

#### § 1600.4

#### 36 CFR Ch. XVI (7–1–05 Edition)

that individual permitting disclosure of those records to you or proof that that individual is deceased (for example, a copy of a death certificate or an obituary) will help the processing of your request. For the quickest possible handling, you should mark both your request letter and the envelope "Freedom of Information Act Request."

(b) *Description of records sought.* You must describe the records that you seek in enough detail to enable Foundation personnel to locate them with a reasonable amount of effort. Whenever possible, your request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter of the record. If the Foundation determines that your request does not reasonably describe records, it will tell you either what additional information is needed or why your request is otherwise insufficient. If your request does not reasonably describe the records you seek, the response to your request may be delayed.

(c) *Types of records not available.* The FOIA does not require the Foundation to:

(1) Compile or create records solely for the purpose of satisfying a request for records;

(2) Provide records not yet in existence, even if such records may be expected to come into existence at some future time; or

(3) Restore records destroyed or otherwise disposed of, except that the Foundation must notify the requester that the requested records have been destroyed or disposed of.

(d) *Agreement to pay fees.* If you make a FOIA request, your request shall be considered an agreement by you to pay all applicable fees charged under § 1600.10, up to \$25.00, unless you seek a waiver of fees. The Foundation ordinarily will confirm this agreement in an acknowledgment letter. When making a request, you may specify a willingness to pay a greater or lesser amount.

#### § 1600.4 Timing of responses to requests.

(a) *In general.* The Foundation ordinarily shall respond to requests according to their order of receipt.

(b) *Multitrack processing.* (1) The Foundation may use two or more processing tracks by distinguishing between simple and more complex requests based on the amount of work and/or time needed to process the request. The anticipated number of pages involved may be considered by the Foundation in establishing processing tracks. If the Foundation sets a page limit for its faster track, it will advise those whose request is placed in its slower track(s) of the page limits of its faster track(s).

(2) If the Foundation uses multitrack processing, it may provide requesters in its slower track(s) with an opportunity to limit the scope of their requests in order to qualify for faster processing within the specified limits of its faster track(s).

(c) *Unusual circumstances.* (1) Where the statutory time limits for processing a request cannot be met because of "unusual circumstances," as defined in the FOIA, and the Foundation decides to extend the time limits on that basis, the Foundation shall as soon as practicable notify the requester in writing of the unusual circumstances and of the date by which processing of the request can be expected to be completed. Where the extension is for more than 10 working days, the Foundation shall provide the requester with an opportunity either to modify the request so that it may be processed within the time limits or to arrange an alternative time period for processing the request or a modified request.

(2) Where the Foundation reasonably believes that multiple requests submitted by a requester, or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances, and the requests involve clearly related matters, they may be aggregated. Multiple requests involving unrelated matters will not be aggregated.

(d) *Expedited processing.* (1) Requests and appeals will be taken out of order and given expedited treatment whenever it is determined that they involve:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) An urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information;

(2) You may ask for expedited processing of a request for records at any time.

(3) In order to request expedited processing, you must submit a statement, certified to be true and correct to the best of your knowledge and belief, explaining in detail the basis for requesting expedited processing. For example, if you are a requester within the category in paragraph (d)(1)(ii) of this section, and you are not a full-time member of the news media, you must establish that you are a person whose main professional activity or occupation is information dissemination, though it need not be your sole occupation; you also must establish a particular urgency to inform the public about the government activity involved in the request, beyond the public's right to know about government activity generally. The formality of certification may be waived as a matter of administrative discretion.

(4) Within 10 calendar days of receipt of a request for expedited processing, the Foundation will decide whether to grant it and will notify you of the decision. If a request for expedited treatment is granted, the request will be given priority and processed as soon as practicable. If a request for expedited processing is denied, any appeal of that decision will be acted on expeditiously.

#### § 1600.5 Responses to requests.

(a) *Acknowledgments of requests.* On receipt of your request, the Foundation ordinarily will send an acknowledgment letter to you, which will confirm your agreement to pay fees under § 1600.3(d) and provide an assigned request number for further reference.

(b) *Referral to another agency.* When a requester seeks records that originated in another Federal government agency, the Foundation will refer the request to the other agency for response. If the Foundation refers the request to another agency, it will notify the requester of the referral. A request for any records classified by some other

agency will be referred to that agency for response.

(c) *Grants of requests.* Ordinarily, the Foundation will have 20 business days from when your request is received to determine whether to grant or deny your request. Once the Foundation determines to grant a request in whole or in part, it will notify you in writing. The Foundation will inform you in the notice of any fee charged under § 1600.10 and will disclose records to you promptly on payment of any applicable fee. Records disclosed in part will be marked or annotated to show the amount of information deleted, unless doing so would harm an interest protected by an applicable exemption. The location of the information deleted also will be indicated on the record, if technically feasible.

(d) *Adverse determinations of requests.* If the Foundation denies your request in any respect, it will notify you of that determination in writing. Adverse determinations, or denials of requests, consist of: a determination to withhold any requested record in whole or in part; a determination that a requested record does not exist or cannot be located; a determination that a record is not readily reproducible in the form or format sought; a determination that what has been requested is not a record subject to the FOIA; a determination on any disputed fee matter, including a denial of a request for a fee waiver; and a denial of a request for expedited treatment. The denial letter shall be signed by the General Counsel or his/her designee, and shall include:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reason(s) for the denial, including any FOIA exemption applied by the component in denying the request;

(3) An estimate of the volume of records or information withheld, in number of pages or in some other reasonable form of estimation. This estimate does not need to be provided if the volume is otherwise indicated through deletions on records disclosed in part, or if providing an estimate would harm an interest protected by an applicable exemption; and