

Freedom of Information Act (FOIA)

Procedures - Guide



For IHS Headquarters Office

Indian Health Service Freedom of Information Act

INTRODUCTION:

The Freedom of Information Act (FOIA) is a federal access law which allows individuals to inspect public records held by government agencies. Passed originally by Congress in 1966, and amended, the FOIA has become a major vehicle of **"the public's right to know"**.

When a FOIA is received:

1. Any **FOIA request** that is received by IHS Office (could be addressed to Director, Associate Director, Program Offices at HQ, Area Offices or individuals) should be **forwarded immediately** to the FOIA staff.

- 2 The FOIA staff will begin search for records and documents that have been requested immediately upon receipt of the request. We have 20 days to respond. The FOIA staff will send a **request for material/records (RFM)** to the appropriate Headquarters office or the Area office.

- 3 **Materials:if RFM is sent from FOIA staff, send records to FOIA Officer as soon as possible.** If the program office doesn't have any record or a portion of the requested material, then explain in the letter to the FOIA Officer so it can be related to the requester, (Caution: If IHS doesn't have the records no attempt is to be made in trying to produce or search other agencies for the records; nor should we take information we have and create the record.)

4. The D.C. Circuit Court in *Oglesby v. Department of the Army* recently recommended that agencies give **FOIA appeal rights** in those cases where responsive **records are not found**. This is based on the rationale that a FOIA requester, dissatisfied with an agency's response that no records have been found, may wish to challenge the adequacy of the agency's search. Therefore if you find no records, please be prepared upon request of an appeal to fully describe your search efforts.

5. FOIA appeal. The requester can also appeal for information not released to the requester.

- 6 Time & Search: All time spent by the staff should be recorded on the sheet of paper. These sheets track the **duplication costs, staff time spent researching and reviewing by grade, mailing costs, and total time spent**. Send the sheet to FOIA office and keep one copy for your file.

7. The HQ FOIA office keeps a file of FOIA cases and correspondence for a period of two years, six years if a denial is made or an appeal is received.

8. The FOIA Staff mailing address is 801 Thompson Avenue, TMP Suite 450, Rockville, MD, 20852. Telephone number 301-443-1116. Fax number 301-443-9879.

If your program office receives a FOIA request

1. Review the request and determine whether it is FOIA, Privacy Act request, or a request for information that is generally available through the agency. If you are not sure, please contact the FOIA or Privacy Office on 301-443-1116.
2. If you determine the request falls under the FOIA, then forward to FOIA staff at the HQ Office or to the Area FOIA Coordinators. All FOIA requests are eventually given to HQ FOIA staff and logged in at the HQ FOIA Office.

3. After you determine the request is FOIA and that your program offices have the information being requested. Then prepare a memo to the FOIA Office which includes the following:
 - a. A copy of the FOIA request.
 - b. A copy of the document being requested (2 sets)
 - c. A copy of the Time/Search sheet
 - d. Your assessment of whether the documents should or should not be released, including the objections, if any, that are raised by your program offices in releasing or denying information .

4. Deliver the information immediately to: FOIA Office 801 Thompson Ave., TMP Suite 450, Rockville, Maryland 20852. If you have any questions, please telephone: 301-443-1116.

What to do if you are contacted by a FOIA requestor:

1. You can inform the FOIA requester that their request has been sent to the IHS FOIA Office located at Headquarters, Rockville, Maryland. Refer them to us for FOIA status.
2. Please provide the FOIA requester with the phone number 301-443-1116. We will answer any questions they may have.

The Freedom of Information Act Exemptions

- Exemption 1: Protects national security concerning national defense or foreign relations
- Exemption 2: Covers records related solely to internal personnel rules and practices of an agency.
- Exemption 3: Authorizes the withholding of information prohibited from disclosure by another Federal law which leaves no discretion on whether to disclose.

Exemption 4: Exempts trade secrets and information which are (a) commercial or financial, (b) obtained from a person and (c) is confidential or privileged.

Exemption 5: Encompasses inter-agency memos or documents which would not be available by law to a party in litigation with the agency. Thus, it exempts those documents normally privileged in the civil discovery context.

Exemption 6: Provides protection for personal privacy interest. It permits withholding of documents if disclosure would be a clearly unwarranted invasion of personal privacy.

