

National Archives and Records Administration Freedom of Information Act (FOIA) Reference Guide

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I. Introduction

The Freedom of Information Act, or FOIA (5 U.S.C. 552, as amended), generally provides any person with the statutory right to obtain access to Government information in executive branch agency records. This right of access is limited to the extent information is protected from disclosure by one of FOIA's nine statutory exemptions. This right of access is enforceable in court and is supported at the administrative agency level by transparency and open government initiatives mandated by President Obama and Attorney General Holder.

The FOIA does not, however, provide access to records of the Congress or the federal courts, records of state or local government agencies, or records of private businesses or individuals. All states have their own statutes governing public access to state and local government records; state agencies should be consulted for further information about them.

The goal of this Reference Guide is to familiarize you with the specific procedures for making a FOIA request to the National Archives and Records Administration (NARA). Following the information in this Guide will make it more likely that you will receive the information that you are seeking in the shortest amount of time possible. This Reference Guide also includes descriptions of the types of records maintained by different parts of the agency, some of which are readily available through means other than the FOIA.

Initially, it is important to understand that there is no central office in the government that processes FOIA requests for all federal agencies. Each agency responds to requests for its own records. Therefore, before sending a request to NARA, you should determine whether this agency is likely to have the records you are seeking. Each agency should have its own FOIA reference guide, so if the records you are interested in are kept by another agency you may wish to request a copy of that agency's guide.

The National Archives accepts FOIA requests for all executive branch records in its legal custody, both the operational records it creates as an agency of the executive branch and the permanent, archival records it maintains as the National Archives of the U.S. Government. Generally, NARA receives permanent records when they are 30 years old or older. The National Archives also accepts FOIA requests for Presidential and Vice-Presidential records created under the Presidential Records Act of 1978, beginning with the administration of President Ronald Reagan,. Judicial records, records of the Congress and legislative branch agencies, donated archival materials of Presidents Hoover through Carter, and Nixon Presidential Historical Materials are not subject to the provisions of the FOIA. Transfer of these records to NARA does not make them accessible to requests submitted under the FOIA. Further, the National Archives cannot respond to FOIA requests for records solely in our physical custody, such as agency federal records that are stored at NARA's regional records centers or for records held by state or local governments, private businesses or individuals.

In accordance with the FOIA, NARA has designated a Chief FOIA Officer – a high-level official who monitors FOIA implementation throughout the agency, recommends to the head of the agency such adjustments to practices and policies as may be necessary, and prepares reports on the agency's performance in implementing the FOIA. The FOIA also requires all federal agencies to establish one or more FOIA Requester Service Centers and FOIA Public Liaisons to

assist FOIA requesters with inquiries about the FOIA process in general and their FOIA requests in particular.

The name and contact information of NARA's Chief FOIA Officer; a listing of NARA's FOIA Requester Service Center and NARA's FOIA Public Liaison Officers can be found at:

<http://www.archives.gov/foia/contacts.html>

The formal rules for the making of FOIA requests to the NARA are set forth in 36 CFR 1250.

<http://www.archives.gov/about/regulations/part-1250.html>

II. Access to Certain Records without a Formal FOIA Request

Electronic FOIA Reading Room

All agencies are required by statute to make certain types of records, created by the agency on or after November 1, 1996, available electronically. If you have access to the internet, you will not need to make a FOIA request to obtain access to these records. These records include:

1. Final opinions and orders made in the adjudication of cases;
2. Final statements of policy and interpretations which have not been published in the *Federal Register*;
3. Administrative staff manuals and instructions to staff that affect members of the public;
4. Copies of records that have been the subject of a FOIA request and that also are the subject of sufficient public interest or curiosity that the agency believes that other persons are likely to request (or already have requested) them; and
5. The agency's annual FOIA report - which includes such information as the number of FOIA requests received by the agency, the amount of time taken to process requests, the total amount of fees collected by the agency, information regarding the backlog of pending requests, and other information about the agency's handling of FOIA requests.
6. Any other records the agency deems appropriate for affirmative disclosure.

NARA's Electronic FOIA reading room can be found here:

<http://www.archives.gov/foia/electronic-reading-room.html>

National Archives Operational Records

The National Archives makes certain information available without filing a FOIA request.

NARA Press Releases and be found here: <http://www.archives.gov/press/>

Requesters seeking paper copies of press releases or press kits should contact the Public Affairs and Communications Staff by phone at 202-357-5300 or by fax at 202-357-5999.

