

Office of the Secretary, Interior

§ 2.23

contact person in case you have questions concerning the response.

(i) Requests for information concerning coal under the Mineral Leasing Act or the Mineral Leasing Act for Acquired Lands are subject to special rules (see appendix F to this part).

[67 FR 64530, Oct. 21, 2002, as amended at 74 FR 17092, Apr. 14, 2009]

§ 2.22 What happens if a bureau receives a request for records it does not have or did not create?

(a) *Consultations/referrals within DOI.* If a bureau (other than the Office of Inspector General) receives a request for records in its possession that another bureau created or is substantially concerned with, it will consult with the other bureau before deciding whether to release or withhold the records. Alternatively, the bureau may refer the request, along with the records, to that bureau for direct response. The bureau that received the request will notify you of the referral in writing, along with the name of a contact in the other bureau(s) to which the referral was made. A referral does not restart the statutory time limit for responding to your request.

(b) *Consultations/referrals with agencies outside DOI.* (1) If a bureau receives a request for records not in its possession, but which the bureau believes may be in the possession of another Federal agency, the bureau will return your request and advise you to submit it directly to the other agency. If you still believe that the records exist within DOI, you should notify the bureau FOIA contact of any additional information which leads you to believe the records exist and where they might be found. Alternatively, you may treat such a response as a denial of records and file an appeal.

(2) If, in response to a request, a bureau locates documents that originated with another Federal agency, it will refer the request, along with any responsive document(s), to that agency for a release determination and direct response. If the bureau refers the documents to another agency, it will notify you of the referral in writing and provide the name of a contact at the other agency. You may treat such a response as a denial of records and file an ap-

peal. However, in the following situations, the bureau will make the release determination, after consulting with the originating agency.

(i) When the record is of primary interest to DOI (a record is of primary interest to DOI if it was developed or prepared according to DOI regulations or directives, or in response to a DOI request);

(ii) If DOI is in a better position than the originating agency to assess whether the record is exempt from disclosure;

(iii) If the originating agency is not subject to the FOIA; or

(iv) When it is more efficient or practical depending on the circumstances.

(3) If a bureau receives a request for records which have been classified by another agency under Executive Order 12958, Classified National Security Information, or superseding Executive order, it must refer the request to that agency for response.

[67 FR 64530, Oct. 21, 2002, as amended at 69 FR 58324, Sept. 30, 2004; 74 FR 17092, Apr. 14, 2009]

§ 2.23 How will a bureau handle a request for commercial or financial information that it has obtained from a person or entity outside the Federal Government?

(a) If a bureau receives a FOIA request for records containing commercial or financial information submitted by a person or entity outside the Federal Government, under Executive Order 12600, Predisclosure Notification Procedures for Confidential Commercial Information, or superseding Executive order, the bureau must provide the submitter with prompt written notice of the request, except as provided in paragraph (h) of this section, whenever:

(1) The submitter has designated the information as confidential commercial or financial information, or

(2) The bureau has reason to believe that the information may be protected under exemption (4).

(b) The notice to the submitter will—

(1) Include a copy of the FOIA request.

(2) Describe the information requested or include copies of the pertinent records.