



U.S. Fish and Wildlife Service Freedom of Information Act (FOIA) Processes and Procedures Handbook

September 2018

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Introduction

The Freedom of Information Act (FOIA) (5 U.S.C. 552) requires that the U.S. Fish and Wildlife Service (Service) provides public access to our records, with certain exemptions and exclusions, upon request. Service Manual chapter 203 FW 1, Freedom of Information Act Policy, Roles, and Responsibilities, provides our general policies, including overall roles and responsibilities, for how we comply with this requirement. Generally, we must follow the requirements of Federal law and the policies, procedures, and requirements that the Department of the Interior (Department) prescribes for Departmentwide implementation. To provide some Service-specific implementation guidance for employees, [203 FW 1](#) authorizes this *U.S. Fish and Wildlife Service FOIA Processes and Procedures Handbook*.

This handbook's policies and procedures supplement the Departmental policies and requirements on FOIA. Service employees must follow the guidance in this handbook when performing their FOIA-related tasks **in addition to Departmental and Service Manual requirements**. We intend for the guidance provided here to complement that provided in the Department's policy documents, though in some areas overlap may occur. If there is a question about whether a policy or procedure in this handbook contradicts a Departmental policy, employees should always defer to the Departmental policy. Employees can also contact the Service FOIA Officer or their Regional/Program FOIA Coordinator for more information.

Purpose of the Handbook

This handbook describes the Service's overall FOIA review process and related issues, such as the Service's FOIA training program. We envision this handbook as being primarily useful for Service employees with FOIA responsibilities. This would include FOIA Contacts, Regional and Program FOIA Coordinators, and the Service FOIA Officer. In addition, it gives guidance to Service employees who do not have any specific FOIA-related responsibilities but must still provide records when asked and otherwise support the Service's FOIA-related efforts. The goal of the handbook is to provide an understanding of the role that each of us is required to play in the FOIA process.

The handbook is organized as follows:

- **Chapter 1** provides a general overview of the Service's FOIA program, including the process used to respond to FOIA requests. This includes a brief description of each phase involved in the process and general FOIA-related guidance that applies to all involved parties.
- **Chapters 2-5** offer detailed guidance on the roles that Service employees, FOIA Contacts, FOIA Coordinators, and the Service FOIA Officer play in processing FOIA requests.
- **Chapter 6** describes additional policies and requirements for FOIA-related topics such as appeals, litigation, and training.

Together, 203 FW 1 and the *Service FOIA Processes and Procedures Handbook* (in conjunction with Departmental FOIA policies) describe the Service's FOIA program. In accordance with 203 FW 1, we do not authorize Regions and programs to implement any additional requirements for any aspect of the FOIA process, especially if those requirements would contradict Service or Departmental policies or cause delays in FOIA processing. Examples of such requirements would be requiring a Regional Director to sign response letters or requiring requesters to submit FOIA requests by mail.

Regions or programs that have questions about our FOIA policies should ask the Service FOIA Officer. The Service FOIA Officer is the sole official within the Service who can set Service-specific FOIA policy and, as such, is responsible for updating 203 FW 1 and this handbook as appropriate to address any policy gaps.

Department of the Interior FOIA Policies

Employees should become familiar with the following Departmental regulations and policies before relying solely on this handbook and 203 FW 1:

- [The Department's FOIA regulations, 43 Code of Federal Regulations \(CFR\) Part 2, Freedom of Information Act; Records and Testimony;](#)
- [383 Departmental Manual \(DM\) 15, Freedom of Information Act Policy, Responsibility, and Procedures;](#)
- [Department of the Interior FOIA Handbook;](#) and
- The [Department's Sample Language for Freedom of Information Act Responses.](#)

You can find additional policies, including various memos and other forms of implementation guidance, on the Department FOIA Program's [FOIA Guidance website](#), which you are also responsible for following.

Electronic FOIA Tracking System (EFTS)

[EFTS](#) is the Department's solution for tracking, managing, and generating reports on FOIA processing. The Service FOIA Officer, Headquarters (HQ) FOIA staff, and Regional and Program FOIA Coordinators have access to the system. We use the system to conduct a number of activities that are discussed in more detail in subsequent sections.

Our responsibilities associated with EFTS include:

- Entering all requests that we receive into EFTS within 24 hours.
- Assigning requests within the system to the Service component responsible for providing the response.
- Uploading all incoming and outgoing letters into EFTS within 24 hours after they are received/sent.

Because the Department and the Service use EFTS for FOIA tracking, we discourage the use of other systems, such as the Document Tracking System (DTS), for these purposes as any other tracking would be redundant. Regions and programs cannot require that Coordinators use DTS when fulfilling FOIA requests.

If you are required to obtain EFTS access as part of carrying out your FOIA responsibilities, you must complete the "Introduction to the EFTS" training module and complete an EFTS Rules of Behavior form. The Service FOIA Officer must sign the completed form and provide it to the Department FOIA Office, who will create the account. Contact the Service FOIA Officer for more information on accessing EFTS.