Records Control Schedules can be found here: <http://www.archives.gov/records-mgmt/rcs/>

Requesters seeking paper copies of proposed Federal agency records schedules, along with appraisal memoranda should contact the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740-6001. Requests may also be transmitted by FAX to 301-837-3698 or by e-mail to request.schedule@nara.gov. Your request should cite the control number, which appears in parentheses after the name of the agency that submitted the schedule, and must provide a return mailing address. Those who desire appraisal reports should so indicate in their request. For additional information, please contact the Director of the Life Cycle Management Division by telephone at 301-837-1539 or by e-mail at records.mgt@nara.gov.

NARA's Calendar of Events can be found here: <http://www.archives.gov/calendar/>

Federal Register Publications

The Office of the Federal Register maintains a free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and list of documents for public inspection (202-275-0920 is the Bulletin Board number). The Office of the Federal Register Home Page provides:

- online text of the daily Federal Register from 1994 to the current issue
- the full text of the Code of Federal Regulations
- access to the List of Federal Register Documents Currently on Public Inspection
- information about various Federal Register publications

Electronic editions of the Federal Register publications are available, free of charge, on GPO Access, a service of the U.S. Government Printing Office:

www.gpoaccess.gov/nara/index.html

To order or subscribe to printed editions of *Federal Register* publications:

Phone the Superintendent of Documents, U.S. Government Printing Office (GPO) at 202-512-1800 or visit GPO's online bookstore at: bookstore.gpo.gov/

Archival Records of the Executive Branch Preserved by the National Archives

The National Archives acquires, preserves, and makes available for research records of permanent value created or received by federal agencies of all three branches of government. Among those are records of the executive branch of the Federal Government. Generally these accessioned archival records are at least 30 years old.

Because of their age or subject matter, most records in the National Archives' holdings are unrestricted and are available for research without filing a FOIA request. These include, for example:

- genealogical and family history materials
- records that do not contain any national security classified material or other information that may be withheld under a FOIA exemption
- formerly classified records properly declassified under an Executive Order
- records comprising the John F. Kennedy Assassination Records Collection

For information about the various types of records available from the National Archives, you may wish to begin here: www.archives.gov/research/. This page will link you to such resources as:

- [The Guide to Federal Records in the National Archives of the United States](#). The Guide provides descriptive information about federal records among the National Archives' holdings and is regularly updated to reflect new acquisitions.
- The [Archival Research Catalog](#) (ARC) is the online catalog of the National Archives' nationwide holdings in the Washington, DC area, Regional Archives and Presidential Libraries. ARC allows you to perform a keyword, digitized image and location search. ARC's advanced functionalities also allow you to search by organization, person, or topic.
- The [Access to Archival Databases](#) (AAD) System gives you online access to electronic records that are highly structured, such as in databases. AAD contains material from more than 30 archival series of electronic records, which include over 350 data files totaling well over 50 million unique records. The series selected for AAD identify specific persons, geographic areas, organizations, or dates. Some of these series serve as indexes to accessioned archival records in non-electronic formats.

NARA's Digitization Partnerships - digitization partnerships present an opportunity for increased access to historical government information through the increased availability of information technology products and services. Information concerning NARA's Digitization Partnerships can be found here: www.archives.gov/digitization/partnerships.html.

III. Where to Make a FOIA Request

Where you submit your FOIA request depends on the type of records you are requesting.

- a. **Operational Records** are records that NARA creates or receives in carrying out its mission and responsibilities as an executive branch agency (see 36 C.F.R. 1250.2(i)). To request access to operational records, or if you are uncertain as to where to send your request, you may submit your request in writing to this address:

FOIA Officer
National Archives and Records Administration
8601 Adelphi Road, Room 3110
College Park, MD 20740
Telephone: (301) 837-FOIA (3642)
FAX: (301) 837-0293
E-mail: foia@nara.gov

- b. **Office of the Inspector General (OIG)** – is an independent office within the National Archives and Records Administration (NARA) that helps the Agency to more effectively and efficiently ensure ready access to essential evidence. To request OIG records, submit your request in writing to this address:

Office of the Inspector General
FOIA Request
8601 Adelphi Road, Room 1300
College Park, MD 20740
Telephone: 301-837-3000
FAX: 301-837-3197

- c. **Accessioned Archival Records held in the Washington, DC area** – logs and tracks all FOIA request for access to archival records of executive branch agencies held at the National Archives facilities in Washington, DC (Archives I) and College Park, MD (Archives II). If you are seeking access these records you may submit your written request to:

Special Access and FOIA Staff (NWCTF)
8601 Adelphi Road, Room 6350
College Park, MD 20740
Telephone: (301) 837-3190
FAX (301) 837-1864
E-mail: specialaccess_foia@nara.gov

- d. **Regional Archives** –Each region operates a program encompassing the full life cycle of records, including archival accessioning, record processing and access to records by the public. You may submit your written FOIA request to the Director of the Regional Archives facility where the records are located.

