



Freedom of Information Act

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Frequently Asked Questions

What is the FOIA?

The FOIA is a Federal law that establishes the public's right to request existing records from Federal Government agencies.

Who can file a FOIA request?

Any "person" can file a FOIA request, including U.S. citizens, foreign nationals, organizations, universities, businesses, and state, local, or foreign governments, not including federal agencies or fugitives from the law.

Who is subject to the FOIA and what type of information can be requested?

The FOIA's scope includes Federal Executive Branch Departments, agencies, and offices, Federal regulatory agencies, and Federal corporations. Congress, the Federal Courts, and parts of the Executive Office of the President are not subject to the FOIA. State and local governments are likewise not subject to the Federal FOIA, but some states have their own equivalent access laws for state records.

What is a record?

A record is the product(s) of data compilation, such as all books, papers, maps, and photographs, machine-readable materials (including those in electronic form or format) or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law in connection with the transaction of public business and in Army possession and control at the time the FOIA request is made.

May I ask questions under the FOIA?

The FOIA does not require Federal Agencies to answer questions, render opinions, or provide subjective evaluations. Requesters must ask for existing records such as those mentioned above.

What are reasons for not releasing a record?

There are seven reasons why the Army may not release a record requested under the FOIA:

1. The request is transferred to another Army component or Federal agency.
2. The Army component determines, through knowledge of its files and reasonable search efforts, that it neither controls nor otherwise possesses the requested record.
3. A record has not been described with sufficient detail to enable the Army component to locate it by conducting a reasonable search.
4. The requester has failed unreasonably to comply with procedural requirements, including payment of fees, imposed by the FOIA and AR 25-55.
5. The request is withdrawn by the requester.

6. The information requested is not a record within the meaning of the FOIA and AR 25-55.
7. The record is denied in whole or part in accordance with procedures set forth in the FOIA and AR 25-55. (See FOIA exemptions, below.)

What are FOIA exemptions?

1. Records currently and properly classified in the interest of national security.
2. Records related solely to internal personnel rules and practices, which, if released, would allow circumvention of an agency function.
3. Records protected by another law that specifically exempts the information from public release.
4. Trade secrets and commercial or financial information obtained from a private source that would cause substantial competitive harm to the source if disclosed.
5. Internal records that are deliberative in nature and are part of the decision-making process that contain opinions and recommendations.
6. Records that, if released, would result in a clearly unwarranted invasion of personal privacy.
7. Investigatory records or information compiled for law-enforcement purposes.
8. Records for the use of an agency responsible for the regulation or supervision of financial institutions.
9. Records containing geological and geophysical information (including maps) concerning wells.

How long will it take for my request to be processed?

The answer to this question depends on the nature of the request. In fairness to all requesters, USAREUR/IMCOM-Europe processes requests in order by date of receipt and according to their complexity. Whenever possible, an initial determination to release or deny a record is made within 20 workdays after receipt of the request. However, due to the volume and complexity of requests received each year, USAREUR/IMCOM-Europe is unable to process all requests within the Statute's time requirements.

Under certain conditions, expedited access may be granted if there is a compelling need, such as a threat to life and safety, if the requester has an urgent need to inform the public of actual or alleged Federal Government activity, if loss of substantial due-process rights is imminent, or if a humanitarian need exists.

Do I have to pay for a FOIA request?

The FOIA allows fees to be charged dependent on the category of the requester. It also provides that waivers or reductions in fees be given if disclosing the information is in the public interest. Public interest is defined as information that significantly enhances the public's knowledge of the operations and activities of the Army. The FOIA requires that requesters be placed into one of the following categories:

Commercial. Requesters who seek information for a use or purpose that furthers their commercial, trade, or profit interest are considered commercial requesters. Commercial requesters pay all fees for the search, review, and duplication of records.

Educational. Institutions of education, including preschools, elementary or secondary schools, and institutions of higher learning qualify as educational institutions. The records must further scholarly research. Educational requesters pay only duplication fees, unless it is determined that fees are waived or reduced in the public interest. The first 100 pages are provided at no cost.

Noncommercial Scientific. A noncommercial scientific institution is operated solely for conducting scientific research. The records must be sought to further scientific research. Like educational requesters, these requesters pay only duplication fees, unless it is determined that fees are waived or reduced in the public interest. The first 100 pages are provided at no cost.

News Media. A representative of the news media is a person actively gathering news for an entity organized and operated to publicize or broadcast news to the public. News media pay only duplication fees, unless it is determined that fees are waived or reduced in the public interest. The first 100 pages are provided at no cost.

Other Requester. Requesters who do not qualify in another category are considered "other" requesters and normally make requests for agency records for their personal use. "Other" requesters receive 2 hours of search time, all review costs, and the first 100 pages at no cost.

All requesters must state a willingness to pay fees regardless of the fee category. Making this statement does not mean that the requester will necessarily be charged fees. Except for commercial requesters, whose fees total more than \$15, waivers are always considered. Fee waivers may be granted when disclosure of the records is in the public interest by being likely to contribute significantly to public understanding of the operations or activities of the Government.

The following factors are weighed in making a fee-waiver determination.

1. The subject of the request.
2. The informative value of the information to be disclosed.
3. The contribution to an understanding of the subject by the general public likely to result from the disclosure.
4. The significance of the contribution to public understanding.
5. Disclosure of the information is not primarily in the commercial interest of the requester.
6. The ability of the requester to disseminate the information.