For more information on EFTS in general, see the [Department FOIA Handbook](#).

Chapter 1 - The Service FOIA Program

The ultimate mission of the Service's FOIA program is to provide information to members of the public promptly and efficiently. This chapter provides an overview of the program, including the resources involved and our general processes for receiving, responding to, and fulfilling FOIA requests in support of this mission. Subsequent chapters will define the process in more detail by focusing on specific roles. Employees should ensure they read this overview chapter and at least the ones specific to their roles (e.g., regular employee - chapter 2, or FOIA Coordinator - chapter 4).

Roles and Responsibilities

The Service FOIA Officer is the official responsible for managing the overall Service FOIA program. He/she works with Regional and Program FOIA Coordinators, as well as designated FOIA Contacts within the Regions and programs, to process FOIA requests in accordance with the FOIA and applicable Departmental requirements. HQ FOIA staff within the Office of Information Resources and Technology Management (IRTM) assist the FOIA Officer in assigning incoming requests to the appropriate Region or program, reviewing response letters, assessing fees, and more. Service employees without official FOIA training and responsibilities also assist in this process, when required, by searching for and obtaining responsive records and helping FOIA Coordinators to interpret those records.

A full list of the roles and responsibilities involved with the Service FOIA program can be found in Table 1-1 in 203 FW 1.

FOIA Response Process and Procedures

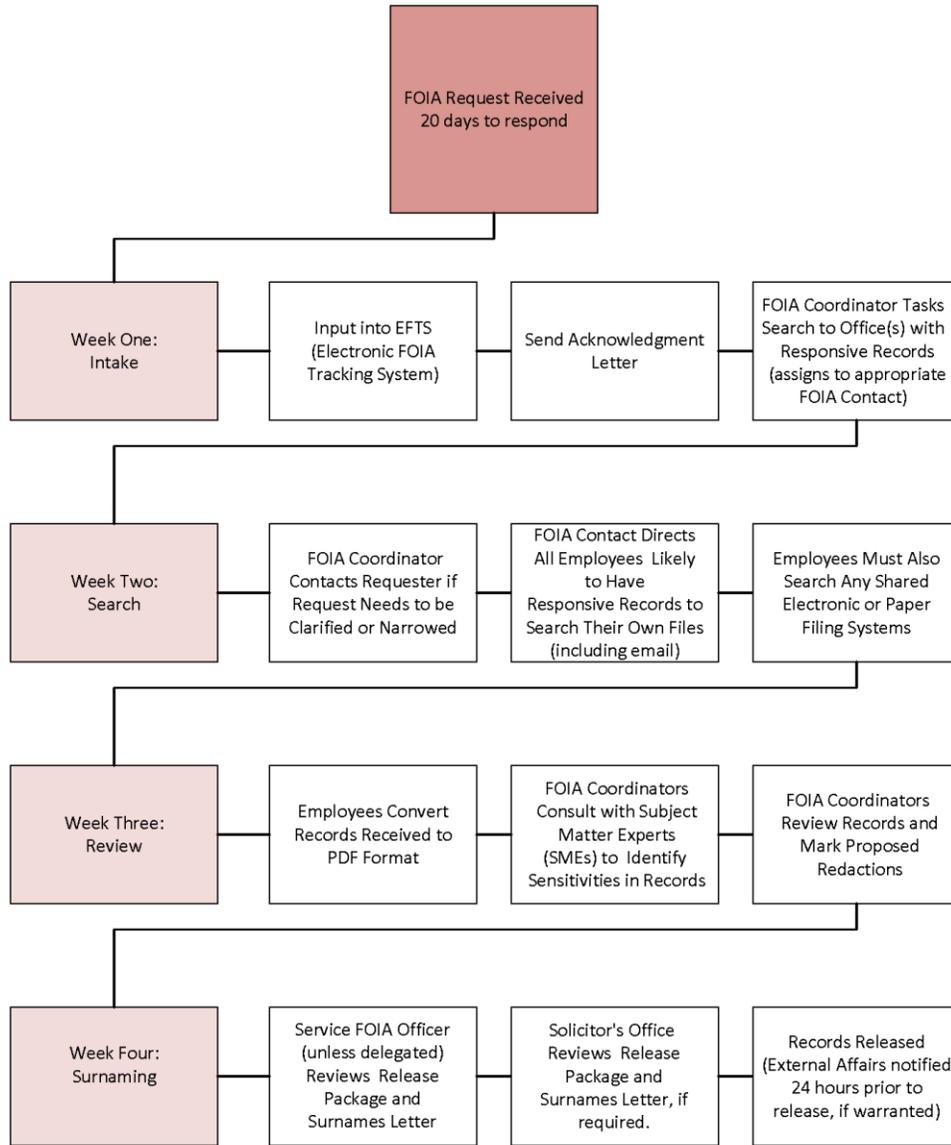
This section describes the Service's process and procedures for responding to and filling a FOIA request. We work to fulfill requests on a first-in, first-out basis within each processing track (see the "Assigning a Processing Track" section in Chapter 4 for more information).