<p>Pacific Alaska Region, Anchorage 654 West Third Avenue Anchorage, Alaska 99501-2145 Telephone: 907-261-7820 Fax: 907-261-7813 E-mail: Alaska.archives@nara.gov Web: http://www.archives.gov/pacific-alaska/anchorage/index.html</p>	<p>Northeast Region, Boston Frederick C. Murphy Federal Center 380 Trapelo Road Waltham, Massachusetts 02452-6399 Telephone: (781) 663-0130 Fax: (781) 663-0154 E-mail: waltham.archives@nara.gov</p>
<p>Pacific Region, Seattle 6125 Sand Point Way NE Seattle, Washington, 98115-7999 Telephone: 206-336-5115 Fax: 206-336-5112 E-mail: seattle.archives@nara.gov Web: http://www.archives.gov/pacific-alaska/seattle/index.html</p>	<p>Central Plains Region, Kansas City, Missouri 400 West Pershing Road Kansas City, MO 64108 Telephone: 816-268-8000 Fax: 816-268-8038 E-mail: kansascity.archives@nara.gov Web: http://www.archives.gov/locations/regional-archives.html</p>
<p>Pacific Region, San Francisco 1000 Commodore Drive San Bruno, California 94066-2350 Telephone: 650- 238-3501 Fax: 650- 238-3510 E-mail: sanbruno.archives@nara.gov Web: http://www.archives.gov/pacific/san-francisco/index.html</p>	<p>Northeast Region, New York 201 Varick Street 12th Floor New York, NY 10014 Telephone: 1-866-840-1752 or 212-401-1620 Fax: 212-401-1638 E-mail: newyork.archives@nara.gov Web: http://www.archives.gov/northeast/nyc/</p>
<p>Rocky Mountain Region P.O. Box 25307 Denver, Colorado 80225 Telephone: 303- 407-5740 Fax: 303-407-5709 E-mail: denver.archives@nara.gov Web: http://www.archives.gov/rocky-mountain/index.html</p>	<p>Mid-Atlantic Region (Center City Philadelphia) 900 Market Street Philadelphia, Pennsylvania 19107-4292 (Entrance on Chestnut Street, between 9th and 10th Streets.) Telephone: 215-606-0100 Fax: 215-606-0116 E-mail: philadelphia.archives@nara.gov Web: http://www.archives.gov/midatlantic/</p>
<p>South East Region, Atlanta 5780 Jonesboro Road Morrow, Georgia 30260 Telephone: 770-968-2100 Fax: 770-968-2547 Email: atlanta.archives@nara.gov Web: http://www.archives.gov/southeast/index.html</p>	<p>Southwest Region, Fort Worth 1400 John Burgess Drive Fort Worth, Texas 76140 Telephone: 817-831-5620 Fax: 817-551-2034 E-mail: ftworth.archives@nara.gov Web: http://www.archives.gov/southwest/index.html</p>
<p>Great Lakes Region, Chicago 7358 South Pulaski Road Chicago, IL 60629-5898 Telephone: 773-948-9001 Fax: 773-948-9050 E-mail: chicago.archives@nara.gov Web: http://www.archives.gov/great-lakes/</p>	

- e. **Presidential records subject to the FOIA under the Presidential Records Act (PRA)**
 – Under the PRA, the records of former presidents become subject to the FOIA five years after the end of the administration. The incumbent or former president may continue specific restrictions for up to twelve years, after which only statutory FOIA restrictions may be applied. Currently, only the records of Presidents Ronald Reagan, George H. W. Bush and William Jefferson Clinton are subject to the FOIA. The records of President George W. Bush will become subject to FOIA on January 20, 2014. You may submit your written request to the Presidential Library that maintains records that are of interest to you:

<p>Ronald Reagan Presidential Library 40 Presidential Drive Simi Valley, California 93065 Telephone: 800-410-8354 or 805-577-4000 Fax: 805-577-4074 Email: reagan.library@nara.gov</p> <p>Web: http://www.reagan.utexas.edu/</p>	<p>William J. Clinton Presidential Library 1200 President Clinton Avenue Little Rock, AR 72201 Telephone: 501-374-4242 Fax: 501-244-2883 E-mail: clinton.library@nara.gov</p> <p>Web: http://www.clintonlibrary.gov/index.html</p>
<p>George H. W. Bush Presidential Library 1000 George Bush Drive West College Station, Texas 77845 Telephone: 979-691-4041 Facsimile: 979-691-4030 E-mail: library.bush@nara.gov Web: http://bushlibrary.tamu.edu/</p>	<p>George W. Bush Presidential Library 1725 Lakepointe Drive Lewisville, TX 75057 Telephone: 972-353-0545 Fax: 972-353-0599 E-mail: gwbush.library@nara.gov</p> <p>Web: http://www.georgewbushlibrary.gov/</p>

