**Required Language for Freedom of Information Act Responses**

(December 20, 2019)

Some of the required language below is in the form of complete responses and some is in the form of discrete provisions for you to combine, as appropriate, to make the response you need.[[1]](#footnote-2) In either case, you must always carefully consider what language is appropriate to your particular situation. While you may add additional language as needed, if language exists below to cover the situation you are addressing, you must use that language.

*We intend for this compilation to evolve as new questions and issues arise. Therefore, please note the date on your copy of this document and, before using it, check* <https://www.doi.gov/foia/news/guidance> *to make sure your version is still the most current.*

***Please note that filling in material within [Brackets] is not optional.*** This required language is insufficient if the brackets are not filled in. However, filling in material within {Curly Braces} may be optional, under certain circumstances.

For examples of how these provisions are combined to create customized responses, please see the first item in this document.

This required language has greatly benefited from excellent examples and suggestions provided by employees throughout the Department, as well as the Department of Justice, the Department of the Treasury, and the U.S. Forest Service. Their contributions are gratefully acknowledged.

Please direct any questions about the required language to the Departmental FOIA Office at: cindy.cafaro@sol.doi.gov or 202-208-5342.

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# **How to Use Required Language to Build Responses**

While the language that must be used remains the same (and is below), the letters you send will vary based on the information the requester provided in his/her request. An **initial response** typically includes: an introduction; acknowledgement; any clarifying questions (if needed); a discussion of fees (if possible); processing track designation (if possible); contact information for questions; a complimentary close (for example, “Sincerely”); a written signature; and a typed name, bureau, and title. Click on each of the links below to view the required language.

*Required Initial Response Outline*

[Introduction](#_Introduction)

# [Acknowledgment—Other Use Requester—*43 C.F.R. §§ 2.38,* *.39*](#_Acknowledgment—Other_Use_Requester—)

[Multitrack Processing—*43 C.F.R. § 2.14, .15*](#_Multitrack_Processing—43_C.F.R.)

[Extension—Ten Workdays—](#_Ten-Workday_Extension—43_C.F.R.)*[43 C.F.R. § 2.19](#_Ten-Workday_Extension—43_C.F.R.)*

[Agreement to Pay Fees—](#_Agreement_to_Pay)*[43 C.F.R. § 2.6](#_Agreement_to_Pay)*

A **final response** typically includes: an introduction; a discussion of whether the response is a full or partial response; a description of what is being provided; if needed, a discussion of what is not being provided (and why); a discussion of fees (as appropriate); a discussion of appeal rights (as appropriate); a statement about the services offered by the Office of Government Information Services; contact information for questions; a complimentary close (for example, “Sincerely”); a written signature; and a typed name, bureau, and title. Click on each of the links below to view the required language.

*Required Final Response Outline*

[Introduction](#_Introduction)

[Partial Release—](#_Partial__Release—43)*[43 C.F.R. §§ 2.22, .23, .24](#_Partial__Release—43)*

[Exemption 5—](#_Exemption_5,_Deliberative)*[43 C.F.R. §§ 2.23, .24](#_Exemption_5,_Deliberative)*

[Fees—Commercial Use Requester—](#_Fees_—Commercial_Use)*[43 C.F.R. §§ 2.38, .39,](#_Fees_—Commercial_Use)**[Appendix A](#_Fees_—Commercial_Use)*

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[Conclusion for Final Response](#_Conclusion_for_Final)

# **Introduction**

{NOTE: This Introduction will not be needed if you are replying directly through the Tracking System.}

IN REPLY REFER TO:

[Tracking System number]

 [Date] {NOTE: The fact that there will

 be a date in your electronic signature or

 email does not substitute for putting the

 date here.}

[Address]

Dear [Name]:

The [Bureau] FOIA office received your Freedom of Information Act (FOIA) request, dated [Date], on [Date] and assigned it control number [Tracking System number]. Please cite this number in any future communications with our office regarding your request.

{Note what they have requested. Quoting the language of the request directly is preferable in initial responses. For later responses, use your discretion as to whether this would be helpful.}

# **Requests Mistakenly Made via Email--*43 C.F.R. § 2.3(b)***

It appears you are seeking to make a FOIA request, but you sent your request via email rather than using one of the written forms of submission listed on the Department’s FOIA website, <https://www.doi.gov/foia>, or utilizing physical or facsimile addresses of an appropriate FOIA contact, located at <https://www.doi.gov/foia/contacts>. Per our regulations, your request cannot be processed until you resubmit it utilizing one of the written forms of submission noted above. *See* [*43 C.F.R. § 2.3(b)*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.2.5.3)

# **Not Forwarding to Another Bureau—**[***43 C.F.R. § 2.4(a)***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.2.5.2)

You have asked for {some} records of another bureau/office. You may submit your request directly to that bureau/office. For your information, a list of bureau FOIA contacts is located at: <https://www.doi.gov/foia/contactinfo>. You may also seek assistance from the designated FOIA contact or FOIA Requester Center at [NOTE: Add website address link here].

{NOTE: If the entire request has been returned and the request was not a misdirected request, include [No Records](#_No_Records—43_C.F.R.) required language.}

# **Scope of Request Unclear—**[***43 C.F.R. § 2.5***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.2.5.3)

The FOIA requires that requests describe the records sought with sufficient detail to allow an agency employee familiar with the subject area of the request to locate the records with a reasonable amount of effort. Your request does not adequately describe the records sought; therefore, we are unable to process your request at this time. If you wish to pursue your request, please describe the records you seek sufficiently to enable a professional employee familiar with the subject to locate the existing records with a reasonable effort. [NOTE: Describe the additional information the requester needs to provide in order to reasonably describe the records being sought, for example: (1) the date, title or name, author, recipient, and subject of any particular records sought; (2) the office that created the records sought; and/or (3) the timeframe for which the requester is seeking records.]

According to our regulations, if we do not receive your written response clarifying what records you are looking for **within 20 workdays** from the date of this communication we will presume that you are no longer interested in pursuing your request. In such a circumstance, we will not be able to comply with your request and will close our file on it. *See* [*43 C.F.R. § 2.5(d)*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.2.5.3). You may seek assistance from the designated FOIA contact or FOIA Requester Center at [NOTE: Add website address link here].

[[Appeal Rights]](#_Appeal_Rights—43_C.F.R.)

# **Material Already Publicly Available**

These materials are already publicly available at: [NOTE: Insert website address and location, for example, “on [www.doi.gov/1234](http://www.doi.gov/1234) on folder Y, subfolder 5, from pages 19 to 205”] {If any information was withheld from these materials, include the following: “These materials are being withheld in part under the following FOIA [PICK ONE: “Exemption” or “Exemptions”]. [NOTE: Insert a discussion of the applicable Exemption(s), using all the applicable required language below for the applicable Exemption(s), including the name of the Office of the Solicitor attorney consulted and [Appeal Rights].]}

# **Agreement to Pay Fees Absent, Insufficient, or Unclear—**[***43 C.F.R. § 2.6***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.2.5.4)***,*** [***.51***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_151)

Our regulations require that your request must explicitly state that you will pay all fees associated with processing the request, that you will pay fees up to a specified amount, and/or that you are seeking a fee waiver. [PICK AT LEAST ONE: “Your request does not fulfill this requirement because [NOTE: Add specific reasons and, if the fees exceed $50 after deducting any fee category entitlements, include the estimated fee],” or “We anticipate that the fees for processing the request will exceed the amount you have agreed to pay,” and, if the fees exceed $50 after deducting any fee category entitlements, include the estimated fee] Therefore, we are unable to process your request at this time. If you wish to pursue your request, please provide [NOTE: Describe the additional information and/or commitment required].

According to our regulations, if we do not receive your written response clarifying these points **within 20 workdays** from the date of this communication, we will presume that you are no longer interested in pursuing your request. In such circumstances, we will not be able to comply with your request and will close our file on it. [*See 43 C.F.R. § 2.6(c)*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_16)*and* [*§ 2.51(c)*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_151).

# **Proper Fee Category Absent, Insufficient, or Unclear—**[***43 C.F.R. § 2.***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.2.5.4)***7, .38, and*** [***.51***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_151)

Our regulations require that your FOIA request contain sufficient information for us to determine your proper fee category. [*See 43 C.F.R. § 2.38(a)*](https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_138). Your request does not fulfill this requirement because [NOTE: List specific reason(s)]. We therefore are unable to process your request at this time. If you wish to pursue your request, please provide [NOTE: Describe the additional information required to explain the fee category].

According to our regulations, if we do not receive your written response clarifying these points **within 20 workdays** from the date of this communication, we will presume that you are no longer interested in pursuing your request. In such circumstance, we will not be able to comply with your request and will close our file on it. [*See 43 C.F.R. § 2.7*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_16) and [*§ 2.51(c)*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_151)”.]

# **Agreement to Pay Fees—**[***43 C.F.R. § 2.6***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.2.5.4)

You have agreed to pay up to $[Amount] for the processing of your request. If we find that this will not cover the cost of processing your request, we will stop processing your request at the point this amount has been reached and will let you know before we incur additional charges. You can then either agree to pay the additional amount needed or narrow the scope of your request.

