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Description of document: Internal Revenue Service (IRS) Standard Operating Procedures (SOP) Relating to FOIA (Undated)

Requested date: 22-May-2022

Release date: 18-August-2022

Posted date: 12-August-2024

Source of document: FOIA Request
Internal Revenue Service
GLDS Support Services
Stop 211
PO Box 621506
Atlanta, GA 30362-3006
Fax: 877-807-9215
[IRS FOIA Public Access Portal](#)

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Department of the Treasury
Internal Revenue Service
Privacy, Governmental Liaison and
Disclosure
GLDS Support Services
Stop 93A
PO Box 621506
Atlanta, GA 30362

Date:
August 18, 2022
Employee name:
John Quigley
Employee ID number:
1000247712
Telephone number:
510-907-5337
Fax number:
855-205-9335
Case number:
2022-15768

This is our final response to your Freedom of Information Act (FOIA) request dated May 22, 2022, received in our office on May 23, 2022.

You asked for a copy of each (internal) FOIA Standard Operating Procedure (SOP) at the IRS Main FOIA Office.

We searched for and located 44 pages responsive to your request.

Of the 44 pages located in response to your request, we're enclosing 44 pages. We're releasing 27 pages without exemptions and withholding 17 pages in part. Redacted portions of each page are marked by the applicable FOIA exemptions which are described below:

FOIA exemption (b)(6) exempts from disclosure files that would constitute an unwarranted invasion of personal privacy. We base the determination to withhold on balancing interests between the protection of an individual's right to privacy and the public's right to access government information.

FOIA exemption (b)(5) exempts from disclosure inter or intra-agency memorandums which wouldn't be available by law to parties other than those in litigation with the agency. The exemption privilege covered in this response is:

- The deliberative process privilege, which protects documents that reflect the pre-decisional opinions and deliberations on legal or policy matters.
- The attorney work product privilege, which protects materials prepared in reasonable anticipation of litigation by an attorney or other Service employee.
- The attorney-client privilege, which protects confidential communications between an attorney and a client relating to a legal matter for which the client has sought professional advice.

FOIA exemption (b)(7)(E) exempts from disclosure records or information compiled for law enforcement purposes when their release would reveal:

- Techniques and procedures for law enforcement investigations or prosecutions.
- Guidelines for law enforcement investigations or prosecutions, if release could risk circumvention of the law.

While reviewing the responsive records and applying FOIA exemptions to withheld records, we considered that there is either a foreseeable harm in releasing withheld information or the information is prohibited from being released by law.

We omitted the SOP on processing FOIA requests for AIMS Tables as you agreed in your email to Tax Law Specialist John Quigley on August 12, 2022.

If you have questions regarding the processing of your FOIA request, please contact the caseworker assigned to your case at the phone number listed at the top of this letter.

If you are not able to resolve any concerns you may have regarding our response with the caseworker, you have the right to seek dispute resolution services by contacting our FOIA Public Liaisons at 312-292-3297. The FOIA Public Liaison is responsible for assisting in reducing delays, increasing transparency, and assisting in the resolution of disputes with respect to the FOIA.

There is no provision for the FOIA Public Liaison to address non-FOIA concerns such as return filing and other tax-related matters or personnel matters. If you need assistance with tax-related issues, you may call the IRS at 800-829-1040.

You also have the right to contact the Office of Government Information Services (OGIS). The Office of Government Information Services, the Federal FOIA Ombudsman's office, offers mediation services to help resolve disputes between FOIA requesters and federal agencies. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road--OGIS
College Park, MD 20740-6001
202-741-5770
877-684-6448
ogis@nara.gov
ogis.archives.gov

You have the right to file an administrative appeal within 90 days from the date of this letter. By filing an appeal, you preserve your rights under FOIA and give the agency a chance to review and reconsider your request and the agency's decision. I've enclosed Notice 393, Information on an IRS Determination to Withhold Records Exempt From the Freedom of Information Act - 5 U.S.C. 552, to explain your appeal rights.

Your decision to contact the FOIA Public Liaison or OGIS for assistance resolving your dispute does not extend the 90-day period in which you can file an appeal.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Poole". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Deanna Poole
Acting Disclosure Manager
Disclosure Office 13

Enclosures:
Responsive Documents
Notice 393

| | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><i>Internal Revenue Service</i></p> <p>Standard Operating Procedure</p> | <p>Document No: TRS SOP-2 (Rev.5)</p> |
| | <p>Office: Operations Support, HCO, Payroll and Personnel Services, Personnel Systems</p> <p>Branch/Section: Technology Reporting Section</p> |
| <p>Subject: Requesting Current, Historical or National Public Information Listings, Historical Award Listings, Appointment Affidavits, Oaths of Office and copies of Standard Forms 50b under the Freedom of Information Act and Privacy Act</p> | <p>Date of Issue:</p> |

PURPOSE & SCOPE

This document establishes the protocol for requesting Current, Historical or National Public Information Listings, Historical Award Listings, Appointment Affidavits, Standard Form 50b and Oaths of Office. In addition, it establishes the protocol for requests for Historical Earnings and Leave Statements received as a result of a subpoena.