Presidential records at Pre-PRA libraries (Hoover administration through Carter) – contain donated historical materials, which are not subject to the FOIA. However, some libraries maintain small collections of Federal records which are subject to the FOIA. Please contact the appropriate Presidential Library for more information on access to these records:

<p>Herbert Hoover Presidential Library 210 Parkside Drive West Branch, IA 52358 Telephone 319-643-5301 Web: http://www.hoover.archives.gov/</p>	<p>Lyndon B. Johnson Presidential Library 2313 Red River Street Austin, TX 78705 Telephone: 512-721-0200 Fax: 512-721-0169 Web: www.lbjlibrary.org</p>
<p>Franklin D. Roosevelt Library 4079 Albany Post Rd. Hyde Park, NY 12538 Phone: (845) 486-7763 By Fax: (845) 486-1147 By Email: Archives.FDR@nara.gov Web: http://www.fdrlibrary.marist.edu/</p>	<p>Richard M. Nixon Presidential Library 18001 Yorba Linda Blvd. Yorba Linda, California 92886 Telephone: 714-983-9120 Fax: 714-983-9111 E-mail: Nixon@nara.gov Web: http://www.nixonlibrary.gov/index.php</p>

<p>Harry S. Truman Library 500 West US Hwy 24 Independence, MO 64050 Telephone: 1-800-833-1225 Fax: 816-268-8295 E-mail: truman.library@nara.gov Web: www.trumanlibrary.org</p>	<p>Gerald R. Ford Presidential Library 1000 Beal Avenue Ann Arbor, MI 48109 (734) 205-0555 (734) 205-0571 E-mail: fordlibrary@nara.gov Web: http://www.fordlibrarymuseum.gov/default.asp</p>
<p>Dwight D. Eisenhower Presidential Library 200 S. E. 4th Street P.O. Box 339 Abilene, KS 67410 Telephone: 1-877-RING-IKE Fax: 785-263-6715 E-mail: eisenhower.library@nara.gov Web: http://www.eisenhower.archives.gov/</p>	<p>Jimmy Carter Presidential Library 441 Freedom Parkway Atlanta, Georgia 30307-1498 Telephone: 404-865-7100 Fax: 404-865-7102 Online Requests: http://www.jimmycarterlibrary.gov/information/contact.phtml Web: http://www.jimmycarterlibrary.gov/</p>
<p>John F. Kennedy Presidential Library Columbia Point Boston, MA 02125 1.866.JFK.1960 1.617.514.1600 E-mail: kennedy.library@nara.gov Web: http://www.jfklibrary.org/</p>	

- f. Military Personnel Records** – the National Personnel Records Center (NPRC-MPR) is the repository of millions of Official Military Personnel Files (OMPFs) and other health and medical records of discharged and deceased veterans of all services during the 20th century. NPRC-MPR also stores medical treatment records of retirees from all services, as well as records for dependent and other persons treated at naval medical facilities. You may submit your written request here:

Please Note: All requests **must** be in writing, signed and **mailed** to the address shown below.

National Personnel Records Center
Military Personnel Records
9700 Page Avenue
St. Louis, MO 63132-5100
Telephone: 314-801-0800
Fax: 314-801-9195
E-mail: MPR.center@nara.gov
Status Check: mpr.status@nara.gov
Web: <http://www.archives.gov/st-louis/military-personnel/index.html>

- g. Civilian Personnel Records** – The National Personnel Records Center, Civilian Personnel Records (NPRC-CPR) houses the Official Personnel Files (OPFs) and

Employee Medical Folders (EMFs) of separated Federal civilian employees. CPR houses personnel documents that date back to the mid-nineteenth century, although the bulk of the collection covers the period from 1900 to present. The CPR also holds the medical records of military family members treated at Army, Air Force and Coast Guard medical facilities. You may submit your written request here:

National Personnel Records Center
Civilian Personnel Records
111 Winnebago Street
St. Louis, MO 63118
Telephone: 314-801-9250
Fax: 314-801-9269
E-mail: cpr.center@nara.gov
Web: <http://www.archives.gov/st-louis/civilian-personnel/index.html>

IV. How to make a FOIA Request

General Requirements:

A FOIA request can be made for any executive branch agency record created or maintained by the National Archives. This does not mean, however, that NARA will disclose all records sought. As noted above, there are statutory exemptions that authorize the withholding of information of a sensitive nature. When NARA does withhold information from you, it must specify which exemption of the FOIA permits the withholding. You should be aware that the FOIA does not require agencies to do research for you, to analyze data, to answer written questions, or to create records in order to respond to a request.

