



55th Wing Offutt AFB Nebraska
Freedom of Information Act & Privacy Act Office



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Making Government Information Available To The Public

OAFB Freedom of Information Act (FOIA) Handbook





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INTRODUCTION

The information provided within this guide is provided as a tool to assist you in making Freedom of Information Act (FOIA) requests for information resources, which are owned by the 55th Wing Offutt AFB, Nebraska and the tenant organizations underneath the 55th Wing Offutt AFB, Nebraska.

This guide provides basic information on the processes, your rights, and the fee-for-service associated with the Freedom of Information (FOIA) Act. This guide complements [DoD 5400.7-R AFMAN 33-302](#) Freedom of Information Act (FOIA) Program and related Public Law. This guide is not intended to serve as substitute for any established laws and policies.

You may view the referenced doctrine on the internet via the World Wide Web by logging onto <http://www.dod.mil/pubs/foi/dfoipo/>

You may also submit a information request using the Air Force E-FOIA pal system by accessing the following internet site via the World Wide Web by logging onto the secure site <https://www.efoia.af.mil/palmain.aspx>



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What is the Freedom of Information (FOIA) program?

The Freedom of Information (FOIA) program is a Federal law (referred to as U.S.C. 552) that establishes the public's right to request existing records from Federal Government agencies.

What is record?

A record consists of the compilation of data such as all books, paper, maps, charts, machine-readable materials to include electronic records, and other documentary materials, regardless of characteristics or physical media made or received by an agency of the United States Government. In connection with all the activities or business transactions of public business under the possession and control of the DoD at the time, a Freedom of Information Act (FOIA) request is submitted.

Is there a difference between a Freedom of Information Act (FOIA) request and a Privacy Act (PA) request?

YES! A Freedom of Information Act (FOIA) is a request that is made by Military person or Civilian person for copies of specific records. A Privacy Act (PA) request originates from the subject (**SUBJECT REFERS TO PERSON**) of a record maintained and retrieved in an approved system of records using a personal identifier such as a Social Security Number (SSN). When individuals request information about themselves contained in an approved Privacy Act (PA) system of records, the request should be handled under the Privacy Act (PA). Requested record about an individual not contained in an approved system of records asked for under the Privacy Act (PA) will have their request processed under the Freedom of Information Act (FOIA), since no access rights exist under the Privacy Act (PA). Request which cite neither act, but one or both are implied, will be process under the Act granting the widest scope of access. However, if any portion is to be denied, then it will be processed as Freedom of Information Act (FOIA).



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Which type of request provides for more information when making a request for records?

This depends on who is making the request and type of information being asked for. Generally, the act that provides the broadest scope or application to the information being sought is applied. The enclosed table identifies how each act applied to specific request for records.

Who can submit a Freedom of Information Act (FOIA) request?

Any person can submit a Freedom of Information Act (FOIA) request to include U.S. citizens, foreign nationals, organizations, universities, businesses and state and local governments.

Can Federal Agencies submit Freedom of Information Act (FOIA) requests?

NO! Federal agencies by virtue of their requirement to share information in the transaction of business and decision-making do not have to initiate Freedom of Information Act (FOIA) requests. There is a legitimate “need to know” in using other agency’s information resources.

Can requesters ask questions under the Freedom of Information Act (FOIA)?

The Freedom of Information Act (FOIA) does not require Federal Agencies to respond to questions, render opinions, or provide subjective evaluations.



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How does an individual submit a Freedom of Information Act (FOIA) request?

