

## SUBCHAPTER C—PUBLIC AVAILABILITY AND USE

### PART 1250—PUBLIC AVAILABILITY AND USE OF FEDERAL RECORDS

#### Subpart A—General Information About Freedom of Information Act (FOIA) Requests

Sec.

- 1250.1 Scope of this part.
- 1250.2 Definitions.
- 1250.4 Who can file a FOIA request?
- 1250.6 Does FOIA cover all of the records at NARA?
- 1250.8 Does NARA provide access to all the executive branch records housed at NARA facilities?
- 1250.10 Do I need to use FOIA to gain access to records at NARA?
- 1250.12 What types of records are available in NARA's FOIA Reading Room?
- 1250.14 If I do not use FOIA to request records, will NARA treat my request differently?

#### Subpart B—How to Access Records Under FOIA

- 1250.20 What do I include in my FOIA request?
- 1250.22 Where do I send my FOIA request?
- 1250.24 Will you accept a FOIA request through email?
- 1250.26 How quickly will NARA respond to my FOIA request?
- 1250.28 Will NARA ever expedite the review of the records I requested?
- 1250.30 How do I request expedited processing?
- 1250.32 How quickly will NARA process an expedited request?
- 1250.34 How will I know if NARA is going to release the records I requested?
- 1250.36 When will NARA deny a FOIA request?
- 1250.38 In what format will NARA provide copies?

#### Subpart C—Fees

- 1250.50 Will I be charged for my FOIA request?
- 1250.52 How much will I have to pay for a FOIA request for NARA operational records?
- 1250.54 General information on fees for NARA operational records.
- 1250.56 Fee schedule for NARA operational records.
- 1250.58 Does NARA ever waive FOIA fees for NARA operational records?
- 1250.60 How will NARA determine if I am eligible for a fee waiver for NARA operational records?

#### Subpart D—Appeals

- 1250.70 What are my appeal rights under FOIA?
- 1250.72 How do I file an appeal?
- 1250.74 Where do I send my appeal?
- 1250.76 May I email my FOIA appeal?
- 1250.78 How does NARA handle appeals?

#### Subpart E—Special Situations

- 1250.80 How does a submitter identify records containing confidential commercial information?
- 1250.82 How will NARA handle a FOIA request for confidential commercial information?

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#### Subpart A—General Information About Freedom of Information Act (FOIA) Requests

##### § 1250.1 Scope of this part.

This part implements the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended, for NARA operational records and archival records that are subject to FOIA. Other NARA regulations in 36 CFR parts 1254 through 1275 provide detailed guidance for conducting research at NARA.

##### § 1250.2 Definitions.

The following definitions apply to this part:

(a) *Archival records* means permanently valuable records of the United States Government that have been transferred to the legal custody of the Archivist of the United States.

(b) *Commercial use requester* means a requester seeking information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made.

(c) *Confidential commercial information* means records provided by a submitter that may contain material exempt from release under the FOIA because

**National Archives and Records Administration**

**§ 1250.6**

disclosure could reasonably be expected to cause the submitter substantial competitive harm.

(d) *Educational institution request* means 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 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.

(e) *FOIA request* means a written request for access to records of the executive branch of the Federal Government held by NARA, including NARA operational records, or to Presidential records in the custody of NARA that were created after January 19, 1981, that cites the Freedom of Information Act.

(f) *Freelance journalist* means an individual who qualifies as a representative of the news media because the individual can demonstrate a solid basis for expecting publication through a news organization, even though not actually in its employ. A publication contract would be the clearest proof of a solid basis, but the individual's publication history may also be considered in demonstrating this solid basis.

(g) *News media representative* means a person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify

as disseminators of news) who make their products available for purchase or subscription to the general public.

(h) *Non-commercial scientific institution* means an institution that is not operated on a basis that furthers the commercial, trade, or profit interests of any person or organization, and which is operated solely for the purpose of conducting scientific research which produces results that are not intended to promote any particular product or industry.

(i) *Operational records* means those records that NARA creates or receives in carrying out its mission and responsibilities as an executive branch agency. This does not include archival records as defined in paragraph (a) of this section.

(j) *Other requesters* means any individual who is not a commercial-use requester, not a representative of the news media, not a freelance journalist, nor one associated with an educational or non-commercial scientific institution whose research activities conform to the definition in paragraph (h) of this section.

(k) *Submitter* means any person or entity providing potentially confidential commercial information to an agency. The term submitter includes, but is not limited to, corporations, state governments, and foreign governments.

**§ 1250.4 Who can file a FOIA request?**

Any individual, partnership, corporation, association, or government regardless of nationality may file a FOIA request.

**§ 1250.6 Does FOIA cover all of the records at NARA?**

No, FOIA applies only to the records of the executive branch of the Federal government and certain Presidential records. Use the following chart to determine how to gain access:

IF YOU WANT ACCESS TO ...	THEN ACCESS IS GOVERNED BY . . .
(A) Records of executive branch agencies	This part and parts 1254 through 1260 of this chapter. FOIA applies to these records.
(B) Records of the Federal courts	Parts 1254 through 1260 of this chapter. FOIA does not apply to these records.