Figure 1 on the following page shows the process for responding to a FOIA request within the usual 20-day timeline. Requests that are more complex will require additional time to complete. In addition, we may request a 10-day extension in certain limited circumstances (see Section [2.19](#) of the Department's FOIA regulations for more information). The Appendix to the *Department FOIA Handbook* provides additional guidance on how to process FOIA requests.

We recognize that it will not always be possible to complete the tasks according to the timeline described in the model. For instance, it may not be possible to send a final response within 20 days of receiving the request. In addition, we may have a backlog of requests in some processing tracks, meaning that review of records for incoming requests will not begin until older requests are complete. However, this model provides a good overview of the steps and phases involved in fulfilling a FOIA request. We will provide more information about these phases in subsequent chapters.

You can contact the Service FOIA Officer or HQ FOIA staff with questions about the processes and procedures described in this section. They are available to assist throughout the process. The Department's FOIA regulations or *FOIA Handbook* also include helpful information.

Figure 1- Simplified Overview of FOIA Request Process



Intake Phase - “Week 1”

The intake phase begins when the Service receives a FOIA request and should generally be complete within 1 week of receiving the request. When the request is received, it must be entered into EFTS and assigned to the appropriate Region(s) or program office(s). The Regional/Program FOIA Coordinator will then address any deficiencies in the request, adjudicate requests for fee waivers or expedited processing, assign the request to the appropriate processing track, and prepare an acknowledgment

letter (and send it if they are delegated the authority). They will then task offices within their areas of responsibility with conducting a search for responsive records.

Staff typically involved during this phase are the applicable Regional or Program FOIA Coordinator and HQ FOIA staff.

Chapter 5 of the [Department FOIA Handbook](#), Initial Handling of Requests, provides more policies and requirements associated with processing new FOIA requests.

Receiving Requests

Requesters will submit FOIA requests in multiple ways, electronic and otherwise (such as via fax or letter). In addition, depending on the records sought, requesters may submit requests directly to HQ, or they may submit them directly to the Region or office they believe has the records that they seek. If employees in field offices receive requests in this fashion, they should forward them to their Regional FOIA Coordinator.

The Service maintains an email address (fwhq_foia@fws.gov) for accepting FOIA requests, and we receive requests through the [DOI Electronic FOIA Request Form](#). HQ FOIA staff receive these requests and assign them to the appropriate Region or program in EFTS. We require that Regions maintain email addresses for similar purposes. Regions cannot require requesters to submit their requests in paper and must accept electronic submissions.

Search Phase - “Week 2”

At this point in the process, a FOIA Coordinator will task a particular office (or offices) under his/her area of responsibility with searching for records in response to a FOIA request. The records are provided to the appropriate FOIA Coordinator so that they may review them in accordance with the FOIA.

Staff typically involved during this phase are FOIA Coordinators, FOIA Contacts, and employees who are tasked with searching and providing records or otherwise supporting search efforts.

Chapter 9 of the [Department FOIA Handbook](#) provides all of the policies that we must follow when conducting searches. [Subpart C](#) of the Department’s FOIA regulations (“Processing Requests”) also describes requirements that we must follow when conducting searches.

Conducting Reasonable Searches

As required by the FOIA, and discussed further in Subpart C of the Department’s FOIA regulations, we are required to make a “reasonable effort” to search for responsive records. This term reflects the fact that courts may judge the adequacy of our search through a test of “reasonableness” or by a judgment of “the appropriateness of the methods used to carry out the search.”¹ This will vary from case to case. The Department of Justice’s [Guide to the Freedom of Information Act](#) provides some general guidance on what is considered to be a “reasonable effort” when searching for records responsive to a FOIA request. Generally, a search is considered reasonable when it:

- Is based on a reasonable interpretation of the scope of the subject matter of the request;
- Focuses on the records specifically mentioned in the request; and

¹ Department of Justice, *Department of Justice Guide to the Freedom of Information Act Procedural Requirements*, page 40.

- Involves a search of all areas where it is determined responsive records were likely to be found.

Our search may be considered unreasonable if we base it on “unreasonable interpretations of the scope of the request” or purposefully exclude certain systems or files where records might have been located. A search may also be considered unreasonable if we do not make the requester aware of the cut-off date we use to determine what records are responsive to the request. Inability to locate every single responsive record does not in itself mean that a search is unreasonable.

You can review the Department of Justice Guide to the Freedom of Information Act Procedural Requirements, [“Searching for Responsive Records,”](#) for more information and discussions of case law.

Review Phase - “Week 3”

The FOIA Coordinator must conduct an initial review of the records provided. This initial review will determine the appropriateness of releasing responsive records and will consider the application of certain [FOIA exemptions](#) provided for by law (see subsection b of the FOIA). The FOIA Coordinator will also develop a release package.

