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U.S. Department
of Veterans Affairs

VIA EMAIL

Freedom of Information Act Tracking Number **17-00274-A**

This letter is in response to your December 5, 2016, Freedom of Information Act (FOIA) Appeal to the Department of Veterans Affairs (VA), Office of General Counsel (OGC) in which you appealed the FOIA response pertaining to 17-01935-F. You requested internal Department of VA FOIA Standard Operating Procedure (SOP) Guides. The FOIA Service received your appeal from the OGC on July 25, 2017, and assigned tracking number **17-00274-A**. Please refer to this number when communicating with the VA about this request.

The VA Central Office (VACO) requested SOP's from the VACO FOIA Offices. As a result the Office of General Counsel (OGC), and the Office of Procurement Policy Services, formally Office of Acquisition and Logistics (OALC) are the only VACO FOIA Offices that utilize a FOIA SOP. The OGC and OALC SOP are being provided to you in full.

Please know VHA and VBA will respond directly to you with their responses to your request.

If you have any further questions concerning this letter, you may contact Ms. Doloras Johnson of my staff at (202) 632-7233.

Sincerely,

John Buck
Director, Office of Privacy Information
and Identity Protection

FREEDOM OF INFORMATION/PRIVACY ACT

STANDARD OPERATING PROCEDURES

February 19, 2014

**FOIA STANDARD OPERATING PROCEDURES
OFFICE OF GENERAL COUNSEL**

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I. INTRODUCTION

The Freedom of Information Act (FOIA), Title 5 of the United States Code, Section 552, was enacted in 1966. It provides that any person has the right to request access to Federal agency records or information. All agencies of the Executive Branch of the United States Government are required to disclose records upon receiving a written request for them, except for those records (or portions of them) that are protected from disclosure by the nine exemptions and three exclusions of the FOIA.

- This Standard Operating Procedure (SOP) is to be used in conjunction with the FOIAXpress Basic Training Manual. Detailed screen shots of FOIAXpress processing are available for instruction in the manual.
- The SOP assumes the reader has a basic knowledge of FOIA. Questions about application of exemptions to a particular request should be researched in the Department of Justice Freedom of Information Act Guide or by accessing the website online at: <https://www.justice.gov/oip/doj-guide-freedom-information-act-0>

II. ACKNOWLEDGEMENT/RECEIPT OF FOIA REQUEST

- A. Requests **MUST** be in writing received through the mail, email, or fax. All requests must be acknowledged within 20 working days and contain contact information and signature of the requester.
- B. All requests are to be date stamped upon receipt. A copy of all FOIA requests must be scanned as a PDF and uploaded into FOIAXpress under the "Request Description."
- C. Requests must be **READ, READ AND READ** upon receipt to determine how what records the requester is seeking. The request should indicate whether the requester is willing to pay any processing fees. If not, mentioned, inquire in the acknowledgement/delay letter.
- D. If the requester seeks an answer to a specific question, or asks for an explanation of government policies, procedures or actions, analyze data, or to create records in order to respond to a request, VA is not required to process the request under FOIA. FOIA requests must be made for government records, not general information from a government agency. The request should be logged into FOIAXpress, draft correspondence to the requester, and closed the request in FOIAXpress.
- E. Requests should be categorized as either Simple, Complex, or Expedited. Simple
- F. Requests that involve several queries must be analyzed to determine whether responsive records exist in this office. Under some circumstances, multiple offices of OGC or the VA may be needed response, as well as requiring responses by the Operations Section of Homeland Security & Operations Division (HS&O). List all records requested under FOIA as can be determined from the letter, the probable location(s) of the records, and the estimated cost for processing (finding, copying and redacting) the records, if known.
- G. Contact the requester for clarification if needed to perfect the scope of the request. Until the request is perfected, the 20 day time limit

does not begin. A perfected request is one where all issues involving both the scope of the request and payment of fees are resolved. If no response to a clarification request is received in thirty calendar days, the request may be closed.

