

§ 2402.4

such entities qualify as disseminators of 'news') who make their products available for purchase by or subscription by or free distribution to the general public. These examples are not all-inclusive. Moreover, as methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news-media entities. A freelance journalist shall be regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation; the Government may also consider the past publication record of the requester in making such a determination.

(11) The term "search" refers to the process of looking for and retrieving records or information responsive to a request. It includes page-by-page or line-by-line identification of information within records and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format.

(12) The term "working day" means a regular Federal working day. It does not include Saturdays, Sundays, or legal Federal holidays.

§ 2402.4 Procedure for requesting records.

(a) *Format of requests.* (1) *In general.* Requests for information must be made in writing and may be delivered by mail, fax, or electronic mail, as specified in § 2402.2(c). All requests must be made in English. Requests for information must specify the preferred form or format (including electronic formats) of the response. When requesters do not specify the preferred form or format of the response, OSTP shall produce printed copies of responsive records.

(2) *Electronic format records.* (i) OSTP shall provide the responsive record or records in the form or format requested if the record or records are readily reproducible by OSTP in that form or format. OSTP shall make reasonable efforts to maintain its records in forms or formats that are reproducible for

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the purpose of disclosure. For purposes of this paragraph, the term readily reproducible means, with respect to electronic format, a record or records that can be downloaded or transferred intact to a floppy disk, computer disk (CD), tape, or other electronic medium using equipment currently in use by the office or offices processing the request. Even though some records may initially be readily reproducible, the need to segregate exempt from non-exempt records may cause the releasable material to be not readily reproducible.

(ii) In responding to a request for records, OSTP shall make reasonable efforts to search for the records in electronic form or format, except where such efforts would significantly interfere with the operation of the agency's automated information system(s). For purposes of this paragraph, the term "search" means to locate, manually or by automated means, agency records for the purpose of identifying those records that are responsive to a request.

(iii) Searches for records maintained in electronic form or format may require the application of codes, queries, or other minor forms of programming to retrieve the requested records.

(b) *Contents.* A request must describe the records sought in sufficient detail to enable OSTP personnel to locate the records with a reasonable amount of effort. OSTP will regard a request for a specific category of records as fulfilling the requirements of this paragraph if it enables responsive records to be identified by a technique or process that is not unreasonably burdensome or disruptive to OSTP operations. Whenever possible, a request should include specific information about each record sought, such as the date, number, title or name, author, recipient, and subject matter of the record. If OSTP determines that a request does not reasonably describe the records sought, it will either provide notice of any additional information needed or otherwise state why the request is insufficient. OSTP will offer a requester reasonable opportunity to reformulate the request so that it meets the requirements of this section.

(c) *Date of receipt.* A request that complies with paragraphs (a) and (b) of this section is deemed a “perfected request.” A perfected request is deemed received on the actual date it is received by OSTP. A request that does not comply with paragraphs (a) and (b) of this section is deemed received when sufficient information to perfect the request is actually received by OSTP. For requests that are expected to result in fees exceeding \$250, the request shall not be deemed to have been received until OSTP has received full payment or satisfactory assurance of full payment as provided under § 2402.8.

§ 2402.5 Responses to requests.

(a) *Responses within 20 working days.* OSTP will exercise all reasonable efforts to acknowledge, grant, partially grant, or deny a request for records within 20 working days after receiving a perfected request.

(b) *Extensions of response time in “unusual circumstances.”* In circumstances where a determination as provided in paragraph (a) of this section is not possible within 20 working days, OSTP may extend the time limit prescribed in paragraph (a) of this section as necessary to adequately respond to a request. OSTP shall notify the requester of the extension, the reasons for the extension, and the date on which a determination is expected. In such instances, the requester will be provided an opportunity to limit the scope of the request so that it may be processed within the time limit, or to agree to a reasonable alternative time frame for processing. Circumstances justifying a time limit extension as provided in this paragraph (b) include, but are not limited to, requests that require OSTP to:

- (1) Search for and collect the requested records from off-site storage facilities;
- (2) Search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request;
- (3) Consult, with all practicable speed, with another agency having a substantial interest in the determination of the request; or
- (4) Perform searches of records of former employees.

(c) *Two-track processing.* To ensure the most equitable treatment possible for all requesters, OSTP will process requests on a first-in, first-out basis, using a two-track processing system based upon the estimated time it will take to process the request.

(1) *Simple requests.* The first track is for requests of simple to moderate complexity that are expected to be completed within 20 working days. A requester whose request does not qualify as a simple request may be given an opportunity to limit the scope of his or her request in order to qualify for faster processing.

(2) *Complex requests.* The second track is for requests involving “unusual circumstances,” as described in paragraph (b) of this section, that are expected to take more than 20 working days to complete.

(d) *Expedited processing.* (1) Expedited requests: OSTP may take requests out of order and expedite the processing of a request upon receipt of a written statement that clearly demonstrates a compelling need for expedited processing. Requesters must provide detailed explanations to support their expedited requests. For purposes of determining expedited processing, the term compelling need means:

- (i) That a failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of any individual; or
- (ii) That a request is made by a person primarily engaged in disseminating information, and the person establishes that there is an urgency to inform the public concerning actual or alleged Federal Government activity.

(2) A person requesting expedited processing must include a statement certifying that the compelling need provided is true to the best of the requester’s knowledge and belief.

(3) OSTP may grant or deny a request for expedited processing as a matter of agency discretion. A determination of whether to provide expedited processing shall be made, and notice of the determination shall be provided to the person making the request, within 10 working days after receipt of the perfected request.