



governmentattic.org

"Rummaging in the government's attic"

Description of document: Department of Labor (DOL) Office of the Solicitor (SOL) Freedom of Information Act (FOIA) Standard Operating Procedures (SOP) 2019

Requested date: 03-January-2022 (2022-F-04007)

Requested date: 23-May-2022 (2022-F-09303)

Release date: 02-August 2, 2022

Posted date: 01-April-2024

Source of document: Freedom of Information Request
Office of the Solicitor
Division of Management and Administrative Legal Services
200 Constitution Ave NW
Room N-2420
Washington, DC 20210
Fax 202-693-5389 (to FOIA Staff)
Email: foiarequests@dol.gov
Dept of Labor [Public Access Portal](#)

The governmentattic.org web site ("the site") is a First Amendment free speech web site and is noncommercial and free to the public. The site and materials made available on the site, such as this file, are for reference only. The governmentattic.org web site and its principals have made every effort to make this information as complete and as accurate as possible, however, there may be mistakes and omissions, both typographical and in content. The governmentattic.org web site and its principals shall have neither liability nor responsibility to any person or entity with respect to any loss or damage caused, or alleged to have been caused, directly or indirectly, by the information provided on the governmentattic.org web site or in this file. The public records published on the site were obtained from government agencies using proper legal channels. Each document is identified as to the source. Any concerns about the contents of the site should be directed to the agency originating the document in question. GovernmentAttic.org is not responsible for the contents of documents published on the website.



August 2, 2022

VIA E-MAIL

This correspondence is in response to your Freedom of Information Act (FOIA) request dated January 3, 2022 (FOIA number 2022-F-04007) wherein you requested, “A copy of each internal memo, internal directive, internal instruction, training, or similar staff guidance in the FOIA Office of the Department of Labor regarding the assignment of a FOIA request to a processing queue such as ‘simple’ or ‘complex.’” You specifically excluded copies of the FOIA regulations and limited the scope of your request to “the main Dept of Labor FOIA Office,” specifically to Office of the Solicitor’s (SOL’s), Office of Information Services (OIS).

Consistent with the scope of your FOIA request, SOL’s OIS conducted a search and found a 25 page “Administrative Processing Overview” presentation that is responsive to your request. No other guidance has been issued by SOL to DOL staff regarding the assignment of FOIA requests to the “simple” or “complex” processing queues.

Under 29 CFR § 70.40(c)(1)(iv) and (d)(4), you are considered an “other requester” and charges assessed for the production of records are limited to search costs and reproduction costs with no fee for the first 100 pages. Therefore, there is no cost associated with the processing of this request.

All questions regarding this response should be directed to Sharon Hudson, SOL FOIA Coordinator at 202-693-5406 or by email at hudson.sharon@dol.gov.

If you need any further assistance or would like to discuss any aspect of your request, please do not hesitate to contact Ms. Hudson or the DOL FOIA Public Liaison, Thomas Hicks, at 202-693-5427 or by email at hicks.thomas@dol.gov. Alternatively, you may contact the Office of Government Information Services (OGIS), National Archives and Records Administration, to inquire as to the mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. You can also reach that office by e-mail at ogis@nara.gov, by phone at 202-741-5770, by fax at 202-741-5769, or by calling toll-free at 1-877-684-6448.

You may file an appeal of this decision with the Solicitor of Labor within 90 days from the date of this letter. The appeal must state in writing the grounds for the appeal, and it may include any supporting statements or arguments, but such statements are not required. To facilitate


processing of the appeal, please include your mailing address and daytime telephone number, as well as a copy of the initial request and copy of this letter. The envelope and letter of the appeal should be clearly marked "Freedom of Information Act Appeal." Any amendment to the appeal must be made in writing and received prior to a decision.

The appeal should be addressed to the Solicitor of Labor, Division of Management and Administrative Legal Services, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N2420, Washington, DC 20210. Appeals may also be submitted by email to foiaappeal@dol.gov. Appeals submitted to any other email address will not be accepted.

Sincerely,

**Shankar
Duraismamy**

Shankar Duraismamy
Deputy Solicitor for National Operations

 Digitally signed by Shankar
Duraismamy
Date: 2022.08.02 11:22:12 -04'00'

Enclosure

Administrative Processing Overview

Ramona Branch Oliver

Director

Office of Information Services (OIS)

Office of the Solicitor

Lifecycle of an Initial FOIA Request

- Receipt of a FOIA Request;
- Evaluating the Request;
- Prioritizing and Working Within the Time Limits;
- Conducting a Reasonable Search;
- Review and Redaction of Records;
- Fee Assessments/Fee Waivers;
- Responding to the Requester;
- The Rule of “Three;”
- Administrative Appeals; and
- Judicial Review

What are the First Steps in the FOIA Administrative Process?