1. A printed request (email, letter, fax, etc.) must be submitted to the Freedom of Information Act (FOIA) office at the location of the records being requested. A sample of a written request is provided for you in this guide on Attachment 1, Attachment 2 and Attachment 3.
2. The request must meet three criteria in order to be processed by the Freedom of Information Act (FOIA) office.
 - a. The request must directly site or imply the Freedom of Information Act (FOIA) request.
 - b. There must be a clear description of the records being asked for. Requesters should also identify the type of media the records are to be furnished, if releasable. If the records are to be furnished on a diskette, or CD-ROM, the requester should identify the language that is compatible with the requester's resources.
 - c. A statement must be included that identifies a willingness to pay applicable fees, some of the fee assessment are partially, or totally waived, depending on which category the requester is placed.
 - d. The request must include a valid mailing address or e-mail address to which the record(s) can be sent when the request is completed.
3. There must be a clear description of the records being asked for. Requesters should also identify the type of media the records are to be furnished, if releasable. If the records are to be furnished on a diskette, or CD-ROM, the requester should identify the language that is compatible with the requester's resources.



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4. A statement must be included that identifies a willingness to pay applicable fees, some of the fee assessment are partially, or totally waived, depending on which category the requester is placed.
 5. Requesters may identify a “compelling need” or “expeditious processing” of the request due to unique circumstances such as life or death circumstances, urgency to inform the general public, or similar events. A statement stating the special need must be included on the request and the signature of the requester certifies that this circumstance is true and valid to the best of their knowledge.
 6. Military members **MAY NOT** use government resources such as computers, fax machines, Base Information Transfer System (BITS), or other resources to submit requests. Requests can be hand delivered, sent through the United States Postal System (USPS), or faxed using self-purchased means of obtaining the service.
 7. Requester must specify the specific format they wish to have any responsive records furnished in (i.e. Microsoft Word, Microsoft Excel, Adobe PDF, etc.) If no specific format is specified in the Freedom of Information Act (FOIA) request, the Freedom of Information Act (FOIA) office will furnish any responsive records as an Adobe PDF “Read Only” file. If the PDF file is too voluminous to send via e-mail channels as the final response to the Freedom of Information Act (FOIA) request, the PDF file will be copied to a DVD/CD-ROM disk and be sent via first class United States Postal Mail. In extraordinary case where a requester has neither access to private or public computer resources, the records, upon request will be sent as paper media.



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Is a legal representative allowed to request records under the Freedom of Information Act (FOIA) on behalf of the client?

YES! However, if the request involves Privacy Act (PA) information, the client must provide a release authorization allowing the attorney to access the records. The affidavit should be as specific as possible (i.e., I authorize my attorney, Mr. or Ms. XXXX access to my personal outpatient medical records and my personal family advocacy records). If no affidavit is provided, the request will be treated as a third party request when received.

Do requesters always receive the records they ask for?

NO! there are certain reasons, as well as Federal exemptions/statutes, that do not allow for the partial or total release of some documents.

PART – 1: Procedural Reasons:

1. The servicing Freedom of Information Act (FOIA) office because of incorrect mailing address or other postal error does not receive the written request.
2. The owning Offutt AFB agency or activity does not have the record(s) being request.
3. The requester has previously requested records and has failed to pay the required fees for the records.
4. The requested records have met their authorized retention and disposition standards, which were set forth by the National Archives and Records Administration and have been destroyed.
5. The requesters failed to describe the records reasonably being requested to enable an appropriate search, retrieval, and review by the owning agency.
6. The requested records do not fall within the definition of Freedom of Information Act (FOIA) or Department of Defense (DoD) policy.



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7. The requested records are denied in part or completely using Federal exemptions or statutes as a basis for the denial action.

PART – 2: Federal Exemptions and Statues:

What are Freedom of Information Act (FOIA) exemptions and what do they mean in regards to a Freedom of Information Act (FOIA) request?

A requester is not entitled to certain records or documents that may cause harm to a particular interest of the Government. Exemptions have been created under Federal law that protects these interests. A brief summary of each is provided.

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



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9. (b)(9) Records containing geological and geographical information (including maps) concerning wells.

Can denial, in part or whole, for records be appealed?

YES! If any part or all of request is denied, you will be advised of your appeal rights and the proper procedures for submitting them. There is a sixty (60) day window in which appeal rights must be exercised.

How long does it take to process a Freedom of Information Act (FOIA) request?

