

Freedom of Information Act Policy	
EPA Classification No.: CIO 2157.1	CIO Approval Date: 09/30/2014
CIO Transmittal No.: 14-006	Review Date: 09/30/2017

*Issued by the EPA Chief Information Officer,  
Pursuant to Delegation 1-19, dated July 7, 2005*

## **Freedom of Information Act Policy**

---

### **1. PURPOSE**

This policy establishes EPA requirements for complying with the Freedom of Information Act (FOIA) as amended, EPA FOIA regulations, and guidance issued by the U. S. Department of Justice and the National Archives and Records Administration. This policy supports open government through transparency, proactive disclosure, and, when possible, discretionary releases of information. It also serves as a framework for the associated procedures used to process FOIA requests and promote accountability for the timeliness and quality of EPA responses.

---

### **2. SCOPE AND APPLICABILITY**

This policy addresses statutory, regulatory, federal guidance and Agency requirements for processing FOIA requests. The policy establishes management and staffing requirements for implementing FOIA; establishes accountability for managers and FOIA professionals; and sets requirements for using the FOIA management and tracking system that has been approved by the Agency's Chief FOIA Officer for managing the lifecycle of FOIA requests.

---

### **3. AUDIENCE**

The audience for this policy includes all EPA organizations, officials, and employees. The audience for this policy is also contractors or grantees and others operating on behalf of the EPA, as described below.

---

### **4. BACKGROUND**

The FOIA, 5 U.S.C. § 552, was enacted in 1966. The law gives any requester the right to obtain federal agency records unless such records or portions of such records are protected from public disclosure by one or more of the nine exemptions or three law enforcement exclusions contained in the statute. The FOIA applies only to administrative agencies within the federal Executive Branch. It does not apply to records held by Congress, the courts, or

Freedom of Information Act Policy	
EPA Classification No.: CIO 2157.1	CIO Approval Date: 09/30/2014
CIO Transmittal No.: 14-006	Review Date: 09/30/2017

by state, local, or tribal government agencies. The FOIA has undergone several amendments since its passage, including the e-FOIA amendments of 1996 and the Openness Promotes Effectiveness in our National (OPEN) Government Act of 2007. The e-FOIA amendments clarified how electronic records should be handled under the FOIA and extended the statutory time for agencies to respond from ten working days to twenty working days. The OPEN Government Act of 2007 made changes to promote a more open and accountable government and established a requirement for each agency to have a Chief FOIA Officer and Public Liaison Officers to assist in reducing delays, increasing transparency and resolving disputes. In conformance with the OPEN Government Act, FOIA requests and EPA decisions are now managed in a FOIA management and tracking system. With very limited exceptions all EPA FOIA responses will be available in the Agency's FOIA management and tracking system for public viewing and searching.

EPA FOIA activities are performed across the Agency under the direction of the Chief FOIA Officer and the National FOIA Program located in the Office of Environmental Information (OEI). The National FOIA Specialists support the EPA FOIA community by providing training, offering guidance, supporting fee waiver and expedited processing activities and staffing the FOIA Requester Service Center. The Office of General Counsel and Offices of Regional Counsel provide legal advice to staff in EPA's program offices who are responding to a request. The Office of Inspector General is independent and provides advice on FOIA matters pertaining to its own organization.

## 5. AUTHORITY

Freedom of Information Act , 5 U.S.C. § 552.  
EPA's FOIA Regulations, Title 40, C.F.R. Part 2, Subpart A.

## 6. POLICY

It is the policy of the EPA to manage Freedom of Information Act (FOIA) requests as follows:

1. FOIA requests submitted to the Agency will be processed in accordance with the FOIA, applicable Presidential Orders and memoranda, EPA's FOIA regulations, applicable guidance issued by the Department of Justice and the National Archives and Records Administration and applicable EPA FOIA guidance and procedures.
2. FOIA requests submitted to the Agency will be processed throughout their lifecycle using the FOIA management and tracking system approved by the Agency's Chief FOIA Officer.
3. Records found to be responsive to a request will be released unless a mandatory exemption applies or, for discretionary exemptions, the Agency determines that a foreseeable harm that would result from disclosure.
4. At least two knowledgeable individuals, who may be subject matter experts and

Freedom of Information Act Policy	
EPA Classification No.: CIO 2157.1	CIO Approval Date: 09/30/2014
CIO Transmittal No.: 14-006	Review Date: 09/30/2017

including one manager, will review all documents before they are released to the public under the FOIA to improve accuracy and consistency in release determinations. One of the reviews may be performed by the subject-matter expert who processes the request. This is in addition to the review conducted by staff responsible for initially identifying and collecting documents.