- Receipt of a proper FOIA request
 - In writing and received by the agency in accordance with our regulations [29 CFR Part 70](#)
 - Submitted directly to the DOL agency component that maintains the records by mail, fax, or courier
 - Submitted by email to foiarequests@dol.gov* (ONLY)
 - Submitted via the [DOL Public Access Link](#)* (PAL) (www.dol.gov)
 - Submitted via the [National FOIA Portal](#)* (www.foia.gov)
- FOIA requests submitted electronically are centrally received by SOL's Office of Information Services (OIS). FOIA requesters may submit their requests to SOL when they are uncertain which DOL agency component(s) maintains the records they are seeking.

Administrative Process Continued

- Is it for records created or maintained by your agency component?
 - For requests that have been directly received
 - If **yes**, begin working to process the request
 - If **not**, notify OIS for proper assignment within 10 days
 - Do not cross-assign FOIA requests to another DOL agency component
 - 29 CFR § 70.20(c)
 - The same rules apply for FOIA requests that are centrally received by OIS
- Log the request into FOIAXpress

Administrative Process Continued

- Send an acknowledgement letter
 - Unless your component can process the request within 10 working days
 - Provide the following information
 - “Unusual Circumstances”
 - Opportunity to narrow the scope of the request (if necessary)
 - Fees (as appropriate)
 - Contemplate if “tolling” is appropriate for clarification or to adjudicate fee matters
 - YOUR contact information (Requester Service Center)
 - FOIA Public Liaison/Office of Government Information Services (OGIS)
- Look for quick close opportunities
 - Previously released records
 - Records online or in DOL’s Department-wide or component specific FOIA Library

Clarifying the Process

- **What type of information should be included in an acknowledgement letter?**
 - Administrative tracking number
 - Your office point of contact
 - Date of receipt in your office
 - All of the above

Evaluate the FOIA Request

- Are the records sought reasonably described?
 - It is up to the requester to provide enough information to DOL FOIA professionals locate responsive records
 - Volume of potentially responsive records is not a factor
- Make a reasonable interpretation of each request
 - Interpret the scope of the request broadly
 - Contact the requester to clarify
 - Confirm in writing if there are any modifications to the request
 - You may “toll” or stop the processing time clock ONE – TIME to clarify the scope the request with the requester.

Prioritize and Work Within Time Limits

- Twenty working days to process initial FOIA requests
- Assign the request to the proper processing track
 - DOJ guidance indicates that agencies can establish as many processing queues as deemed appropriate for efficient FOIA processing
 - DOL maintains three processing queues
 - Simple - the fastest (non-expedited) track based on the low volume and/or simplicity of the records requested
 - Complex - a slower track based on the high volume and/or complexity of the records requested.
 - Expedited – a track used for FOIA requests being processed on an expedited basis because the requester has satisfies the requirements for faster processing as set forth in the statute and in DOL's FOIA regulations.

Prioritize and Work Within Time Limits

- Extension for “unusual circumstances” up to 10 work days – with written notice to the requester
 - Search for or collect records from multiple offices
 - Search for, collect or examine voluminous amounts of material
 - Consult with another agency or two or more DOL components
 - Components are required to provide the requester with an opportunity to narrow the scope of the request
 - To aid the requester, components are required to offer the assistance of the DOL FOIA Public Liaison
 - Notice must also inform the requester of the right to seek dispute resolution services from the Office of Government Information Services (OGIS)
 - Implications related to the ability to charge fees

Prioritize and Work Within Time Limits

- Extension for “exceptional circumstances” – more than 10 work days
 - Written notice to the requester with an explanation regarding processing delays
 - Reminder – FOIA Public Liaison & OGIS are options
 - Allow requester to narrow
 - Mutual agreement to alternative processing time frame
 - Document in writing any modifications or agreements not in the original initial FOIA request

Prioritize and Work Within Time Limits

- Expedited processing
 - The only exception to the first-in first-out rule on processing
 - As outlined in our FOIA regulations at 20 CFR § 70.25(e)
 - Requester must specify a compelling need
 - Imminent threat to life or physical safety
 - Urgency to inform public about government activity (MEDIA)
 - Loss of substantial due process rights
 - Matters of widespread AND exceptional media interest in which there exists questions about the government's integrity

Agency must decide to grant or deny expedited treatment within 10 calendar days and remember to move the request to the expedited queue in FOIAXpress

Conduct a Reasonable Search

- Read the request carefully, make sure you know what is being sought
- Identify possible search paths/ search methodology
 - Search must be reasonably calculated to uncover all records
 - Search is media neutral
- Issue search instructions
 - Key word searches (search terms) for electronic records
 - Component specific databases
 - Work with designated records management staff and subject area experts
- Maintain documentation to certify search protocols
- Establish a “cut-off” date for the search
 - In accordance with 29 CFR § 70.20(a), DOL’s FOIA regulation establishes the day the search actually begins
 - If a component uses a different date, the requester must be informed
- **DOCUMENT ALL ACTIONS in the case file**

Clarifying the Process

- You have conducted a search in response to a complex request. What information should you including in your case notes?