- H. In general, make determinations on requests as written, rather than reading into the letter. If there is insufficient information to determine the records being requested, communicate in writing with the requester to obtain clarification.
- I. Agencies are encouraged to communicate with requesters to clarify FOIA requests. Communicating with the requester for clarification provides the agency with an automatic 10 day toll of the 20 day processing period. There is only one clarification toll per request.
- J. If unable to obtain information from the requester sufficient to clarify the request, close the non-request.

III. FOIA REFERRALS TO OGC

- A. **REFERRALS FROM OTHER VA OFFICES** – Referrals from VA offices other than OGC should arrive already entered into FOIAXpress. The initial date should be changed to the current date when received in OGC. These requests will still need to undergo the process of analysis to determine the requested records, their location(s), scope, and probable applicability of exemptions.
- B. **REFERRALS FROM OTHER VA FOIA OFFICE** – Requests made to the VA FOIA Office will be evaluated for scope and location of responsive records. Some requests will involve records from several organizations within VA – these will be referred to that agency, but the response will be consolidated, prepared, and issued by the VA FOIA Office. In other instances, the VA FOIA Office will refer a request to one office. If OGC receives a referral from the VA FOIA Office that has not gone to another office, the OGC FOIA Officer is responsible for evaluating the scope of the request, assembling and preparing the documents, issuing the final response letter, and closing the FOIAXpress case.

IV. LOGGING FOIA REQUESTS

- A. Log in each request. The names of 'Requesters' should be verified by checking the 'Requester' database of FOIAXpress. If the same requester with the identical contact information is already a record in the Requester database, it is unnecessary to add the name a second time.

New requester names must be entered into FOIAXpress using the Requester menu screens.

- B. *Create Request* search screen. This will search the names of FOIA requesters from all VA offices. Entry of a new requester should be double-checked for pertinent information.
- C. Enter all available information in *Requester* screens *General Information* and *Request Information*. A copy of the FOIA request will be attached to the *description* screen using the paper clip or scanner icons.
- D. Logged entry must reflect the name and the affiliation of the requester (if applicable), the date of receipt in OGC, a brief notation of what records are requested. FOIA entries may contain several requests; each of these must be noted.

V. ENCRYPTION

- A. Encryption should be used on all FOIA communication either between OGC employees or OGC and other parts of VA.

VI. OGC FOIA REFERRALS

- A. **REFERRALS TO NON-OGC VA OFFICES** - Requests for records that are not in OGC must be referred to the correct part of VA or the correct agency after their receipt has been logged into FOIAXpress.
- B. Examine the request and determine which office(s) would likely have records responsive to the request. If the records are contained within

VA, determine the FOIA point(s) of contact at that office by consulting the list at http://www.foia.va.gov/FOIA_Offices.asp. If a FOIA person for an office cannot be identified, contact the VACO FOIA Office.

- C. If the request should be referred to another VA office, action should be taken to do so within 10 days of receiving the request.
- D. Contact the FOIA point(s) of contact using telephone (to be noted in FOIAXpress) or email. If using email, attach a copy of the request to the encrypted email explaining the request and the reason for referral. Send the original FOIA request to the referral recipient via inter-office mail.
- E. **REFERRALS TO NON-VA OFFICES** - If the referral is outside VA, use the web to locate the FOIA Office of the agency. Provide a copy of the FOIA request to the agency FOIA Office with a cover letter from the OGC FOIA Officer. Notify the FOIA requester of the referral to another agency. Log the FOIA request out of the OGC inventory in FOIAXpress as a referral.
- F. **REFERRALS WITHIN OGC** – The OGC FOIA Officer will email the Regional Counsel (RC), copying the Assistant Regional Counsel (ARC) of the Regional Office (RO) holding responsive records. The FOIA Officer will attach a copy of the FOIA request to the encrypted email. An encrypted PDF will be copied into the FOIAXpress record.
- G. If the request involves records at several Regional Offices, the OGC FOIA Officer will contact the RCs & ARCs to provide a contact attorney from their staff. The contact attorney will retrieve all Regional responsive records, send copies of these to the OGC FOIA Officer via encrypted email or express mail, and provide an estimate of search costs. The OGC FOIA Officer will maintain control and provide the final response to the requester.
- H. The OGC FOIA Officer will be responsible for compilation of search costs in FOIA cases.