5. Organizations will ensure that resources are allocated to comply with meeting FOIA requirements detailed in this policy.
6. Organizations will develop and maintain procedures for processing FOIA requests within their offices that document their business practices. Processing procedures will comply with this policy and with the Agency's FOIA processing procedures issued by the Chief Information Officer.
7. Organizations will identify individuals who have critical FOIA responsibilities in their organizations by name and by position, including but not limited to FOIA Officers, FOIA Coordinators, individuals who are authorized to make decisions regarding the releasability of records (see Item 8 below) and those who review documents before they are released to the public. This information will be made available to the Agency FOIA Officer and to all staff in the organization.
8. Determinations to release or withhold records will be made in accordance with the Freedom of Information Delegation of Authority, I-30. (See EPA Delegations Manual, Chapter 1, Section 30.)
9. FOIA responses will be posted to the Agency's FOIA management and tracking system unless posting the records will create a potential harm protected by a FOIA exemption or if a waiver to post records is granted by the Agency FOIA Officer.
10. FOIA professionals will have the knowledge, skills and abilities to perform their duties.
11. FOIA duties will be critical elements in the performance agreements of FOIA professionals.
12. FOIA professionals will take mandatory annual trainings identified by the Agency FOIA Officer.
13. Agency managers will have critical job elements in their performance agreements that establish accountability for ensuring their FOIA professionals have the knowledge, skills and abilities to perform their duties and respond in a timely manner to requests in accordance with the FOIA.
14. The Agency's FOIA Public Liaison will work to resolve FOIA issues with requesters and foster greater openness and transparency in the Agency's FOIA administration activities and its interactions with the public.
15. Organizations will comply with Agency procedures for processing FOIA requests, along with the guidance and direction issued by the Agency FOIA Officer.

---

## 7. RELATED DOCUMENTS

Freedom of Information, EPA Delegations Manual, Chapter 1, Section 30.

---

Freedom of Information Act Policy	
EPA Classification No.: CIO 2157.1	CIO Approval Date: 09/30/2014
CIO Transmittal No.: 14-006	Review Date: 09/30/2017

---

## 8. ROLES AND RESPONSIBILITIES

**Action Office** – The organizational unit that maintains the majority of records responsive to a FOIA request.

**Agency FOIA Officer** – The Agency FOIA Officer is the program manager for the National FOIA Program. The Agency FOIA Officer coordinates and oversees the EPA FOIA administration responsibilities; issues expedited processing and fee waiver determinations; develops and reviews FOIA policies, procedures, and guidance; provides advice to Agency FOIA personnel in the program and regional offices; prepares annual reports to the Department of Justice (DOJ); and provides FOIA training to Agency employees and other individuals covered under Section 3 of this policy. The Agency FOIA Officer is located in the Office of Environmental Information at EPA Headquarters.

**Authorized Officials** – The Deputy Administrator, Assistant Administrators, Associate Administrators, the Inspector General, the General Counsel, Heads of Headquarters Staff Offices and Regional Administrators (or their appropriate designee) are authorized under section 2.113(b) of EPA's FOIA regulations to issue initial determinations to release or withhold records in response to FOIA requests. Freedom of Information, EPA Delegations Manual, Chapter 1, Section 30, provides that this authority may be redelegated to the office director level or equivalent, who may redelegate to the division director level or equivalent.

**Chief FOIA Officer** – The designated high-level official within each federal agency who has overall responsibility for the agency's compliance with the FOIA. At the EPA, the Assistant Administrator for the Office of Environmental Information is the Chief FOIA Officer. The Chief FOIA Officer is responsible for ensuring the efficiency and effectiveness of the Agency's FOIA administration including compliance, accountability and reporting to the Administrator, the Department of Justice, and the Office of Management and Budget on the status of the Agency's FOIA program. *NOTE: This role is different from that of the Agency FOIA Officer above.*

**FOIA Coordinators** – FOIA Coordinators stay informed on requests and assignments; route requests to the appropriate Action Office or subject matter expert within the Program Office; track FOIA requests for timeliness; monitor the quality of the responses; and provide guidance to program personnel including overdue reports, in collaboration with the Agency FOIA Officer. Each Headquarters Program Office has a lead FOIA Coordinator who works under the general direction of the Agency FOIA Officer.

**FOIA Officer** – See “Agency FOIA Officer” or “Regional FOIA Officers.”

**FOIA Offices** – The FOIA Office is the point of receipt for Agency FOIA requests where they are reviewed for conformance with the Act, acknowledged and assigned to the appropriate

Freedom of Information Act Policy	
EPA Classification No.: CIO 2157.1	CIO Approval Date: 09/30/2014
CIO Transmittal No.: 14-006	Review Date: 09/30/2017

Action Office. The locations are identified in the EPA’s FOIA regulations for submitting FOIA requests. Agency FOIA Offices are located in each Region and in the National FOIA Program at Headquarters.

**FOIA Professional** – An EPA employee or contractor who directly interacts with FOIA requesters and is responsible for the day-to-day FOIA processing activities.

**FOIA Public Liaison** – The FOIA Public Liaison is the EPA point of contact for the public if they have any issues with the handling of their FOIA request by the Agency. In the EPA, the FOIA Public Liaison is the Chief of the FOIA and Privacy Branch in the Office of Information Collection within the Office of Environmental Information. The Public Liaison supervises the staff in the FOIA Requester Service Center and is responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.