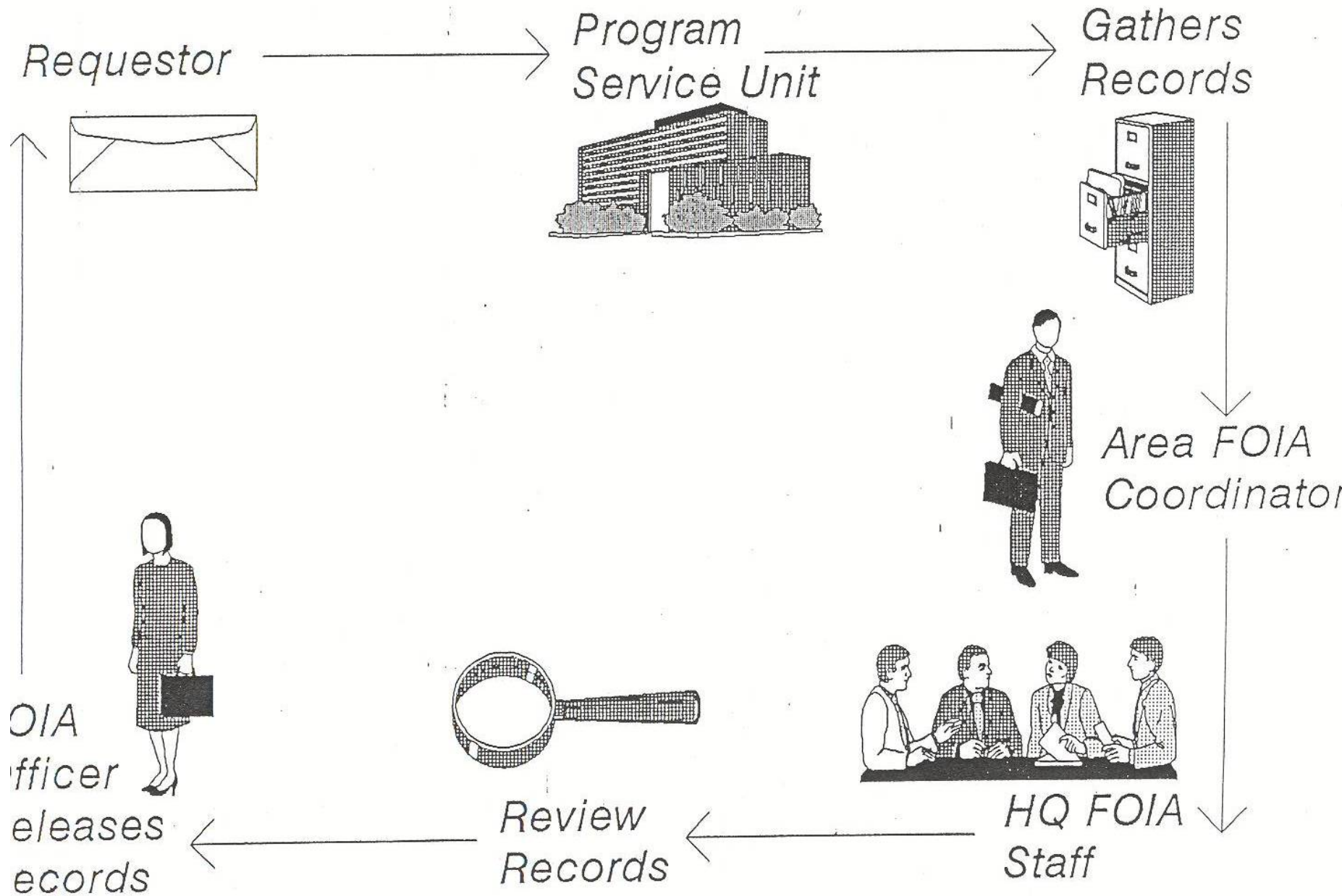
Exemption 7: Protects from mandatory disclosure records compiled for **law** enforcement proceedings.

Exemption 8: Covers matters contained or related to reports prepared by or for use of an agency responsible for regulation of financial institutions.

Exemption 9: Pertains to geological and geophysical information and data concerning wells and including maps.

Reference: HHS Freedom of Information Act Regulations 45 CFR Part 5,
Federal Register, Vol. 53, No 227, Friday, November 25, 1998.
1986-5 U.S.C 552

FOIA Flow Chart





- William Tibbitts— Acting FOIA Officer
(only person at IHS that can release FOIA)
- Janet Ingersoll – FOIA Public Liaison
- Janet Ingersoll – FOIA Coordinator
- Nina Argent – FOIA Specialist

Thank You For Coming!

Enjoy the rest of Your Day