

National Archives and Records Administration

NARA 1602
July 28, 2003

SUBJECT: Access to Records Requested Under the Freedom of Information Act (FOIA)

TO: Office Heads, Staff Directors, ISOO, NHPRC, OIG

Purpose of this transmittal memo. This transmits a new directive concerning the handling of requests for information under the Freedom of Information Act.

Canceled directives. This directive cancels

- ADMIN. 201, ch. 1, part 5, sections 1 and 2
- ADMIN. 201, apps. 1A, 1B, and 1C
- ARCHIVES 1400, ch. 6, part 3; and app. 6B
- Interim Guidance 97-236

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Attachment

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1602.1 What is the purpose of this directive?

This directive provides uniform guidance to NARA employees who are responsible for processing and tracking Freedom of Information Act (FOIA) requests for the executive branch records in NARA's legal custody and NARA's operational records. This directive also discusses the procedural provisions of the FOIA; NARA's FOIA regulations; statutory FOIA exemptions; procedural reasons for not complying with a FOIA request; and steps to be taken in answering FOIA requests and tracking FOIA data in the Performance Measurement and Reporting System (PMRS).

1602.2 Authority for this directive

Authorities are 5 U.S.C. 552, as amended; 44 U.S.C. 2110, 2116, 2201 and 2204; and 36 CFR Parts 1250 and 1254 through 1270.

1602.3 What is the FOIA?

The Freedom of Information Act, or FOIA (5 U.S.C. 552, as amended), generally provides any person with the statutory right, enforceable in court, to obtain access to Government information in Federal agency records. This right to access is limited when such information is protected from disclosure by one of nine statutory exemptions (see subpar. 1602.11a).

1602.4 Definitions

The following definitions apply for terms used in this directive:

a. **Appeal** is a request to NARA asking that it review at a higher administrative level a full denial or partial denial of access to records under the FOIA, or any other determination, such as a matter pertaining to fees.

b. **Archival records** are records that have been accessioned into the legal custody of the National Archives and Records Administration (NARA), deeded materials in the legal custody of NARA and its Presidential libraries, and Congressional, Supreme Court, and other historical materials in NARA's physical custody and for which NARA has a formal agreement for their permanent retention. (Note: Only records created by Executive branch agencies, and Presidential records in NARA's custody that were created after January 20, 1981 are subject to FOIA.)

c. **Completed request** is a request for which NARA has taken a final action on the request.

d. **Complex request** is a FOIA request that requires more time to answer because the requested records are voluminous, security-classified or sensitive; or they require referral to another agency for review.

e. **Exemption 3 statute** is a separate Federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection (b)(3).

f. **Expedited processing** is when NARA processes a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records that warrants prioritization of his or her request over other requests that were made earlier.

g. **FOIA request** is a written request for access to archival records of the executive branch of the Federal Government held by NARA, to NARA operational records, or to Presidential records in the custody of NARA that were created since January 20, 1981, that cites the FOIA. In NARA practice, FOIAs are written requests identified by the sender as being made under the Freedom of Information Act. It makes no difference what records are being sought (e.g., see subpar.1602.12i).

h. **Initial request** is a request to NARA for access to records under the FOIA. Every FOIA request is either an initial request or an appeal. Subsequent correspondence that clarifies the initial request is treated as part of the initial request for the purposes of this directive. (See also the definition of “appeal.”)

i. **Multi-track processing** is a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests in each track are processed on a first-in/first out basis. A requester who has an urgent need for records may request expedited processing.

j. **Operational record** is any record that NARA creates or receives in carrying out its mission and responsibilities as an executive branch agency. This definition excludes archival records among NARA’s holdings.

k. **Presidential record** is any record as defined by 44 U.S.C. 2201, including “documentary materials, or any reasonably segregable portion thereof, created or received by the President, his immediate staff... in the course of conducting activities which relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President.” The Presidential Records Act (PRA) applies to all such materials created on or after January 20, 1981. For the purpose of this directive, the term “Presidential record” also includes Vice Presidential records created on or after January 20, 1981.

l. **Reporting data** is data collected for quarterly reporting in the Performance Management and Reporting System (PMRS) and the annual FOIA report to the Department of Justice.

m. **Simple request** is a FOIA request that can be answered quickly because of small volume or simplicity of records requested.

n. **Time limit** is the time period for NARA to respond to a FOIA request (ordinarily 20 workdays from receipt of a FOIA request). (See subpar. 1602.27a.)

