

# UNIT 21: INQUIRIES AND FREEDOM OF INFORMATION ACT REQUESTS

*October 2003*

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<b>Overall Duty</b>	Respond to an inquiry about the solicitation received prior to contract award or a request for information under the Freedom of Information Act.
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<b>Overall Conditions</b>	Given forecast requirements, written or unwritten acquisition plan, market research, Procurement Request, other related documents, relevant presolicitation business decisions, a solicitation, and an inquiry or a request for information under the Freedom of Information Act.
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<b>Overall Standard</b>	Provide a correct and complete response, but never disclose information that would give one offeror an unfair competitive advantage over another or information that is exempted from release under the Freedom of Information Act. Prior to bid opening, do not open bids or share their contents. After receipt of proposals, do not disclose any information on the contents of a proposal to other offerors.
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## **Part A: Inquiries about Solicitations**

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<b>Sub-Duty</b>	Respond to a preaward inquiry about a solicitation.
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<b>Additional Conditions</b>	Given a written or oral inquiry about the solicitation.
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<b>Sub-Duty Standard</b>	Provide a correct and complete response to the requestor and all interested parties, but never disclose information that would give one offeror an unfair competitive advantage over another. Prior to bid opening, do not open bids or share their contents. After receipt of proposals, do not disclose any information on the contents of a proposal to other offerors.
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## Part B: Freedom of Information Act Requests

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**Sub-Duty**            Respond to requests for information under the Freedom of Information Act (FOIA).

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**Additional Conditions**            Given a request for information under the Freedom of Information Act.

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**Sub-Duty Standard**            Do not disclose information exempt from FOIA disclosure requirements.

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## Policies

<i>FAR</i>	<i>Agency Suppl.</i>	<i>Subject</i>
3.104		Procurement integrity including a prohibition on disclosure of source selection or proprietary information.
5.401 – 5.404		Release of information.
9.105-3		Disclosure of preaward information.
11.203		Customer satisfaction – providing industry to comment on requirements documents.
14.211(b)		Release of acquisition information after solicitation.
14.401		Receipt and safeguarding of bids.
15.201		Exchanges with industry before receipt of proposals.
15.208		Submission, modification, revision, and withdrawal of proposals.
24.2		Freedom of Information Act.
52.202-1		Definitions.
52.214-1 [Reserved]		Solicitation definitions – sealed bidding.
52.214-6		Explanation to prospective bidders.
52.214-29		Order of precedence – sealed bidding.
52.215-1		Instructions to offerors – competitive acquisition.
52.215-8		Order of precedence – uniform contract format.
52.252-1		Solicitation provisions incorporated by reference.
52.252-2		Clauses incorporated by reference.

## Other KSAs

1. Knowledge of legal, technical, and other personnel (e.g., requiring activity, public affairs, Congressional liaison offices) to consult regarding inquiries.
2. Knowledge of the scope of authority, duties, and liabilities of principals and agents and legal requirements for written or oral exchanges between offerors and Government officials.
3. Knowledge of the role of service activities (e.g., contracting) in supporting line managers on mission accomplishment.
4. Ability to exercise leadership in working with line managers.
5. Ability to communicate both orally and in writing.

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6. Ability to lead and support the team responsible for responding to preaward inquiries and FOIA requests.
7. Ability to use interpersonal skills to foster positive interactions with persons seeking information and the Government personnel responsible for providing it.
8. Ability to make clear and appropriate decisions on what information should be provided and how it should be provided.
9. Ability to use reasoning skills in resolving conflicting points of view regarding the information that should be provided to those seeking it.
10. Ability to maintain the honesty and integrity of the acquisition process.