# **Acknowledgment—Commercial Use Requester—**[***43 C.F.R. §§ 2.38***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.2)***,*** [***.39***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.3)

We have classified you as a “commercial use” requester. As such, we may charge you for all search, review, and duplication costs for processing this request. *See* [*43 C.F.R. § 2.39*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.3). However, if our processing costs are less than $50.00, we will not bill you because the cost of collection would be greater than the fee collected. *See* [*43 C.F.R. § 2.37(g)*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.13)*.*

{NOTE: If the requester requested placement in a particular fee category that is different than the one you have classified them as belonging in, you must provide the requester with an explanation of why he/she was not placed in the fee category he/she requested. (For example, if the requester was placed in the commercial use requester category rather than the category he/she requested, you must describe here how the records would further the requester’s commercial, trade, or profit interests). You must also provide [Appeal Rights].}

# **Acknowledgment—Educational or Noncommercial Scientific Institution—**[***43 C.F.R. §§ 2.38***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.2)***,*** [***.39***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.3)

We have classified you as an educational or noncommercial scientific institution. As such, we may charge you for some of our duplication costs, but we will not charge you for our search or review costs; you also are entitled to up to 100 pages of photocopies (or an equivalent volume) for free. *See* [*43 C.F.R. § 2.39*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.3). If, after taking into consideration your fee category entitlements, our processing costs are less than $50.00, we will not bill you because the cost of collection would be greater than the fee collected. *See* [*43 C.F.R. § 2.37(g)*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.13)*.*

{NOTE: If the requester requested placement in a particular fee category that is different than the one you have classified them as belonging in, you must provide the requester with an explanation of why he/she was not placed in the fee category he/she requested. You must also provide [Appeal Rights].}

# **Acknowledgment—Representative of the News Media—**[***43 C.F.R. §§ 2.38***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.2)***,*** [***.39***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.3)

We have classified you as a representative of the news media. As such, we may charge you for some of our duplication costs, but we will not charge you for our search or review costs; you also are entitled to up to 100 pages of photocopies (or an equivalent volume) for free. *See* [*43 C.F.R. § 2.39*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.3). If, after taking into consideration your fee category entitlements, our processing costs are less than $50.00, we will not bill you because the cost of collection would be greater than the fee collected. *See* [*43 C.F.R. § 2.37(g)*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.13)

{NOTE: If the requester requested placement in a particular fee category that is different than the one you have classified them as belonging in, you must provide the requester with an explanation of why he/she was not placed in the fee category he/she requested. You must also provide [Appeal Rights].}

# **Acknowledgment—Other Use Requester—**[***43 C.F.R. §§ 2.38***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.2)***,*** [***.39***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.3)

We have classified you as an “other-use” requester. As such, we may charge you for some of our search and duplication costs, but we will not charge you for our review costs; you are also entitled to up to 2 hours of search time and 100 pages of photocopies (or an equivalent volume) for free. *See* [*43 C.F.R. § 2.39*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.3). If, after taking into consideration your fee category entitlements, our processing costs are less than $50.00, we will not bill you because the cost of collection would be greater than the fee collected. *See* [*43 C.F.R. § 2.37(g)*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.13)

{NOTE: If the requester requested placement in a particular fee category that is different than the one you have classified them as belonging in, you must provide the requester with an explanation of why he/she was not placed in the fee category he/she requested. You must also provide [Appeal Rights].}

# **Fees—Commercial Use Requester—**[***43 C.F.R. §§ 2.38***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.2)***,*** [***.39***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.3)***,*** [***Appendix A***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.12.9.12.1)

The FOIA fee for processing your request is $[Amount], calculated as follows:

|  |  |  |
| --- | --- | --- |
| [Number of hours] | [Clerical/Professional/Managerial] | Search Time at $[Corresponding amount] per ¼ hour |
| [Number of hours] | [Clerical/Professional/Managerial] | Review Time at $[Corresponding amount] per ¼ hour |
| [Number of pages] | Duplicated/Scanned Pages  | at $.15 per page |
| [Number of CDs/USB drive/Other storage device] | [Compact Disc/USB drive/Other storage device]  | at $[Direct cost] per [disc/USB drive/Other storage device] |

# **Fees—Educational or Noncommercial Scientific Institution—**[***43 C.F.R. §§ 2.38***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.2)***,*** [***.39***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.3)***,*** [***Appendix A***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.12.9.12.1)

The FOIA fee for processing your request is $[Amount], calculated as follows:

[Number of pages] Duplicated/Scanned Pages at $.15 per page

|  |  |  |
| --- | --- | --- |
| [Number of CDs/USB drive/Other storage device] | [Compact Disc/USB drive/Other storage device]  | at $[Direct cost] per [disc/USB drive/Other storage device] |

Please note that you have not been charged for the first 100 duplicated/scanned pages, or their equivalent volume.

# **Fees—Representative of the News Media—**[***43 C.F.R. §§ 2.38***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.2)***,*** [***.39***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.3)***,*** [***Appendix A***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.12.9.12.1)

The FOIA fee for processing your request is $[Amount], calculated as follows:

[Number of pages] Duplicated/Scanned Pages at $.15 per page

|  |  |  |
| --- | --- | --- |
| [Number of CDs/USB drive/Other storage device] | [Compact Disc/USB drive/Other storage device]  | at $[Direct cost] per [disc/USB drive/Other storage device] |

Please note that you have not been charged for the first 100 duplicated/scanned pages (or their equivalent volume).

# **Fees—Other Use Requester—**[***43 C.F.R. §§ 2.38***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.2)***,*** [***.39***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.3)***,*** [***Appendix A***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.12.9.12.1)

The FOIA fee for processing your request is $[Amount], calculated as follows:

|  |  |  |
| --- | --- | --- |
| [Number of hours] | [Clerical/Professional/Managerial] | Search Time at $[Corresponding amount] per ¼ hour |
| [Number of pages] | Duplicated/Scanned Pages  | at $.15 per page |
| [Number of CDs/USB drive/Other storage device] | [Compact Disc/USB drive/Other storage device]  | at $[Direct cost] per [disc/USB drive/Other storage device] |

Please note that you have not been charged for the first two hours of search time or for 100 duplicated/scanned pages (or their equivalent volume).

# **Fees—Request for Clarification on Fee Waiver Request**—[***43 C.F.R. §§ 2.45***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.9)***,*** [***.48***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.12)

IN REPLY REFER TO:

[Tracking System number]

 [Date] {NOTE: The fact that there will

 be a date in your electronic signature or

 email does not substitute for putting the

 date here.}

[Address]

Dear [Name]:

The [Bureau] FOIA office received your Freedom of Information Act (FOIA) request, dated [Date], on [Date] and assigned it control number [Tracking System number]. Please cite this number in any future communications with our office regarding your request.

{For initial responses, note what they have requested here. Quoting the language of the request directly is preferable. For later responses, use your discretion as to whether this would be helpful.}

{If the fee category is unclear, include this language: “Our regulations require that your FOIA request contain sufficient information for us to determine your proper fee category. *See* [*43 C.F.R. § 2.38(a)*](https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_138). Your request does not fulfill this requirement because [NOTE: List specific reason(s)]. We therefore are unable to process your request at this time. If you wish to pursue your request, please provide [NOTE: Describe the additional information required to explain the fee category].”}

You have asked us to waive the fees for processing your request. Our FOIA regulations require that bureaus will waive, or partially waive, fees if disclosure of all or part of the information is:

 (1) In the public interest because it is likely to contribute significantly to public understanding of government operations or activities, and

 (2) Not primarily in your commercial interest.

*See* [*43 C.F.R. § 2.45(a)*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.9). Our FOIA regulations also provide specific criteria that are used to determine whether these two requirements are met. *See* [*43 C.F.R. § 2.48*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.12)*.* Your request does not [PICK AT LEAST ONE: “address these criteria” and/or “contain enough evidence to demonstrate you meet each of these criteria”]. {NOTE: If the request does not contain enough evidence to demonstrate the requester meets each of the criteria, provide a full explanation of why the fee waiver request does not meet one or more of the specific criteria.} Therefore, your fee waiver request is not yet ready for our review. Please provide information that addresses these issues to help you demonstrate your entitlement to a fee waiver for this particular FOIA request and will assist our review.

You may also wish to modify your request to reduce your fees. For example, you may wish to consider reducing the locations or time period in which you are seeking records. Once we receive this information, we will evaluate whether you have demonstrated your entitlement to a fee waiver (or partial fee waiver) and communicate with you further.

According to our regulations, if we do not receive your written response clarifying these points **within 20 workdays** from the date of this communication, we will presume that you are no longer interested in pursuing your request. In such circumstance, we will not be able to comply with your request and will close our file on it. [*See 43 C.F.R. § 2.6(c)*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_16) and [*See 43 C.F.R. § 2.51(c)*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_151).

The 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road - OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: <https://www.archives.gov/ogis>
Telephone: 202-741-5770
Fax: 202-741-5769
Toll-free: 1-877-684-6448

If you have any questions about our response to your request, you may contact [Name] by phone at [Number], by fax at [Number], by email at [Address], or by mail at [Address]. Additionally, contact information for the Department’s FOIA Requester Centers and FOIA Public Liaison is available at *https://www.doi.gov/foia/foiacenters.*

{NOTE: Do not give appeal rights with this letter. You have not yet made your determination on the fee waiver.}

 Sincerely,

 [Name]

 [Bureau]

 [Title]

# **Fees—Fee Waiver Denial**—[***43 C.F.R. §§ 2.45***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.9)***,*** [***.47***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.11)***,*** [***.48***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.12)

You have asked us to waive the fees for processing your request. Our FOIA regulations state that bureaus will waive, or partially waive, fees if disclosure of all or part of the information is:

 (1) In the public interest because it is likely to contribute significantly to public

 understanding of government operations or activities, and

 (2) Not primarily in your commercial interest.

*See* [*43 C.F.R. § 2.45(a)*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.9). Our FOIA regulations also provide specific criteria that are used to determine whether these two requirements are met. *See* [*43 C.F.R. § 2.48*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.12)*.* Your request does not [PICK AT LEAST ONE: “address these criteria” and/or “contain enough evidence to demonstrate you meet each of these criteria”]. [NOTE: Provide a full explanation of why the fee waiver request does not meet one or more of the specific criteria.] Therefore, your fee waiver request has been denied. {ADD IF THE REQUESTER IS NOT A COMMERCIAL USE REQUESTER: “Please note that you are entitled to reduced fee costs because of your fee category and this determination does not affect that entitlement.”}

In light of this fee waiver denial, you may wish to modify your request to reduce your fees. For example, you may wish to consider reducing the locations or time period in which you are seeking records.

