

## § 1001.6

## 6 CFR Ch. X (1–1–14 Edition)

### § 1001.6 Responsibility for responding to requests.

(a) *In general.* The Board delegates authority to grant or deny FOIA requests in whole or in part to the FOIA Officer. When conducting a search for responsive records, the FOIA Officer generally will search for records in existence on the date of the search. If another date is used, the FOIA Officer shall inform the requester of the date used.

(b) *Responses.* The FOIA Officer will notify you of his or her determination to grant or deny your FOIA request in the time frame stated in §1001.8. The Board will release reasonably segregable non-exempt information. For any adverse determination, including those regarding any disputed fee matter; a denial of a request for a fee waiver; or a determination to withhold a record, in whole or in part, that a record does not exist or cannot be located; or to deny a request for expedited processing; the notice shall include the following information:

(1) The name(s) of any person responsible for the determination to deny the request in whole or in part;

(2) A brief statement of the reason(s) for the denial, including any FOIA exemption applied in denying the request. The FOIA Officer will indicate, if technically feasible, the amount of information deleted and the exemption under which a deletion is made on the released portion of the record, unless including that indication would harm an interest protected by the exemption;

(3) An estimate of the volume of information withheld, if applicable. This estimate does not need to be provided if it is ascertainable based on redactions in partially disclosed records or if the disclosure of the estimate would harm an interest protected by an applicable FOIA exemption; and

(4) A statement that the adverse determination may be appealed and a description of the requirements for an appeal under §1001.7.

(c) *Consultations and referrals.*

(1) Upon receipt of a FOIA request for a record within the Board's possession, the FOIA Officer should determine if the Board or another federal agency is best able to determine eligibility for

disclosure under the FOIA. If the FOIA Officer determines that another agency is better able to evaluate the releasability of the record, the FOIA Officer shall:

(i) Respond to the FOIA requester after consulting with any other federal agency that has a substantial interest in the record; or

(ii) Refer the responsibility for responding to the request to the department or agency best able to determine whether to disclose it (but only if that other department or agency is subject to FOIA). Ordinarily, the department or agency that originated the record will be presumed best able to determine whether to disclose it.

(2) Whenever a request is made for information that is classified, the FOIA Officer shall refer the responsibility for responding to that portion of the request to the agency that originated the information, or has the primary interest in it, as appropriate. Whenever a record contains information that the Board has derivatively classified because it contains information classified by another agency, the FOIA Officer shall refer the responsibility for responding to the request regarding that information to the agency that classified the underlying information or originated the record.

(3) If responsibility for responding to a request is referred to another department or agency, the FOIA Officer shall notify you of the referral. This notice shall identify the part of the request that has been referred and the name of each department or agency to which the request, or part of the request, has been referred, when appropriate and available, the notice will include a point of contact for the referral agency or department.

### § 1001.7 Administrative appeals.

(a) You may appeal an adverse determination related to your FOIA request, or the Board's failure to respond to your FOIA request within the prescribed time limits, to the Chief FOIA Officer, Privacy and Civil Liberties Oversight Board, 2100 K Street NW., Suite 500, Washington, DC 20427.

(b) Your appeal must be in writing and received by the Chief FOIA Officer within 60 days of the date of the letter

denying your request, in whole or in part. In case of the Board's failure to respond within the statutory time frame, you may submit an administrative appeal at any time until an agency response has been provided. For the most expeditious handling, your appeal letter and envelope should be marked "Freedom of Information Act appeal."

(c) Your appeal letter should state facts and may cite legal or other authorities in support of your request.

(d) The Chief FOIA Officer shall respond to all administrative appeals in writing and within the time frame stated in §1001.8(d). If the decision affirms, in whole or in part, the FOIA Officer's determination, the letter shall contain a statement of the reasons for the affirmance, including any FOIA exemption(s) applied, and will inform you of the FOIA's provisions for court review. If the Chief FOIA Officer reverses or modifies the FOIA Officer's determination, in whole or in part, you will be notified in writing and your request will be reprocessed in accordance with that decision. The Board may work with Office of Government Information Services (OGIS) to resolve disputes between FOIA requestors and the Board. A requester may also contact OGIS in the following ways: Via mail to OGIS, National Archives and Records Administration, 8601 Adelphi Road—OGIS, College Park, MD 20740 (ogis.archives.gov), via email at [ogis@nara.gov](mailto:ogis@nara.gov), or via the telephone at 202-741-5770 or 877-684-6448. Facsimile is also available at 202-741-5769.

**§1001.8 Time frame for Board response.**

(a) *In general.* The Board ordinarily shall respond to requests according to their order of receipt.

(b) *Multi-track processing.* The Board may use two or more processing tracks by distinguishing between simple and more complex requests based on the amount of work or time needed to process the request.

(c) *Initial decisions.* The Board shall determine whether to comply with a FOIA request within 20 working days after our receipt of the request, unless the time frame for response is extended due to unusual circumstances as further described in paragraph (f) of this

section. A request is received by the Board, for purposes of commencing the 20-day timeframe for its response, on the day it is received by the FOIA Officer or, in any event, not later than ten days after the request is first received by any Board office.

(d) *Administrative appeals.* The Chief FOIA Officer shall determine whether to affirm or overturn a decision subject to administrative appeal within 20 working days after receipt of the appeal, unless the time frame for response is extended in accordance with subsection (e) of this section.

(e) *Tolling timelines.* We may toll the 20-day timeframe set forth in paragraphs (c) or (d) of this section:

(1) One time to await information that we reasonably requested from you, as permitted by 5 U.S.C. 552(a)(6)(A)(iii)(I);

(2) As necessary to clarify with you issues regarding the fee assessment.

(3) If we toll the time frame for response under paragraphs (e)(1) or (2) of this section, the tolling period ends upon our receipt of your response.

(f) *Unusual circumstances.* In the event of unusual circumstances, we may extend the time frame for response provided in paragraphs (c) or (d) of this section by providing you with written notice of the unusual circumstances and the date on which a determination is expected to be made. Where the extension is for more than ten working days, we will provide you with an opportunity either to modify your request so that it may be processed within the statutorily-prescribed time limits or to arrange an alternative time period for processing your request or modified request.

(g) *Aggregating requests.* When we reasonably believe that multiple requests submitted by a requester, or by a group of requesters acting in concert, involving clearly related matters, can be viewed as a single request that involves unusual circumstances, we may aggregate the requests for the purposes of fees and processing activities, which may result in an extension of the processing time.

(h) *Expedited processing.* You may request that the Board expedite processing of your FOIA request. To receive