Answer

- Locations/databases searched
 - Include justification for why certain location were searched (or not)
- Search terms used
 - Wildcard searches = vot* - could be used for searching the terms “votes,” “voting” or “voter”
- Timeframe
 - Beginning and ending cut off dates (why, if appropriate)
- Analysis of search results
 - Responsiveness decisions
 - De-duplicate the universe of responsive documents
 - Will consultation or referrals be needed

Consultations and Referrals

- Determine if consultation or referrals are necessary
 - **Consultation** – records that originated with your component, but contains the equity of another agency or component and you wish to seek advice prior to disclosure
 - Send the record to the other agency or office to obtain their disclosure recommendations
 - Include the FOIAXpress (administrative) tracking number
 - Await the consultation response
 - As the originator your component/office makes the final determination and responds to the requester
 - Keep in mind administrative appeal rights
 - **Referral** – records that originated with another government agency or DOL component and are sent to that entity for processing
 - Refer the records to the agency/office where they originated, if your agency has an equity provide your recommendations in your transmittal correspondence
 - Always include the FOIAXpress (administrative tracking number)
 - Agency/Office where the record(s) originated will make the final determination and respond to the requester
 - Advise the requester of the referral

Clarifying the Process

- Your search locates and email chain that is response to the request. The email chain is between your DOL agency component and another component. What do you do?

Answer

- The email chain has mixed equity, so you consult with the other agency component, but your office provides the final response to the requester

Assessing Fees

- Commercial requesters are charged search, review and duplication costs
- Educational, non-commercial scientific, news media requesters are charged duplication costs only, with the first 100 pages free
- All others are charged search and duplication costs, with the first 2 hours and 100 pages (or equivalent) free
- Requester can seek a fee waiver when disclosure is in the public interest
- **NOTES:**
 - Search fees can be charged, as applicable, even if no records are found
 - Limits on charging fees when processing time limits are missed

Review and Redact Records

- Review the final set of documents for responsiveness
- Redact material to be withheld
 - Cite FOIA exemption(s) that apply
 - Apply exemptions as appropriate to protect information appropriate for withholding under one or more of the statutes exemptions to access
 - Must conduct a foreseeable harm analysis prior to making a final determination
 - If there is a discernable harm, you must still work to segregate that information from nonexempt information
 - Conduct a line-by-line review
 - Disclose whatever is allowable unless what you have left is meaningless words and phrases

Respond to the Requester

- Response must be in writing
 - Consistent with component specific protocols
 - Cite all exemptions and procedural denials claimed
 - Decide on fee matters
- Must include:
 - Identification of responsive records
 - Total page count, including the number of pages withheld
 - Component/Office specific point of contact for questions
 - Contact information for DOL's FOIA Public Liaison and/or Office of Government Information Services (OGIS)
 - Provide appeal rights
- Provide released records in format requested

The Importance of Communication

- Scope of the request
- Explain the process to the requester, including search methods and time required
- Any necessary consultations or referrals
- Interim or rolling responses
- Fees (including the necessity to toll the clock or narrow the scope of the request)
- Follow up as necessary
- SEND acknowledgement letters
- Identify a point of contact who can answer questions

“Rule of Three”

- Determine how many time the responsive documents have been requested
- The “Rule of 3” is codified for frequently requested records
 - Agency components are now required to “make available for public inspection in an electronic format,” records “that have been requested 3 or more times”
- New Reporting Requirement
 - “Number of records that were made available for public inspection in an electronic format”
 - Not just the FOIA Library but anywhere your component has made such information available to the public

Administrative Appeals

- Requesters must be notified that they have the right to appeal any adverse determination within 90 days
- Requesters can appeal any adverse determination, including:
 - Denial of a record in full or in part pursuant to an exemption
 - “No records” responses or any other procedural denial
 - Denials of requests for fee waivers or expedited processing
 - Failure to respond within the statutory time limits
- Appeals must be submitted
 - By mail, fax, courier to the Office of the Solicitor
 - By email to FOIAAppeal@dol.gov (ONLY)
 - The Solicitor of Labor is the designated appeal official for DOL

Judicial Review

- The final appeal determination will notify the requester of the right to seek judicial review.
 - Agency components have the burden of proof and must demonstrate to the court that all actions taken in response to a FOIA request or appeal are appropriate and consistent with the statute and DOL's FOIA regulations
 - FOIA professionals must preserve the record and be prepared to justify their actions during litigation

Administrative Processing Took Kit

- FOIA Statute & Amendments
 - <https://www.justice.gov/oip/freedom-information-act-5-usc-552>
- DOL FOIA Regulations 29 CFR Part 70
 - <https://www.federalregister.gov/documents/2017/01/23/2017-00453/revision-of-foia-regulations>
- SOL/OIS Guidance
 - <https://labornet.dol.gov/workplaceresources/policies/foia/>
- DOJ/OIP FOIA Guide and Related FOIA Guidance
 - <https://www.justice.gov/oip/doj-guide-freedom-information-act-0>



August 2, 2022

VIA EMAIL

This correspondence is in response to your Freedom of Information Act (FOIA) request dated May 23, 2022 (FOIA number 2022-F-09303) wherein you requested, “A copy of each (internal) FOIA Standard Operating Procedure (SOP) at the Office of the Solicitor FOIA Office (may be called by different names).”

