be a legitimate basis for withholding under this directive and which is not otherwise publicly available; and
 - f. tracking the amount of time spent and cost of searching for relevant records.
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Submitting Requests

A request for Smithsonian records must be in writing and of sufficient detail to enable Smithsonian staff to identify and locate specific records using a reasonable amount of time and effort.

Responding to Requests

- 1. Determination of Requests** — OGC will send a written determination to the requester within 20 business days of receiving the request, informing the requester whether or not the Institution can comply with the request and the reasons for its decision. If OGC has determined that no records exist, or additional information is needed to begin a search, or if the General Counsel has determined that records exist but no portion can be released under this directive, the letter will say so and explain how to seek an appeal. The letter will also provide the requester with a tracking number assigned to the request, which he or she can use to determine the status of his/her request. The Smithsonian must comply with the timing of this requirement in order to charge fees to the requester.
- 2. Time for Providing Records** — The Smithsonian makes every effort to provide documents as quickly as possible, taking into account the scope and depth of each request. When reasonable, the Institution will provide records in the format requested. Requests are placed in one of three tracks. Track one is for those requests that seek and receive expedited processing pursuant to subsection (a)(6)(E) of FOIA. The second track is for those requests that do not involve sensitive records, voluminous records, or lengthy consultations with other entities.

**Responding
to Requests**
(continued)

Track three is for those requests that involve voluminous records and for which lengthy or numerous consultations are required, or involve sensitive records. This approach allows smaller requests to be answered as quickly as possible. Requesters may narrow the scope of complex requests in order to obtain documents faster. OGC will evaluate requests for expedited processing in accordance with FOIA.

- 3. Search for Records** — Searches will be diligent and reasonably tailored to locate the documents requested. OGC shall determine if responsive records are likely to exist and, if so, will contact the office(s) best able to conduct a search. The contact person at that office shall estimate a time frame for providing the responsive records to OGC, and estimate the number of pages that may be generated. The contact person shall conduct the search or assign staff to do so. If, in consultation with OGC, the contact person cannot reasonably ascertain what records are being requested, then OGC will notify the requester that the request cannot be processed as written.
- 4. Review and Redaction of Records** — Records will be reviewed and redacted in accordance with this directive. Documents created by another governmental entity will either be processed in consultation with that entity or be referred to that entity for processing. Documents authored by a third party or containing information that may be protected from disclosure as a trade secret and/or confidential commercial or financial information may be forwarded to the party for consultation and an opportunity to object to disclosure.
- 5. Information Originating Outside the Smithsonian** — It is the policy of the Smithsonian not to provide records or information from its files that originates in a federal agency or nonfederal organization to persons who may not be entitled to obtain the

**Responding
to Requests**
(continued)

records or information from the originator. In such instances, requesters will be referred to the person or organization that originated the records.

- 6. Response Letters and Delivery of Records** — Responsive records will be provided unless a determination is made to withhold them under this directive. OGC will include a response letter that explains what documents are provided, what documents are withheld (if any), the reasons for redactions or withholdings, and instructions on how to appeal the decision. When a contact person notifies OGC that a search will yield a large number of records, OGC may, in consultation with the contact person, ask the requester to inspect the records on site, in lieu of delivering copies to the requester.
- 7. Fees** — Requesters will be charged fees consistent with this directive and federal regulations relevant to the disclosure of agency records. The Institution will post its fee policy on the Requests for Smithsonian Information link on the Smithsonian website (www.smithsonian.org), and will update this policy as appropriate.
- 8. Reporting** — OGC will prepare monthly and annual reports to provide the public with meaningful information about their requests for Smithsonian documents, such as the number of requests, the length of time a request is open, and the type of documents requested. Monthly reports will include a tracking number assigned to each request, so that requesters can easily determine the status of his/her request. These reports will be posted on the Requests for Smithsonian Information website.
- 9. File Management** — OGC will preserve files created in response to a request for records until their destruction is authorized by the Records Management division of Smithsonian Institution Archives.

Appeals

A requester has the right to appeal a partial or full denial of his/her request. An appeal must be in writing and addressed to the Office of General Counsel, Smithsonian Institution, and made within 60 days from the date of a full or partial denial. The request must explain the reason for appeal. The Under Secretary for Finance and Administration shall have the authority to decide appeals. The requester will receive an answer in writing that specifies the reason(s) for granting or denying the appeal.

External Review

A requester may at any time request the Office of Government Information Services, National Archives and Records Administration, to offer dispute resolution and issue advisory opinions to resolve disputes about the withholding of information or documents under this directive, in accordance with the Open Government Act of 2007. The Smithsonian will provide a written response to any such advisory opinion and post the advisory opinion and the Smithsonian's response on the Smithsonian website (www.smithsonian.org).

**Office of the
Inspector General
(OIG)**

Because OIG is an independent unit within the Smithsonian, it will make its own determinations as to the release of its records. OIG will respond to requests in accordance with the Inspector General Act of 1978, as amended, and in accordance with the principles of FOIA, the Privacy Act, and the Ethics in Government Act. OIG will also generally follow the procedures set forth in this directive. The Counsel to the Inspector General will serve as the Information Requests Officer within OIG, and the Inspector General shall have the authority to decide appeals of decisions made by the Officer.