[[Agreement to Pay Fees Absent, Insufficient or Unclear](#_Agreement__to)]

[Fees – Fee Estimate]

[Name], [Bureau] [Title or position] is responsible for this denial. [Name], [Title] in the Office of the Solicitor was consulted.

[Appeal Rights]

# **Fees—Fee Estimate—**[***43 C.F.R. §§ 2.6***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.2.5.4)***,*** [***.49***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.13)

{NOTE: This notice of anticipated fees is not required if (1) after taking into consideration the requester’s fee category entitlements under § 2.39, the anticipated fee is less than $50; (2) the requester has been granted a full fee waiver; (3) the request does not reasonably describe the records sought an/or does not explicitly state that the requester will pay fees and/or is seeking a fee waiver; or (4) the requester has already agreed to pay all the fees associated with the request.}

We are writing today to tell you that the estimated cost of processing your request is {considerably} more than the $[Amount--if the requester has not agreed to pay anything, put in “$0”] that you have agreed to pay. Our best estimate of the cost of processing the records responsive to your request is $[Amount], which includes our estimated costs for [PICK AT LEAST ONE: “search,” “review,” and/or “duplication”].

Under the circumstances, you may:

* [PICK ONE: “Provide us with written assurance of your willingness to pay $[Estimated amount] for the processing of your request;” or, if an advance payment is required “Provide us with an advance payment, for the reasons discussed below” and insert the applicable [Advance](#_Fees—Advance_Payment—Fees_Over) [Payment](#_Fees—Advance_Payment—Delinquent_Req) required language directly after this set of bullet points.]
* {NOTE: Only include the following language if the requester has agreed to pay a particular amount: “Ask us to process your request up to the amount you have already agreed to pay $[Amount] (or some additional amount that is lower than our estimate of $[Estimated amount] for the processing of your request);”}
* Reduce the scope of your request, so as to limit the amount of time and/or duplication that would be required to process your request, such that your fee does not exceed the amount that you have agreed to pay; or
* Withdraw your request.”

{NOTE: Include the following language if you are not requesting an advance payment: “Please note that the time frame for processing your request beyond $[Amount they agreed to pay] will not resume until these remaining issues regarding the payment of FOIA fees have been resolved. According to our regulations, if we do not receive your written response **within 20 workdays** from the date of this communication, we will presume that you are no longer interested in pursuing your request. In such circumstance, we will not be able to comply with your request and will close our file on it. *See* [*43 C.F.R. § 2.49(c)*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.13)*.*}

# **Fees—Acknowledgment After Agreement to Pay Sufficient Fees—**[***43 C.F.R. § 2.6***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.2.5.4)

On [Date], we informed you of your fee status and told you that the estimated cost of processing your request would be more than you agreed to pay. On [Date], we received notification that you agreed to pay $[Amount] for the processing of your request. If we again find that your fees will exceed that amount, we will tell you before incurring additional charges. In such circumstance, we will give you the opportunity to either agree to pay the additional amount needed or narrow the scope of your request.

# **Fees—Advance Payment—Fees Over $250**—[***43 C.F.R. § 2.50***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.14)

Because we estimate that your processing fees will exceed $250 and our records do not show that you have ever made a FOIA request to the Department requiring the payment of fees. You therefore must either:

* Demonstrate that you have made a FOIA request to the Department requiring the payment of fees; or
* Pay the estimated fee for your request, a total of $[Amount], as discussed above {NOTE: This refers to the [Fee Estimate](#_Fees—Fee_Estimate—43_C.F.R.) required language above, which you will need to have included earlier in your communication}.

Please note that:

* We will continue work on your request only after you have provided information demonstrating your prior payment of FOIA fees to the Department or the amount noted above. If we do not receive your written response with this information or your advance payment within 20 workdays after the date of this communication, we will presume that you are no longer interested in pursuing your request. In such circumstance, we will not be able to comply with your request and will close our file on it.
* You may reduce the estimated fee by modifying your request to reduce its scope within 20 workdays after the date of this communication.
* If you submit an advance payment but the actual fee turns out to be lower than estimated, we will send you a refund in the amount of the overpayment.

# **Fees—Advance Payment—Delinquent Requester**—[***43 C.F.R. § 2.50***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.14)

Our records indicate that you are currently on our delinquent requester list. Therefore, before we can begin processing your present request, the estimated fee for which is over $250, you must either:

* Demonstrate that you paid your prior fee within 30 calendar days of the date of billing;
* Demonstrate that, although you did not pay your prior fee within 30 calendar days of the date of billing, you have paid off all of your past due fees and penalties and you have paid the estimated fee for one new FOIA request in advance in order to show that you should have been removed from the delinquent requester list; or
* Pay us a total of $[Amount]. This is the sum of any unpaid amount of all your past due fees ($[Amount]), interest penalties ($[Amount]), and the estimated fee for your new request (discussed above) {NOTE: This refers to the [Fee Estimate](#_Fees—Fee_Estimate—43_C.F.R.) required language above, which you will need to have included earlier in your communication}. After you pay this fee in advance, you will be removed from the delinquent requester list.

Please note that:

* We will continue work on your request only after you have provided information regarding your delinquent payment status or the amount noted above. If we do not receive the information or your advance payment within 20 workdays after the date of this communication, we will presume that you are no longer interested in pursuing your request. In such circumstance, we will not be able to comply with your request and will close the file on it.
* You may reduce the estimated fee by modifying your request within 20 workdays after the date of this communication to reduce its scope.
* If you submit an advance payment but the actual fee turns out to be lower than estimated, we will send you a partial refund.

# **Fees—No Charge—**[***43 C.F.R. § 2.49(a)(1)***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.13)

We do not bill requesters for FOIA processing fees when their fees are less than $50.00, because the cost of collection would be greater than the fee collected. *See* [*43 C.F.R. § 2.37(g)*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.7.5.13). Therefore, there is no billable fee for the processing of this request {and there is no need for us to address your request for a fee waiver}.

# **Fees—Bill for Collection—**[***43 C.F.R. §§ 2.52***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_152)***,*** [***.53***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_153)

A bill for collection is enclosed. Please note that, if the fees are not paid within 30 calendar days of the date of the bill, you will owe interest under Federal law; we will use our debt collection authorities, as appropriate, to collect fees; and we may not be able to process other FOIA requests from you.

## Fees—Combining or Aggregating Requests—[*43 C.F.R. §§ 2.5*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_152)*4*

You will notice this communication combines or aggregates more than one of your requests. We may aggregate requests [PICK ONE: If you are aggregating the requests because of fee avoidance: “and charge accordingly when we reasonably believe that you, or a group of requesters acting in concert with you, are attempting to avoid fees by dividing a single request into a series of requests on a single subject or related subjects.” or, if you are aggregating the requests for administrative reasons: “for administrative reasons without charging fees accordingly when we reasonably believe that you, or a group of requesters acting in concert with you, are dividing a single request into a series of requests on a single subject or related subjects.”]

[PICK ONE: “Because your [insert total number of requests here, for example, “5”] requests were on [PICK ONE: “a single subject” or “related subjects”] and made within a 30-day period, we reasonably [PICK ONE: “believe they were to avoid fees.” or “believe that a single request was divided into a series of requests.”]”, or “Although your [insert total number of requests here, for example, “5”] requests were made more than 30 days apart, we have a reasonable basis for determining that aggregation is warranted in view of all the circumstances involved because they were on [PICK ONE: “a single subject” or “related subjects”] and [insert specific circumstances here].”]

# **Referral of Records to Another Bureau or Agency that is Subject to FOIA—Communication with Bureau or Agency—**[***43 C.F.R. § 2.13(b)(1)***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.3.5.2)

IN REPLY REFER TO:

[Tracking System number]

 [Date] {NOTE: The fact that there will

 be a date in your electronic signature or

 email does not substitute for putting the

 date here.}

[Address]

Dear FOIA Officer:

While processing a Freedom of Information Act request from [Requester], dated [Date], we located records that primarily concern [Bureau or Agency] and, after discussing this with you on [Date], we agreed that your [PICK ONE: “bureau” or “agency”] would be better able to determine whether these records are exempt from disclosure

We have therefore enclosed the records and a copy of the request. We will notify the requester that he/she will receive a direct response from your office.

If you have any questions, you may contact [Name] by phone at [Number], by fax at [Number], by email at [Address], or by mail at [Address].

 Sincerely,

 [Name]

 [Bureau]

 [Title]

Enclosure

# **Referral of Records to Another Bureau or Agency—Communication with Requester**—[***43 C.F.R. § 2.13(b)(1)***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.3.5.2)

We have located records that primarily concern [Bureau or Agency], a Federal Government agency that is also subject to FOIA. For these records, [Bureau or Agency] will issue a response directly to you. You do not have to contact [Bureau or Agency] at this time, but should you need to do so in the future, you may do so at:

 [Address]

[Number]

[PICK ONE: “All of the responsive records we located have been referred to [Bureau or Agency.” or “We have located other materials that will not be referred to another bureau/agency and that we will continue to process those materials.]

[Appeal Rights]

# **Request to Another Agency that is Subject to FOIA for Consultation—**[***43 C.F.R. § 2.13(b)***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.3.5.2)

IN REPLY REFER TO:

[Tracking System number]

 [Date] {NOTE: The fact that there will

 be a date in your electronic signature or

 email does not substitute for putting the

 date here.}

]

[Address]

Dear FOIA Officer:

While processing a Freedom of Information Act request from [Requester], dated [Date], the Department of the Interior’s [Bureau] located records containing material that primarily concern [Agency] and, after discussing this with you on [Date], we agreed to consult with you on whether the material is exempt from disclosure in full or in part.

We have therefore enclosed [PICK AT LEAST ONE: “storage device containing the records” or “an attachment”] with our proposed redactions, and a copy of the request. Please review the enclosed records; mark any additional proposed redactions; state the exemption(s) you would claim for each additional proposed redaction; let us know if you disagree with any of our proposed redactions; and return the records, along with any additional proposed redactions to us, by [Date]. After carefully considering your proposals, we will issue a final release and response to the requester. We may contact you again if any of your proposals raise substantial questions.