VII. SCOPE OF THE REQUEST & TIME LIMITATION

- A. An agency is given 20 days to respond to a FOIA request once an acknowledgement letter is sent out and the terms of the FOIA request are understood.
- B. If the request is not plain on its face, the FOIA Officer will communicate with the requester to ascertain what is requested. The request for clarification causes a toll to the 30 calendar day time limit. There is only one clarification toll allowed per FOIA request.
- C. Once the FOIA officer determines the scope and nature of the records being requested, s/he will need to ascertain how many records are responsive and how much redaction of material will be needed.
- D. The FOIA Officer should ascertain quantity of records, the location, and redaction status for each itemized record.
- E. The FOIA Officer will prepare a list of estimated costs for each itemized record request. The list of costs, including search time, document review and redaction, and duplication, will be prepared using the guidance provided by 38 C.F.R. § 1.561.
- F. The FOIA Officer will send communicate the estimated FOIA costs for the records being requested. The FOIA Officer will require payment in advance when the charges will be \$250 or more. This will allow the requester to reevaluate the request in light of the charges to be assessed and narrow the request.
- G. During the time that the FOIA Officer is corresponding with the requester concerning estimated fees, the time limitation on FOIA processing is tolled. There may be as many of these tolls as necessary to redefine the scope of the search in light of the cost of providing the material.
- H. If records are held by OGC in an office other than VA Central Office (VACO), the applicable RC and ARC must be notified immediately of the FOIA request . The OGC VACO FOIA Officer will control the consolidated request and will prepare the response.

- I. If the OGC FOIA Officer requests additional information to perfect the scope of the request, and there is no response from the requester, the FOIA Officer will close the request after 30 calendar days have elapsed.

VIII. FOIA FEES

- A. FOIA requesters may be charged fees for search and review of documents, copying costs, and special services such as document certification and Federal Express.
- B. FOIA Fees are assessed per 38 C.F.R. §1.561: \$0.15 per page for photocopying
 - a. Actual direct cost to the Agency for provision of material in format other than photocopied (i.e., cost of blank CD or DVD)
 - b. Basic hourly salary rate of employee(s) plus 16 per cent
 - c. Actual direct cost to perform computer search
- C. Application of the basic salary rate time 16% is to be used in providing the cost for manual search for documents, processing and reviewing responsive documents, and preparation and review of correspondence.
- D. If FOIA request fees are greater than \$25 and the requester has not provided assurance that he will accept whatever amount charged, OGC will notify the requester of the proposed charges and request assurance of payment.
- E. This request tolls the 20 day time limitation placed on FOIA requests until a response is received. If no response is received within 10 calendar days, the FOIA request will be closed.
- F. Unlike the clarification toll, there may be as many monetary tolls as necessary to negotiate the request and fees with the requester.
- G. 38 C.F.R. § 1.561 which deals with the policy the Department of Veterans Affairs has in charging fees to process FOIA requests. Under 38 C.F.R. § 1.561(n), fees may be waived if several factors

are met upon a showing by the requester. Factors to be considered to determine if disclosure of information is in the public interest because it is likely to contribute to the public understanding of the operations or activities of government and is not primarily in the commercial interest of the requestor, are as follows:

1. The subject matter of the request;
2. The informative value of the information to be disclosed;
3. The contribution to an understanding of the subject by the public likely to result from disclosure;
4. The significance of the contribution to public understanding.

IX. ACKNOWLEDGEMENT OF REQUEST

- A. Within 10 days of receipt, prepare an acknowledgement letter to requester including a restatement of the request, the FOIAXpress case number, and contact information.
- B. Prepare a folder for each FOIA request, to be filed by FOIAXpress case number. The number reflects both the fiscal year, the number of requests for each year, and whether the request is a standard FOIA request or a combined FOIA/Privacy Act Request (FP).