1602.5 What are NARA's responsibilities under FOIA?

- a. **NARA's responsibilities** are to:
 - (1) Respond in a timely manner to all FOIA requests;
 - (2) Maintain accurate information in a FOIA tracking log on each request;
 - (3) Release all information requested, except for that properly withheld in accordance with one or more of the nine FOIA exemptions; and
 - (4) Report statistics accurately in accordance with NARA's implementation of the Government Performance and Results Act (GPRA) and FOIA statutes.
- b. **Archivist of the United States** is NARA's appeal authority for FOIA requests denied by the Inspector General (see 36 CFR 1250.74(a)).
- c. **Deputy Archivist of the United States** is NARA's appeal authority for all other FOIA appeals (see 36 CFR 1250.74(b)).
- d. **NARA FOIA Officer** is in the Office General Counsel (NGC). The FOIA Officer processes FOIA requests for NARA's operational records and provides administrative support to the Deputy Archivist for FOIA appeals.
- e. **Office of the Federal Register (NF)** processes FOIA requests for Federal Register documents, unpublished forms, and related materials.
- f. **Office of the Inspector General (OIG)** processes FOIA requests for records created by that office.
- g. **Office heads/staff directors** process, or direct the processing of, FOIA requests for archival records that are subject to FOIA among their holdings.
- h. **Liaisons** are designated by the office head or staff director as a point of contact for
 - (1) Providing copies of operational records to NGC in response to FOIA requests; and,
 - (2) Ensuring that FOIA-related data entered into the PMRS system is accurate and consistent with the guidance provided in this directive.

1602.6 To what records are covered by this directive?

This directive applies to all records created by executive branch agencies and transferred to NARA's legal custody. This directive also applies to Presidential records created after January 20, 1981 and to NARA's operational records.

1602.7 What records are not covered by this directive?

FOIA applies only to the records of the executive branch of the Federal Government and certain Presidential records. It does not apply to Judicial records, records of the Congress and legislative branch agencies, donated historical materials, Nixon Presidential Historical Materials (44 U.S.C. 2111 note), or Presidential records within the first five years from the end of an administration (44 U.S.C. 2204(2)(A)). NARA does not provide FOIA access to records solely in its physical custody at NARA records centers.

1602.8 What is the FOIA index and who maintains it?

The FOIA index is a list of NARA directives and notices not published in the Federal Register and administrative staff instructions affecting members of the public. NGC maintains this index and updates it semiannually.

1602.9 What is the FOIA reading room and who maintains it?

NARA maintains a conventional reading room that contains certain administrative information and copies of frequently requested documents as required under the FOIA. This information is also available in the electronic reading room on NARA's main public web site. NGC determines the content and updates the FOIA reading rooms.

1602.10 Who can file a FOIA request?

Any person can make a request under the FOIA. A "person" can be an individual, a corporation, an association, or a foreign national. The right to file a FOIA request is not limited by statute to United States citizens.

1602.11 What are the FOIA exemptions?

a. Subsection (b) of the FOIA specifically exempts from release information that falls in one of nine categories.

(1) Exemption (b)(1) – exempts national defense or foreign policy information properly classified pursuant to an Executive order.

(2) Exemption (b)(2) – exempts information that would risk the circumvention of a statute or agency regulation. One category of records for which the (b)(2) exemption can be used is "records of concern." For specific information on applying exemption (b)(2) to such records, see Interim Guidance 1600-3, Access to Archival Materials in the Context of Concern about Terrorism.