If you have any questions, you may contact [Name] by phone at [Number], by fax at [Number], by email at [Address], or by mail at [Address].

 Sincerely,

 [Name]

 [Bureau]

 [Title]

Enclosure

# **Proposing Changes in Response to Another Agency’s Request for Consultation—**[***43 C.F.R. § 2.13(b)***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.3.5.2)

IN REPLY REFER TO:

[Tracking System number]

 [Date] {NOTE: The fact that there will

 be a date in your electronic signature or

 email does not substitute for putting the

 date here.}

[Address]

Dear [Name]:

On [Date], the [Agency] requested the Department of the Interior’s [Bureau] review records responsive to a [Date] FOIA request submitted to [Agency] by [Requester].

We have examined the [Number] [PICK ONE: “pages” or “storage device”] you forwarded and [PICK ONE: “agree with your proposed redactions/withholdings” or “attached a file containing specific recommended changes. Our general comments and recommendations are as follows:”]

{NOTE: If sending comments and recommendations, include specific information. For example, “One sentence was redacted inconsistently on pages 3 and 6. We suggest redacting the entire sentence, in both locations, under Exemption 5’s attorney-client and deliberative process privileges.”}{NOTE: If additional withholdings are suggested, include “[Name], Attorney- Advisor with the Office of the Solicitor, was consulted in reaching this recommendation.] [Name], [Bureau], [Title], is responsible for making this recommendation.”]

If you have any questions, you may contact [Name] by phone at [Number], by fax at [Number], by email at [Address], or by mail at [Address].

 Sincerely,

 [Name]

 [Bureau]

 [Title]

Enclosure

# **Multitrack Processing—**[***43 C.F.R. §§ 2.14***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.4.5.1)***,*** [***.15***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.4.5.2)

We use Multitrack Processing to process FOIA requests. The Simple track is for requests that would generally take one to five workdays to process. The Normal track is for requests that would generally take six to twenty workdays to process. The Complex track is for requests that would generally take twenty-one to sixty workdays to process. The Extraordinary track is for requests that would generally take more than sixty workdays to process. The Expedited track is for requests that have been granted expedited processing, which are processed as soon as practicable. Within each track, requests are usually processed on a first-in, first-out basis.

Your request falls into the [PICK ONE, unless only a portion of the request qualifies for expedited processing, then pick two: “Simple”, “Normal”, “Complex”, “Extraordinary”, or “Expedited”] processing track{s}. There are [insert number] requests pending ahead of yours in this processing track. Presuming that our current FOIA capacity and burden remain constant, we expect that we will dispatch a determination to you by [Date].

[PICK ONE: If only a portion of the requests falls into the Expedited processing track: “For the portion of your request that we placed in the [PICK ONE: “Simple”, “Normal”, “Complex”, or “Extraordinary”] processing track, you may narrow the scope of your request to obtain quicker processing in your currently-assigned track or move the request into a different track (which may have the effect of reducing the cost of processing your request and having it processed more quickly).” If no portion does, pick: “You may narrow the scope of your request to obtain quicker processing in your currently-assigned track or move the request into a different track (which may have the effect of reducing the cost of processing your request and having it processed more quickly).”] If you have any questions about this, please contact us.

# **Multitrack Processing—Revising Track Placement—**[***43 C.F.R. §§ 2.14***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.4.5.1)***,*** [***.15***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.4.5.2)

As you know, we use Multitrack Processing to process FOIA requests. The Simple track is for requests that would generally take one to five workdays to process. The Normal track is for requests that would generally take six to twenty workdays to process. The Complex track is for requests that would generally take twenty-one to sixty workdays to process. The Extraordinary track is for requests that would generally take more than sixty workdays to process. The Expedited track is for requests that have been granted expedited processing, which are processed as soon as practicable. Within each track, requests are usually processed on a first-in, first-out basis.

On [Date] we informed you that your request fell into the [PICK ONE, unless only a portion of the request qualifies for expedited processing, then pick two: “Simple”, “Normal”, “Complex”, “Extraordinary”, or “Expedited”] processing track. We now realize, however that because [NOTE: Add specific reasons], your request falls into the [PICK ONE: “Simple”, “Normal”, “Complex”, or “Extraordinary”] processing track. We therefore expect that we will dispatch a determination to you by [Date].

[PICK ONE: If a portion of the requests falls into the Expedited processing track: “For the portion of your request that we placed in the [PICK ONE: “Simple”, “Normal”, “Complex”, or “Extraordinary”] processing track, you may narrow the scope of your request to obtain quicker processing in your currently-assigned track or move the request into a different track (which may have the effect of reducing the cost of processing your request and having it processed more quickly).” If no portion does, pick: “You may narrow the scope of your request to obtain quicker processing in your currently-assigned track or move the request into a different track (which may have the effect of reducing the cost of processing your request and having it processed more quickly).”] If you have any questions about this, please contact us.

# **Extension—Ten Workdays—**[***43 C.F.R. § 2.19***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.4.5.6)

Because we will need to [PICK AT LEAST ONE: “search for and collect requested records from field facilities or other units that are separate from the office processing the request,” “search for, collect, and examine a voluminous amount of separate and distinct records that are demanded in a single request,” or “consult, with all practicable speed, with another agency, or among two or more components of the Department having a substantial interest in the determination of the request”], we are taking a 10-workday extension under [*43 C.F.R. § 2.19*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.4.5.6). We therefore expect that we will dispatch a determination to you by [Date].

# **Extension—More than Ten Workdays——**[***43 C.F.R. § 2.19***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.4.5.6)

Your request falls into the [PICK ONE, unless only a portion of the request qualifies for expedited processing, then pick two: “Simple”, “Normal”, “Complex”, “Extraordinary”, or “Expedited”] processing track{s}. There are [insert number] requests pending ahead of yours in this processing track. {NOTE: If only a portion of the request qualifies for expedited processing, then include this information about both applicable tracks.}

Because we will need to [PICK AT LEAST ONE: “search for and collect requested records from field facilities or other units that are separate from the office processing the request,” “search for, collect, and examine a voluminous amount of separate and distinct records that are demanded in a single request,” or “consult, with all practicable speed, with another agency, or among two or more components of the Department having a substantial interest in the determination of the request”], we are taking a [Number greater than 10]-workday extension under [*43 C.F.R. § 2.19(b)*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.4.5.6). We therefore expect that we will dispatch a determination to you by [Date].

We apologize for this delay in finalizing our decision. You may narrow the scope of your request to obtain quicker processing in your currently-assigned track or move the request into a different track (which may have the effect of reducing the cost of processing your request and having it processed more quickly). You also may agree to an alternative time period for processing by communicating with us, our FOIA Requester Center, or the FOIA Public Liaison. Contact information for the Department’s FOIA Requester Centers and FOIA Public Liaison is available at *https://www.doi.gov/foia/foiacenters.* You may also seek dispute resolution services from the Office of Government Information Services (OGIS). If you choose to contact OGIS, you may do so in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road - OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: <https://ogis.archives.gov>
Telephone: 202-741-5770
Fax: 202-741-5769
Toll-free: 1-877-684-6448

# **Notification that Determination will be made Outside the Time Limits of Subpart D—**[***43 C.F.R. Part 2, Subpart D***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.4)

Your request falls into the [PICK ONE, unless only a portion of the request qualifies for expedited processing, then pick two: “Simple”, “Normal”, “Complex”, “Extraordinary”, or “Expedited”] processing track{s}. There are [insert number] requests pending ahead of yours in this processing track.

As yet, we have been unable to make a determination on your request. We apologize for this delay. You may narrow the scope of your request to obtain quicker processing in your currently-assigned track or move the request into a different track (which may have the effect of reducing the cost of processing your request and having it processed more quickly). You also may agree to an alternative time period for processing by communicating with us, our FOIA Requester Center, or the FOIA Public Liaison. Contact information for the Department’s FOIA Requester Centers and FOIA Public Liaison is available at *https://www.doi.gov/foia/foiacenters.* You may also seek dispute resolution services from the Office of Government Information Services (OGIS). If you choose to contact OGIS, you may do so in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road - OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: <https://ogis.archives.gov>
Telephone: 202-741-5770
Fax: 202-741-5769
Toll-free: 1-877-684-6448

You may also file an appeal with the Department’s FOIA/Privacy Act Appeals Officer regarding this delay. If you choose to appeal this delay, you may do so anytime between now and the date we make our determination on the FOIA request. Appeals arriving or delivered after 5 p.m. Eastern Time, Monday through Friday, will be deemed received on the next workday.

**Your appeal must be made in writing.** You may submit your appeal and accompanying materials to the FOIA/Privacy Act Appeals Officer by mail, courier service, fax, or email. All communications concerning your appeal should be clearly marked with the words: "FREEDOM OF INFORMATION APPEAL." You must also include with your appeal copies of all correspondence between you and [Bureau] concerning your FOIA request, including your original FOIA request and this response. Failure to include with your appeal all correspondence between you and [Bureau] will result in the Department's rejection of your appeal, unless the FOIA/Privacy Act Appeals Officer determines (in the FOIA/Privacy Act Appeals Officer’s sole discretion) that good cause exists to accept the defective appeal.

Please include your name and daytime telephone number (or the name and telephone number of an appropriate contact), email address and fax number (if available) in case the FOIA/Privacy Act Appeals Officer needs additional information or clarification of your appeal.

*DOI FOIA/Privacy Act Appeals Office Contact Information*

Department of the Interior
Office of the Solicitor
1849 C Street, N.W.
MS-6556 MIB
Washington, DC 20240

Attn: FOIA/Privacy Act Appeals Office

Telephone: (202) 208-5339
Fax: (202) 208-6677
Email: FOIA.Appeals@sol.doi.gov

We regret the delay and appreciate your consideration. For more information on FOIA Administrative Appeals, you may review the Department’s FOIA regulations at [*43 C.F.R. Part 2, Subpart H*.](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.8) If you have any questions, you may contact [Name] by phone at [Number], by fax at [Number], by email at [Address], or by mail at [Address].