Staff typically involved during this phase are FOIA Coordinators, FOIA Contacts, employees who have provided records, and HQ FOIA staff/Service FOIA Officer, when necessary.

More information on reviewing records can be found throughout the [Department FOIA Handbook](#), specifically, Chapter 6: Initial Considerations, Chapter 10: Considering Withholding Responsive Records, and Chapter 11: Additional Considerations when Responding to Requests.

Surname Phase - “Week 4”

At this stage, the Regional or Program FOIA Coordinator prepares the release package and sends it to the Service FOIA Officer for review, unless they have been delegated the authority to sign letters. The Service FOIA Officer (or a Regional/Program FOIA Coordinator with the appropriate authority) will then forward the request to the Solicitor’s Office, if required. Once the appropriate parties have approved and signed off on it, the package is released.

Staff typically involved during this phase are Regional or Program FOIA Coordinators and the Service FOIA Officer. [Subpart E](#) of the Department’s FOIA regulations describes more requirements associated with our responses.

Interim Releases

For requests that will not be complete within the 20-day period, including complex and exceptional/voluminous track requests, we may provide a series of rolling interim releases as they are available. We recommend creating a schedule of regular monthly releases for large requests.

More information about making interim releases can be found in section 11.6 of the [Department FOIA Handbook](#).

Chapter 2 - Guidance for All Service Employees

Even though you may not have any formal FOIA training, as a Government employee the records that you create during your time in the Service may be subject to release under FOIA. We ask that all

employees respond promptly, accurately, and courteously to any FOIA-related requests they receive and cooperate with FOIA Coordinators and Contacts throughout the process. The following sections summarize the role that Service employees play throughout the FOIA process.

Employee Requirements for Intake Phase

Because requestors usually submit requests electronically directly to an email box where HQ FOIA staff or Regional FOIA Coordinators will receive it, most employees will not be involved with the intake phase.

The one requirement for Service employees during the intake phase is to forward any FOIA request that they receive to the Regional FOIA Coordinator (if you work in a Region) or Program FOIA Coordinator (if you work in HQ) as soon as possible, as we are required to upload all requests to EFTS within 24 hours of receipt. Employees with supervisory or managerial roles within the office should ensure that their staff is aware of this requirement and understands what to do if they receive a FOIA request. If there is any question about whether a request for records constitutes a FOIA request and should be processed as such, please consult the Service FOIA Officer.

Employee Requirements for the Search Phase

Non-FOIA employees will be most heavily involved during the search phase of the FOIA process because they are typically the ones who have responsive records. If a FOIA Contact identifies you as having or potentially having responsive records, they will give you instructions about which records to search for, the timeframe applicable to the request, and other associated details such as what processing track the request is in. At that point, you must search your records (both electronic and paper) as well any shared electronic or paper filing systems where you may have stored responsive records. You must not attempt to exclude records from your search simply because you believe that another staff member or office will likely locate the record.

Our expectations for staff conducting FOIA searches are:

- Within 5 business days of being tasked with conducting a search, provide your FOIA Contact with a detailed estimate of the volume and type of records that you are likely to have. This will be used to determine if more time will be required to complete our response and whether the request should be assigned to a different processing track.
- For expedited, simple, and normal track requests, provide all responsive records within 10 business days (and within 5 days if at all possible).
- For complex or exceptional/voluminous requests, provide a significant portion of the records within 10 business days of being assigned the search and continue to provide significant portions of the records requested every month until all records are provided.
- As instructed, provide FOIA Coordinators or FOIA Contacts with any details about how the search they requested is going and what it involves. This may include search terms used, the names of systems searched, the date range of the search, and the amount of time spent conducting the search or making duplicates of records. Inaccurate or missing information may lead to difficulties later in the process, especially if we engage in appeal or litigation with a requester. We strongly suggest that you keep track of relevant information as you search.
- As instructed, provide responsive records as .pst or .pdf files.

Responsive Records

The concept of a “responsive” record refers to a Service record (paper or electronic) that has information relevant to a FOIA request, so it must be reviewed and potentially released to the requester. All records that are in our possession and control on the date that a search begins may potentially be responsive. Section 9.2 of the [Department FOIA Handbook](#) describes in detail how to determine whether a record is responsive. This includes determining:

- Is the information in the timeframe specified in the request?
- Is any of the information on the correct topic?
- Does the information conform to the requester’s description?

Questions about whether a record is responsive should be referred to your FOIA Contact.

Employee Requirements for the Review Phase

As FOIA Coordinators review records that you have provided, they may require your expertise in interpreting them. You must make yourself available to assist with this, to the extent possible. We cannot allow review to stop due to the unavailability of a particular employee or subject matter expert. Supervisors or managers of those employees must work with FOIA Coordinators and FOIA Contacts to identify other employees who can answer questions and help interpret applicable records.