X. PROCESSING THE FOIA REQUEST

- A. If it is determined from analyzing the request that responsive records are held in OGC, the FOIA Officer will contact the respective staff groups or regional offices for records. The OGC VACO FOIA Officer will coordinate the assembly and release of the records. If the records are held solely in a Regional Office, the FOIA request will be assembled by a Regional Office attorney and forwarded to the VACO OGC FOIA Officer. If records are held in one or several Professional Staff Groups (PSGs), the VACO FOIA Officer will coordinate the assembly and release of the records.

- B. FOIA requests must be worked in the order of receipt. Notate all actions taken in the FOIA file, including copies of emails sent to Regions and PSGs.
- C. Once documents are assembled, VACO FOIA Officer will determine the number of responsive documents and determine the fee status of the requester.
- D. FOIA requesters will be notified of fee status and potential fees prior to release of any records when fees are greater than \$25. This notification will give approximate cost and number of pages for types of records found to be responsive. This will allow the requester a chance to modify the request based on proposed charges.
- E. All telephone or personal contacts between the requester or VA personnel and FOIA Officer or to be documented.
- F. When response is received from the requester, the VACO FOIA will begin redaction of the records taking into account all FOIA exemptions and Privacy Act exclusions that apply. All redactions will be clearly marked as to reason for redaction.
- G. An unredacted version of the redacted documents will be maintained in the FOIA file.

XI. CONSOLIDATED FOIA REQUESTS

- A. The OGC VACO FOIA Officer will receive requests for records from VACO FOIA Officer. These requests will be worked on an expedited basis under the FOIAXpress control number. This will preserve a record of what was requested and the response of OGC.
- B. The VA FOIA Officer will be notify by email as to what OGC responsive records are available.
- C. VACO FOIA Officer will redact documents using clear marking of redacted material. He will note the FOIA exemption relied upon for the redaction. A redacted copy of the documents will be maintained in the individual case folder.

D. Consolidated requests must be worked on a priority basis.

XII. FOIA CORRESPONDENCE

- A. Copies of correspondence on FOIA cases will be scanned into FOIAXpress.
- B. Reviewers will try to maintain a 24 hour turnaround on all FOIA correspondence due to the time limits imposed by the Open Government Act of 2007.

XIII. CLOSING FOIA CASES

- A. Referral of a case to another part of VA constitutes closure of the case once notification of referral is sent to the requester and the transfer is logged in FOIAXpress.
- B. Consolidated requests handled by the VA FOIA Office are considered closed as of the time the documents (both redacted and unredacted) are provided to the VA FOIA Officer. VA FOIA Officer will prepare the agency response and close the case in FOIAXpress.
- C. Regular FOIA requests closed by the VACO FOIA Office will be closed in FOIAXpress with a copy of the final response included in the record. The final response will list all exclusions applied to the records, which will also be entered in FOIAXpress. The raw and redacted records will be maintained in hardcopy in the files. If the records are too voluminous to maintain in hard copy, records will be downloaded on CD and held in the file.

XIV. FOIA RECORDS RETENTION

- A. All OGC FOIA request files will be maintained in folders in the OGC Docket Room in VACO Room 1176 for the required retention period per the OGC Records Schedule 2007.
- B. Closed cases where the request for records was fully granted will be held for two calendar years from the date of closure.

- C. Closed cases where the request for records was denied or was partially granted will be held for six calendar years from the date of closure.
- D. Closed cases that are referred to another part of the agency must be held for one year.
- E. FOIA Appeals records will be maintained in the Law Library for six calendar years from the date of appellate decision.
- F. Closed FOIA records at the end of their retention period, will be destroyed by shredding each year. Compact Disks will be destroyed via shredding or other prescribed method of destruction.

XV. FOIA APPEALS

- A. All appeals of VA FOIA decisions will be referred to PSG IV for processing. PSG IV will log, verify, process, and close all FOIA appeals in FOIAXpress.
- B. The PSG IV attorney assigned OGC FOIA Appeals may request a hardcopy full case record of the initial OGC FOIA request from the OGC FOIA Officer. Initial FOIA files are maintained by the FOIA Officer in the OGC Docket File Room in 1176. Hardcopy FOIA Appeal files are maintained in the Law Library.
- C. Denied FOIA appeal records will be held in the Law Library in case of litigation. Requesters have six years to file a judicial appeal in a U.S. District Court.