(3) Exemption (b)(3) – exempts information that is specifically exempted from disclosure by statute. The following (b)(3) statutes are among those that apply to NARA records:

F.R.Cr.P 6(e)	Grand jury information
16 U.S.C. 470aa	Archaeological Resources Protection Act
26 U.S.C. 6103	Income tax information
42 U.S.C. 2106	Atomic energy information

50 U.S.C. 403(d)(3)	CIA intelligence sources and methods
50 U.S.C. 403(g)	Information pertaining to the organization, function, and employees of the CIA

(4) Exemption (b)(4) – exempts trade secrets and commercial or financial information obtained from a person that is privileged or confidential.

(5) Exemption (b)(5) – exempts interagency or intra-agency memorandums or letters that would not, because of legally recognized “privileges,” be available by law to a party other than an agency in litigation with NARA. Among the privileges incorporated into (b)(5) are the “executive” or deliberative process privilege, attorney work product privilege, and the attorney-client privilege. This exemption cannot be applied to Presidential records (44 U.S.C. 2204(c)(1)).

(6) Exemption (b)(6) – exempts personnel, medical, or other personal information the release of which would constitute a clearly unwarranted invasion of privacy.

(7) Exemption (b)(7) – exempts records or information compiled for law enforcement purposes, but only if it relates to:

(a) Exemption (b)(7)(A) – information that could reasonably be expected to interfere with law enforcement proceedings.

(b) Exemption (b)(7)(B) – information that would deprive a person of a right to a fair trial or impartial adjudication.

(c) Exemption (b)(7)(C) – personal information about the subject of a law enforcement investigation, or an individual not under investigation, the release of which would cause an unwarranted invasion of privacy.

(d) Exemption (b)(7)(D) – the identity of a confidential source or information provided by the source.

(e) Exemption (b)(7)(E) – law enforcement techniques and investigative procedures.

(f) Exemption (b)(7)(F) – information that could endanger the life or physical safety of any individual.

(8) Exemption (b)(8) – exempts records contained in or related to the examination, operating, or condition reports prepared by, or on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

(9) Exemption (b)(9) – exempts from release geological or geographical information and data, including maps, concerning wells.

b. Typically NARA withholds information in executive branch agency records and in Presidential records in the custody of NARA that were created since January 20, 1981, under FOIA exemptions (b)(1), (b)(2), (b)(3), (b)(6), and (b)(7)(C), (D), (E) and (F). Personal information in records subject to FOIA is usually withheld under (b)(6) for 75 years unless the individual to whom the information relates is deceased. Census data is withheld under (b)(3) (13 U.S.C. 8(b) and 9(a)) for 72 years. Presidential records can also be closed under six Presidential restrictive categories of the PRA, 44 U.S.C. 2204(a), for a period not to exceed 12 years from the end of a Presidential administration. For specific guidance on applying FOIA exemptions to archival records that are subject to FOIA, see NARA 1601, Screening Federal Records for Information Covered by FOIA Exemptions. NARA withholds information in operational records under exemptions (b)(2), (b)(3), (b)(4), (b)(5), and (b)(6).

c. It is NARA's policy to release any reasonably segregable portion of an otherwise restricted record in response to a FOIA request.

1602.12 What are the ten procedural reasons for not complying with a FOIA request?

When NARA receives a request for a record that is not among its holdings, either because the record does not exist or it belongs to another agency, or for a record that is not governed by FOIA, NARA cannot comply with the request for a procedural reason. The following is a comprehensive list of the procedural reasons that NARA may use in not complying with a FOIA request.

