

## § 9301.5

### § 9301.5 Accessing records without request.

Certain SIGAR records, including the agency's Quarterly Report, audit reports, testimony, oversight plans, press releases and other public issuances, are available electronically from SIGAR's homepage at <http://www.sigar.mil>. SIGAR encourages requesters to visit its Web site before making a request for records under § 9301.6.

### § 9301.6 Requesting records.

(a) *Written requests required.* For records not available as described under § 9301.5, requesters wishing to obtain information from SIGAR should submit a written request to SIGAR's FOIA Officer. Requests should be addressed to FOIA Officer, Office of the Special Inspector General for Afghanistan Reconstruction, 2530 Crystal Drive, Arlington, VA 22202. As there may be delays in mail delivery, it is advisable to send the request via facsimile to (703) 601-3804 or by email to [sigar.pentagon.gen-coun.mbx.foia@mail.mil](mailto:sigar.pentagon.gen-coun.mbx.foia@mail.mil).

(b) *Contents of requests.* Requests should be as specific as possible and should reasonably specify the records sought so that the records can be located with a reasonable amount of effort. The request should identify the desired record or describe it, and include information such as the date, title or name, author, recipient, and subject matter of the record, where possible. The request should also include a statement of the requester's willingness to pay fees, or request a fee waiver. The words "FOIA REQUEST" or "REQUEST FOR RECORDS" should be clearly marked on the cover letter, letter, and/or envelope.

(c) *Response to requests—(1) Processing.* SIGAR will provide an individualized tracking number, and estimated date of completion, and a brief description of the subjects of the request in an acknowledgement letter to the requester. The FOIA Officer shall determine within 20 days (except Saturdays, Sundays, and federal holidays) after receiving a request for records, whether it is appropriate to grant or deny the request. The 20-day period may be tolled once if the FOIA Officer requests information from the requestor or if additional

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time is necessary to clarify issues with the requestor regarding a fee assessment.

(i) *Request granted.* If the FOIA Officer decides to grant the request, either in-full or in-part, the FOIA Officer shall promptly provide the requester written notice of the decision. The FOIA Officer shall include with the notice both the requested records and a copy of the decision. The notice shall also describe the procedure for filing an appeal.

(ii) *Request denied.* If the FOIA Officer denies the request, in full or part, the FOIA Officer shall provide the requester written notice of the denial together with the approximate number of pages of information withheld and the exemption under which the information was withheld. SIGAR will indicate, if technically feasible, the amount of information deleted and the exemption under which the deletion is made at the place in the record where the deletion was made. SIGAR will also indicate 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 exemptions. The notice shall also describe the procedure for filing an appeal.

(iii) *Consultations and referrals:* When SIGAR receives a request for a record in its possession, it will determine whether another agency of the Federal Government, is better able to determine whether the record is exempt from disclosure under the FOIA and, if so, whether it should be disclosed as a matter of administrative discretion. If SIGAR determines that it is best able to process the record in response to the request, then it will do so. If SIGAR determines that it is not best able to process the record, then it will either:

(A) Respond to the request regarding that record, after consulting with the agency best able to determine whether to disclose it and with any other agency that has a substantial interest in it; or

(B) Refer the responsibility for responding to the request regarding that record to the agency that originated the record (but only if that agency is subject to the FOIA). Ordinarily, the agency that originated a record will be

presumed to be best able to determine whether to disclose it.

(2)(i) *Expedited processing.* At the time a requester submits an initial request for records the requester may ask the FOIA Officer in writing to expedite processing of the request. The request for expedited processing must be accompanied by a written statement, which shall state that it is true and correct to the best of the requester's knowledge and belief, explaining why expedited processing is warranted. The FOIA Officer shall generally grant requests for expedited processing of requests for records, and appeals of denials under paragraph (d)(2) of this section, whenever the FOIA Officer determines that:

(A) Failure to obtain the requested records on an expedited basis could reasonably pose a threat to a person's life or physical safety; or

(B) With respect to a request made by a person primarily engaged in disseminating information, there is an urgency to inform the public about Government activity that is the specific subject of the FOIA request.

(ii) The FOIA Officer shall ordinarily decide within ten calendar days after receiving a request for expedited processing whether to grant it and shall notify the requester of the decision. If the FOIA Officer grants a request for expedited processing, the FOIA Officer shall process the request as soon as practicable. If the FOIA Officer denies a request for expedited processing, SIGAR shall act expeditiously on any appeal of that denial.

(3) *Extension for unusual circumstances—(i) In general.* If the FOIA Officer determines that unusual circumstances exist, the FOIA Officer may extend for no more than ten days (except Saturdays, Sundays and Federal holidays) the time limits described in paragraph (c)(1) of this section by providing written notice of the extension to the requester. The FOIA Officer shall include with the notice a brief statement of the reason for the extension and the date the FOIA Officer expects to make the determination.