When a FOIA Coordinator is preparing to assert FOIA exemptions 2, 5, 8, or 9 for a record or portion of a record you provided, you may be asked to help prepare a statement explaining the foreseeable harm that would be caused by releasing the information. More information on the Foreseeable Harm Standard can be found in the [“Foreseeable Harm Standard” section](#) in Chapter 4.

Chapter 3 - FOIA Contacts

FOIA Contacts are designated employees in field and program offices that are responsible for organizing and leading reasonable searches for responsive records, involving other employees as necessary and providing records to the FOIA Coordinator for review. If you are a FOIA Contact, typically you have taken on these responsibilities as an additional duty, and you will serve as an intermediary between the FOIA Coordinator responsible for processing the request and the employees who search for and interpret records. The following sections summarize the role that FOIA Contacts play throughout the process.

FOIA Contact Requirements for Search Phase

As a FOIA Contact, you will become involved in the process once your Region or program is assigned a request and you are tasked by a FOIA Coordinator to begin searching for responsive records. As the leader of the search effort within your area of responsibility, you must identify employees who may have responsive records and instruct them to search their own records (both electronic and hard-copy) as well as any shared electronic or paper filing systems that the office maintains where responsive records may be found. When instructing employees to conduct a search, you should provide them with all the necessary details associated with the request (e.g., records to be searched, applicable time frame to search). This includes instructing employees to provide all applicable records in the appropriate timeframe, in accordance with the processing track to which it is assigned. See the [“Employee Requirements for the Search Phase” section](#) above for more information.

As the search gets underway, it may become clear that the scope of the request needs to be adjusted or that, as mentioned previously, the request may have been assigned to an incorrect processing track by the Regional or Program FOIA Coordinator. For instance, it may become clear that while the Regional or Program FOIA Coordinator assumed that there would only be a small amount of responsive records, you become aware that there will be far more. You must notify the Regional or Program FOIA Coordinator when this becomes apparent. They will take the appropriate action as necessary in accordance with the Department regulations and FOIA.

FOIA Contacts must collect any information or details that the Regional or Program FOIA Coordinator requires, such as the amount of time that employees spent searching for records or creating duplicates of records. You must report this information to the Regional or Program FOIA Coordinator when the search is complete, so the information can be entered into EFTS.

Once the search is complete, you must provide the FOIA Coordinator with records found in the requested format. This may be the full amount of responsive records or a portion of all responsive records if the request is complex or exceptional/voluminous.

Searches for Complex or Exceptional/Voluminous Requests

FOIA Coordinators sort requests into the complex or exceptional/voluminous processing tracks when they determine that we will not be able to complete the response to these requests within the statutory 20-day limit. As a result, we do not expect that the search will be complete within 10 business days, as with other types of requests. However, employees still must provide a significant portion of records within 10 business days and each month until all records are provided.

Offices should work on these requests in the order that they received them, providing about 500 pages of records per request for as many requests as possible (if the office is currently conducting searches for multiple such requests). For instance, FOIA Contacts would gather and provide 500 pages of records applicable to their oldest complex request to their Regional or Program FOIA Coordinator and then work on gathering 500 pages of records for their second oldest complex request, and so on.

FOIA Contact Requirements for the Review Phase

During the review phase, you are responsible for assisting FOIA Coordinators with interpreting records provided by your office. This includes helping to identify subject matter experts and record custodians to assist the Coordinators, if necessary. You must respond promptly to these requests.

Chapter 4 - FOIA Coordinators

As a Regional or Program FOIA Coordinator, you are trained in how to process FOIA requests and create responses to those requests. FOIA Coordinators must make initial decisions on FOIA requests assigned to them, including making determinations on fee waivers and expedited processing requests, as well as reviewing responsive records to determine the applicability of a particular FOIA exemption and other related sensitivities. The following sections provide more information on the role of FOIA Coordinators in the FOIA process. Throughout the process, FOIA Coordinators should keep requesters informed of the status of their requests. We recommend that all such communication be conducted via email so that it is documented and because most requesters prefer this type of communication.

FOIA Coordinator Requirements for the Intake Phase

When they receive FOIA requests directly, the FOIA Coordinator must upload that request into EFTS within 24 hours of receipt and assign it to the appropriate FOIA Contact(s) within their Region or program to conduct a search.

Coordinators must handle FOIA requests that appear to be misdirected in accordance with [Section 2.4](#) of the Department's FOIA regulations. In some cases, it may not be clear what office to assign a request, especially if the effort will require coordination from multiple Service components. Generally, we use the following guidance to determine who should be assigned these requests:

- **Requests for nationwide records within one program (e.g., Ecological Services)** - Send to the appropriate Program FOIA Coordinator.
- **Requests for records within one Regional or program office plus the Director's Office** - The request should be assigned to the appropriate Regional/Program FOIA Coordinator. However, HQ FOIA staff will coordinate the search of the Director's Office and review of responsive records.
- **Request requires search of completely separate program offices (e.g., Ecological Services, Region 2 Law Enforcement, and Region 6 Refuges)** - Request should be forwarded to HQ FOIA staff who will enter the request into EFTS and coordinate the response as appropriate.