- a. **No records** - A search found no records responsive to the request.
- b. **Request referred** - The request was referred to another agency. The referral marks the completion of NARA's work. Use this procedural category to capture the disposition of requests that need to be referred to the original agency because the records are not in NARA's legal custody (e.g., records center holdings). Do not use this procedural category when "referring" records for declassification review. In those cases, NARA is still responsible for answering the FOIA request.
- c. **Request withdrawn** - The requester withdrew his or her request.
- d. **Fee-related reason** - The requester has refused to pay costs associated with his or her FOIA request or the requester has an outstanding amount due for copying fees.
- e. **Records not described** - The request did not describe the records in sufficient detail for a staff person to locate them.
- f. **Improper request** - The request requires the creation of records in order to make a response or the request does not ask for records, but either poses a question or asks for information about a broad subject. Also use this determination when a FOIA request asks NARA to interpret records or asks for legal advice.
- g. **Not agency record** - The records requested are not "agency records" subject to the provisions of the FOIA. For example, Presidential donated historical materials, Nixon

Presidential historical materials, and legislative and judicial branch records are not agency records subject to FOIA.

- h. **Duplicative request** - Request duplicates one already made by the same requester.
- i. **Other** – The request is for non-Governmental records (e.g., copies of telephone books, driving records, birth certificates, etc.).
- j. **Presidential Records Act applies** - Presidential records are not available to FOIA for 5 years after the end of the Presidential administration.

1602.13 What information is needed for a FOIA request?

The request must be in writing (either by regular mail, fax, or email) and cite the “Freedom of Information Act” (FOIA), or similarly titled access statute. It must describe the records in enough detail to allow a staff member to find them with a reasonable amount of effort. At the very least, the request should clearly specify the information wanted; the type(s) of records sought; the agencies, offices, or individuals involved; and the approximate dates when the records were created. For additional guidance refer to NARA’s FOIA regulations (36 CFR 1250.20 and 1250.24).

1602.14 What if the request does not describe the records sought?

Contact the requester and inform him or her that the request is overly broad or that it does not provide enough information to locate the records sought. Allow the requester to re-submit the request with additional information.

1602.15 What must be done when a FOIA request is received?

a. If the request is for records of the executive branch of the Federal Government held by NARA, to NARA operational records, or to Presidential records in the custody of NARA that were created since January 20, 1981 and is received in the office or facility that holds the records:

(1) Enter the request into a FOIA tracking log. For NARA offices that have multi-track processing, annotate the log to distinguish between simple and complex requests. (See subpar. 1602.27a(1) for turnaround time.)

(2) For archival records that are subject to FOIA, search for the requested information in the record group or series indicated in the letter. Also look at other record series that you know may contain the requested information. For NARA’s operational records, conduct a search of the files of all NARA offices that are likely to maintain information responsive to the request. If, after exhausting all search paths, you are unable to locate responsive records, notify the requester in writing. Notify the requester that he or she has the right to file an administrative appeal by writing to the Deputy Archivist (see par. 1602.19). Once the letter is sent, log this request out of the database citing the procedural reason “No records” (see subpar. 1602.12a).

(3) If you find records containing the information sought, conduct a line-by-line review of the records to determine whether or not they contain any information exempt from disclosure under the FOIA. (For guidance on screening, see NARA 1601.) FOIA requests for records that do not require a review must also be tracked in a FOIA tracking log.

(4) Once the review is done, make a final determination and release information as appropriate. Presidential records must be handled in accordance with the requirements of the PRA and E.O. 13233 before their release.

(5) If information is withheld, notify the requester (in writing) that he or she has the right to appeal any adverse determination (see par. 1602.19).

(6) Enter the completed data into a FOIA tracking log as described in par. 1602.17.

b. If the records are among the holdings of another office or facility, forward the request to the appropriate office for a reply. If the request is for NARA's operational records, forward the request to NGC for coordination and reply.