The government is given twenty (20) workdays to respond to a Freedom of Information Act (FOIA) request. Overall processing times can vary depending on the type of records being requested, the volume of the records, the determination to release or deny, and the number of requests. If your request is referred because the records being requested are not owned by the 55th Wing, or denial action part or whole is determined, then additional processing time is required by the final disclosure authority. When special requests identifying urgent or compelling need also impact on the total processing time.

Is there a cost associated with a Freedom of Information Act (FOIA) request?

YES! In some cases, fees are assessed to certain requesters, however, waivers of parts or all fees can also be applied if the disclosure of the records is in the public interest. Public interest is defined information that significantly enhances the public's knowledge of the operations and activities of the Department of Defense (DoD). Fees are charged to the requester when the dollar value exceeds \$15.00. However, requesters are not charged for the first 100 pages and first two hours of search. The following categories are used to place requesters in relation to fee assessments:



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1. **COMMERCIAL:** Requesters seeking information that furthers their commercial trade or profit interest. Commercial requesters pay all fees for search review, and reproduction of requested records.
 2. **EDUCATIONAL:** Institutions of education such as preschools, elementary, and schools of higher learning quality under this category. The requested records must be sought for furthering scholarly research. Educational requester pays only reproduction fees, unless it is determined that fees are waived or reduced under the definition of public interest. The first 100 pages of reproduction are provided to educational requesters at no cost.
 3. **NON-COMMERCIAL SCIENTIFIC:** This category is defined as operating solely for scientific research. Requested records must be used to further scientific research. This category of requester only pays only for duplication fees, unless it is determined that fees are waived or reduced in the public interest. The first 100 pages are provided at no charge.
 4. **NEWS MEDIA:** Requesters under this category are individuals who actively gather news for any entity organized and operated to publish or broadcast the news to the public. Requesters pay only duplication fees, unless it is determined that the fees are to be waived or reduced in the public interest. The first 100 pages are provided at no cost.
 5. **OTHER REQUESTERS:** Requesters who do not qualify for any of the stated categories are placed in the "other" requesters, and normally make requests for agency records for their personal use. "Other" requesters receive two hours search, all reviews cost, and the first 100 pages at no cost.

Can a requester refuse payment when the requested records are received?

YES! However, not paying the requested fee will result in your name being placed on a command-wide Freedom of Information Act (FOIA) delinquency listing and you will not be entitled to receive future record until your payment has been made for all previous unpaid requests.



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Is there a directory of Freedom of Information Act Offices (FOIA) within the Department of Defense (DoD)?

YES! You may obtain a listing of the Department of Defense (DoD) Freedom of Information Act (FOIA) offices by accessing the Internet provided in the introduction accessing the Department of Defense (DoD) Freedom of Information Act (FOIA) Handbook. You may also contact the installation where you feel the records you are seeking are located and ask for the mailing address of the servicing Freedom of Information Act (FOIA) office.

Is there an electronic reading room available for Offutt AFB records?

YES! We have selected records that have been determined to be fully releasable to the public. You may find these records on the Air Force Electronic Freedom of Information Act (FOIA) Reading Room webpage. You may access the Air Force Electronic Freedom of Information Act (FOIA) Reading Room via the link provided on the Offutt AFB Freedom of Information Act website or via www.foia.af.mil/reading You may view or download the information at no charge. Records available for viewing will be updated periodically ensure accurate and current information is being made available.

Does permission have to be granted from individual who appear on requested listings released to the public?

Present time prohibits any listings containing the names of military personnel and civilian personnel are not authorized to the general public under current Department of Defense (DoD) guidelines establishing information security standards in the post 9/11 environment.



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Conclusion.

The Freedom of Information Act (FOIA) is intended to serve as a looking glass to the general public in order to evaluate the efficiency and decision making of the Federal Government. The broadest applicable access to accurate and timely information should be given to individuals when established rules have been followed. It is the Air Force's policy to conduct business in an open manner consistent with the need to uphold security and other published law regarding protection of information resources.