Only assign a single tracking number per request, regardless of how many offices may be responsive. If you have questions about how to assign a request or you believe you were assigned a request in error, contact HQ FOIA staff within 24 hours.

Once assigned a request, you must determine whether it is appropriate for processing or whether the requester must refine it further. Once you determine that the request is "perfected" (Sections 5.3-5.6 of the *Department FOIA Handbook* describes perfected requests in detail), assign it to the appropriate processing track (see the section below for general guidance on processing tracks).

Assigning a Processing Track

The Department uses multi-track processing for FOIA requests based on the estimated number of workdays required to complete the request. Requests are processed on a first-in, first-out basis within each track. The processing tracks are as follows:

- **Simple** - request will take between 1 to 5 workdays to process
- **Normal** - request will take between 6 to 20 workdays to process
- **Complex** - request will take between 21 to 60 workdays to process
- **Exceptional/Voluminous** - request will take over 60 workdays to process due to very complex processing challenges such as a large number of potentially responsive records

There is also a track for expedited requests. We grant expedited processing if there is a compelling need. [Section 2.20](#) of the Department FOIA regulations provides more information on expedited processing.

More information about the processing tracks can be found in [Section 2.15](#) of the Department FOIA regulations and in Sections 8.5 and 8.6 of the [Department FOIA Handbook](#).

It is important to assign requests to the appropriate processing track as this helps to determine the timeline for our response. All expedited, simple, and normal track requests must be completed within 20 days, as required by FOIA. The complex and exceptional/voluminous tracks are for requests we cannot complete within this 20-day period, and will often involve interim releases of records over time. If the initial processing track assignment was incorrect, the Coordinator may reassign the request to a different processing track a single time and must notify the requester of the reassignment in writing.

Send Acknowledgment Letter

Once you have analyzed the request and assigned it to a processing track, we must send the requester a formal acknowledgment letter on Service letterhead. This letter must include:

- An individualized tracking number from EFTS,
- A processing track designation, and
- A discussion of fee issues or fee waiver (if applicable).

Ideally, you will complete the letter in the week after receiving the request. If the request will be complete within 10 days of receipt, you can combine the acknowledgement letter with the final response letter. As with other formal FOIA letters, the acknowledgment letter must be sent on official Service letterhead and using the Department's [sample language](#). Once you complete a draft letter, you must send it to the Service FOIA Officer for review and signature unless you have been delegated signature authority per section 1.4E of 203 FW 1.

More information about the FOIA acknowledgment letter and our initial response to a request can be found in [Section 2.21](#) of the Department FOIA regulations and in the Department's [Sample Language for Freedom of Information Act Responses](#).

Task Search to Responsive Officials

At this point, you should reach out to the appropriate FOIA Contact for Region or program office(s) that may have responsive records related to a request and task them with conducting a search for those records. The FOIA Contact is then responsible for completing a search, with the assistance of other staff members within that office, as required.

FOIA Coordinator Requirements for the Search Phase

At this point, FOIA Coordinators generally wait for the FOIA Contact or Contacts to provide them with records, either at the conclusion of the search (for simple, normal, and expedited requests) or on a monthly basis (for ongoing complex and exceptional/voluminous requests). However, FOIA Contacts may notify you that the amount of responsive records is greater than what you originally estimated. In these cases, you may need to assign the request to a different processing track as discussed in the "Assigning a Processing Track" section or contact the requester to see if they want to narrow their search.

You will also need to collect and report certain information about the search in EFTS, such as the amount of time spent searching or making duplicates of records, so that the information can be used in the FOIA reporting and budgeting process. See chapter 7 of the [Department FOIA Handbook](#) for more information.

FOIA Coordinator Requirements for the Review Phase

After all offices identified as having responsive records have completed their searches and provided those records to you, you must conduct an initial review of those records when the request reaches the front of the applicable processing queue. During this initial review, you determine the appropriateness of releasing responsive records and consider the application of certain [FOIA exemptions](#) provided for by law (see subsection b).

To facilitate this, you will work with FOIA Contacts, as well as employees with subject matter expertise, to review records to determine if an exemption applies and if foreseeable harm would arise from releasing the record. You must track the time that you spend reviewing the records so that it can be entered in EFTS. **You cannot allow review to stop due to the limited availability or unavailability of a particular subject matter expert to interpret a particular record. You must work with the appropriate FOIA Contact to identify a replacement.**

Ultimately, you must make the following determinations about the records provided to you:

- Are they Service records (records that the Service creates and maintains that are under our possession and control at the time a request is received)?
- Are they truly responsive to the request?
- Are portions protected under a FOIA exemption (as described in 5 U.S.C. 552(b)) and would foreseeable harm result from the records release? If so, is a discretionary release appropriate (See section 11.2 of the *Department FOIA Handbook*)?
- Is a consultation or referral required? (See the “Consultations and Referrals” section below for more information.)