1602.16 What must be included in NARA's reply?

a. A FOIA reply must detail the decision concerning the request. If the request is granted in full, include copies of the responsive material or the amount of total fees due. Notify the requester that he or she has the option of viewing any responsive records at the NARA facility that holds the records.

b. Provide the requester with specific information about a decision to deny a request in whole or in part. If the request is denied pursuant to a FOIA exemption or if NARA cannot comply with the request for procedural reasons, you must clearly and completely explain the reasons. A denial letter must indicate:

(1) For paper records, the number of pages of responsive records found; and for records on another medium, the number of responsive records found;

(2) For paper records, the number of pages releasable in full; and for records on another medium, the number of records releasable in full;

(3) The number of pages or records releasable in part;

(4) The number of pages or records denied in full; and

(5) The specific FOIA exemption(s) that were applied or the procedural reason(s) for not complying with the request.

c. If a request is denied in whole or in part or if NARA does not comply with the request for a procedural reason, requesters must be notified of their right to an administrative

appeal in accordance with NARA's regulations (see 36 CFR 1250.70 - 1250.78).

1602.17 When is a FOIA request completed?

A FOIA request is considered completed when all of the information in par. 1602.16 has been provided to the requester concerning all of the records requested. If NARA must refer records responsive to a FOIA request to another agency for declassification review, the FOIA is not considered completed until all such reviews are done. When the request is completed, NARA offices must annotate their FOIA log to include the following information:

- a. Completion date;
- b. Final determination;
- c. Any exemptions cited, if applicable; and
- d. Any procedural reasons for not complying with the request, if applicable.

See the appendix for additional information on FOIA tracking.

1602.18 What are a requester's appeal rights under FOIA?

A requester may appeal any of the following decisions:

- a. The refusal to release a record, either in whole or in part;
- b. The determination that a record does not exist or cannot be found;
- c. The determination that the record sought is not subject to the FOIA;
- d. The denial of a request for expedited processing; or
- e. The denial of a fee waiver request.

1602.19 How are appeals of initial denials handled?

a. Appeals must be submitted in writing and postmarked within 35 calendar days of the date of the initial denial of access (see 36 CFR 1250.72).

b. Appeals of initial denials of records created by the OIG must be addressed to the attention of the Archivist of the United States. The OIG coordinates review of the appeal and prepares the response for the Archivist's signature within 20 workdays (see 36 CFR 1250.74(a)).

c. With the exceptions listed in subpar. d and in par. 1602.20, appeals of all other initial denials must be addressed to the attention of the Deputy Archivist of the United States. NGC coordinates review of all appeals for archival records that are subject to FOIA and NARA's operational records and prepares a response for the Deputy Archivist's signature within 20 workdays (see 36 CFR 1250.72(b)).

d. Denials of records closed only under FOIA exemption (b)(1) are appealed directly to the agency with responsibility for protecting and declassifying that information.

1602.20 How are appeals of initial denials of Presidential records handled?

a. Denials of records closed under both a FOIA exemption and a PRA restriction within the first 12 years following the end of the administration must be appealed to the Director of the Presidential library that holds those records. These appeals must be submitted in writing and postmarked within 10 working days of the date of the initial denial of access (see 36 CFR 1250.72).

b. Appeals of Presidential records restricted solely for FOIA exemptions are made to the Deputy Archivist of the United States and coordinated with the Director of the appropriate Presidential library. (Coordination is needed to ensure that the Deputy Archivist is aware of any ancillary issues related to the documents.) These appeals must be submitted in writing and postmarked within 35 calendar days of the date of the initial denial of access (see 36 CFR 1250.72). For records closed under FOIA exemption (b)(1), appeals are made to the Deputy Archivist of the United States through the appropriate Presidential library who coordinates the declassification review with the originating agency appellate board. Responses for all FOIA appeals involving Presidential records are coordinated through the Presidential Materials Staff (NLMS) and the appropriate Presidential library to ensure the notification of former and incumbent Presidential representatives required under E.O. 13233.