# **Preliminary Determination Letter**—[***43 C.F.R. § 2.15***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.4.5.2)

{NOTE: If the request is not yet perfected, for example, because the scope is not clear, do not use this language; you will not be able to conduct the preliminary search.}

IN REPLY REFER TO:

[Tracking System number]

 [Date] {NOTE: The fact that there will

 be a date in your electronic signature or

 email does not substitute for putting the

 date here.}

[Address]

Dear [Name]:

The [Bureau] FOIA office received your Freedom of Information Act (FOIA) request, dated [Date], on [Date] and assigned it control number [Tracking System number]. Please cite this number in any future communications with our office regarding your request.

{For initial responses, note what they have requested here. Quoting the language of the request directly is preferable. For later responses, use your discretion as to whether this would be helpful.}

{For initial responses, include the usual required language related to fee issues, as appropriate (for example, Acknowledgement language noting classification as a “commercial use” requester).}

At this time, we have gathered the responsive material and conducted an initial survey to identify the quantity and nature of the records. However, we have not reached a final decision on whether responsive material is exempt from release.

We have identified approximately [PICK AT LEAST ONE: “[Number] pages of material” and/or “[Number] records” and/or “[Number] bytes of material” and/or “[Number] emails (the metric in which our electronic search tool provides results)”] as potentially responsive to your request. We intend to comply with your request. [NOTE: Describe what exemptions may be used and what still needs to be done with this material. For example: “We expect to invoke the deliberative process privilege of Exemption 5, because this set of records includes some internal deliberations and drafts. We also expect to invoke Exemption 6, because some of the materials contain personal information of members of the public. For all the materials, we will segregate and release information appropriately where there would be no foreseeable harm caused by the release.”]

We apologize for this delay in completing our decision. Please note that contact information for the Department’s FOIA Requester Centers and FOIA Public Liaison is available at *https://www.doi.gov/foia/foiacenters.* You may also seek dispute resolution services from the Office of Government Information Services (OGIS). If you choose to contact OGIS, you may do so in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road - OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: <https://ogis.archives.gov>
Telephone: 202-741-5770
Fax: 202-741-5769
Toll-free: 1-877-684-6448

Your request falls into the [PICK ONE, unless only a portion of the request qualifies for expedited processing, then pick two: “Simple”, “Normal”, “Complex”, “Extraordinary”, or “Expedited”] processing track{s}.

There are [insert number] requests pending ahead of yours in this processing track. {NOTE: If only a portion of the request qualifies for expedited processing, then include this information about both applicable tracks.}

You may also file an appeal with the Department’s FOIA/Privacy Act Appeals Officer regarding this delay. If you choose to appeal this delay, you may do so anytime between now and the date we make our determination on the FOIA request. Appeals arriving or delivered after 5 p.m. Eastern Time, Monday through Friday, will be deemed received on the next workday.

**Your appeal must be made in writing.** You may submit your appeal and accompanying materials to the FOIA/Privacy Act Appeals Officer by mail, courier service, fax, or email. All communications concerning your appeal should be clearly marked with the words: "FREEDOM OF INFORMATION APPEAL." You must also include with your appeal copies of all correspondence between you and [Bureau] concerning your FOIA request, including your original FOIA request and this response. Failure to include with your appeal all correspondence between you and [Bureau] will result in the Department's rejection of your appeal, unless the FOIA/Privacy Act Appeals Officer determines (in the FOIA/Privacy Act Appeals Officer’s sole discretion) that good cause exists to accept the defective appeal.

Please include your name and daytime telephone number (or the name and telephone number of an appropriate contact), email address and fax number (if available) in case the FOIA/Privacy Act Appeals Officer needs additional information or clarification of your appeal.

*DOI FOIA/Privacy Act Appeals Office Contact Information*

Department of the Interior
Office of the Solicitor
1849 C Street, N.W.
MS-6556 MIB
Washington, DC 20240

Attn: FOIA/Privacy Act Appeals Office

Telephone: (202) 208-5339
Fax: (202) 208-6677
Email: FOIA.Appeals@sol.doi.gov

For more information on FOIA Administrative Appeals, you may review the Department’s FOIA regulations at [*43 C.F.R. Part 2, Subpart H*.](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.8) Please note that using OGIS services does not affect the timing of filing an appeal with the Department’s FOIA & Privacy Act Appeals Officer. If you have any questions about our response to your request, you may contact [Name] by phone at [Number], by fax at [Number], by email at [Address], or by mail at [Address].

 Sincerely,

 [Name]

 [Bureau]

 [Title]

# **Expedited Processing Grant—**[***43 C.F.R. § 2.20***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.4.5.7)

You have asked for expedited processing of your FOIA request. The Department’s FOIA regulations provide for expedited processing when a requester demonstrates a compelling need for the records by explaining in detail how the request meets one or both of the criteria below and certifying the explanation is true and correct to the best of the requester’s knowledge and belief. The two criteria are as follows:

1. Failure to expedite the request could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or
2. There is an urgency to inform the public about an actual or alleged government activity and the request is made by a person primarily engaged in disseminating information. (The requested information must be the type of information that has particular value that will be lost if not disseminated quickly; this ordinarily refers to a breaking news story that concerns a matter of public exigency. Information of historical interest only or information sought for litigation or commercial activities would not qualify, nor would a news media deadline unrelated to breaking news.)

[*43 C.F.R § 2.20*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.4.5.7).

Your request meets [PICK ONE: “the first” or “the second” or “both”] of these criteria and your request for expedited processing therefore has been granted.

[Name], Attorney- Advisor with the Office of the Solicitor, was consulted in reaching this decision.

# **Expedited Processing Denial—**[***43 C.F.R. § 2.20***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.4.5.7)

You have asked for expedited processing of your FOIA request. The Department’s FOIA regulations state that a bureau will provide expedited processing when a requester demonstrates a compelling need for the records by explaining in detail how the request meets one or both of the criteria below and certifying the explanation is true and correct to the best of the requester’s knowledge and belief. The two criteria are as follows:

1. Failure to expedite the request could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or
2. There is an urgency to inform the public about an actual or alleged government activity and the request is made by a person primarily engaged in disseminating information. (The requested information must be the type of information that has particular value that will be lost if not disseminated quickly; this ordinarily refers to a breaking news story that concerns a matter of public exigency. Information of historical interest only or information sought for litigation or commercial activities would not qualify, nor would a news media deadline unrelated to breaking news.)

[*43 C.F.R § 2.20*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.4.5.7).

Your request [PICK AT LEAST ONE: “does not contain enough evidence to support either of these criteria because [NOTE: Provide a full explanation of why the expedited processing request does not meet the two specific criteria]” and/or “does not certify your explanation is true and correct to the best of your knowledge and belief” ]. Your request for expedited processing therefore has been denied.

[Appeal Rights]

# **Full Release—**[***43 C.F.R. § 2.22***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.5.5.2)

We are writing today to respond to your request on behalf of the [Bureau].

We have enclosed [NOTE: Add specific information. For example, “one CD containing one file consisting of 32 pages”], which [is/are] being released to you in [its/their] entirety.

# **Partial Release or Interim Response—**[***43 C.F.R. §§ 2.22***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.5.5.2)[***, .23***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_123)***,*** [***.24***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_124)

We are writing to {partially} respond to your request. {We have previously partially responded to this request on [Date(s)]}

We have enclosed [NOTE: Add specific information. For example, “one CD containing one file consisting of 32 pages”], which [is/are] being released to you in part”]. {NOTE: As applicable, add that “Portions of these materials are being withheld under the following FOIA [PICK ONE: “Exemption” or “Exemptions”]”; insert a discussion of the applicable Exemption(s), using the applicable required language below; estimate the volume of materials being withheld in full under each exemption; and estimate the volume of materials being withheld in part under each exemption.}

{NOTE: If applicable, include: “We are continuing to [PICK AT LEAST ONE: “search for,” “review,” or “duplicate”] additional records that are responsive to your request.}

If you have any questions about our response to your request, you may contact [Name] by phone at [Number], by fax at [Number], by email at [Address], or by mail at [Address].

{NOTE: If applicable, for example because you are asserting an exemption, include: [Name], Attorney- Advisor with the Office of the Solicitor, was consulted in reaching this decision. [Name], [Bureau] [Title or position] is responsible for this partial denial.}

[PICK ONE: “Because this is an interim response to your request, we will provide notice of your appeal rights in our final response letter.” or, if this is the final response, “[Appeal Rights]”]

# **Withholding in Full—**[***43 C.F.R. §§ 2.23***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_123)***,*** [***.24***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_124)

We are writing to {partially} respond to your request. {We have previously partially responded to this request on [Date(s)]}

We have withheld in full [NOTE: Add estimate of the volume of records withheld and exemptions used. For example, “one CD containing one file consisting of 32 pages, 10 pages of which are withheld under Exemption 4, 2 pages of which are withheld under Exemption 5, and 20 pages of which were withheld under Exemptions 6 and 7(C)”]. [NOTE: Insert a discussion of the applicable Exemption(s), using the applicable required language below.]

{NOTE: If applicable, include: “We are continuing to [PICK AT LEAST ONE: “search for,” “review,” or “duplicate”] additional records that are responsive to your request.}

If you have any questions about our response to your request, you may contact [Name] by phone at [Number], by fax at [Number], by email at [Address], or by mail at [Address].

[Name], Attorney- Advisor with the Office of the Solicitor, was consulted in reaching this decision. [Name], [Bureau] [Title or position] is responsible for this denial.