XVI. FOIA REPORTS

- A. **WEEKLY STATUS REPORTS** – The OGC FOIA Officer will report the numeric status of FOIA requests each week for inclusion in the PSG VI Management Report. This data will be reported as FOIA requests – On Hand, Received, Closed, and Pending.

- B. ANNUAL REPORTS** - OGC FOIA Officer will be responsible for providing the VA FOIA Office with the annual report of OGC FOIA processing . The OGC FOIA Officer will coordinate OGC response to VA FOIA Office to include the PSG IV response on FOIA Appeals processing. This information should be captured in appropriate format by FOIAXpress.

XVII. FOIAXpress LOG

- A. The FOIAXpress OGC custom log will continue to be maintained through close of each fiscal year.
- B. The FOIA log will be maintained with most recent case in the topmost line, with earlier cases listed below in date order.
- C. The FOIA log will be supplied each week to OGC Senior Management with a summary of all received, closed and pending FOIA cases.
- D. Maintenance of the FOIA log with holdover cases from the previous fiscal year will enable the VACO FOIA Officer to more easily prepare the annual FOIA report, which should include holdover cases closed in the current fiscal year.

XVII. REFERENCES

A. STATUTORY & REGULATORY

- 5 U.S.C. § 552 – Freedom of Information Act & Amendments
- 5 U.S.C. 21 552a – Privacy Act & Amendments
- 38 C.F.R. § 1.460 – 1.499 – Release of Information relating to Treatment for Drug Abuse, Alcoholism or Alcohol Abuse, HIV Infection, or Sickle Cell Anemia
- 38 C.F.R. § 1.490-1.499—Court Orders Authorizing Disclosures and Use

- 38 C.F.R. § 1.500 – 1.527 – Release of Information from DVA Claimant Records
- 38 C.F.R. § 1.550-1.562 – Procedures for Disclosure of Records under the FOIA
- 38 C.F.R. § 1.575- 1.584 – Safeguarding Personal Information in DVA Records
- Open Government Act of 2007 (FOIA Amendments)

B. VA RESOURCES

- FOIA Reference Guide – VA's FOIA Requesters Reference Guide
<http://www.foia.va.gov/docs/RequesterHandbook.pdf>
- VA Handbook 6300.3 (1/12/1998) – Procedures for Implementing the Freedom of Information Act
- Open Government Act of 2007, Sections 6 and 7 – PowerPoint Presentation of OIT FOIA Office (2/12/2009)

FOIA SOP

Department of
Veterans Affairs

Memorandum

Date:

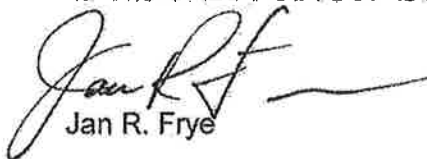
OCT 22 2009

From: Deputy Assistant Secretary for Acquisition and Logistics (001AL)

Subj: Approval of Standard Operating Procedures for Implementing Office of Acquisition, Logistics, and Construction Release of Records Under the Freedom of Information Act (Title 5 U.S.C. § 552) (WebCIMS 438692)


To: Executive Director, Office of Acquisition, Logistics, and Construction (001ALC)

1. I am submitting for your approval the Office of Acquisition, Logistics, and Construction (OALC) standard operating procedures (SOP) which provide OALC-wide procedures for implementing the policies contained in Department of Veterans Affairs (VA) Directive 6300, Records and Information Management, for processing requests for records under the Freedom of Information Act (FOIA). It is OALC's policy to release information to the fullest extent under the law.
2. OALC receives an average of eighty to ninety FOIA requests per year. This SOP will guide the Office of Acquisitions and Logistics (OAL) steps in fulfilling the requirement to provide requested documents in the manner and time limits prescribed by regulation.
3. As a result of Executive Order 13392, "Improving Agency Disclosure of Information," OAL has set forth the procedures and processes necessary to comply with the mandates embodied in the Attorney General's memorandum, "The Freedom of Information Act (FOIA)," dated March 19, 2009. Without this guidance, OALC will not have a prescribed method and standardized process for dealing with applicable FOIA requests.
4. The OALC FOIA SOP is attached.