Although there are no special forms required to submit a FOIA request, you may be asked to provide certain information to assist us in identifying the records that are of interest to you. FOIA requests must be submitted in writing, either handwritten or typed, and they may be submitted by mail, fax or email. [See Appendix B](#) for a sample FOIA letter. When NARA receives your FOIA request, it will ordinarily send you a letter acknowledging the receipt of your request and assigning it a tracking number, which you may use to track the status of your request.

All FOIA requests must include a reasonable description of the records requested. In making your request you should be as specific as possible with regard to names, titles, dates, places, events, subjects, recipients, or agency component(s) or offices likely to maintain records that are of interest to you. The more specific you are about the records or types of records that you want, the more likely it will be that NARA will be able to locate those records. Additionally, you should be aware that NARA ordinarily will use the date upon which we begin a record search as the "cut-off" date for determining the records that are responsive to a FOIA request. Necessary information will vary depending on the type of records you are seeking.

Operational Records:

- Contracts - please provide the current contract number, the original or current solicitation number, or the name of the contractor and the type of service provided.
- FOIA Case Files – please provide the FOIA case tracking number.

Accessioned Archival Records:

- Record Group
- Series Title
- File designations or descriptions
- Copies of withdrawal sheets

Military Personnel Records:

If you are a veteran or next-of-kin of a deceased veteran, you may now use vetrecs.archives.gov to order a copy of your military records. For all others, your request is best made using a Standard Form 180. It includes complete instructions for preparing and submitting requests. The minimum information necessary to successfully locate military service records includes:

- Veteran's complete name used while in service
- Military service number or social security number
- Branch of service
- Dates of service

Civilian Personnel Records:

Civilian personnel records are normally transferred to the National Personnel Records Center, CPR within 120 days after an employee's separation from Federal employment. If less than 120 days have elapsed since separation, write to the last employing office. Include in your letter the following information pertaining to the record sought:

- Full name used during Federal employment
- Social Security Number
- Date of birth
- Name of employing agency and approximate dates of employment

V. Response Times

General

All executive branch agencies are required to respond to a FOIA request within twenty working days of receipt, excluding legal holidays and Federal government closures. The FOIA now provides that the twenty-day time period begins on the date the request is first received by the NARA office that maintains the records sought, but no later than ten days after the request is first received by any NARA office that is designated in our regulations to receive FOIA requests. NARA will make every effort to make a determination on the release of the requested records within the statutory time limit. We will notify you of any circumstances that will prevent us from responding within 20 working days. As required by the FOIA, NARA will assign an individual tracking number for each requests that will take longer than 10 workdays to answer. You may use this number to track the status of your request online at www.archives.gov/foia/tracking/.

In accordance with the amendments to the FOIA in the OPEN Government Act of 2007, NARA may toll (i.e., stop the clock on FOIA processing) your request to obtain additional information that will assist NARA in processing your request and as "necessary" to clarify fee-related issues. There is no statutory limit on the number of times an agency may toll for the purpose of clarifying fee matters. In either circumstance, the NARA receipt of the requester's response ends the tolling period and the response time clock resumes.

If unusual circumstances prevent us from making a decision within 20 working days, we will inform you in writing how long it will take us to complete your request. Unusual circumstances include the need to:

- search for, collect and review a voluminous amount of records which are part of a single request;
- search for and collect the records from field facilities; or,
- consult with another agency before releasing records.

If we are extending the deadline for more than 10 working days, we will ask if you would like to modify your request. If you do not, we will work with you to arrange an alternative time frame for review and release of the requested records.

National Security Classified Materials

NARA has very limited authority to declassify documents. When NARA receives a FOIA request for records that are classified, we often cannot respond to the requestor until the originating agency has reviewed the documents and made a release determination. NARA will send you an initial response to your FOIA request informing you of this consultation with the originating agency for declassification review. We will inform you of the final decision when a response is received from all agencies holding classified equities in the documents.

Presidential Records

If you have requested presidential records subject to the Presidential Records Act (those belonging to administrations beginning with President Reagan) and NARA determines that no FOIA exemptions apply, we must then inform the incumbent and former Presidents (through their designated representatives) of our intent to release any responsive records, in accordance with Executive Order 13489, "Presidential Records" (issued January 21, 2009). This notification gives the incumbent and former Presidents an opportunity to decide whether or not to invoke executive privilege over the records proposed for disclosure. The review period authorized by EO 13489 begins only after all other review decisions, including classification issues, have been resolved and reviewed records are proposed for opening to the public. NARA will send an acknowledgement letter with your tracking number and information concerning the status of your request. You will receive a final response after the presidential notification process is complete.