The Office of the Solicitor (SOL) has issued two Standard Operating Procedures (SOPs) regarding FOIA: SOP-FOIA_2019-01, “Departmental FOIA Procedures for Coordinated and/or Consolidated FOIA Requests,” issued on April 30, 2019, and SOL-SOP-FY2012-03, “Office of the Solicitor (SOL) FOIA Procedures,” issued on August 14, 2012. Cumulatively, these documents total 11 pages, which are enclosed in full in response to your request.

Under 29 CFR § 70.40(c)(1)(iv) and (d)(4), you are considered an “other requester” and charges for the production of records are limited to search costs and reproduction costs with no fee for the first 100 pages. Therefore, there is no cost associated with the processing of this request.

All questions regarding this response should be directed to Sharon Hudson, SOL FOIA Coordinator at 202-693-5406 or by email at HUDSON.SHARON@dol.gov.

If you need any further assistance or would like to discuss any aspect of your request, please do not hesitate to contact Ms. Hudson or the DOL FOIA Public Liaison, Thomas Hicks, at 202-693-5427 or by email at HICKS.THOMAS@dol.gov. Alternatively, you may contact the Office of Government Information Services (OGIS), National Archives and Records Administration, to inquire as to the mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. You can also reach that office by e-mail at ogis@nara.gov, by phone at 202-741-5770, by fax at 202-741-5769, or by calling toll-free at 1-877-684-6448.

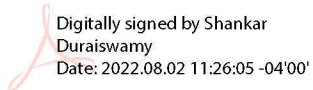
You may file an appeal of this decision with the Solicitor of Labor within 90 days from the date of this letter. The appeal must state in writing the grounds for the appeal, and it may include any supporting statements or arguments, but such statements are not required. To facilitate processing of the appeal, please include your mailing address and daytime telephone number, as well as a copy of the initial request and copy of this letter. The envelope and letter of the appeal

should be clearly marked “Freedom of Information Act Appeal.” Any amendment to the appeal must be made in writing and received prior to a decision.

The appeal should be addressed to the Solicitor of Labor, Division of Management and Administrative Legal Services, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N2420, Washington, DC 20210. Appeals may also be submitted by email to foiaappeal@dol.gov. Appeals submitted to any other email address will not be accepted.

Sincerely,

Shankar
Duraiswamy
Shankar Duraiswamy
Deputy Solicitor for National Operations



Digitally signed by Shankar Duraiswamy
Date: 2022.08.02 11:26:05 -04'00'

Enclosures

DEPARTMENT OF LABOR

OFFICE OF THE SOLICITOR (SOL)

STANDARD OPERATING PROCEDURE (SOP): **SOP-FOIA_2019-01**

SUBJECT: Departmental FOIA Procedures for Coordinated and/or Consolidated FOIA Requests

DATE: April 30, 2019

Introduction and Purpose:

This Standard Operating Procedure (SOP) provides guidance regarding the Department of Labor’s policy and procedure for identifying, managing, and processing Freedom of Information Act (FOIA) requests where coordinated and/or consolidated treatment is deemed appropriate in accordance with the Department’s FOIA regulation.

The Department’s FOIA regulation provides that, when it is determined that records responsive to a FOIA request may be located in multiple components of the Department, the Office of the Solicitor (SOL), through the Office of Information Services (OIS), may **coordinate** the processing of the Department’s response. If it is determined that a **consolidated** response is appropriate, SOL will issue the response on behalf of the Department. *See* 29 C.F.R. § 70.20(a).

Definitions:

“Coordinated Processing” – means that SOL will direct OIS to work with the DOL agency components that have or may have responsive records to coordinate aspects of FOIA processing, such as communicating with the requester, determining the request scope, or identifying search terms and methodologies, but that the responsibility for providing a final response remains with each agency component to which the request is assigned. A FOIA response may be deemed appropriate for “coordinated” processing when the subject matter of the FOIA request implicates records held by multiple DOL agency components, and the sensitivity and volume of the potentially responsive records indicate that there should be a level of coordination among components to ensure that the Department makes consistent determinations as it relates to any disclosures of releasable portions of any records.

