

**DEFENSE THREAT REDUCTION AGENCY
(DTRA) FREEDOM OF INFORMATION
ACT HANDBOOK**



DTRA Freedom of Information Act/Privacy Act
Office (*last updated May 17, 2022*)

INTRODUCTION

This handbook is provided to assist in submitting Freedom of Information Act (FOIA) requests to the Defense Threat Reduction Agency (DTRA) for agency records. It will provide a brief description of how to submit proper FOIA requests, and overview of the FOIA exemptions, and some frequently asked questions (FAQs). The information contained herein is not intended to be definitive or exhaustive.

HOW TO FILE A FOIA REQUEST

All FOIA requests must be in writing: (letter or email/web form). The request should be labeled "Freedom of Information Act Request," preferably within the request letter and on the envelope/subject line/cover page, and addressed to DTRA using the contact information provided below.

Defense Threat Reduction Agency
IT-KTR (FOIA/Privacy Office)
8725 John J. Kingman Road STOP 6201
Fort Belvoir, VA 22060-6201
dtrafoiprivacy@mail.mil
(703) 767-1792

The FOIA request must describe the specific records you are requesting in enough detail so that the records can be located with a reasonable amount of effort. Generally, a record is reasonably described when the description contains sufficient file-related information (type of document, title, subject area, date of creation, originator, etc.); or the request contains enough event-related information (date and circumstances surrounding the event the record covers) to permit the conduct of an organized, non-random search. Therefore, to the extent possible, you should include specific information that may assist personnel in identifying the requested records, such as the date, title or name, author, recipient, subject matter of the record, case number, file designation, or reference number. A request for "any and all" records is generally not considered reasonably described.

The FOIA request must state your willingness to pay applicable fees. If you seek a fee waiver, your request should provide a justification for such a waiver. Criteria used to determine fee waivers may be found at Subpart 286.12(l) of Title 32, CFR (<https://ecfr.io/Title-32/pt32.2.286>). In addition, if you would like to request expedited processing, your request should provide a justification to support your request. The criteria used to process requests for expedited processing may be found at Subpart 286.8(e) of Title 32, CFR (<https://ecfr.io/Title-32/pt32.2.286>).

Before submitting your requests, you may contact a DTRA FOIA analyst or the DTRA FOIA Public Liaison to discuss the records you are seeking and to receive assistance in describing the records. If after receiving your request DTRA determines that it does not reasonably describe the records sought, DTRA will inform you what additional information is needed or why the request is otherwise insufficient. All requesters are encouraged to make every effort to reasonably describe the requested records in order to avoid any delays in the processing of their requests. A sample request letter is provided at the end of this handbook.

FOIA EXEMPTIONS

Even upon receipt of a proper FOIA request, there are some occasions when information cannot be released to the public. Specifically, if one or more of the following exemptions applies to information that is requested under the FOIA, that information will generally be withheld from public release. The nine FOIA exemptions are cited in the FOIA as 5 USC § 552(b)(1) through (b)(9):

- Exemption 1—Information that is currently and properly classified in the interest of national security in accordance with Executive Order 13526.
- Exemption 2—Information related solely to internal personnel rules and practices.
- Exemption 3—Information protected by another federal law.
- Exemption 4—Trade secrets or commercial or financial information that is confidential or privileged
- Exemption 5—Information that is deliberative in nature and are part of the decisions making process; specifically, information that contains opinions and recommendations; attorney-work product privilege; and attorney-client privilege.
- Exemption 6—Information that, if disclosed, would violate another individual’s personal privacy.
- Exemption 7—Information compiled for law enforcement purposes that:
 - 7(A) - Could reasonably be expected to interfere with enforcement proceedings;
 - 7(B) - Would deprive a person of a right to a fair trial or an impartial adjudication;
 - 7(C) - Could reasonably be expected to constitute an unwarranted invasion of personal privacy;
 - 7(D) - Could reasonably be expected to disclose the identity of a confidential source;
 - 7(E) - Would disclose techniques and procedures for law enforcement

investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law;

- 7(F) - Could reasonably be expected to endanger the life or physical safety of any individual.

- Exemption 8—Information that concerns the supervision of financial institutions.
- Exemption 9—Geological and geophysical information concerning wells.

FEES ASSOCIATED WITH A FOIA REQUEST

The FOIA requires that requesters be placed into one of the below categories and allows for fees to be charged to certain types of requesters - see FOIA Schedule of Fees at [32 CFR 286.12](#). Additionally, 32 CFR 286.12 provides the requirements for requesters seeking a waiver or reduction of fees.

- **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 search, review and duplication.
- **Educational.** Institutions of education, including preschools, elementary or secondary schools and institutions of higher learning, qualify as educational institutions. The records must be sought in furtherance of 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.
- **Non-Commercial Scientific.** A non-commercial scientific institution is operated solely for conducting scientific research. The records must be sought in furtherance of 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 publish 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. Again, the first 100 pages are provided at no cost.
- **“Other” Requesters.** 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 two hours search, all review costs, and the first 100 pages at no cost.

