AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO



(b) 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 either:

(1) Consult with the other bureau before deciding whether to release or withhold the records; or

(2) Refer the request, along with the records, to that other bureau for direct response.

(c) The bureau that originally received the request will notify you of the referral in writing. When the bureau notifies you of the referral, it will tell you whether the referral was for part or all of your request and provide the name and contact information for the other bureau.

(d) If, while responding to a request, the bureau locates records that originated with another Federal agency, it usually will refer the request and any responsive records to that other agency for a release determination and direct response.

(e) If the bureau refers records to another agency, it will document the referral and maintain a copy of the records that it refers and notify you of the referral in writing, unless the notification will itself disclose a sensitive, exempt fact. When the bureau notifies you of the referral, it will tell you whether the referral was for part or all of your request and provide the name and contact information for the other agency. You may treat such a response as a denial of records and file an appeal, in accordance with the procedures in § 2.59 of this part.

(f) If the bureau locates records that originated with another Federal agency while responding to a request, the bureau will make the release determination itself (after consulting with the originating agency) when:

(1) The record is of primary interest to the Department (for example, a record may be of primary interest to the Department if it was developed or prepared according to the Department's regulations or directives, or in response to a Departmental request);

(2) The Department is in a better position than the originating agency to assess whether the record is exempt from disclosure;

(3) The originating agency is not subject to the FOIA; or

(4) It is more efficient or practical depending on the circumstances.

(g) If the bureau receives a request for records that another Federal agency has classified under any applicable executive order concerning record classification, it must refer the request to that agency for response.

(h) If the bureau receives a request for records not in its possession, but that the bureau believes may be in the possession of a Federal agency outside the Department, the bureau will return the request to you, may advise you to submit it directly to the agency, will notify you that the bureau cannot comply with the request, and will close the request. If you believe this response was in error, you may file an appeal in accordance with the procedures in § 2.59.

[77 FR 76902, Dec. 31, 2012; 78 FR 6216, Jan. 30, 2013]

## Subpart D—Timing of Responses to Requests

SOURCE: 77 FR 76902, Dec. 31, 2012, unless otherwise noted.

### § 2.14 In what order are responses usually made?

The bureau ordinarily will respond to requests according to their order of receipt within their processing track.

### § 2.15 What is multitrack processing and how does it affect your request?

(a) Bureaus use processing tracks to distinguish simple requests from more complex ones on the basis of the estimated number of workdays needed to process the request.

(b) In determining the number of workdays needed to process the request, the bureau considers factors such as the number of pages involved in processing the request or the need for consultations.

(c) The basic processing tracks are designated as follows:

(1) Simple: requests in this track will take between one to five workdays to process;

(2) Normal: requests in this track will take between six to twenty workdays to process;

(3) Complex: requests in this track will take between twenty-one workdays and sixty workdays to process; or

(4) Exceptional/Voluminous: requests in this track involve very complex processing challenges, which may include a large number of potentially responsive records, and will take over sixty workdays to process.

(d) Bureaus also have a specific processing track for requests that are granted expedited processing under the standards in §2.20 of this part. These requests will be processed as soon as practicable.

(e) Bureaus must advise you of the track into which your request falls and, when appropriate, will offer you an opportunity to narrow your request so that it can be placed in a different processing track.

(f) The use of multitrack processing does not alter the statutory deadline for a bureau to determine whether to comply with your FOIA request (see §2.16 of this part).

### §2.16 What is the basic time limit for responding to a request?

(a) Ordinarily, the bureau has 20 workdays after the date of receipt to determine whether to comply with (for example, grant, partially grant, or deny) a FOIA request, but unusual circumstances may allow the bureau to take longer than 20 workdays (see §2.19).

(b) A consultation or referral under §2.13 of this part does not restart the statutory time limit for responding to a request.

### §2.17 When does the basic time limit begin for misdirected FOIA requests?

The basic time limit for a misdirected FOIA request (see §2.4(e) of this part) begins no later than ten workdays after the request is first received by any component of the Department that is designated to receive FOIA requests.

### §2.18 When can the bureau suspend the basic time limit?

(a) The basic time limit in §2.16 of this part may be temporarily suspended for the time it takes you to respond to one written communication from the bureau reasonably asking for clarifying information.

(b) The basic time limit in §2.16 may also repeatedly be temporarily suspended for the time it takes you to respond to written communications from the bureau that are necessary to clarify issues regarding fee assessment (see §2.51 of this part).

### §2.19 When may the bureau extend the basic time limit?

(a) The bureau may extend the basic time limit if unusual circumstances exist. Before the expiration of the basic 20 workday time limit to respond, the bureau will notify you in writing of:

(1) The unusual circumstances involved; and

(2) The date by which it expects to complete processing the request.

(b) If the processing time will extend beyond a total of 30 workdays, the bureau will:

(1) Give you an opportunity to limit the scope of the request or agree to an alternative time period for processing; and

(2) Make available its FOIA Public Liaison (see §2.66 of this part) to assist in resolving any disputes between you and the bureau.

(c) If the bureau extends the time limit under this section and you do not receive a response in accordance with §2.16(a) in that time period, you may consider the request denied and file an appeal in accordance with the procedures in §2.59.

(d) Your refusal to reasonably modify the scope of a request or arrange an alternative time frame for processing a request after being given the opportunity to do so may be considered for litigation purposes as a factor when determining whether exceptional circumstances exist.