

## RELEASE AND PROCESSING

To submit a FOIA request, please use POM Form 145, Request for FOIA. This form is available for download (please see website address at the front cover of this guide). You can request this form by writing to us at our mailing address, giving us a call or sending us an email at [Usarmy.pom.106-sig-bde.mail.pres-asb@mail.mil](mailto:Usarmy.pom.106-sig-bde.mail.pres-asb@mail.mil). This form is not required for any FOIA request but is provided as a convenience.

### Upon receipt of a request by the FOIA Office

- \* Conducts a review to ensure it is proper or “perfected” FOIA request. A “perfected” FOIA request reasonably describes the records sought, should have a willingness to pay fees, and must be made in accordance with the Army regulations.
- \* Assigns a tracking number and entered into a tracking system.
- \* Assigns an action office familiar with the subject area of the requested record.
- \* Assigns a suspense date of 20 working days after receipt of the “perfected” request.

### Action Office will conduct an Adequate Search

- \* Agencies must undertake a search that is “reasonably” calculated to uncover all relevant documents.
- \* Must search everywhere it is reasonable that likely responsive records exist.
- \* Emails and other electronic records are treated the same as other records.
- \* Amount of search time provided free depends on fee status of requester.
- \* Records found and responsive documents will be forwarded to the FOIA office for review, hard copy or electronically.

### FOIA Office review records received from Action Office

- \* FOIA Office conducts a line-by-line review of the record(s) received from the Action Office and indicates exempt information that should be withheld.
- \* Forwards the FOIA request to the Staff Judge Advocate’s (SJA) office for legal review.

### Staff Judge Advocate for legal review

- \* Conducts legal review on the FOIA.
- \* Approves FOIA Office’s recommended redactions or provides additional guidance.
- \* Forwards FOIA request to FOIA Office for further processing

### FOIA Office for further processing

If requested records can be released without redactions:

- \* FOIA Office prepares response letter to the requester.
- \* If applicable, instructions on how to pay processing fee will be included.
- \* Enters into a tracking system that the FOIA request has been completed.

If requested records requires redaction or records to be withheld:

- \* FOIA Office prepares the packet and forwards to corresponding Initial Denial Authority (IDA). The IDA has the authority to withhold records requested under the FOIA for one or more of the nine categories of records exempt from mandatory disclosure.
- \* Enters into a tracking system that the FOIA request has been closed and forwarded to the IDA.

## FEE PROCESSING

Fee processing reflects direct costs for search, review, and duplication of documents, collection of which is permitted by the FOIA.

Waivers or reductions in fees may be given if disclosing the information is in the public interest. Public interest is defined as information that significantly enhances the public’s knowledge of the operations and activities of the Army. Processing of fee is determined by categories:

- \* **Commercial:** Requesters who seek information for use or purpose that furthers their commercial trade, or profit interest. Commercial requesters pay all fees for search, review, and duplication.
- \* **Educational:** Institutions of education, including preschools, elementary or secondary schools, and institutions of higher learning. The records must be sought in furtherance of scholarly research. Educational requesters pay only duplication fees (the first 100 pages are provided at no cost) unless it is determined that fees are waived.
- \* **Non-Commercial Scientific:** Institution is solely for conducting scientific research. The records must be sought in furtherance of scientific research. These requesters pay only duplication fees (the first 100 pages are provided at no cost) unless it is determined that fees are waived.
- \* **News Media:** Any person or entity gathering information of potential interest to a segment of the public. Examples are television, radio, and publishers of periodicals. These requesters pay only duplication fees (the first 100 pages are provided at no cost) unless it is determined that fees are waived.
- \* **“Other” Requester:** Requesters who do not qualify in another category are considered “other” requesters, and normally make requests for agency records for their personal use. “Other” requester receives two hours search, all review costs, and the first 100 pages at no cost.

UNITED STATES ARMY GARRISON

PRESIDIO OF MONTEREY



FREEDOM OF  
INFORMATION

ACT

INFORMATION GUIDE



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Freedom of Information Act Office  
Administrative Services Division  
Directorate of Human Resources

Please contact us for additional information

U.S. Army Garrison Presidio of Monterey  
ATTN: FOIA Officer  
393 Patton Avenue, Bldg 272  
Monterey, California 93944  
(831) 242-6215/6319

Request for FOIA form is available on line at:

[http://www.monterey.army.mil/Public\\_Affairs/webmaster.html#foia](http://www.monterey.army.mil/Public_Affairs/webmaster.html#foia)

## THE FREEDOM OF INFORMATION ACT

The Freedom of Information Act (FOIA) is a Federal Law that establishes the public's right to request existing records from Federal Government agencies. The FOIA provides prompt, maximum release of Department of Defense (DoD) records to the public unless such requested records are specifically exempt from mandatory public disclosure under the FOIA.

The public has the right to information concerning the activities of its Government. DoD policy is to conduct its activities in an open manner and provide the public with a maximum amount of accurate and timely information concerning its activities, consistent always with the legitimate public and private interests of the American people.