Jan R. Frye

Attachment

Approve / Disapprove:


Glenn D. Haggstrom
Executive Director, Office of
Acquisition, Logistics, and Construction

4.15.10
Date

PROCEDURES FOR IMPLEMENTING OFFICE OF ACQUISITION, LOGISTICS, AND CONSTRUCTION (OALC) RELEASE OF RECORDS UNDER THE FREEDOM OF INFORMATION ACT (FOIA)

1. **PURPOSE:** The purpose is to set forth the Office of Acquisition, Logistics and Construction (OALC) procedures, roles, and responsibilities for releasing records for compliance with requirements of the Freedom of Information Act (FOIA) (Title 5 U.S.C. § 552) at Department of Veterans Affairs (VA) Central Office (VACO).
2. **RESPONSIBLE OFFICE:** Director, Acquisition Management & Interagency Services (AMIS), Center for Acquisition Innovation.
3. **RELATED DIRECTIVES:**
 - a. The Freedom of Information Act, Title 5 United States Code § 552 As Amended By Public Law No. 110-175, 121 Stat. 2524.
<http://www.justice.gov/oip/amended-foia-redlined.pdf>
 - b. Title 38 Code of Federal Regulations, Chapter 1, § 1.550-559.
<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=0e1bb7a2e190628c47b460e3cbaf1123&rgn=div8&view=text&node=38:1.0.1.1.2.0.14.78&idno=38>
 - c. VA Handbook 4800.16 Freedom of Information Act Fees, dated October 28, 2002.
http://www1.va.gov/vapubs/viewPublication.asp?Pub_ID=153&FType=2
 - d. Processing High-Visibility/Sensitive FOIA Requests (WebCIMS 380797) from Assistant Secretary for Information and Technology (005), dated August 30, 2007.
 - e. VA Handbook 6300.3 Procedures for Implementing the FOIA, January 12, 1998. http://www1.va.gov/vapubs/viewPublication.asp?Pub_ID=22&FType=2
 - f. VA Form VA-7259 Action on Request under FOIA,
<http://vaww4.va.gov/vaforms/va/pdf/VA7259.pdf>
 - g. VA FOIA Home Page <http://www.va.gov/foia/>
 - h. Department of Justice FOIA Reference Guide, May, 2006
http://www.justice.gov/oip/04_3.html.
 - i. Department of Justice Guide to the Freedom of Information Act (2009 Edition)
http://www.justice.gov/oip/foia_guide09.htm.
 - j. "OPEN Government Act of 2007," 110th Congress, Public Law No 110-175
http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=f:s2488enr.txt.pdf.

**PROCEDURES FOR IMPLEMENTING OFFICE OF ACQUISITION, LOGISTICS, AND
CONSTRUCTION (OALC) RELEASE OF RECORDS UNDER THE FREEDOM OF
INFORMATION ACT (FOIA)**

k. MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND
AGENCIES, Subject: Freedom of Information Act
http://www.whitehouse.gov/the_press_office/Freedom_of_Information_Act/

4. **PROCEDURES:** It is the policy of OALC to disclose information from records, files, reports, and other documents in OALC custody at the time of the request and to the extent permitted by law, when copies of such records are requested in writing, and payment of appropriate fees are made as requested. FOIA compels disclosure of reasonably described records or a reasonably segregated portion of records within OALC unless one or more of the nine exemptions apply to the record(s) sought. OALC staff will send a copy of all FOIA requests to the OALC FOIA Officer immediately upon receipt.

a. Backlogged FOIA requests will be handled on a first-in, first-out basis and "multi track processing" – which allows processing relatively simple requests more quickly than requests involving complex and/or voluminous records. The "multi-track processing" of FOIA requests will be tracked on three tracks based on the following amount of work and time involved in processing the request:

(1) Simple FOIA requests are estimated to involve fewer than four hours of search and review time and/or fewer than 50 pages of documents.