Confidential Commercial Information

Executive Order 12600 requires agencies to contact submitters of confidential business or commercial information when a FOIA request is received for the information. The National Archives will send you an initial response to your FOIA request informing you of our actions. The procedures governing the release of confidential commercial information are discussed in Appendix A. Except in exceptional circumstances, NARA will only contact the submitter if the records contain confidential commercial information that is less than 10 years old.

VI. Expedited Processing

Ordinarily, the National Archives will expedite a FOIA request only in the following cases:

- where there will be a threat to someone's life or physical safety;
- where an individual will suffer the loss of substantial due process rights if the records are not processed on an expedited bases;
- if the request is made by a member of the news media who can prove the information is urgently needed to inform the public concerning some actual or alleged government activity; or,
- when the subject is of widespread and exceptional media interest and the information sought involves possible questions about the government's integrity that affect public confidence.

NARA can only expedite requests, or segments of requests, for records over which we have complete control. If NARA must consult with another agency (as in the case of requests for national security classified materials), we will so inform you and suggest that you seek expedited review from that agency. Because we cannot shorten the presidential notification period required by EO 13489, we generally will not expedite requests for Presidential records.

To request expedited processing, you must submit a statement explaining why your request should be expedited. You must certify that this statement is true and correct to the best of your

knowledge. All requests must be directed to the office or facility holding the records that are of interest to you. NARA will respond to your request for expedited processing within ten calendar days as required by law. If your request is granted, we will process your request as quickly as possible. You have the right to administratively appeal NARA's decision not to grant you expedited processing.

VII. Fees

There is no fee to file a FOIA request. By law, however, an agency is allowed to charge certain fees for processing a request. The fees charged by NARA depend the types of records requested. As permitted by statute, the National Archives has two separate fee schedules.

Operational Records

The FOIA divides requesters into three categories for the purposes of assessing fees only (see 36 C.F.R. 1250.52):

- Commercial requesters are charged fees for searching for records, processing the records, and photocopying.
- Educational or noncommercial scientific institutions, news media representatives are charged only for photocopying after the first 100 pages.
- Other requesters (those who do not fall into either of the above categories) are charged only search and copying fees. However, the first 2 hours of search time and first 100 pages of copies are free.

Include in your request letter a specific statement limiting the amount that you are willing to pay in fees. If you do not do so, the National Archives will assume that you are willing to pay fees up to \$50. If estimated fees exceed this amount or the amount you specified in your letter, we will contact you with the total amount due before we process your request. NARA will not charge you any fees if the total costs are \$10 or less.

In most cases you will not be required to pay anything until processing is completed. If you have failed to pay FOIA fees in the past, either to the National Archives or to any other agency, we will require you to pay your past-due bill before processing any additional requests. If we estimate that your fees will be greater than \$250, the National Archives may require payment or a deposit before we begin processing your request.

If we determine that you (acting either alone or with others) are breaking down a single request into a series of requests in order to avoid or reduce fees, we may aggregate all these requests in calculating the fees.

Fee Schedule

The National Archives will charge the following fees in responding to requests for operational records.

- Search Fees

1. **Manual Searching:** When the search is performed by a clerical or administrative employee, the rate is \$16 per hour (or fraction thereof). When a request is more complicated and the search is done by a professional employee of the National Archives, the rate is \$33 per hour.
 2. **Computer Searching:** This is the actual cost to the National Archives of operating the computer and the salary of the operator. Fees charged are the same as for manual searching.
- **Review Fees** include charges for time spent examining documents deemed responsive to a request. The fee is \$33 per hour (or fraction thereof). NARA does not charge review fees for time spent solving legal or policy issues regarding the application of FOIA exemptions.
 - **Reproduction Fees**
 1. You may view open documents free of charge in the reading room where the requested records are located. You may also make self service copies for \$0.15 cents per page.
 2. When NARA staff copies the records the cost is \$0.20 per page.
 3. NARA charges \$16 per hour (for simple requests) or \$33 per hour (for more complex requests) in response to requests for reproductions of electronic records. These costs include the direct costs of staff time for programming, computer operations, and printouts or electromagnetic media to reproduce electronic records.
 4. NARA charges the direct cost to the National Archives of the reproduction of any other media types. Specific charges will be provided upon request.