More information on reviewing records can be found throughout the [Department FOIA Handbook](#), specifically, Chapter 6: Initial Considerations, Chapter 10: Considering Withholding Responsive Records, and Chapter 11: Additional Considerations when Responding to Requests.

1. After the review is complete, you must begin preparing the records for release by redacting, deduplicating (i.e., eliminating duplicate electronic files), and/or assembling them as required. You must also prepare a final response letter using the Department’s [approved language](#).

Consultations and Referrals

During the search, you or a FOIA Contact may discover responsive records that another bureau or agency is substantially concerned with or that they created. In these cases, we must make either a “consultation” or a “referral.”

If you believe that a referral or consultation is appropriate, you must:

- Use the [language required](#) by the Department to draft a letter, and
- Send the letter and the relevant documents to the Service FOIA Officer for review to ensure that the letter is addressed correctly and that the documents you plan to send are appropriate. Once approved, the Service FOIA Officer will sign the letter and send it to the appropriate bureau or agency. If you have been delegated signature authority, you do not need to send the package to

the Service FOIA Officer before you send it to the other bureau/agency, but you must “cc” the Service FOIA Officer when the package is sent so he/she is aware of it.

Only use consultations and referrals for entities outside of the Service. It is never appropriate to send a consultation or referral letter between different offices or Regions within the Service.

Section 2.13 of the Department’s FOIA regulations outlines the requirements we must meet for consultations and referrals. You can find additional information in section 9.4 of the [Department FOIA Handbook](#).

Foreseeable Harm Standard

Under the FOIA Improvement Act of 2016, when withholding records under a FOIA exemption, we are also required to determine that we reasonably foresee that the disclosure of the record (or portion of it) would harm an interest protected by that exemption. This is known as the “foreseeable harm standard.”

When you decide to withhold a record (or a portion of a record) under FOIA exemption 2, 5, 8, or 9, you must also prepare a statement explaining the foreseeable harm that would result from releasing this information, in consultation with subject matter experts on the relevant records. The Solicitor’s Office will review this statement, as well as the planned redactions. Follow the guidance in the Department’s [Foreseeable Harm Standard memorandum](#) when creating the statement.

Additional Review

If requests are controversial, likely to be of high media interest, or if there are political appointees named in the records, you must send the release package to the Service FOIA Officer to review, regardless of whether you have been delegated signature authority, so that the appropriate officials can be notified as soon as practical once review is complete.

In accordance with the Department’s [“Awareness Process for Freedom of Information Act Productions”](#) memorandum, you must search responsive emails and attachments to determine whether any current political appointees are named in a record. If they are, you must provide the release package to the Service FOIA Officer via email as soon as practical. This email must include the following as attachments:

- A copy of the incoming request,
- A draft copy of the outgoing letter (with tracked changes resolved), and
- The records to be released.

You must send the portions of the package as email attachments and not as links to the Google Drive. If the records are too numerous to be sent as email attachments, combine a representative sample into a single PDF and attach it. You can then send all applicable records via the Google Drive.

At no point should a FOIA Coordinator or Contact reach out directly to the office of a named political appointee or to the appointee him/herself as part of this review. The Service FOIA Officer must review and make any such contacts.

FOIA Coordinator Requirements for the Surname Phase

In accordance with [section 2.23](#) of the Department’s FOIA regulations, we must also consult with the Solicitor’s Office when withholding any portion or an entire record under a FOIA exemption. Prior to

that, you must consult with the Service FOIA Officer. To do so, send him/her the draft response letter and copies of applicable records with unapplied, planned redactions marked so the underlying information is visible to review. The Service FOIA Officer or HQ FOIA staff will review and surname the letter. The Service FOIA Officer will then forward the information to the appropriate HQ or Regional Solicitor's Office and provide you with their response. Once you make any necessary adjustments, the Service FOIA Officer will sign and release the package. See Chapter 6 of the [Department FOIA Handbook](#) for more information.

If you have been delegated authority by the Service FOIA Officer to sign response letters and make releases, you do not need to consult with the Service FOIA Officer before consulting with the Solicitor's Office. In these cases, you can send the draft response and record copies directly to the Solicitor's Office for surnaming rather than routing it through the Service FOIA Officer. You may then sign and release the package.

Chapter 5 - Service FOIA Officer

The Service FOIA Officer is responsible for all Service FOIA requests nationwide and serves as the decision-making authority for all FOIA releases issued by the Service, unless he/she delegates this release responsibility to a particular FOIA Coordinator in writing. This includes reviewing and signing all outgoing letters, including full releases. The following sections summarize the Service FOIA Officer's direct role in the process.