[PICK ONE: “Because this is an interim response to your request, we will provide notice of your appeal rights in our final response letter.” or, if this is the final response, “[Appeal Rights]”]

# **No Records—**[***43 C.F.R. §§ 2.23***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_123)***,*** [***.24***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_124)

We are writing to respond to your request. After a thorough search of our files, [PICK ONE: “it has been determined that the [Bureau] has no records responsive to your request” or “the [Bureau] did not locate records responsive to your request”].

[Name], [Bureau] [Title or position] is responsible for this denial.

[Appeal Rights]

# **Foreseeable Harm**

{NOTE: Before withholding any information under a FOIA exemption, you must consider whether its disclosure could reasonably be foreseen to cause harm to the interest that the FOIA exemption was designed to protect and whether the disclosure would be prohibited by law or otherwise protected from disclosure under Exemption 3. For further guidance, see the [Foreseeable Harm Standard Guidance Memorandum](https://www.doi.gov/sites/doi.gov/files/uploads/foreseeable_harm_memo_final.pdf)}

{NOTE: If you have determined that the disclosure could reasonably be foreseen to cause harm to the interest that the FOIA exemption was designed to protect and/or would be prohibited by law or otherwise protected from disclosure under Exemption 3, , use PICK ONE: “We reasonably foresee that disclosure would harm an interest protected by one or more of the nine exemptions to the FOIA’s general rule of disclosure” or “Disclosure would be prohibited by law.”}

{NOTE: If you have determined that the disclosure could not reasonably be foreseen to cause harm to the interest that the FOIA exemption was designed to protect and would not be prohibited by law or otherwise protected from disclosure under Exemption 3, use this statement: “We have conducted a foreseeable harm analysis under the FOIA Improvement Act of 2016 and, after consulting with a subject matter expert, 1) we do not reasonably foresee that disclosure of this information would harm an interest that the FOIA's exemptions were designed to protect and 2) disclosure would not be prohibited by law. Therefore, we are releasing this information in full. Please be aware that our decision to release this information does not mean that we have waived our ability to invoke applicable FOIA exemptions for similar or related information in the future.”}

# **Exemption 3—**[***43 C.F.R. §§ 2.23***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_123)***,*** [***.24***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_124)

[NOTE: Estimate the volume of any records or information withheld, for example “We are withholding approximately 450 pages”] [PICK ONE: “in full” or “in part”] under FOIA Exemption 3. [5 U.S.C. § 552(b)(3)](http://www.justice.gov/oip/amended-foia-redlined.pdf). Exemption 3 allows the withholding of information protected by a nondisclosure provision in a federal statute other than FOIA.

[NOTE: Add specific discussion. For example, “Under 41 U.S.C. § 4702(b)-(c), the release of contractor proposals under the FOIA is specifically prohibited unless they have been set forth or incorporated by reference in a final contract. The requested proposal is not releasable under FOIA because it was not set forth or incorporated by reference into the final contract. It has been withheld in full under Exemption 3.”]

[[Foreseeable Harm](#_Foreseeable_Harm)]

[Name], [Bureau] [Title or position] is responsible for this {partial} denial. [Name], [Title] in the Office of the Solicitor was consulted.

[Appeal Rights]

# **Exemption 4—**[*43 C.F.R. §§ 2.23*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_123)***,*** [*.24*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_124)

[NOTE: Estimate the volume of any records or information withheld, for example, “We are withholding approximately 450 pages”] [PICK ONE: “in full” or “in part”] under FOIA Exemption 4. [5 U.S.C. § 552(b)(4)](http://www.justice.gov/oip/amended-foia-redlined.pdf). Exemption 4 protects “trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential.”

The withheld information is [PICK ONE: “a trade secret” or “commercial or financial information”.] {NOTE: If you think the withheld information qualifies for protection as a trade secret, contact the Departmental FOIA Office before proceeding further.} {NOTE: If the submitter was not an individual, include the following: “The entity that supplied this information (the submitter) is considered a person, because the term “person,” under the FOIA, includes a wide range of entities including [PICK ONE: “corporations”, “banks”, “state governments”, “agencies of foreign governments”, or “Indian tribes or nations”].”} Also, the submitter does not customarily release this information to the public, so the information is confidential for the purposes of Exemption 4.

[Name], [Bureau] [Title or position] is responsible for this {partial} denial. [Name], [Title] in the Office of the Solicitor was consulted.

[Appeal Rights]

# **Exemption 4—Submitter Notification—Initial Submitter Communication—**[*43 C.F.R. §§ 2.27*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.6.5.2)***,*** [*.28*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.6.5.3)*,* [*.31*](https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_131)

IN REPLY REFER TO:

[Tracking System number]

 [Date] {NOTE: The fact that there will

 be a date in your electronic signature or

 email does not substitute for putting the

 date here.}

***Via*** [PICK ONE: “***Certified Mail/Return Receipt***”, “***Facsimile***”, or “***Electronic Mail***”]

[Submitter]

[Address]

Dear [Submitter]:

This concerns a [Date] Freedom of Information Act (FOIA) request that [Requester] submitted to the [Bureau]. This FOIA request was assigned control number [Tracking System number] and seeks: “[Quote the request].”

You have submitted information responsive to this request that may be protected under FOIA Exemption 4, which protects from disclosure “trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential.” [5 U.S.C. § 552(b)(4)](http://www.justice.gov/oip/amended-foia-redlined.pdf). Accordingly, our FOIA regulations, [*43 C.F.R. Part 2*, *Subpart F*,](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.6) require us to provide you, as the submitter of the information, with written notice of the FOIA request and to seek your views on the disclosure of the information. If you believe other FOIA exemptions may apply, you may also share that with us at this time.

We have enclosed a [PICK ONE: “storage device” or “attachment”] that contains [PICK ONE: “the request” or “the exact language of the request”] as well as [PICK ONE: “a description of the possibly confidential information located in response to the request” or “a copy of the responsive records, or portions of responsive records, containing possibly confidential information.”] If you wish to object to the release of this information, the regulations require you to provide a detailed written statement that specifies all grounds for withholding the particular information under any FOIA exemption. Further, if you wish to object to disclosure on the basis that the information is protected by Exemption 4 of the FOIA, the regulations require the detailed written statement referenced above to explain why the information is a trade secret or, if the information is not a trade secret, you are required to provide certification that you both customarily and actually treat the information as private. This statement must also include any available background on whether the information was provided to the government under an assurance that the government would keep it private. [*43 C.F.R. § 2.30*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.6.5.5) *to* [*§ 2.31(a)*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.6.5.6)*.*

*Be advised this is your opportunity to let us know why some of the information you submitted should be protected. Please review the guidance below carefully and be very clear and specific about your concerns and rationales. If you do not respond, we likely will have no choice but to release this information in full.*

Information may qualify for protection under Exemption 4 as a “trade secret” if it is information that is “a secret, commercially valuable plan, formula, process, or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort.” *Public Citizen Health Research Group v. FDA*, 704 F.2d 1280, 1288 (D.C. Cir. 1983). This definition requires there be a direct relationship between the information at issue and the productive process. Should you wish to object to the disclosure of any of the information in the records because it is a trade secret, the specific and detailed discussion that you submit must explain how *each category* of information the objections are related to qualifies for protection under Exemption 4 as a trade secret. The explanation must also identify a direct relationship between the information and the productive process.

Alternatively, information may qualify for protection under Exemption 4 if it is commercial or financial information that is privileged or confidential. Should you wish to object to the disclosure of any of the information in the records for this reason, your specific and detailed discussion must explain how *each category* of information the objections are related to qualifies for protection under Exemption 4 as commercial or financial information that is privileged or confidential.

In determining whether information is commercial or financial, the terms are given their “ordinary meanings.” *Nat’l Ass’n of Home Builders v. Norton*, 309 F.3d 26, 38 (D.C. Cir. 2002). You therefore must provide a specific and detailed explanation of how the information relates to your commercial or financial interest and either the commercial/financial function the information serves or the commercial/financial nature of the information.

The Supreme Court has noted that “[a]t least where commercial or financial information is both customarily and actually treated as private by its owner and provided to the government under an assurance of privacy, the information is ‘confidential’ within the meaning of Exemption 4.” *See* [*Food Mktg. Inst. v. Argus Leader Media*](https://www.scotusblog.com/case-files/cases/food-marketing-institute-v-argus-leader-media/) 588 U.S. \_\_ (2019). You therefore must certify and explain that the information you object to disclosing is confidential, you have not disclosed the information to the public, the information is not routinely available to the public from other sources, and you treat it as private. Finally, you must let us know whether you provided the information to the government under an express or implied assurance of privacy.

{NOTE: If the submitter designated the material as confidential commercial or financial information 10 or more years before the request, include the following language: “We are aware that you have already designated the material as confidential commercial or financial information. However, as this designation occurred 10 or more years before the request, you must explain whether you still consider the information to be confidential by providing the information requested above.”}

{NOTE: If the submitter is an Indian tribe or nation, include the following language: “Please note that if you have shared this material with other entities (such as state or local governments), those entities may also have received a request for this material. You may wish to reach out to them to discuss whether this is the case.”}

Please be aware that the FOIA requires that “any reasonably segregable portion of a record” must be released after appropriate application of one of the FOIA’s nine exemptions. *See* [5 U.S.C. § 552(b)](http://www.justice.gov/oip/amended-foia-redlined.pdf) (discussion after exemptions). Where a record contains both exempt and nonexempt material, the bureau will generally separate and release the nonexempt information. *See* [*43 C.F.R. § 2.25*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.5.5.5). You should be mindful of this segregability requirement in formulating any objections you may have to the disclosure of the records. Information that does not qualify as a trade secret or as confidential commercial or financial information will not qualify for Exemption 4 protection and will be released unless another FOIA exemption applies.