“Consolidated Processing” – means that SOL will direct OIS to coordinate with the assigned DOL agency components on aspects of FOIA processing, and that SOL will serve as the disclosure officer on behalf of all components involved. A FOIA response may be deemed appropriate for “consolidated” processing when the subject matter of the FOIA request implicates records held by multiple DOL agency components and the sensitivity, volume and/or record status of the requested records require a more collaborative review to ensure that the Department has established uniform processing protocols and makes

consistent determinations prior to the disclosure of releasable portions of any records deemed responsive to the request.

Procedures:

1. When will SOL consider coordinated and/or consolidated treatment of a FOIA request?

SOL will consider giving a FOIA request coordinated and/or consolidated treatment when one or more of the following situations is present:

- a. A request seeks access to records that involve multiple DOL agency components and is related to one or more of the following issues:
 - i. A pending or prospective regulation (may specifically identify a Notice of Proposed Rulemaking or established rule);
 - ii. A policy initiative that is a matter of press interest;
 - iii. An administrative policy or priority articulated by Departmental leadership;
 - iv. A matter that is the subject of a government oversight request (Congressional oversight of GAO audit or evaluation);
 - v. Seeks access to data from a major DOL IT system that cross cuts the Department (such as financial or travel records); and/or
 - vi. Contains White House equities or involves matters that may touch on other Federal government agencies' interests.
- b. The requester has had a previous FOIA request coordinated and/or consolidated.
- c. The requester is or has previously been in litigation with the Department regarding a FOIA matter.
- d. A request seeks "all records" (or a broad range of records) regarding Departmental leadership, and/or identifies records custodians in multiple DOL agency components.
- e. A request seeks access to a large volume of emails or other electronically stored information and involves records held by multiple DOL agency components.
- f. The requester has specifically asked for coordinated and/or consolidated treatment of the request as articulated in DOL's FOIA regulations at 29 C.F.R. § 70.20.
- g. After reviewing the FOIA request, and internal discussions with the assigned and/or relevant agencies, SOL determines that coordination and/or consolidation of a request will improve administrative efficiency, or is necessary to ensure a consistent response across the entire Department to that request.

2. What is the process for determining whether a FOIA request will be treated as coordinated or consolidated?

"Qualifying" for potential coordination or consolidation does not automatically mean that the request will be handled as a coordinated or consolidated request—*see* (c) below. A request that may qualify for coordinated and/or consolidated processing may be identified at receipt of the request, at the time it is assigned, or at any point while the request is being processed.

- a. If the request meets any of the criteria outlined in item 1 above, awareness should be made, in writing via email, in the following ways:
 - i. If the FOIA request is received by OIS via email at FOIArequests@dol.gov, by postal mail or fax, OIS staff will immediately bring the request to the attention of the Director of OIS;
 - ii. If the request is received by a Division or Regional office of the Office of the Solicitor, that office should immediately bring it to the attention of the SOL FOIA Coordinator who will confer with the Director of OIS; and,
 - iii. If the FOIA request is received by any component of the Department and the component believes, based on the scope of the incoming request, that the request should be coordinated and/or consolidated, the FOIA Coordinator of that component should immediately notify the Director of OIS.
 - b. The OIS Director will bring each request for coordinated and/or consolidated processing to the attention of the SOL-MALS Division leadership, and with further discussion with the SOL leadership as appropriate.
 - c. The final decision on whether or not to coordinate or consolidate a request rests with the Chief FOIA Officer or a designee who will inform OIS of that decision. The Chief FOIA Officer will consider various factors in making this decision, including, but not limited to:
 - i. The subject matter of the FOIA request and the relevant equities involved;
 - ii. The level of staffing and other resources required to coordinate or consolidate the request; and,
 - iii. Funding options and costs associated with processing the request in a coordinated or consolidated manner.
 - d. For each FOIA request that is approved for coordinated and/or consolidated treatment, the Chief FOIA Officer will designate a FOIA Contact within SOL (whether within OIS, the SOL Front Office, a particular Division, or another SOL office) who will be designated to take the lead on further actions.
3. What are the next steps for the designated FOIA Contact once the decision is made to treat a FOIA request as coordinated or consolidated?

The designated FOIA contact, within SOL, will take the following steps:

- a. Communicate with the assigned agency components that a determination has been made to coordinate or consolidate the processing of the request. The communication should identify the FOIA request by:
 - i. The SIMS-FOIA number, including the name of the requester and a summary of the subject matter as identified in the request;
 - ii. Provide a summary of the issues identified in Item 3(b) above; and,
 - iii. Set a meeting where the agencies involved can meet to discuss next steps.
Note: The meeting announcement should include a proposed agenda.