Service FOIA Officer Requirements for the Intake Phase

During the intake phase, the Service FOIA Officer will work with the Regional/Program FOIA Coordinators and the Office of External Affairs to identify requests that are potentially controversial or of high media interest as they are received. He/she must create a list that outlines all current FOIA requests that fall into those categories and distribute updates to the Regional/Program Coordinators.

The Service FOIA Officer also may need to review and sign acknowledgment letters for Regions and programs without a FOIA Coordinator who has been delegated this authority.

Service FOIA Officer Requirements for the Review Phase

The Service FOIA Officer is responsible for reviewing packages that are controversial, are of high media interest, or that involve named political appointees. After receiving the package from the FOIA Coordinator, the Service FOIA Officer must review the records and then send the release package for any necessary additional review (e.g., the Service's External Affairs office, the Director, the Executive Secretariat).

FOIA Coordinators that have not been delegated signature authority per 1.4E of [203 FW 1](#) are expected to consult with the Service FOIA Officer before withholding a portion of a record under a FOIA exemption, using a FOIA exclusion, or making a discretionary release. In these cases, the Service FOIA Officer may need to review draft response letters and planned redactions before forwarding materials to the Solicitor's Office for their review.

Service FOIA Officer Requirements for the Surname Phase

At this stage, the Regional or Program FOIA Coordinator has prepared the release package (including final response letter) and sent it to the Service FOIA Officer. He/she must review the package and then either provide it back to the FOIA Coordinator to revise, or, if he/she approves of it, surname. The FOIA Officer then signs the final response letter and forwards it to the Solicitor's Office (if necessary), who will review the package and surname the response letter or ask for revisions. Following Departmental surnaming, the Service FOIA Officer can sign and release the package to the requester.

The Service FOIA Officer may delegate, in writing, his/her responsibilities in the surname phase to a FOIA Coordinator with the appropriate training. In this case, the FOIA Coordinator can sign the letter and release the package after he/she receives the appropriate concurrences from the Solicitor's Office.

Chapter 6 - Additional FOIA Policies

Appeals and Litigation

Following an adverse determination on any part of a requester's FOIA request, he/she may file an administrative appeal by contacting the Department's FOIA Appeals Officer. The Department's Appeals Officer will send the appeal to the affected FOIA Coordinator and may require us to perform additional actions. **Regional/Program Coordinators must inform the Service FOIA Officer of any appeal, as well as additional actions required, within 24 hours of receipt. If a Region or program receives FOIA-related litigation, they must also inform the Service FOIA Officer within this same timeframe.** We expect Regional and Program FOIA Coordinators to keep the Service FOIA Officer informed about the status of all ongoing litigation through whatever means is convenient (emails or phone calls will suffice).

[Subpart H](#) of the Department's FOIA regulations describes the requirements associated with the administrative appeals process in more detail. In addition, we must follow the policies described in Chapter 12 of the [Department FOIA Handbook](#).

Training

The Department prescribes certain FOIA training requirements for employees with FOIA responsibilities (i.e., Regional and Program FOIA Coordinators and FOIA Contacts). The Service's training requirements are:

- Employees who have FOIA responsibilities as at least **25% or more** of their job (generally FOIA Coordinators) should complete at least **8 hours** of FOIA-related training per year by taking training courses offered by the Department of Justice and other entities.
- Employees who have FOIA responsibilities as **less than 25%** of their job (generally FOIA Contacts) for their office should take at least **2 hours** of FOIA-related training per year.

Regional FOIA Coordinators may hold training courses for FOIA Contacts and employees within their Regions, but they must first contact the Service FOIA Officer so he or she can ensure that the training meets Departmental requirements. The Service FOIA Officer will provide in-person and remote training sessions as often as possible, subject to available resources and other limitations.

Contact the Service FOIA Officer for more information about what training courses are offered.

Service FOIA Public Liaison

The Department requires that we name an employee as the Service FOIA Public Liaison. The Service FOIA Public Liaison is responsible for assisting requesters (i.e., members of the public) with:

- Locating records and framing their requests;
- Listening to, and if necessary addressing, concerns that they have about the service they have received; and
- Reducing delays, increasing transparency and understanding about the status of their request, and resolving disputes.

Service employees will not generally interact with the Service FOIA Public Liaison unless a dispute or other inquiry from a requester makes it necessary. In these cases, employees must provide the Service FOIA Public Liaison with required information in a timely manner and work with him/her to resolve the issue. Employees might choose to elevate inquiries to the Service FOIA Public Liaison themselves if an issue arises that cannot be resolved locally.

You can find current contact information for the Service FOIA Public Liaison on the Department's [FOIA website](#). More information on the role of the Service FOIA Public Liaison can be found in the Department's FOIA regulations.

Monthly FOIA Coordinator and Contact Calls

The Service FOIA Officer will hold a monthly call to disseminate new information to FOIA Coordinators and Contacts. This call is held on the third Thursday of each month. FOIA Coordinators and FOIA Contacts should plan to attend.