FREQUENTLY ASKED QUESTIONS

- What is the Freedom of Information Act?

The FOIA is a federal law that establishes the public's right to request existing records from federal agencies, except to the extent that such records, or portions of them are protected from disclosure by one of nine exemptions or by one of three special law enforcement record exclusions.

- Who can file a FOIA request?

Any "person" can file a FOIA request, including U.S. citizens, foreign nationals, organizations, universities, businesses, and state and local governments.

- What agencies are subject to the FOIA and what type of information can be requested?

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

- What is considered a "record" under the FOIA?

A record is the product(s) of data compilation, such as all books, papers, maps, and photographs, machine readable materials, inclusive of 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 DTRA possession and control at the time the FOIA request is made.

- Can questions be asked in a request under the FOIA?

No. 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.

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

The statutory time period for responding to a FOIA request is 20 working days which begins only when a proper FOIA request is received. However, if unusual circumstances exist as described in DoDM 5400.7, DTRA may be unable to answer the request within the statute's time requirements. Therefore, requests are processed on a

first-in, first-out basis and according to their complexity. These are called simple and complex queuing tracks. Interim responses are generally provided with an estimated completion date when unable to make a final response determination within the 20 statutory working days. Under certain conditions, expedited access may be granted if there is a compelling need, such as a threat to life and safety or if a person engaged in disseminating information has an urgency to inform the public on actual or alleged federal government activity.

➤ May I ask for expedited processing?

Yes. Your FOIA request must demonstrate one of the following compelling needs:

- Failure to obtain the records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.
- Information is urgently needed by an individual primarily engaged in disseminating information in order to inform the public concerning actual or alleged federal government activity.
- Failure to obtain the records on an expedited basis could reasonably be expected to result in an imminent loss of substantial due process rights.

➤ What are the reasons for denying a request for records?

- A reasonable search of files failed to identify responsive records.
- The request is transferred to another DoD Component, or to another Federal Agency.
- The requester is unwilling to pay fees associated with a request; the requester is past due in the payment of fees from a previous FOIA request; or the requester disagrees with the fee estimate.
- A record has not been described with sufficient particularity to enable DTRA to locate it by conducting a reasonable search.
- The requester has failed to comply with procedural requirements.
- The information requested is not a record within the meaning of the FOIA.
- The request is a duplicate request (e.g. a requester ask for the same information more than once). This includes identical requests received via different means (e.g. electronic mail, facsimile, mail, courier) at the same or different times.

- The record is denied in whole or in part in accordance with procedures set forth in the FOIA. One or more of the nine FOIA exemptions may apply.

➤ Can I appeal a denial?

Yes. If your request is initially denied in whole or in part under one or more of the FOIA exemptions or denied for some other reason, you will be advised of your appeal rights and the proper procedures for submitting the appeal, which must be postmarked within 90 days of the date of the denial letter. You may also appeal any determination which you consider to be adverse within 90 days.

ELECTRONIC READING ROOM

The Defense Threat Reduction Agency Reading Room may be found at: <https://www.dtra.mil/Mission/FOIA-Reading-Room/>. Documents previously released or frequently requested are placed in the Reading Room for public access. Some records may be redacted to remove non-public information. Previously released documents from DoD may be found at: <https://www.esd.whs.mil/FOID/Reading-Room/>.

CONCLUSION

If you have any FOIA related questions, or wish to submit a FOIA Request, please use the contact information provided above. Also, if you are not satisfied with the service you received from the DTRA FOIA Request Service Center, you may contact the FOIA Public Liaison for assistance. Please provide the case number of your FOIA request when contacting the FOIA Public Liaison.

SAMPLE FOIA REQUEST LETTER

Defense Threat Reduction Agency
Information Management & Technology Directorate
Records Mgmt, FOIA and Privacy Act Division
8725 John J. Kingman Road
Fort Belvoir, VA 22060-6201

Dear Sir/Madame:

This is a request under the Freedom of Information Act (5 U.S.C. § 552). I request that a copy of the following document(s) be provided to me: [identify the documents as specifically as possible].

In order to help you determine my status for the purpose of assessing fees, you should know that I am [insert one of the descriptions below]:

. . . a representative of the news media affiliated with the _____ newspaper (magazine, television station, etc.), and this request is made as part of news gathering and not for a commercial use.

. . . affiliated with an educational or noncommercial scientific institution, and this request is made for a scholarly or scientific purpose and not for a commercial use.

. . . affiliated with a private business and am seeking information for use in the company's business.

. . . an individual seeking information for personal use and not for a commercial use.

I am willing to pay fees for this request up to a maximum of \$_____. If you estimate that the fees will exceed this limit, please inform me first.

Sincerely,

Name
Address
City, State, Zip Code
Telephone number