- b. Following the initial meeting, inform the requester, in writing, that the Department has decided to coordinate or consolidate the request in accordance with the provisions outlined at 29 C.F.R. § 70.20.
 - c. Identify the scope of the request and ensure that all components with equities in the request have been assigned the request within the SIMS-FOIA tracking system for processing.
 - d. Develop a check list of matters to be addressed to facilitate a discussion about how best to proceed with processing the request. The checklist should contemplate the following matters:
 - i. Ensure that the request is reasonably described, and if not, suggest ways that the request could be clarified or narrowed;
 - ii. Ensure that all agency components that may have responsive records have been identified, including instances where the servicing SOL Division or Region may need to be notified to assist its client agency in handling aspects of the request;
 - iii. Determine if the scope of the requested records are in line with existing records schedules, including determining whether some portions of the request may be moot (records destroyed) or referred to NARA if the records were transferred for permanent retention;
 - iv. Identify any media/record production/format challenges based on the requester's preferred format choice for responsive documents;
 - v. Based on the scope of the request, identify possible search parameters or terms;
 - vi. Determine if the matter is in litigation with DOL or elsewhere in the government; and,
 - vii. Identify and address any concerns unique to the request (such as the clearance of White House equities or if there has been guidance issued by the administration or DOJ).
 - e. If a determination is made to communicate with the requester – e.g., on matters such as the scope of the request, fee categories or estimates, alternative time frames for processing, or any other procedural matter -- the designated FOIA Contact will either directly engage in such communications with the requester, or support the person identified as responsible for those communications. The designated FOIA Contact may also engage the Department's FOIA Public Liaison for assistance in these communications.
 - f. If the request requires the use of the Department's network resources, the designated FOIA Contact will take the initiative to involve OASAM-OCIO in the ongoing discussions.
4. What are the procedures for processing records for disclosure for coordinated or consolidated FOIA requests?
- a. **Unless instructed otherwise, each assigned agency remains responsible for ensuring the timely and accurate processing of responsive records.** Generally, each agency component will remain responsible for conducting a reasonable

search for responsive records that it maintains, consistent with agreed upon search methodologies and/or search terms.

- b. Each assigned DOL agency component with responsive records is responsible for reviewing and processing all its own responsive records, including the application of exemptions, to ensure consistent disclosures.
- c. In situations where OASAM-OCIO conducts a search leveraging Departmental IT and network resources, each component will receive its own search results and process the responsive records accordingly, unless otherwise determined by SOL.
- d. If, after considering other options, SOL believes that the use of SOL litigation support/electronic resources to process responsive records may be beneficial and feasible, it will notify the component(s) of that determination. SOL will communicate regarding any funding issues that need to be resolved prior to providing instructions on how to gain access to the responsive records in order to review them for disclosure.
- e. The designated FOIA Contact will monitor the ongoing processing of the FOIA request, notifying the requester of any processing delays and conducting the necessary second level reviews required to promote consistent processing of all responsive records on behalf of the designated disclosure officers.

5. Who issues communications with requesters regarding coordinated or consolidated responses, and what must be included in such communications?

- a. Acknowledgement letters will be prepared and signed:
 - i. **For FOIA requests with coordinated processing** – by appropriate personnel in each assigned agency component.
 - ii. **For FOIA requests with consolidated processing** – by the designated SOL FOIA Contact on behalf of all agency components.
- b. For both coordinated and consolidated FOIA requests, interim decisions on matters such as fee determinations, granting or denying expedited processing, and narrowing or tolling letters are to be prepared by the designated SOL FOIA contact and cleared by the FOIA Coordinators representing each DOL agency component that maintains records responsive to the request. Any interim decision letter are signed by the Director of OIS.
- c. Letters disclosing records, including final response letters for all DOL agency components maintaining responsive records and indicating full disclosures (such as when no exemptions have been applied and the responsive records are released in full), partial disclosures (such as when portions of the requested records are being withheld under one or more FOIA exemptions), or full denials (such as when all of the requested records are being withheld under one or more FOIA exemptions) are signed in the following manner:
 - i. **For consolidated responses:** The disclosure is made by the Deputy Solicitor for National Operations (or designee).
 - ii. **For coordinated responses:** The disclosure is made by the designated Disclosure Officer of the agency component(s) that maintains the responsive records.

- d. All responses must provide sufficient information to the designated Disclosure Officer to enable them to assess any disclosure issues.
- e. Appeal rights must be stated in any FOIA response that can be considered an adverse determination (such as when a request for a fee waiver or expedited processing is denied, a no records response, a determination not to comply with a request for any procedural reason, or when a request is denied in full or in part pursuant to a specific FOIA exemption).

Documentation and Records Management:

The disposition of FOIA Case Files is governed in accordance with General Records Schedule 4.2, Information Access and Protection Records, Item 020, Access and Disclosure Case files.

REFERENCES: 5 U.S.C. § 552
29 C.F.R. § 70.21

Point of Contact for this SOP:

Ramona Oliver
Director, Office of Information Services
Division of Management and Administrative Legal Services
Office of the Solicitor
Phone: 202-693-5391
Email: oliver.ramona@dol.gov

**OFFICE OF THE SOLICITOR (SOL)
STANDARD OPERATING PROCEDURE (SOP): SOL-SOP-FY2012-03**

SUBJECT: Office of the Solicitor (SOL) FOIA Procedures

DATE: August 14, 2012

Introduction and Purpose:

This document updates the FOIA standard operating procedures memorandum that we provided to you on June 15, 2011.