(2) Moderate FOIA requests are estimated to involve between four and eight hours of search and review time and/or between 50 and 150 pages of documents.

(3) Complex FOIA requests are estimated to involve more than eight hours of search and review time and/or more than 150 pages of documents.

b. FOIA requests received after January 1, 2009, will be processed in accordance with the new time lines set forth in the "OPEN Government Act of 2007," 110th Congress, Public Law No 110-175.

5. ROLES AND RESPONSIBILITIES:

a. Director, Acquisition Management & Interagency Services:

- (1) Overall authority and responsibility for ensuring OALC compliance with FOIA.
- (2) Assign and designate appropriate FOIA officers responsible for OALC's FOIA program.

**PROCEDURES FOR IMPLEMENTING OFFICE OF ACQUISITION, LOGISTICS, AND
CONSTRUCTION (OALC) RELEASE OF RECORDS UNDER THE FREEDOM OF
INFORMATION ACT (FOIA)**

- (3) Identify ways to eliminate or reduce OALC's FOIA backlog, consistent with available resources taking into consideration the volume and complexity of FOIA requests pending within OALC.
- (4) Monitor FOIA implementation and keep the Executive Director, OALC informed of the performance levels for implementing the FOIA, including the extent to which OALC meets the U.S. Department of Veterans Affairs (VA) Freedom of Information Act (FOIA) Implementation Plan under Executive Order (EO) 13392, Improving Agency Disclosure of Information.
- (5) Recommend to the Executive Director, OALC such adjustments to the division's practices, policies, personnel, and resources as may be necessary to carry out the FOIA program.
- (6) Review and concur on unusual or high visibility/sensitive FOIA responses.

b. Office of Acquisition Logistics and Construction (OALC) FOIA Officers:

- (1) Coordinate status of all FOIA requests, maintain FOIA files - including copies of responses, update master FOIA logs on the shared drive, prepare and update quarterly snapshot reports and Annual FOIA compliance report.
- (2) Review incoming FOIA requests within two business days of receipt to determine if OALC is the proper office with jurisdiction over the requested records; the requests are complete, in writing and signed; and reasonably describe the requested records.
- (3) Log and forward FOIA requests to the appropriate office, FOIA team member, or contracting official for response to the request.
- (4) If OAL is the correct office, notify the requestor of the perfected date and estimated date of completion.
- (5) If OAL is not the office with jurisdiction over the requested records, transfer the request to the proper office and notify the requestor in writing.
- (6) If the FOIA request is incomplete or does not reasonably describe the requested records, then notify the requestor in writing.
- (7) Upon receipt of a high-visibility/sensitive FOIA request, promptly notify the Director, AMIS and also provide a copy of the request to the Director, Records Management Service (RMS) (005R1B), and, if appropriate, the VACO FOIA Officer for the respective administration or staff office. The Director, RMS, acting on behalf of the Chief FOIA Officer, will notify the

**PROCEDURES FOR IMPLEMENTING OFFICE OF ACQUISITION, LOGISTICS, AND
CONSTRUCTION (OALC) RELEASE OF RECORDS UNDER THE FREEDOM OF
INFORMATION ACT (FOIA)**

Office of General Counsel, the Office of Public and Intergovernmental Affairs, and other VA components, as deemed necessary.