### Who can submit a FOIA request?

Anyone can submit a FOIA request, including a member of the public (U.S. or foreign citizens), an organization, or a business, but not including a Federal Agency. Requesters should indicate a willingness to pay fees associated with the processing of their request.

Soldiers and civilian employees of the Department of the Army (DA) may, as private citizens, request DA or other agencies' records under FOIA. They must prepare requests at their own expense and on their own time. They may not use Government equipment, supplies, or postage to prepare personal FOIA requests. It is not necessary for the soldiers or civilian employees to go through the chain of command to request information under the FOIA.

### What is a record?

A record is the product of data compilation, such as all books, papers, maps, and photographs, machine readable materials, inclusive of those in electronic form or format, or other documentary materials, regardless of physical form or characteristics, made or received by the agency of the United States Government under Federal law in connection with the transaction of public business.

### Description of Requested Records

Identification of the record desired is the responsibility of the requester. The requester must provide a description of the desired record, that enables the Government to locate the record with a reasonable amount of effort. In order to assist DoD Components in conducting more timely searches, requesters should endeavor to provide as much identifying information as possible. When a DoD Component receives a request that does not reasonably describe the requested record, it shall notify the requester of the defect in writing.

A record must exist and be in the possession and control of the DoD Component at the time of the search to be considered subject to FOIA. There is no obligation to create, compile, or obtain a record to satisfy a FOIA request.

## FOIA EXEMPTIONS

The following types of records may be withheld by the Initial Denial Authority (IDA) in whole or in part from public disclosure under the FOIA, unless otherwise prescribed by law. In applying exemptions, the identity of the requester and the purpose for which the record is sought are irrelevant with the exception that an exemption may not be invoked where the particular interest to be protected is the requester's privacy interest.

### EXEMPTION 1

Those properly and currently classified in the interest of national defense or foreign policy, as specifically authorized under the criteria established by Executive Order and implemented by regulations. Although material is not classified at the time of the FOIA request, a classification review may be undertaken to determine whether the information should be classified.

### EXEMPTION 2

Internal Personnel Rules and Practices. This exemption exempts from mandatory disclosure records "related solely to the internal personnel rules and practices of an agency." Courts have interpreted the exemption to encompass information on internal matters of a relatively trivial nature such as employee relations and working conditions and routine administrative procedures which are withheld under the present law. For information in a requested record to be properly withheld, it must meet two criteria: First, the information must be "predominantly internal," Second, the information must be a trivial nature and not of any "genuine public interest."

### EXEMPTION 3

Those concerning matters that a statute specifically exempts from disclosure by terms that permit no discretion on the issue or in accordance with criteria established by that statute for withholding or referring to particular types of matters to be withheld. Examples of statutes are:

- \* National Security Agency Information Exemption
- \* Patent Secrecy
- \* Restricted Data and Formerly Restricted Data
- \* Communication Intelligence
- \* Authority to Withhold from Public Disclosure Certain Technical Data
- \* Confidentiality of Medical Quality Records
- \* Qualified Immunity Participants
- \* Physical Protection of Special Nuclear Material
- \* Limitation on Dissemination of Unclassified Information Protection of Intelligence Sources and Methods.

### EXEMPTION 4

Those containing trade secrets or commercial or financial information that an Army Activity receives from a person or organization outside the Government with the understanding that the information or record will be retained on a privileged or confidential basis in accordance with the customary handling of such records. Records within the exemption must contain trade secrets, or commercial or financial records, the disclosure of which is likely to cause substantial harm to the competitive position of the source providing the information, impair the Government's ability to obtain necessary information in the future, or impair some other legitimate Government interest. Technical or scientific data developed by a contractor or subcontractor exclusively at private expense and technical or scientific data developed in part with Federal funds and in part at private expense, wherein the contractor or subcontractor has retained legitimate proprietary interests in accordance with 10 U.S.C. 2320-2311 and DoD Federal Acquisition Regulation Supplement (DFARS), subpart 27.4.

### EXEMPTION 5

Those containing internal advice, recommendations, and subjective evaluations, as contrasted with factual matters that are reflected in records pertaining to the decision-making process of an agency, whether within or among agencies, or within or among DoD Components. Also exempted are records pertaining to the attorney-client privilege and the attorney work-product privilege.

### EXEMPTION 6

Information in personnel and medical files, as well as similar personal information in other files, that, if disclosed to the requester would result in a clearly unwarranted invasion of personal privacy. Release of information about an individual contained in a Privacy Act System of Records that would constitute a clearly unwarranted invasion of privacy is prohibited, and could subject the releaser to civil and criminal penalties.

### EXEMPTION 7

Records or information compiled for law enforcement purposes, i.e., civil, criminal, or military law, including the implementation of executive orders or regulations issued pursuant to law. This exemption applies to law enforcement investigations such as Inspector General investigations. This exemption may be invoked to prevent disclosure of documents not originally created for, but later gathered for law enforcement purposes.

### EXEMPTION 8

Those contained in or related to examination, operation or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions.

### EXEMPTION 9

Those containing geological and geophysical information and data (including maps) concerning wells.