1602.21 What are the possible access determinations for a FOIA request?

For the purposes of FOIA reporting, there are four possible determinations. Each determination is mutually exclusive. If the withholding is pursuant to a FOIA exemption, use determinations in subpars. b or c. If you are unable to comply with a FOIA request for a procedural reason, use the determination in subpar. d.

a. **Total grant** – NARA’s decision to disclose all records in full in response to a FOIA request. This includes records that are already open to research and require no screening or review action under FOIA.

b. **Partial grant** – NARA’s decision to disclose a record in part in response to a FOIA request, deleting information determined to be exempt under one or more of the FOIA exemptions; or a decision to disclose some records in their entirety, but to withhold others in whole or in part. Do not use this determination to capture information concerning the withholding of records or non-compliance with a FOIA request for a procedural reason.

c. **Denial** – NARA’s decision not to release any part of a record in response to a FOIA request because all the information in the requested record is determined by NARA to be exempt under one or more of the FOIA exemptions. Do not use this determination to capture information concerning the withholding of records or non-compliance with a FOIA request for a procedural reason.

d. **Other** – NARA’s decision not to comply with a FOIA request, in whole or in part, for procedural reasons, such as because no record is located in response to a FOIA request.

1602.22 What fees are charged for FOIA requests and what are the payment procedures?

a. For records of the executive branch of the Federal Government held by NARA and Presidential records in the custody of NARA that were created since January 20, 1981, fees are assessed based on NARA’s current fee schedule (36 CFR Part 1258 and NARA 1653, NARA Reproduction Fee Schedule).

b. For NARA’s operational records, fees are assessed in accordance with NARA’s FOIA fee schedule (see 36 CFR 1250.56). Fees for operational records are not charged if the aggregate of all applicable fees is less than \$10. Commercial requesters are charged search, review, and reproduction fees. All other requesters are provided the first 100 pages of reproductions or their equivalent free of charge.

c. Fees for reproductions of archival records can be paid by check or money order made payable to the National Archives Trust Fund Board or by credit card. For payments made using an American Express, MasterCard, VISA, or Discover credit card, send them to the Trust Fund Cashier. Fees for operational records can be paid by check or money order made payable to “National Archives and Records Administration” or “NARA.” Send payments to the Financial Services Division (NAB).

1602.23 Does NARA ever waive fees for FOIA requests?

a. NARA does not grant fee waivers under the FOIA for reproducing records of the executive branch of the Federal Government held by NARA or Presidential records in the custody of NARA that were created since January 20, 1981. 44 U.S.C. 2116(c) allows NARA to charge fees to recover the costs of making reproductions of such records. Therefore, NARA’s archival records are exempt from the FOIA fee waiver provisions. Fee waivers are considered for “assassination records” subject to the provisions of the John F. Kennedy Assassination Records Collection Act.

b. NARA considers fee waivers for operational records if the requester meets the criteria outlined in 36 CFR 1250.60.

1602.24 How is data collected for the annual FOIA report?

Each office that processes FOIA requests is responsible for maintaining a local database that tracks the disposition of FOIA requests. This database must be linked to the PMRS. This system is the official source of statistical information that NARA uses to track its performance against the target goals in NARA’s Strategic Plan. PMRS data is also the basis for the annual report to the Department of Justice (DoJ).

1602.25 Who prepares the annual FOIA report?

Using input from the PMRS database, NGC prepares the annual FOIA report and sends it to DoJ by February 1 of each year. Data concerning staff time spent processing FOIA requests is not

collected in the PMRS. NGC collects this data from each office for inclusion in the annual FOIA report.

1602.26 How are records created by this directive maintained under NARA's records schedule?

For records created in processing FOIA requests, use the appropriate file number(s) in subpars. a and b:

- a. **Operational records** - file numbers 1009, 1010, 1011, 1012, or 1013.
- b. **Archival records** - file number 1422.

1602.27 Frequently asked questions

a. **What if the response to a request is going to take a long time?**

(1) Once a FOIA request is received by the office that holds the records or NGC, NARA has 20 workdays to respond (excluding Federal holidays). A release may take longer than 20 days if records need to be referred for declassification review, if there are a substantial number of responsive records that require screening, or if the records being requested are Presidential records subject to the PRA and E. O. 13233. In such cases, you must:

- (a) Inform the requester in writing of the status of his or her request.
- (b) Include an approximation of the number of pages your search found; the reason for the delay in release; and an estimate of the amount of additional time required.
- (c) Give the requester the option of modifying his or her request.