- (8) Make initial determination of the division's compliance with requests for expedited processing and requests for fee waiver within five business days of receipt.
- (9) Ensure Office of Acquisition Logistics and Construction (OALC) has in place a method to receive, track and respond to all FOIA requests. Maintain primary responsibility for input, update, assignment and retrieval of information from FOIAXpress.
- (10) Search for responsive records, assign requests and follow-up with FOIA team members (if applicable), contracting officers or contract specialists for completion of requests within 20 working days.
- (11) Review and concur with the FOIA team member's (if applicable), or contracting officer's estimated fees as listed in 38 CFR 1.555(e). Collect and deposit fees with the Agent Cashier.
- (12) Review the requested FOIA records, sanitize FOIA documents for release to make sure the requestor does not see or receive records or portions of records that should be withheld from disclosure.
- (13) Notify contractors, or coordinate with FOIA team member, for the submitter's pre-disclosure of data which will be released and provide a copy of the notification to the OA&L FOIA Officer and FOIA team member.
- (14) Track fee payments for FOIA requests, notify requestors of fee estimate and require advance payment of any fee that exceeds \$250.
- (15) Notify the local fiscal activity in the event of non-payment of a FOIA fee in order to establish an accounts receivable in the requestor's name. (VA Handbook 4800.16)
- (16) Advise the fiscal activity of receipt of any dispute or request for fee waiver from the requestor. Likewise, the fiscal activity will immediately advise the FOIA Officer of receipt of any dispute or request for fee waiver from the requestor. Collection action will be suspended in the event of a dispute or fee waiver request and will remain suspended until resolution. (VA Handbook 4800.16)
- (17) Make final determination on release or denial of FOIA requests and identify all appropriate exemptions under Title 5 U.S.C., § 552.

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- (18) Coordinate and mitigate with the Office of General Counsel any issues or concerns affecting the release or withholding of questionable information, proper use of exemptions and/or administrative appeals.

c. FOIA Team Members:

- (1) Analyze request(s) to determine the scope of records or documents responsive to the request. If the request involves voluminous records, advise the requestor search and reproduction fees will be charged pursuant to 38 CFR 1.555. Contact the requestor and advise the request involves voluminous records and that it would be to the requestor's advantage to define more narrowly the records sought. Document all phone calls and emails with requestors and provide to the FOIA Officer with the FOIA letters for file documentation.
- (2) Contact the requestor by phone or email to clarify what records are desired, if required. Confirm the clarifications via email to the requestor.
- (3) Draft interim responses within ten working days of OAL FOIA Officer receipt advising a requestor whether VA will grant or deny the request.
- (4) Draft interim responses within ten days of OAL FOIA Officer receipt if VA requires an extension of time to respond to a request, the reasons for the unusual circumstances for such extension and the date on which a determination is to be provided. (38 CFR 552). Provide expeditious consideration of administrative appeals of such determinations of whether to provide expedited processing.
- (5) Estimate FOIA fees in accordance with VA Handbook 4800.16 and coordination with the Contracting Officer.
- (6) Draft final responses for FOIA Officer's signature, including analyzing if Title 5 exemptions apply. Coordinate a final decision to deny a FOIA request with concurrence of the Director, AMIS and the OA&L FOIA Officer. Provide the required file documentation to the OA&L FOIA Officer with the final response letters for signature.
- (7) Coordinate with OA&L FOIA officer for review and concurrence of FOIA requests for records not found after a reasonable search.
- (8) Contact the OA&L FOIA Officer and/or General Counsel for any legal advice on interpretations of court rulings or summary judgments, if required.

e. Contracting Officers:

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- (1) Identify and locate any responsive records and notify the appropriate FOIA Officer or FOIA team member within five business days.
- (2) Provide recommendations to FOIA team members or the appropriate FOIA Officer for granting or denying disclosure within five business days of request.
- (3) Coordinate with FOIA team members or the appropriate FOIA Officer for the estimated FOIA fees within five business days of request.
- (4) Provide the required responsive documents to the FOIA team members or appropriate FOIA Officer, with any recommendations for redaction and release of information, within five business days of receipt.

f. OA&L Staff Assistant:

- (1) Send FOIA correspondence via certified mail, receipt requested, within 24 hours of receipt from FOIA officer.
- (2) Locate contract files and other associated data for the FOIA team members within two business days of requests.
- (3) Copy requested FOIA data for FOIA team members within two business days of requests.

g. General Counsel: Comply with directives as specified in VA Handbook 6300.3 (f)(g) and Title 38 CFR § 1.557(b)

h. Fiscal Activity

- (1) Responsible for all collection actions.
- (2) Immediately advise the OALC FOIA Officers of receipt of any dispute or request for fee waiver from the requestor.