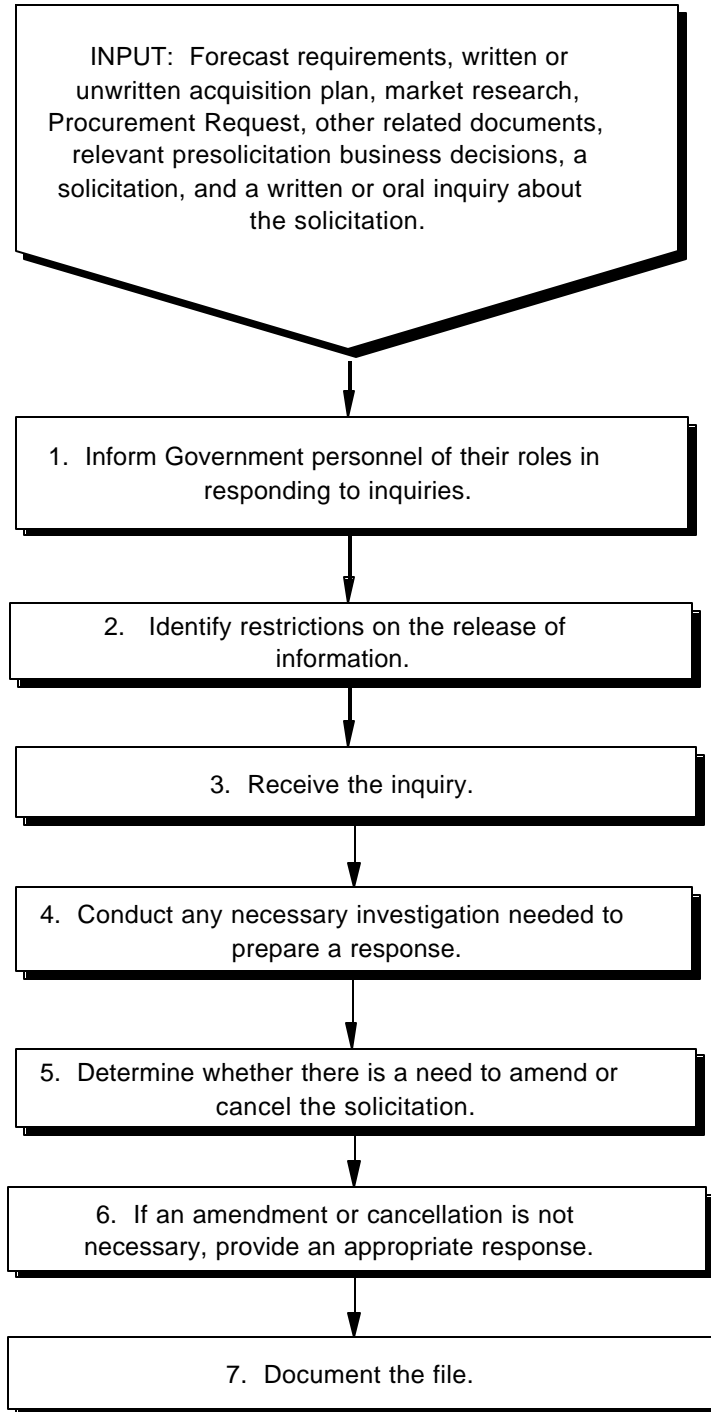
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**Other Policies and References (Annotate As Necessary):**

# UNIT 21: INQUIRIES AND FREEDOM OF INFORMATION ACT REQUESTS

## Part A: Inquiries About Solicitations

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# UNIT 21: INQUIRIES AND FREEDOM OF INFORMATION ACT REQUESTS

## Part A: Inquiries About Solicitations

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Tasks	Related Standards
1. Inform Government personnel of their roles in responding to inquiries.	<p>Other Government personnel should refuse to answer any inquiry not submitted through the Contracting Officer.</p> <ul style="list-style-type: none"><li>• In sealed bidding, only the Contracting Officer, superiors having contractual authority, or others specifically authorized may conduct exchanges and transmit technical or other information regarding a solicitation. These personnel must not furnish any information to a prospective bidder that alone or together with other information may afford an advantage over others.</li><li>• In a negotiated acquisition follow the procedures in FAR 15. After release of a request for proposals (RFP), the contracting officer is the focal point for all exchanges with potential offerors or offerors.</li><li>• In a simplified acquisition with an estimated price of \$2,500 or more, the Contracting Officer should be the focal point of all exchanges after the request for quotations (RFQ) is issued.</li></ul>

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## Part A: Inquiries About Solicitations

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Tasks	Related Standards
<p>2. Identify restrictions on the release of information.</p>	<p>In sealed bidding, authorized personnel:</p> <ul style="list-style-type: none"> <li>• Must not furnish any information to a prospective bidder that alone or together with other information may afford an advantage over others.</li> <li>• May furnish general information that would not be prejudicial to other prospective bidders upon request (e.g., an explanation of a particular contract clause or a particular condition of the solicitation schedule).</li> <li>• May furnish more specific information or clarifications by amending the solicitation.</li> </ul> <p>In a negotiated action under FAR 15, the Contracting Officer:</p> <ul style="list-style-type: none"> <li>• May disclose general information about agency mission needs and future requirements at any time.</li> <li>• Must make specific information necessary for the preparation of proposals disclosed to one or more potential offerors available to the public as soon as practicable, but no later than the next general release of information.</li> <li>• Must not disclose information provided to a particular firm in response to that firm's request if doing so would reveal the potential offeror's confidential business strategy, and would be protected under FAR 3.104 or 24.2.</li> <li>• Should, when a preproposal conference is conducted, make any materials distributed at the conference available to all potential offerors, upon request.</li> </ul> <p>When acquiring supplies or services under FAR 13, authorized officials should generally follow the FAR 15 guidelines on the release of information.</p>

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## Part A: Inquiries About Solicitations

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Tasks	Related Standards
3. Receive the inquiry.	<p>When an inquiry is received:</p> <ul style="list-style-type: none"> <li>• Ask questions any questions necessary to clarify the inquiry.</li> <li>• When the inquiry is oral:               <ul style="list-style-type: none"> <li>– In sealed bidding, advise the inquirer that any questions regarding an explanation or interpretation of the solicitation, drawings, specifications, etc., must be received in writing soon enough to allow a reply to reach all other prospective bidders before submission of their bids.</li> <li>– In negotiations, prior to the closing of the time for receipt of offers/quotes, you should normally advise the inquirer that all long questions, complex questions, questions that cannot be answered without further research, and questions regarding an explanation or interpretation of the solicitation, drawings, specifications, etc., should be submitted in writing to establish a clear and accurate record of the question asked.</li> </ul> </li> </ul>
4. Conduct any necessary investigation needed to prepare a response.	<p>Consult legal or technical personnel if necessary. Request and obtain all information necessary for an accurate and complete response.</p>