Should you wish to object to disclosure of any of the information at issue here, we must receive all of the information requested above **by no later than** {NOTE: The least amount of time that you can give is 10 workdays after the receipt of this communication by the submitter, but you can give additional time if you believe it would be appropriate, although your time for processing the request will then be quite short.}

You may send the documentation via email to [Address], fax at [Number], or mail to [Address]. If you do not submit the requested detailed written statement on or before the deadline set above, we will presume that you do not object to the disclosure of the information in question and will proceed with processing the FOIA request accordingly. *See* [*43 C.F.R. § 2.30(b)*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.6.5.5).

Also, please note that any comments you submit to us objecting to the disclosure of the records may themselves be subject to disclosure if the Department receives a FOIA request for them. If your comments contain trade secrets and/or commercial or financial information and a requester asks for the comments under FOIA, we will notify you and give you an opportunity to comment on the disclosure of such information.

Finally, please note that we are responsible for deciding what will be released or withheld. *See* [*43 C.F.R. § 2.28(f)*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.6.5.3). However, if you object to the disclosure of information and we decide to release it over your objections, we will notify you before we release the records. *See* [*43 C.F.R. § 2.33*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.6.5.8).

You may find the regulations at <https://www.doi.gov/foia/news/guidance>.

If you have any questions, you may contact [Name] by phone at [Number], by fax at [Number], by email at [Address], or by mail at [Address].

 Sincerely,

 [Name]

 [Bureau]

 [Title]

Enclosure

[cc, without enclosure, to requester]

# **Exemption 4—Submitter Notification—Release Over Objection—**[*43 C.F.R. § 2.33*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.6.5.8)

IN REPLY REFER TO:

[Tracking System number]

 [Date] {NOTE: The fact that there will

 be a date in your electronic signature or

 email does not substitute for putting the

 date here.}

***Via*** [PICK ONE: “***Certified Mail/Return Receipt***”, “***Facsimile***”, or “***Electronic Mail***”]

[Submitter]

[Address]

Dear [Submitter]:

This communication is in response to your [Date] [PICK ONE: “letter” or “email”] objecting to the release of certain information in response to FOIA request [Number]. After reviewing your proposed redactions and explanations, the Department intends to [PICK ONE: “withhold most of the information you have proposed be redacted, but not all of it”, “withhold some of the information you have proposed be redacted, but not all of it”, or “release all of the information you proposed be redacted”] because [NOTE: Add specific reasons why the submitter’s objections are insufficient to support a withholding]. The enclosed [PICK ONE: “storage device” or “attachment”] contains our planned release to the requester.

*Please note that {10} workdays after delivery of this communication* {NOTE: Ten workdays is the minimum, but you can give more time if you believe it would be appropriate},” *we will release the records* [PICK ONE: “on” or “in”] *the enclosed* [PICK ONE: “storagedevice” or “attachment”] *to the requester and, under* [*43 C.F.R. § 2.33(c)*](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.6.5.8)*, this communication serves as notice of this intention.*

If you have any questions, you may contact [Name] by phone at [Number], by fax at [Number], by email at [Address], or by mail at [Address].

 Sincerely,

 [Name]

 [Bureau]

 [Title]

Enclosure

[cc, without enclosure, to requester]

# **Exemption 5—**[***43 C.F.R. §§ 2.23***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_123)***,*** [***.24***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_124)

Exemption 5 allows an agency to withhold “inter-agency or intra-agency memorandums or letters which would not be available by law to a party ... in litigation with the agency.” [5 U.S.C. § 552(b)(5)](http://www.justice.gov/oip/amended-foia-redlined.pdf). Exemption 5 therefore incorporates the privileges that protect materials from discovery in litigation, including the deliberative process, attorney work-product, attorney-client, and commercial information privileges. We are withholding [NOTE: Estimate the volume of any records or material withheld, for example “We are withholding 45 pages”] [PICK ONE: “in full” or “in part”] under Exemption 5 because [PICK ONE: “they qualify” or “it qualifies”] to be withheld both because [PICK ONE: “it meets” or “they meet”] the Exemption 5 threshold of being inter-agency or intra-agency and under the following [PICK ONE: “privilege” or “privileges”] {NOTE: Only include the discussion of the privileges below that are applicable to the withholdings for the particular request in your communication}:

*Deliberative Process Privilege*

The deliberative process privilege protects the decision-making process of government agencies and encourages the frank exchange of ideas on legal or policy matters by ensuring agencies are not forced to operate in a fish bowl. A number of policy purposes have been attributed to the deliberative process privilege, such as: (1) assuring that subordinates will feel free to provide the decisionmaker with their uninhibited opinions and recommendations; (2) protecting against premature disclosure of proposed policies; and (3) protecting against confusing the issues and misleading the public.

The deliberative process privilege protects materials that are both predecisional and deliberative. The privilege covers records that reflect the give-and-take of the consultative process and may include recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency.

The materials that have been withheld under the deliberative process privilege of Exemption 5 are both predecisional and deliberative. They do not contain or represent formal or informal agency policies or decisions. They are the result of frank and open discussions among employees of the Department of the Interior. Their contents have been held confidential by all parties and public dissemination of this information would [NOTE: Add specific discussion of purpose for withholding. For example, “the release of these drafts would have a chilling effect on the agency’s deliberative processes; expose the agency’s decision-making process in such a way as to discourage candid discussion within the agency, and thereby undermine its ability to perform its mandated functions.”]

The deliberative process privilege does not apply to records created 25 years or more before the date on which the records were requested.

*Attorney Work-Product Privilege*

As incorporated into Exemption 5, the attorney work-product privilege protects from disclosure any materials prepared by or for a party or its representative (including their attorney, consultant, surety, indemnitor, insurer, or agent) in anticipation of litigation or for trial. The privilege applies once specific claims have been identified that make litigation probable; the actual beginning of litigation is not required. Its purpose is to protect the adversarial trial process by insulating litigation preparation from scrutiny, as it is believed that the integrity of our system would suffer if adversaries were entitled to probe each other’s thoughts and plans concerning the case. The privilege extends to administrative, as well as judicial proceedings. Once the determination is made that records are protected from disclosure by the attorney work-product privilege, the entire contents of those records are exempt from disclosure under FOIA.

The materials that have been withheld under Exemption 5 under the attorney work-product privilege were prepared by or for a Departmental attorney or Department of Justice attorney in reasonable anticipation of litigation and they reflect [NOTE: Specifically describe. For example, “the parties’ pre-litigation thoughts and evaluation of your request that you be compensated for damages to your property that occurred in connection with the Smith fire.”]. Thus, we conclude that the withheld materials are protected in full from disclosure by the attorney work-product privilege of Exemption 5.

*Attorney-Client Privilege*

The attorney-client privilege protects confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice and is not limited to the context of litigation. Moreover, although it fundamentally applies to confidential facts divulged by a client to his/her attorney, this privilege also encompasses any opinions given by an attorney to his/her client based upon, and thus reflecting, those facts, as well as communications between attorneys that reflect confidential client-supplied information.

The information that has been withheld under the attorney-client privilege of Exemption 5 constitutes confidential communications between [PICK AT LEAST ONE: “agency attorneys and agency clients,” “Federal attorneys and agency clients,” “agency attorneys,” or “agency and Federal attorneys”], related to legal matters for which the client sought professional legal assistance and services. {“It also encompasses opinions given by [NOTE: Specifically describe. For example, “attorneys to their clients based on client-supplied facts.”]} Additionally, the [Bureau] employees who communicated with the attorneys regarding this information were clients of the attorneys at the time the information was generated and the attorneys were acting in their capacities as lawyers at the time they communicated legal advice. Finally, the [Bureau] has held this information confidential and has not waived the attorney-client privilege.

*Commercial Information Privilege {NOTE: This privilege is invoked very rarely outside the context of account numbers used for purchases, reoccurring conference call numbers and passcodes, and appraisal reports}*

When the government enters the marketplace as an ordinary commercial buyer or seller, the government’s information is protected under the commercial information privilege if it is sensitive information not otherwise available, and disclosure would significantly harm the government’s monetary functions or commercial interests. The theory behind the privilege is that the government may be placed at a competitive disadvantage or the consummation of a contract may be endangered if confidential information generated by the government is disclosed during the process of awarding the contract. For example, the pre-sale disclosure of realty appraisals developed to help the federal government sell or buy property would harm the government’s commercial interests significantly.

The appraisal report in this case pertains to the [Bureau]’s ongoing negotiations regarding the [PICK ONE: “acquisition” or “sale” {NOTE: If applicable, include: “of other lands in the area”}] of the property that is the subject of your request. The information withheld under this privilege reflects information concerning the monetary values and thoughts and determinations of the appraisers regarding the property. Premature disclosure of this information to the public would allow other parties who may be interested in purchasing the property to know how the [Bureau] values it, thereby allowing them to [PICK ONE: “outbid the government” or “weaken the government’s negotiating position.”]. Therefore, we conclude that disclosure of {NOTE: If applicable, include: “most of the information contained in”} the [Bureau]’s appraisal report will [PICK AT LEAST ONE: “place the government at a competitive disadvantage” or “endanger the consummation of the sale or acquisition]. {NOTE: If applicable, include: “We are releasing the factual information in the appraisal report that would not harm the [Bureau]’s commercial interests.”}

[[Foreseeable Harm](#_Foreseeable_Harm)]

[Name], [Bureau] [Title or position] is responsible for this {partial} denial. [Name], [Title] in the Office of the Solicitor was consulted.

[Appeal Rights]

# **Exemption 6—**[***43 C.F.R. §§ 2.23***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_123)***,*** [***.24***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_124)

Exemption 6 allows an agency to withhold “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” [5 U.S.C. § 552(b)(6)](http://www.justice.gov/oip/amended-foia-redlined.pdf). We are withholding [NOTE: Estimate the volume of any records or information withheld, for example “We are withholding 45 pages”] [PICK ONE: “in full” or “in part”] under Exemption 6.

The phrase “similar files” covers any agency records containing information about a particular individual that can be identified as applying to that individual. To determine whether releasing records containing information about a particular individual would constitute a clearly unwarranted invasion of personal privacy, we are required to balance the privacy interest that would be affected by disclosure against any public interest in the information.