**FOIA Requester Service Center** – The FOIA Requester Service Center (FOIA Hotline) provides the public information on the status of their requests if they do not have access to FOIAonline, general information on how and where to submit a FOIA request, or information about the types of information available on the EPA’s websites. The Center is staffed by the FOIA Public Liaison, Agency FOIA Officer and National FOIA Specialists. The Hotline number is 202-566-1667.

**Managers and Supervisors** – EPA managers and supervisors oversee FOIA Officers and FOIA Coordinators to ensure that they have the knowledge, skills and ability to perform their duties and respond in a timely manner in accordance with the FOIA. They review and approve all FOIA responses before release.

**National FOIA Program** – The National FOIA Program is staffed by the Agency FOIA Officer and National FOIA Specialists who develop Agency-level policies, procedures and trainings, respond to questions, provide guidance, deliver training, and make decisions on fee waiver and expedited processing requests. The National FOIA Program is located in the Office of Environmental Information.

**National FOIA Specialists** – National FOIA Specialists manage the lifecycle of FOIA requests received at Headquarters; assign requests to Headquarters FOIA Coordinators; prepare responses to fee waiver and expedited processing requests; approve requests to extend due dates; respond to questions from Agency employees; and staff the FOIA Requester Service Center.

**Office of General Counsel (OGC)** – OGC provides legal advice on FOIA matters; issues final decisions on FOIA appeals, final confidentiality determinations for confidential business information (CBI) claims originating in HQ, and fee waiver appeal determinations, except when a conflict of interest arises; provides counsel on FOIA exemptions and exclusions; and assists the U.S. Department of Justice attorneys in FOIA litigation.

Freedom of Information Act Policy	
EPA Classification No.: CIO 2157.1	CIO Approval Date: 09/30/2014
CIO Transmittal No.: 14-006	Review Date: 09/30/2017

**Office of Inspector General (OIG)** – OIG and the Counsel to OIG provide advice on FOIA matters pertaining to its organization; issue initial determinations and final decisions on FOIA appeals, final confidentiality determinations, except when a conflict of interest arises; provide counsel on FOIA exemptions and exclusions; and assist the U.S. Department of Justice attorneys in FOIA litigation.

**Office of Regional Counsel (ORC)** – ORC provides legal advice on FOIA matters, final confidentiality determinations for CBI claims originating in the Region, FOIA litigation support to regional employees, and information as needed to the Agency FOIA Officer on fee waiver requests. ORC also assists OGC on appeals, as appropriate.

**Regional FOIA Officers** – Regional FOIA Officers assign requests to the appropriate Action Office within the region; track FOIA requests; provide guidance to regional personnel in collaboration with the Agency FOIA Officer; coordinate with the Agency FOIA Officer and Action Offices on initial fee waiver decisions; compile data for the annual FOIA report; and monitor the quality and timeliness of responses in the regions. Regional FOIA Officers work under the general direction of the Agency FOIA Officer.

## 9. DEFINITIONS

**Freedom of Information Act (FOIA)** – The Freedom of Information Act (FOIA) was signed into law in 1966. The law provides individuals with a statutory right of access to certain federal agency records. The FOIA requires agencies to disclose requested records unless they are protected from public disclosure by the FOIA. Congress included in the FOIA nine exemptions and three law enforcement exclusions to protect important interests such as national security, personal privacy, privileged communications, and law enforcement.

**Records** – Information in an agency’s possession and control in any format including electronic format. DOJ notes that for FOIA purposes, "records" includes *all* tangible documentations of information regardless of whether they are records under 44 U.S.C. § 3301. (NOTE: *This is a broader definition than that used by the EPA records program and records schedules.*)

**Requester** – Any individual (including non-U.S. citizens), corporation or association, public interest group, and state, local, tribal, or foreign government making a FOIA request. Requests from Federal agencies, the Government Accountability Office, or Congress (e.g., the Speaker of the House, the President of the Senate, or the chair of a committee or subcommittee) are not covered under this policy.

**Responsive Record** – A record falling within the scope of a FOIA request that an agency has located that may be provided or is under consideration for inclusion in a response to a FOIA request. A record may be “responsive” to a FOIA request, but may still be withheld as protected from disclosure by a FOIA exemption.

Freedom of Information Act Policy	
EPA Classification No.: CIO 2157.1	CIO Approval Date: 09/30/2014
CIO Transmittal No.: 14-006	Review Date: 09/30/2017

## 10. WAIVERS

No waivers will be accepted from the requirements of this policy.

---

## 11. RELATED POLICIES, STANDARDS AND GUIDANCE

- Procedures for Responding to Freedom of Information Act Requests, CIO 2157-P-01.
  - FOIA memoranda and guidance documents (<http://www.epa.gov/foia/reference.html>).
  - FOIA guidance issued by the Department of Justice (<http://www.justice.gov/oip/foia-resources.html>).
- 

## 12. MATERIAL SUPERSEDED

Interim Freedom of Information Act Policy (CIO 2157.0/Transmittal 13-004 dated June 28, 2013)

---

## 13. ADDITIONAL INFORMATION

For further information, please contact the Office of Environmental Information, Office of Information Collection.



*Renee P. Wynn*  
**Acting Assistant Administrator for Environmental Information  
and Chief Information Officer  
U. S. Environmental Protection Agency**