Archival Records in the National Archives of the United States

NARA does not charge search or review fees for FOIA requests for archival records in its custody. You will only be charged the actual costs of copying. Currently, NARA charges \$0.75 per page for paper copies made by NARA staff. The minimum mail order fee is \$15. You may review any open records free of charge in the research room at the facility where the records are located. You may make self service copies of those records for \$0.25 per page. Additional fees are listed at 36 C.F.R. Part 1258.

VIII. Fee Waivers

If you expect or are advised that a fee will be charged, you may request a fee waiver for operational records only. Fee waivers are not granted for archival records, except for those records that are a part of the John F. Kennedy Assassination Records Collection. The National Archives will consider requests for fee waivers only for operational records or JFK Assassination records if the disclosure of the requested information is in the public interest and not primarily in your commercial interest. In determining your eligibility for a fee waiver, NARA will consider the following factors.

- How do the records pertain to the operations and activities of the Federal Government?

- Will release reveal any meaningful information about Federal Government activities that is not already publicly known?
- Will disclosure to you advance the understanding of the general public on the issue?
- Do you have expertise in or a thorough understanding of these records?
- Will you be able to disseminate this information to a broad spectrum of the public?
- Will disclosure lead to a significantly greater understanding of the Government by the public?

Requests for fee waivers from individuals who are seeking records about themselves are usually denied under the public interest standard because no increase of the public's understanding of government operations and activities would result.

IX. Request Determinations

When we have completed the search and review process in response to your request, we will inform you of our decision in writing. Our response will tell you how much material we found and the charges due. If the records are being released only in part, we will estimate the amount of the withheld information and cite any exemptions that apply. If we deny any part of your request, we will explain the reasons for the denial, which FOIA exemptions apply, and your right to appeal our decisions.

NARA will deny a FOIA request in whole or in part only when we determine that information may be withheld under one or more of nine exemptions:

- 5 U.S.C. 552(b)(1): National security classified information.
- 5 U.S.C. 552(b)(2): Related solely to the internal personnel rules and practices of an agency.
- 5 U.S.C. 552(b)(3): Information specifically exempted from disclosure by statute.
- 5 U.S.C. 552(b)(4): Trade secrets and commercial or financial information obtained from a person that is privileged or confidential.
- 5 U.S.C. 552(b)(5): Inter- or intra- agency memoranda protected by either the deliberative process privilege or the attorney work-product privileges.
- 5 U.S.C. 552(b)(6): Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.
- 5 U.S.C. 552(b)(7): Records or information compiled for law enforcement purposes, to the extent that the production of these records could:
 - (b)(7)(A) could reasonably be expected to interfere with enforcement proceedings;
 - (b)(7)(B) would deprive a person of a right to a fair trial or an impartial adjudication;
 - (b)(7)(C) could reasonably be expected to constitute an unwarranted invasion of personal privacy;
 - (b)(7)(D) could reasonably be expected to disclose the identity of and/or information provided by a confidential source;

- (b)(7)(E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions; or,
- (b)(7)(F) could reasonably be expected to endanger the life or physical safety of any individual.
- 5 U.S.C. 552(b)(8): Information relating to the supervision of financial institutions.
- 5 U.S.C. 552(b)(9): Geological and geophysical information and data, including maps, concerning wells.

Most of these exemptions apply to only a few of the archival records in our custody. In addition if only part of a record must be withheld, the National Archives will provide access to the rest of the record.

Presidential records subject to the PRA may also be withheld under six PRA restrictions during the first twelve years after the end of an administration; however FOIA exemption 5 U.S.C. 552(b)(5) does not apply to Presidential records:

- 44 U.S.C. 2204(a)(1): National security classified information.
- 44 U.S.C. 2204(a)(2): Relating to appointments to Federal office.
- 44 U.S.C. 2204(a)(3): Information specifically exempted from disclosure by statute.
- 44 U.S.C. 2204(a)(4): Trade secrets and commercial or financial information obtained from a person that is privileged or confidential.
- 44 U.S.C. 2204(a)(5): Confidential communications requesting or submitting advice, between the President and his advisers, or between such advisers.
- 44 U.S.C. 2204(a)(6): Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

X. FOIA Appeals

General Information

Under the FOIA, you may file an administrative appeal with NARA for any of the following decisions:

- the refusal to release a record, either in whole or in part;
- the determination that a record does not exist or cannot be found;
- the determination that the record you sought was not subject to the FOIA (e.g. non-PRA presidential records, donated historical materials, records of Congress, etc.);
- the denial of a request for expedited processing; or
- the denial of a fee waiver request.

All appeals must be made in writing and received within 35 calendar days of the date of the National Archives' denial letter. Mark both your letter and envelope "FOIA Appeal," and include a copy of both your initial request and our denial. If you are raising a specific point in your appeal about withholdings you may include copies of released documents. Your appeal should explain why we should reverse our initial decision. If we were unable to find the records

you wanted, explain why you believe our search was inadequate. If we denied you access to records and told you that those records were not subject to FOIA, please explain why you believe the records are subject to FOIA.