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**Attachment 1
Sample Freedom of Information Act (FOIA) Request Letter**

01 August 2013

Mr. or Ms. Your Full Any Name
1234 Anywhere Street
Anywhere City, Anywhere State, Anywhere Zip Code 12345-6789
Phone Number to Include Area Code (123)-456-7890

(NOTE: Information will be protected from unauthorized release under the Privacy Act of 1974: See Privacy Act Statement Below)

55CS / SCXKF (FOIA)
201 Lincoln Highway
Offutt AFB, NE 68113-2040

Dear FOIA Manager,

Under the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. 552, I am requesting records on (provide a detailed description of the requested records. In addition, if a requirement exists for any responsive records to be provided in a specific format, the specific format desired must be identified in FOIA request. Requests, which do not specify a specific format, will have any responsive records in PDF "Read Only" format)

I am willing to pay all fees applicable to my category (i.e., Commercial, Educational, Non-commercial Scientific, News Media or Other Requesters).

I am willing to accept releasable information. (Option of the requester)

Sincerely,

Your Payroll Signature

NOTE: Requests submitted via electronic mail must contain an authentication of the originator (i.e., //signed//) to ensure proper identity of the originator. Also, please provide enough information to help us determine your fee category (i.e., "I am a representative of the news media affiliated with the newspaper and this request is made as part of a news gathering and not for commercial use" or "I am seeking information for personal use and not for commercial use").



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**Attachment 2
Sample Freedom of Information Act (FOIA) Request Letter**

02 August 2013

Mr. or Ms. Your Full Any Name
1234 Anywhere Street
Anywhere City, Anywhere State, Anywhere Zip Code 12345-6789
Phone Number to Include Area Code (123)-456-7890

(NOTE: Information will be protected from unauthorized release under the Privacy Act of 1974: See Privacy Act Statement Below)

55CS / SCXKF (FOIA)
201 Lincoln Highway
Offutt AFB, NE 68113-2040

Dear FOIA Manager,

Under the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. 552, I am requesting records on (provide a detailed description of the requested records. In addition, if a requirement exists for any responsive records to be provided in a specific format, the specific format desired must be identified in FOIA request. Requests, which do not specify a specific format, will have any responsive records in PDF "Read Only" format)

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.

I am willing to accept releasable information. (Option of the requester)

Sincerely,

Your Payroll Signature

NOTE: Requests submitted via electronic mail must contain an authentication of the originator (i.e., //signed//) to ensure proper identity of the originator. Also, please provide enough information to help us determine your fee category (i.e., "I am a representative of the news media affiliated with the newspaper and this request is made as part of a news gathering and not for commercial use" or "I am seeking information for personal use and not for commercial use").



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**Attachment 3
Sample Freedom of Information Act (FOIA) Request Letter**

03 August 2013

Mr. or Ms. Your Full Any Name
1234 Anywhere Street
Anywhere City, Anywhere State, Anywhere Zip Code 12345-6789
Phone Number to Include Area Code (123)-456-7890

(NOTE Information will be protected from unauthorized release under the Privacy Act of 1974: See Privacy Act Statement Below)

55CS / SCXKF (FOIA)
201 Lincoln Highway
Offutt AFB, NE 68113-2040

Dear FOIA Manager,

Under the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. 552, I am requesting records on (provide a detailed description of the requested records. In addition, if a requirement exists for any responsive records to be provided in a specific format, the specific format desired must be identified in FOIA request. Requests, which do not specify a specific format, will have any responsive records in PDF "Read Only" format)

I am requesting all chargeable fees be waived. **(NOTE:** Specific justification must be provided in order for the FOIA office to determine eligibility for fee waiver (i.e. requester is a member of the news media or the information has a specific and significant interest to the general public).

Sincerely,

Your Payroll Signature

NOTE: Requests submitted via electronic mail must contain an authentication of the originator (i.e., //signed//) to ensure proper identity of the originator. Also, please provide enough information to help us determine your fee category (i.e., "I am a representative of the news media affiliated with the newspaper and this request is made as part of a news gathering and not for commercial use" or "I am seeking information for personal use and not for commercial use").