

## PART 1700—PROCEDURES FOR DISCLOSURE OF RECORDS PURSUANT TO THE FREEDOM OF INFORMATION ACT

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AUTHORITY: 5 U.S.C. 552, 50 U.S.C. 401-442; Pub. L. 108-458, 118 Stat. 3638.

SOURCE: 72 FR 45894, Aug. 16, 2007, unless otherwise noted.

### § 1700.1 Authority and purpose.

(a) *Authority.* This part is issued under the authority of and in order to implement the Freedom of Information Act, as amended, 5 U.S.C. 552; the National Security Act of 1947, as amended, 50 U.S.C. 401-442; and the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458, 118 Stat. 3638.

(b) *Purpose in general.* This part prescribes procedures for:

- (1) ODNI administration of the FOIA;
- (2) Requesting records pursuant to the FOIA; and
- (3) Filing an administrative appeal of an initial adverse decision under the FOIA.

### § 1700.2 Definitions.

For purposes of this Part, the following terms have the meanings indicated:

(a) *Days* means calendar days when ODNI is operating and specifically excludes Saturdays, Sundays, and legal public holidays;

(b) *Direct costs* means those expenditures which ODNI actually incurs in the processing of a FOIA request; it

does not include overhead factors such as space;

(c) *Pages* means paper copies of standard office size or the dollar value equivalent in other media;

(d) *Reproduction* means generation of a copy of a requested record in a form appropriate for release;

(e) *Review* means all time expended in examining a record to determine whether any portion must be withheld pursuant to law and in effecting any required deletions but excludes personnel hours expended in resolving general legal or policy issues; it also means personnel hours of professional time;

(f) *Search* means all time expended in looking for and retrieving material that may be responsive to a request utilizing available paper and electronic indices and finding aids; it also means personnel hours of professional time or the dollar value equivalent in computer searches;

(g) *Expression of interest* means a written or electronic communication submitted by any person requesting information on or concerning the FOIA program, the availability of documents from ODNI, or both;

(h) *Fees* means those direct costs which may be assessed a requester considering the categories established by the FOIA; requesters should submit information to assist the ODNI in determining the proper fee category and the ODNI may draw reasonable inferences from the identity and activities of the requester in making such determinations; the fee categories include:

(1) *Commercial use request:* A request in which the disclosure sought is primarily in the commercial interest of the requester and which furthers such commercial, trade, income or profit interests;

(2) *Educational institution:* A preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, or an institution of vocational education, that operates a program of scholarly research. To be in this category, a requester must show that the request is authorized by and is made

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under the auspices of a qualifying institution and that the records are not sought for a commercial use but are sought to further scholarly research.

(3) *Noncommercial scientific institution:* An institution that is not operated on a commercial basis, as that term is defined in paragraph (h)(1) of this section, and that is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry. To be in this category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are not sought for a commercial use but are sought to further scientific research.

(4) *Representative of the news media:* An individual actively gathering news for an entity that is organized and operated to publish and broadcast news to the public and pursuant to the entity's news dissemination function and not its commercial interests; the term "news" means information which concerns current events, would be of current interest to the general public, would enhance the public understanding of the operations or activities of the U.S. Government, and is in fact disseminated to a significant element of the public at minimal cost; freelance journalists are included in this definition if they provide sufficient evidence to justify an expectation of publication through such an organization, even though not actually employed by it; a publication contract or prior publication record is relevant to such status;

(5) *All other:* A request from an individual not within paragraphs (h)(1), (2), (3), or (4) of this section;

(i) *Freedom of Information Act, "FOIA,"* or "the Act" means the statute as codified at 5 U.S.C. 552;

(j) *ODNI* means the Office of the Director of National Intelligence and its component organizations. It does not include other members of the Intelligence Community as defined in 50 U.S.C. 401a, or other federal entities subsequently designated in accordance with this authority, unless specifically designated as included in this part or in the notice of a system of records;

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(k) *Potential requester* means a person, organization, or other entity who submits an expression of interest.

#### § 1700.3 Contact for general information and requests.

For general information on this Part, to inquire about the FOIA program at ODNI, or to file a FOIA request (or expression of interest), please direct communication in writing to the Office of the Director of National Intelligence, Chief FOIA Officer c/o Director, Information Management Office, Washington, DC 20511 by mail or by facsimile at (703) 482-2144. FOIA requests can also be submitted by electronic mail to *FOIA @ dni.gov*. For general information or status information on pending cases only, call the ODNI FOIA Customer Service Center at (571) 204-4774.

#### § 1700.4 Preliminary information.

Members of the public shall address all communications to the point of contact specified in § 1700.3 and clearly delineate the communication as a request under the FOIA. ODNI staff who receive a FOIA request shall expeditiously forward the request to the Director, Information Management Office (IMO). Requests and appeals (as well as referrals and consultations) received from FOIA requesters who owe outstanding fees for information services at this or other federal agencies will not be accepted and action on all pending requests shall be terminated in such circumstances.

#### § 1700.5 Requirements as to form and content.

(a) *Required information.* No particular form is required. A request must reasonably describe the record or records being sought and be submitted in accordance with this regulation. Documents must be described sufficiently to enable a staff member familiar with the subject to locate the documents with a reasonable amount of effort. Whenever possible, your request should include specific information about each record sought, such as the date, title or name, author, recipient, and the subject matter of the record. As a general rule, the more specific you are about the records or type of records