The National Archives will respond to your appeal within 20 working days of its receipt. If we reverse or modify our initial decision, we will inform you in writing and reprocess your request. If we do not change our initial decision, our response to you will explain the reasons for our decision, any FOIA exemptions that apply, and your right to seek judicial review of our decision.

Where to send appeals:

- For denials from the Office of the Inspector General:

Archivist of the United States
(Attn: FOIA Appeal Staff), Room 4200
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740-6001

- All other denials (including from Presidential Libraries subject to the FOIA):

Deputy Archivist of the United States
(Attn: FOIA Appeal Staff), Room 4200
8601 Adelphi Road
College Park, MD 20740-6001

Appeals of denials under FOIA of access to classified materials

Denials under FOIA of access to classified records are made by officials of the originating or responsible agency or by the National Archives under a written delegation of authority. You must appeal determinations that records remain classified to the agency with the original classification and declassification authority. The National Archives will provide you with the necessary appeal information.

XI. Judicial Review

If you believe that the National Archives has not handled your FOIA request in accordance with the law, you have the right to challenge the agency's action in a lawsuit filed in federal court. Ordinarily, you must first have filed an administrative appeal and received a response. If the National Archives fails to respond to either your initial request or your appeal within the statutory time limits, however, you may file suit.

If you do bring a court action, you may file your suit in a federal district court in any of the following places:

- where you reside;
- where you have your principle place of business (if any);

- in the District of Columbia; or
- where the records are located if they are not located in the District of Columbia.

You have six years from the date of NARA's final decision to file a suit under the FOIA.

Appendix A

Responses to requests for confidential commercial information

General Information

If the National Archives receives a request for records we believe contain confidential business and commercial information and if that information is less than 10 years old we will notify the original submitter (or their successor). The National Archives' regulations (36 C.F.R. 1250.80) give submitters up to 10 working days to raise objections to release and to provide a detailed justification to support their position. If we do not receive a response, we assume that there are no objections to release.

The National Archives reviews and considers all objections to release received within the time limit. If after our review we decide to release the records, we will notify the submitter in writing. Our notice will include copies of the records we intend to release and explain our reasons for release. We will also inform the submitter that we intend to release the records 10 working days after the date of the notice unless a U.S. District Court forbids disclosure.

Responding to a Notice

When responding to a notice, a submitter should:

- highlight those portions of the requested document that would likely cause your business substantial competitive if released or
- provide detailed information on why release would be harmful.

Some factors that could be addressed to help the National Archives evaluate an objection to release are:

- the general custom or usage of the information in question;
- the number and situation of the persons who have access to the information;
- the measures used to protect the information from disclosure;
- the type and degree of risk of financial injury that release would cause you; or
- the length of time the information should be kept confidential.

What the National Archives Generally Releases:

- Information that is known through custom or usage in a trade, business, or profession;
- Information that any reasonably educated person would know;
- Self-evident statements or a review of the general state-of-the-art;

- Successful bids, amounts actually paid by the Government under a contract, and cost and pricing data incorporated into a contractual document such as line item prices, contract award prices, and modifications (unless a submitter makes a legally sound argument in favor of their withholding); or
- Explanatory material and headings associated with costs and pricing.

What We Generally Withhold:

- Detailed technical and costs proposals submitted in response to a solicitation for bids (automatically withheld under an Exemption (b)(3) statute);
- Unique ideas, methods, or processes (trade secrets);
- Equipment, materials, processes, or systems that are patented, copyrighted, or contains a restricted legend; or
- Cost and pricing data that is not already generally known as a part of your regular business practices or incorporated by reference into a contract.

Appendix B – Sample FOIA Letter

Freedom of Information Act Officer
National Archives
8601 Adelphi Road, Room 3110
College Park, MD 20740-6001

Dear FOIA Officer:

This is a request under the Freedom of Information Act.

I request that a copy of the following documents [or documents containing the following information] be provided to me: [identify the documents or information as specifically as possible].

In order to help to determine my status to assess fees, you should know that I am an individual seeking information for personal use and not for a commercial use.

I am willing to pay fees for this request up to a maximum of [insert \$ amount]. If you estimate that the fees will exceed this limit, please inform me first.

[Optional] I request a waiver of all fees for this request. Disclosure of the requested information to me is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in my commercial interest. **[Include a specific explanation.]**

Thank you for your consideration of this request.

Sincerely,

Name
Address
City, State, Zip Code
Phone number
E-mail address