(2) This process is considered an initial response. You cannot mark the request complete in your FOIA log based on this initial response. That must wait until you have completed processing all responsive records in accordance with pars. 1602.15 - 1602.17.

b. **Does NARA allow for expedited processing?**

(1) NARA can expedite requests or segments of requests for records over which we have control under the following circumstances:

- (a) A reasonable expectation of an imminent threat to an individual's life or physical safety;
- (b) A reasonable expectation of an imminent loss of a substantial due process right; or

(c) An urgent need to inform the public about an actual or alleged Federal Government activity (this criterion is only applicable to requests made by members of the news media).

(2) NARA cannot expedite FOIA requests for classified information that has to be referred for declassification review. Nor can NARA expedite requests for Presidential records subject to the PRA and E.O. 13233.

c. **What if the FOIA request is for records we don't have?** If the FOIA is for non-Governmental records (e.g., copies of telephone books, driving records, birth certificates, etc.):

- (1) Log the FOIA into your database;
- (2) Respond to the requester denying the FOIA; and
- (3) Cite "Other" as the determination code and procedural reason "Other" (see subpar. 1602.12i) as a justification for the determination.

d. **What if the FOIA request is for records that are not covered by the FOIA?** For example, if the request is for records covered by the PRA that are not yet subject to the FOIA or for court or congressional records, or for donated materials:

- (1) Log the FOIA into your database;
- (2) Respond to the requester denying the FOIA; and
- (3) Cite the procedural reason that applies to the case. For example, if the record is subject to the PRA, cite "Presidential Records Act applies" (see subpar. 1602.12j). If the request is for court or congressional records or donated historical materials, including Presidential records created before 1981, cite "Not an agency record" (see subpar. 1602.12g).

e. **What if the FOIA request is for records that are already open to research?** Often NARA receives FOIA requests for records that are open to research. If such a request is received, handle it like any other FOIA request.

- (1) Log the FOIA into your database.
- (2) Respond to the requester that the records are already open to research. Inform the requester that he or she may view the responsive records in NARA's research room or purchase copies.
- (3) Mark the request as complete in the database, citing a disposition of "Total grant."

Appendix

Tracking FOIA Data in the Performance Measurement and Reporting System (PMRS)

- **How are FOIA requests tracked in PMRS?**

- a. When a FOIA request is received
 - (1) Add it to the FOIA log in the order in which it was received
 - (2) Assign a unique number to each request (or use the number assigned by the database) and use that number in all correspondence related to that request
- b. NARA offices that process a high volume of FOIA requests have instituted multi-track processing. If this practice is applicable, annotate the FOIA log to distinguish between “simple” and “complex” requests.
- c. After searching for responsive records and taking any appropriate screening or review action
 - (1) Make a final determination.
 - (2) Enter into the FOIA tracking log all information concerning the disposition of a request.

- **What are the possible determinations that can be entered into the FOIA log?**

For the purposes of FOIA reporting there are four possible determinations (see par 1602.21). Choose one of the following:

- a. Total grant = a full release of the requested information;
- b. Partial grant = a partial denial citing a specific exemption;
- c. Denial = denial citing a specific exemption; or
- d. Other = a partial or full denial on procedural grounds.

- **How should I annotate the log to justify any determination that is less than a total grant?**

Annotate FOIA logs with specific information about a decision to deny a request in whole or in part. This is also true for decisions not to comply with a request for a procedural reason.

- a. If the request is denied under a specific FOIA exemption, cite the exemption(s) that apply. If the request is denied because the record is exempt by statute (exemption (b)(3)) cite the statute that applies.
- b. If the request is denied for a procedural reason, cite the procedural reason that applies.