This Office of the Solicitor (SOL) Standard Operating Procedure provides guidance to the SOL Freedom of Information Act (FOIA) Coordinator, SOL FOIA contacts (primary and back up), SOL disclosure officers, managers and supervisors regarding SOL's policy and procedure for tracking, controlling and/or processing requests for information submitted under the provisions of FOIA, including FOIA appeals. This SOP only discusses SOL-specific procedures and does not instruct on general FOIA law, issues or processing protocols.

SOL Divisions and Regions play dual roles regarding FOIA: (1) they act as the first line legal advisors when clients have FOIA legal issues and (2) they must respond to FOIA requests for the Division/Region's own records. This SOP addresses the responsibilities of SOL staff only regarding the second role.

The responsibilities of SOL Divisions and Regions should be understood in the context of SOL's multiple responsibilities for FOIA under the Department's FOIA regulations and procedures. *See* 29 CFR Part 70. The Solicitor is the Chief FOIA Officer. The FOIA administrative office for the Department as a whole is the Office of Information Services (OIS), which is housed within SOL's Division of Management and Administrative Legal Services (MALS). MALS also has two legal units whose responsibilities include FOIA-related matters: The Counsel for FOIA/FACA/Privacy Act area provides legal advice regarding FOIA and defends the Department in litigation brought under FOIA. The Counsel for Administrative Law area includes the FOIA Appeals Unit, which is responsible for processing appeals of FOIA determinations made by any DOL component. Under DOL's FOIA regulations, determinations of FOIA appeals are made by the Solicitor or designee, and this function has been delegated to the Associate Solicitor for MALS (and the Deputy Associate Solicitor for MALS in the alternative).

Procedures:

1. Receipt of a FOIA Request. FOIA requests can be submitted to the Department of Labor in a variety of ways.
 - a. Requests may be received via postal mail addressed to the agency component that has the records or to MALS. Although not prescribed by the DOL FOIA regulation, requests also come addressed to the attention of: the Solicitor of Labor as Chief FOIA Officer; the Counsel for FOIA and Information Law; and, the Office of Information Services (OIS).
 - b. Requests may also be submitted via fax or courier service to any of the entities outlined in 1.a. above.
 - c. If a request is submitted via email, it must be sent to foiarequests@dol.gov. Requests sent to any other email address will not be accepted. Requesters who submit requests to any other email address should be instructed to redirect their request to the proper address.

2. Logging/tracking FOIA Requests. As mandated by law, each FOIA request must be assigned a unique tracking number. SOL should include the tracking number on all correspondence related to the FOIA request. It is important that this number be communicated to the requester so that he or she can track the status of the pending FOIA request via the DOL web portal at <http://www.dol.gov/foia/>. The public FOIA portal depends on the FOIA request having been logged into the Department's FOIA tracking system -- into the FOIA component of the Secretary Information Management System (SIMS-FOIA). SIMS-FOIA automatically assigns each request a unique tracking number.
 - a. FOIA requests received in MALS (via email to foiarequests@dol.gov or in hard copy) are centrally logged by OIS staff into SIMS-FOIA. If the request seeks SOL records, OIS assigns the FOIA request to the SOL FOIA Coordinator who, in turn, further assigns the request to the appropriate division, region or sub-regional SOL office (SOL office) for processing.
 - b. FOIA requests received by an SOL office must be logged into SIMS-FOIA by the designated FOIA contact in that office. Through SIMS-FOIA, the SOL FOIA Coordinator continues to monitor the tracking and processing of requests.
 - c. If a FOIA request is addressed to the Solicitor, in her role as Chief FOIA Officer, and received in the SOL-FO, it must be immediately forwarded to MALS/OIS for logging into SIMS-FOIA and proper assignment.
 - d. If a requester submits a FOIA request to an SOL office for records that are not maintained within SOL, that request must be immediately forwarded to MALS/OIS for logging and proper assignment. Do not assign the request to another SOL office or to a client agency.

3. Assignment of Requests. OIS will assign FOIA requests to the SOL office(s) or division(s) that is most likely to maintain the requested records using the guiding principle of **“targeted but thorough”** assignment.