(ii) *Additional procedures.* The FOIA Officer shall provide written notice to the requester if the FOIA Officer decides that the determination cannot be

made within the time limit described in paragraph (c)(3)(i) of this section. The notice shall afford the requester an opportunity to limit the scope of the request to the extent necessary for the FOIA Officer to process it within that time limit or an opportunity to arrange a longer period for processing the request.

(d) *Appeals—(1) Initiating appeals.* Requesters not satisfied with the FOIA Officer's written decision may request SIGAR's FOIA Appellate Authority to review the decision. Appeals must be delivered in writing within 60 days of the date of the decision and should be addressed to the FOIA Appellate Authority, Office of Privacy, Records & Disclosure, Special Inspector General for Afghanistan Reconstruction, 2530 Crystal Drive, Arlington, VA 22202. As there may be delays in mail delivery, it is advisable to Fax appeals to (703) 601-3804 or email to [sigar.pentagon.gencoun.mbx.foia@mail.mil](mailto:sigar.pentagon.gencoun.mbx.foia@mail.mil). An appeal shall include a statement specifying the records that are the subject of the appeal and explaining why the Appellate Authority should grant the appeal.

(2) *Appeal decisions.* The Appellate Authority shall decide the appeal within 20 days (except Saturdays, Sundays and federal holidays) from the date it receives the appeal. If the Appellate Authority denies the appeal in full or part, the Appellate Authority shall promptly notify the requester in writing of the Appellate Authority's decision and the provisions for judicial review. If the Appellate Authority grants the appeal, the FOIA Officer shall notify the requester in writing and shall make available to the requester copies of the releasable records once the requester pays any fees that SIGAR assesses under §§ 9301.8 through 9301.10.

(3) *Mediation.* A response to an appeal will advise the requester that the 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. A requester may contact OGIS in any of the following ways: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD

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20740; Email: [ogis@nara.gov](mailto:ogis@nara.gov); Telephone: 202-741-5770; Facsimile: 202-741-5769; Toll-free: 1-877-684-6448.

[77 FR 34180, June 11, 2012, as amended at 77 FR 38171, June 27, 2012]

### COSTS

#### § 9301.7 Definitions.

For purposes of this subpart:

(a) *Commercial use request* means a request from or on behalf of a person who seeks information for a use or purpose that furthers the requester's or other person's commercial, trade, or profit interests.

(b) *Direct costs* means those costs incurred in searching for and duplicating (and, in the case of commercial use requests, reviewing) documents to respond to a FOIA request. Direct costs include, for example, salaries of employees who perform the work and costs of conducting large-scale computer searches.

(c) *Duplicate* means to copy records to respond to a FOIA request. Copies can take the form of paper, audio-visual materials, or electronic records, among others.

(d) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, that operates a program or programs of scholarly research.

(e) *Fee category* means one of the three categories that agencies place requesters in for the purpose of determining whether a requester will be charged fees for search, review and duplication.

(f) *Fee waiver* means the waiver or reduction of processing fees if a requester can demonstrate that certain statutory standards are satisfied.

(g) *Non-commercial scientific institution* means an institution that is not operated on a commercial basis and that operates solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(h) *Representative of the news media* means any person or entity that gath-

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ers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.

(i) *Review* means to examine a record to determine whether any portion of the record may be withheld and to process a record for disclosure, including by redacting it.

(j) *Search for* means look for and retrieve records covered by a FOIA request, including by looking page-by-page or line-by-line to identify responsive material within individual records.

[77 FR 38172, June 27, 2012]

#### § 9301.8 Fees in general.

SIGAR shall charge reasonable fees that recoup the full allowable direct costs it incurs in responding to FOIA requests. SIGAR will provide an estimated amount of fees, including a breakdown of the fees for search, review, and/or duplication. SIGAR may assess charges for time spent searching for records even if SIGAR is unable to locate the records or if the records are located and determined to be exempt from disclosure. In general, SIGAR shall apply the following fee schedule, subject to §§ 9301.9 through 9301.11:

(a) *Manual searches*. Time devoted to manual searches shall be charged on the basis of the salary of the employee(s) conducting the search (basic hourly rate(s) of pay for the employee).

(b) *Electronic searches*. Fees shall reflect the direct cost of conducting the search. This will include the cost of operating the central processing unit for that portion of operating time that is directly attributable to searching for and printing records responsive to the FOIA request and operator/programmer salary attributable to the search.

(c) *Record reviews*. Time devoted to reviewing records shall be charged on the same basis as under paragraph (a) of this section, but shall only be applicable to the initial review of records located in response to commercial use requests.

(d) *Duplication*. Fees for copying paper records or for printing electronic records shall be assessed at a rate of \$.10 per page. For other types of copies such as disks or audio visual tapes,