Under the FOIA, the only relevant public interest to consider under the exemption is the extent to which the information sought would shed light on an agency’s performance of its statutory duties or otherwise let citizens ‘know what their government is up to. The burden is on the requester to establish that disclosure would serve the public interest. When the privacy interest at stake and the public interest in disclosure have been determined, the two competing interests must be weighed against one another to determine which is the greater result of disclosure: the harm to personal privacy or the benefit to the public. The purposes for which the request for information is made do not impact this balancing test, as a release of information requested under the FOIA constitutes a release to the general public.

The information that has been withheld under Exemption 6 consists of personal information, [NOTE: Briefly describe the personal information. For example, “social security numbers and home addresses”], and we have determined that the individuals to whom this information pertains have a substantial privacy interest in withholding it. Additionally, {you have not provided information that explains a relevant public interest under the FOIA in the disclosure of this personal information and} we have determined that the disclosure of this information would shed little or no light on the performance of the agency’s statutory duties. Because the harm to personal privacy is greater than whatever public interest may be served by disclosure, release of the information would constitute a clearly unwarranted invasion of the privacy of [PICK ONE: “this individual” or “these individuals”] and we are withholding it under Exemption 6.

[[Foreseeable Harm](#_Foreseeable_Harm)]

[Name], [Bureau] [Title or position] is responsible for this {partial} denial. [Name], [Title] in the Office of the Solicitor was consulted.

[Appeal Rights]

# **Exemption 7—**[***43 C.F.R. §§ 2.23***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_123)***,*** [***.24***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#se43.1.2_124)

Exemption 7 protects from disclosure “records or information compiled for law enforcement purposes” if the records fall within one or more of six specific bases for withholding set forth in subparts (A) through (F). [5 U.S.C. § 552(b)(7)](http://www.justice.gov/oip/amended-foia-redlined.pdf)(A)-(F). We are withholding [NOTE: Estimate the volume of any records or information withheld, for example “We are withholding 45 pages”] [PICK ONE: “in full” or “in part”] under Exemption 7 because they are protected under the following [PICK ONE: “subpart” or “subparts”] {NOTE: Only include the discussion of applicable subparts in your communication}:

*7(A)*

Exemption 7(A) protects law enforcement records if their release could reasonably be expected to interfere with enforcement proceedings. For the materials that have been withheld under 7(A), we have determined they are law enforcement records for a pending or prospective investigation and releasing them could reasonably be expected to interfere with enforcement proceedings because their premature release could [PICK AT LEAST ONE: “afford a virtual roadmap through the government’s evidence, which would provide critical insights into its legal thinking and strategy and could jeopardize the proceedings by more fully revealing the scope and nature of the government’s case and assist in circumventing the investigation”; “prematurely reveal the full scope of evidence obtained; the assessment of the evidence; strengths and weaknesses of the government’s evidence and case; and the progress, status, direction, and limits of the government’s investigation”; “hinder the government’s ability to further control and shape the investigation and enable targets of the investigation to elude detection; create defenses; or suppress, fabricate, or tamper with evidence”; “create a great potential for witness intimidation, expose actual or prospective witnesses to undue influence or retaliation, deter their cooperation, and create the potential for interference with them”; or you may insert your own rationale explaining the harm].

*7(B) {NOTE: This exemption is invoked very rarely by Department of the Interior bureaus and offices}*

Exemption 7(B) protects law enforcement records if their release would deprive a person of a right to a fair trial or an impartial adjudication. For the materials that have been withheld under 7(B), we have determined that releasing them would deprive a person of a right to a fair trial or an impartial adjudication because a [PICK ONE: “trial” or “adjudication”] is [PICK ONE: “pending” or “truly imminent”] and it is more probable than not that the disclosure of the material sought would seriously interfere with the fairness of the proceedings.

*7(C)*

Exemption 7(C) protects law enforcement records if their release could reasonably be expected to constitute an unwarranted invasion of personal privacy. It is regularly applied to withhold references to individuals in law enforcement files. For the materials that have been withheld under 7(C), we have determined that releasing them would constitute an unwarranted invasion of privacy because they identify individuals referenced in law enforcement records and the release of this information would not shed light on an agency’s performance of its statutory duties.

*7(D)*

Exemption 7(D) protects law enforcement records if their release could reasonably be expected to disclose the identity of a confidential source. For the materials that have been withheld under 7(D), we have determined that releasing them could reasonably be expected to disclose the identity of a confidential source who provided information under [PICK ONE: “an express promise of confidentiality” or “circumstances from which an assurance of confidentiality could be reasonably inferred”].

*7(E)*

Exemption 7(E) protects law enforcement records if their release would disclose techniques and procedures for law enforcement investigation or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if the disclosure could reasonably be expected to risk circumvention of the law. For the materials that have been withheld under 7(E), we have determined that [PICK AT LEAST ONE: “they are techniques for law enforcement investigations or prosecutions,” “they are procedures for law enforcement investigations or prosecutions,” or “they are guidelines for law enforcement investigations or prosecutions whose release could reasonably be expected to risk circumvention of the law”].

*7(F)*

Exemption 7(F) protects law enforcement records if their release could reasonably be expected to endanger the life or physical safety of any individual. For the materials that have been withheld under 7(F), we have determined releasing them could reasonably be expected to endanger the life or physical safety of an individual because [NOTE: Specifically describe. For example, “it would compromise the protection of our facilities and endanger the life or physical safety of individuals”].

[[Foreseeable Harm](#_Foreseeable_Harm)]

[Name], [Bureau] [Title or position] is responsible for this {partial} denial. [Name], [Title] in the Office of the Solicitor was consulted.

[Appeal Rights]

# **Glomar Response—**[***Section 10.5 of FOIA Handbook***](https://www.doi.gov/sites/doi.gov/files/uploads/FOIA%20Handbook%20-%20Final%20-%20signed.pdf)

{NOTE: Before including this language or issuing a Glomar response, you must consult with the Departmental FOIA Policy Staff and the Solicitors Office’s Division of General Law}

It is the [Bureau]’s policy to neither confirm nor deny the existence of any records that would disclose the existence of [NOTE: Include specific information, for example, “a complaint or a personnel enforcement action, unless the person requesting such information already submitted evidence of his/her personal knowledge of the matter or a determination has otherwise been made that the public’s interests outweigh an employee’s right to privacy.”] Such records, if present would fall within [NOTE: List one or more specific exemptions here and follow this paragraph with the usual required language explaining their use] of the FOIA. ​

# **Appeal Rights—**[***43 C.F.R. §§ 2.57***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.8.5.1)***,*** [***.58***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.8.5.2)***,*** [***.59***](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=0fc3ab3499768eebc2e3691c8cf88dec&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43#43:1.1.1.1.2.8.5.3)

{NOTE: If you are notifying the requester of a delay in completing the determination, do not use this language. Instead, use the [Notification that Determination will be made Outside the Time Limits of Subpart D](#_Notification_that_Determination).}

{NOTE: If you are providing all the responsive records in full, do not use this language.}

You may appeal this response to the Department’s FOIA/Privacy Act Appeals Officer. If you choose to appeal, the FOIA/Privacy Act Appeals Officer must receive your FOIA appeal [PICK AT LEAST ONE: If you are not issuing an expedited processing denial, use “**no later than 90 workdays** from the date of this communication denying the fee waiver” or “**no later than 90 workdays** from the date of this final response”. If you are issuing an expedited processing denial, use “as soon as possible after this communication”]. Appeals arriving or delivered after 5 p.m. Eastern Time, Monday through Friday, will be deemed received on the next workday.

**Your appeal must be made in writing.** You may submit your appeal and accompanying materials to the FOIA/Privacy Act Appeals Officer by mail, courier service, fax, or email. All communications concerning your appeal should be clearly marked with the words: "FREEDOM OF INFORMATION APPEAL." You must include an explanation of why you believe this response is in error. You must also include with your appeal copies of all correspondence between you and [Bureau] concerning your FOIA request, including your original FOIA request and this response. Failure to include with your appeal all correspondence between you and [Bureau] will result in the Department's rejection of your appeal, unless the FOIA/Privacy Act Appeals Officer determines (in the FOIA/Privacy Act Appeals Officer’s sole discretion) that good cause exists to accept the defective appeal.

Please include your name and daytime telephone number (or the name and telephone number of an appropriate contact), email address and fax number (if available) in case the FOIA/Privacy Act Appeals Officer needs additional information or clarification of your appeal.

*DOI FOIA/Privacy Act Appeals Office Contact Information*

Department of the Interior
Office of the Solicitor
1849 C Street, N.W.
MS-6556 MIB
Washington, DC 20240

Attn: FOIA/Privacy Act Appeals Office

Telephone: (202) 208-5339
Fax: (202) 208-6677
Email: FOIA.Appeals@sol.doi.gov

# **Conclusion for Final Response**

{NOTE: You *must* include this language *if* your bureau is listed in section 10.3(C) of the Department’s [FOIA Handbook](http://www.doi.gov/foia/news/guidance/upload/FOIA-Handbook-Final-signed-website.pdf): “For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of FOIA. *See* [5 U.S.C. 552(c)](http://www.justice.gov/oip/amended-foia-redlined.pdf). This response is limited to those records that are subject to the requirements of FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.”}

The 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road - OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: <https://www.archives.gov/ogis>
Telephone: 202-741-5770
Fax: 202-741-5769
Toll-free: 1-877-684-6448

Please note that using OGIS services does not affect the timing of filing an appeal with the Department’s FOIA & Privacy Act Appeals Officer. If you have any questions about our response to your request, you may contact [Name] by phone at [Number], by fax at [Number], by email at [Address], or by mail at [Address].

Contact information for the Department’s FOIA Public Liaison, who you may also seek dispute resolution services from, is available at *https://www.doi.gov/foia/foiacenters.*

1. Send these communications electronically, whenever possible. [↑](#footnote-ref-2)