- a. OIS will assign FOIA requests received in MALS to the SOL office most likely to maintain records responsive to the request. To ensure a “targeted but thorough” approach to assigning FOIA requests, decisions to assign requests are made in conjunction with the SOL FOIA Coordinator, OIS Director, FOIA Counsel and/or the MALS Deputy.
 - b. If an SOL office receives a FOIA request that is properly sent to that office, the office should enter it in SIMS-FOIA (see above) and process it. No further assignment is necessary.
 - c. If an SOL office receives a FOIA request directly and has reason to believe responsive records may be maintained by the SOL-FO, another SOL office or a client agency, the receiving SOL office must alert the SOL FOIA Coordinator and work through OIS for further assignment of the request.
 - d. Requests seeking information held by multiple SOL offices will be monitored by the SOL FOIA Coordinator, in conjunction with the Deputy Solicitor for National Operations and/or the Deputy Solicitor for Regional Enforcement. OIS will assign a lead office to coordinate a response on behalf of SOL.
 - e. Requests for records maintained by the SOL Front Office (SOL-FO) are to be assigned to the designated SOL-FO staff by the SOL FOIA Coordinator.
4. Acknowledgement Letters. Acknowledgement letters must be sent for all requests that will take longer than ten (10) working days to process. The acknowledgement must provide the SIMS-FOIA tracking number and provide a link to the DOL FOIA web portal so that the requester may track the progress of his or her FOIA request. See #7 below for responsibility for preparation and signature of acknowledgement letters.
 5. Processing FOIA Requests. FOIA requests are typically processed by the SOL office (or offices) that has or may have records responsive to the pending request. If a lead office has been assigned to coordinate a response on behalf of SOL, that office must facilitate the collaborative processing and review of all responsive records maintained by SOL offices and divisions, including the application of exemptions, to ensure consistent disclosures. However, each office remains responsible for conducting a “reasonable” search for any responsive records that it holds.
 6. Processing Time Limits. FOIA requests must be processed within 20 work days. The processing time starts on the day that the FOIA request is received by the SOL office that has or may have records responsive to the request. SOL offices should consult with the requester to negotiate alternative time frames when the request cannot be processed within the statutory time limit.
 7. Signature Authority.

- a. Acknowledgement letters are to be prepared by the SOL office processing the request and signed by the appropriate official in that office. If a lead office has been assigned to coordinate a response, the acknowledgement letter is signed by the appropriate official in that office.
- b. Interim decisions on matters such as fee determinations, granting or denying expedited processing, and narrowing or tolling letters are to be prepared by the SOL office processing the request and signed by the appropriate official in that office. If a lead office has been assigned to coordinate a response, the interim decision letter is signed by the appropriate official in that office.
- c. Responses indicating that no records were located or any other procedural closure reason (such as when a request is withdrawn by the requester, fee matters are not resolved or when a requester fails to clarify the scope of a request within a reasonable time frame) are to be prepared by the SOL office processing the request and signed by the appropriate official in that office. If a lead office has been assigned to coordinate a response, the letter is signed by the appropriate official in that office.
- d. Final response letters for all SOL offices indicating full disclosures (such as when no exemptions have been applied and the responsive records are released in full), partial disclosures (such as when portions of the requested records are being withheld under one or more FOIA exemptions), or full denials (such as when all of the requested records are being withheld under one or more FOIA exemptions) are signed by the appropriate SOL Disclosure Officer.
 - i. The Deputy Solicitor for National Operations is the Disclosure Officer for final determinations made by SOL offices and divisions in the National Office.
 - ii. The Deputy Solicitor for Regional Enforcement is the Disclosure Officer for final determinations made by SOL regional offices.
- e. The SOL office processing a request must provide sufficient information to the Deputy Solicitors to enable them to assess any disclosure issues.
- f. Appeal rights must be stated in any FOIA response that can be considered an adverse determination (such as when a request for a fee waiver or expedited processing is denied, a no records response, a determination not to comply with a request for any procedural reason, or when a request is denied in full or in part pursuant to a specific FOIA exemption).

8. FOIA Appeals.

- a. Under DOL's FOIA regulations, 29 CFR § 70.23, determinations of FOIA appeals are reserved to the Solicitor or designee. Processing of FOIA appeals is handled by the Counsel for Administrative Law/FOIA Appeals Unit within MALS, with determinations delegated to the Associate Solicitor for MALS (and the Deputy Associate Solicitor for MALS in the alternative). No other SOL office is authorized to make any determination on a FOIA appeal.

- b. If any SOL office receives a FOIA appeal, via postal mail, fax or courier, it must immediately forward that appeal to the Counsel for Administrative Law in MALS.
- c. If any SOL office receives a FOIA appeal via e-mail, it must immediately notify the requester to submit the appeal to foiaappeal@dol.gov.

Documentation and Records Management:

The disposition of FOIA Case Files is governed in accordance with General Records Schedule 14, Information Management, Item 11. The full text of GRS 14 can be found on the National Archives website at <http://www.archives.gov/records-mgmt/grs/grs14.html>.

REFERENCES:

5 USC 552
29 CFR Parts 70 & 71
DLMS 5-300

Point of Contact: Director, Office of Information Services
Division of Management and Administrative Legal Service
Office of the Solicitor