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## Part A: Inquiries About Solicitations

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Tasks	Related Standards
5. Determine whether there is a need to amend or cancel the solicitation.	<p>In sealed bidding, an amendment is required to furnish specific information or clarifications.</p> <p>When using FAR 15 negotiation procedures:</p> <ul style="list-style-type: none"><li>• Specific information necessary for the preparation of proposals disclosed to one or more potential offerors must be made available to the public as soon as practicable, but no later than the next general release of information. This is normally done with a solicitation amendment.</li><li>• Information provided to a particular firm in response to that firm's request must not be disclosed if doing so would reveal the potential offeror's confidential business strategy, and would be protected under FAR 3.104 or 24.2.</li></ul> <p>For additional information see the unit entitled, Amending/Canceling Solicitations.</p>

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## Part A: Inquiries About Solicitations

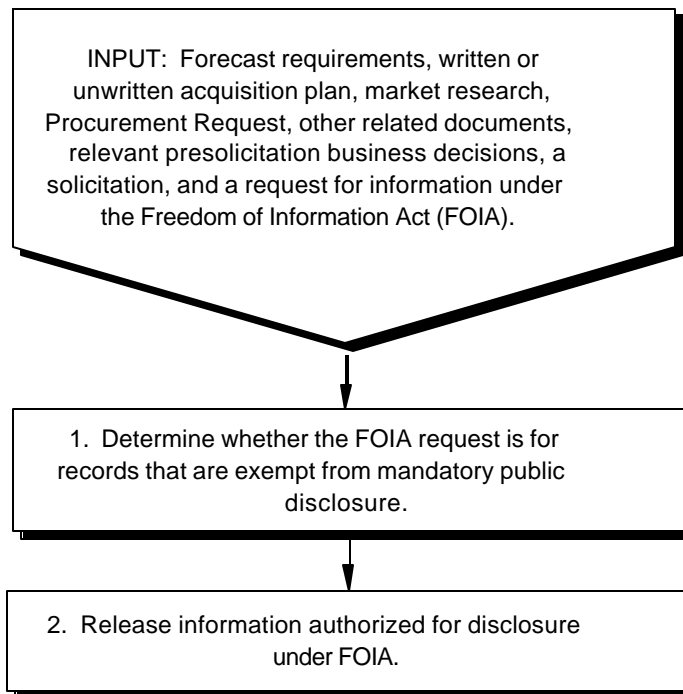
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Tasks	Related Standards
<p>6. If an amendment or cancellation is not necessary, provide an appropriate response.</p>	<p>Normally:</p> <ul style="list-style-type: none"> <li>• An oral response is appropriate for an oral inquiry unless the details make a written response more appropriate.</li> <li>• A written response is appropriate in response to a written inquiry unless time constraints make a written response impractical.</li> </ul> <p>If release of the requested information:</p> <ul style="list-style-type: none"> <li>• Is prohibited, advise the inquirer. Whenever practical, cite the specific reference that prohibits release of the information.</li> <li>• Is not prohibited, include sufficient information to provide a clear and accurate response.</li> </ul> <p>Never solicit information about any prospective offer or otherwise discuss it.</p>
<p>7. Document the file.</p>	<p>Include:</p> <ul style="list-style-type: none"> <li>• Any solicitation amendment/cancellation that results from the inquiry;</li> <li>• Any other written response;</li> <li>• Documentation of any oral inquiry, including the name and organization of the person making the inquiry and the Government response.</li> <li>• Other relevant facts that were collected in preparing the response, but not provided to the inquirer.</li> </ul>

# UNIT 21: INQUIRIES AND FOIA REQUESTS

## Part B: FOIA Requests

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# UNIT 21: INQUIRIES AND FOIA REQUESTS

## Part B: FOIA Requests

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Tasks	Related Standards
1. Determine whether the Freedom of Information Act (FOIA) request is for records that are exempt from mandatory public disclosure.	<p>Correctly identify the types of records that are exempt. The exemptions most often applicable are those relating to:</p> <ul style="list-style-type: none"><li>• Classified information;</li><li>• Trade secrets;</li><li>• Confidential commercial or financial information;</li><li>• Interagency or intra-agency memoranda; or</li><li>• Personal and medical information pertaining to an individual.</li></ul> <p>Follow agency regulations and guidelines. Request any necessary advice and assistance. In particular, consider contacting agency FOIA points of contact and/or legal counsel for advice and assistance. Additional assistance is available, if needed from the Department of Justice, Office of Information Privacy.</p>
2. Release information authorized for disclosure under FOIA.	Never disclose exempt information.