BACKGROUND:

The Technology Reporting Section responds to current, historical and/or award information and national PIL requests received by Disclosure/Tax Law Specialists. This SOP is design to guide the specialist to the appropriate area to fulfill the FOIA request.

RESPONSIBILITIES:

The Technology Reporting Section is responsible for responding to the FOIA PIL's that request current, historical, award and national listings for IRS employees received from Disclosure office. The list of data elements provided can be located in [IRM 11.3.13.9.11.1 Public Information Listing](#) with the exception of email addresses and phone numbers.

The Official Personnel Folder Consolidation Site is responsible for responding to FOIA requests for copies of non-executive and executive employees' Appointment Affidavits, Oaths of Office or Standard Forms 50b.

The Ogden Payroll Center is responsible for reprinting Historical Earnings and Leave Statements based on subpoena and employees' authorization.

Current Public Information Listing procedures:

The current PIL information is protected via password and will be changed annually by Technology Reporting Section. The designee as identified in the "Downloads" - "Public Information Listings for Disclosure" section of the Human Resources Reporting Center will be given a new password annually for Disclosure/Tax Law Specialist to use October 1 and after.

To obtain a response for a **Current PIL for an individual employee**, the Disclosure/Tax Law Specialist will:

1. Access the [HRRC](#) website;
2. Select the "Downloads" and "Public Information Listings for Disclosure";
3. Select the appropriate "State";
4. Select "Open" and "Yes" to open the "State" file;
5. Type the password in the passphrase box, then the Current Public information Listing file for the "State" chosen;
6. Locate the individual employee.

NOTE: PIL information on employees with an approved pseudonym or occupying a protected occupational series is unavailable from this site. Employees with home as post of duty, the city information will be masked with "XXXX."

Historical Public Information Listing procedures:

To obtain a response for a **Historical PIL for an individual employee**, the Disclosure/Tax Law Specialist will send an email to the 
The email must include at least two identifiers listed below:

1. First Name, Middle Name (if no Middle Name, indicate "NMN"), Last Name;
2. SEID;
3. Duty Station/Location;
4. Social Security Number (**usually because the employee has separated**);
5. Need for historical award information as appropriate to the PIL.

NOTE: Certain employee information will be masked with "XXXX," such as employees with an approved pseudonym, employees occupying a protected occupational series and/or employees having home as POD. In addition, Bargaining Unit employees' award information as of fiscal year 2002 and forward will also be masked with "XXXX."

Response times for the Historical PIL requests are two – three work days.

National (historical/current) Public Information Listing procedures:

To obtain a response for a **National (historical/current) PIL for all employees**, the Disclosure/Tax Law Specialist will send an email to the (b)(7)(E)
The Technology Reporting Section will only provide the items or the combination of items listed in the [IRM 11.3.13.9.11.1 Public Information Listing](#) and will exclude phone numbers and email addresses.

Include the following information in the email:

1. The AFOIA case number assigned to the case;
2. The Search Memo;
3. Copy of request;
4. Specific period of time. If the FOIA request doesn't indicate a time frame e.g., "Current" or "Fiscal Year XX," The Technical Reporting Section will process the National Public Information Listing with the current pay period.

NOTE: Pseudonym employees' name and post of duty will be masked. Protected occupational series employees' name and post of duty will be masked. Home as post of duty employees' city will be masked. Bargaining Unit employees' award information will be masked beginning fiscal year 2002 and forward.

The response data will be returned to the Disclosure/Tax Law Specialist in the format requested if obtainable. Otherwise, the data will be returned in a text file.

Response times for the Historical/Current National PILs are five – seven work days.

Requesting copies from the Official Personnel Folders procedures:

To obtain a response for **copies of non-executive and executive employees' Oaths of Office, Affidavits and Standard Forms 50b**, contact the Official Personnel Folder Consolidation Site by selecting one of the options listed below:

- a. IRS email: (b)(7)(E)
- b. (b)(7)(E)
- c. Mail: (b)(7)(E)

To obtain **reprints of Historical Earnings and Leave Statements based on a subpoena and employee's authorization** contact (b)(6) of the Ogden Payroll Center.

References:

1. [HRRC](#) website
2. The Internal Revenue Manual, [Part 10 Security, Privacy and Assurance](#), (10.8.1 (07-08-2015), IT Information Technology and Security Guidance, sections):
 - [10.8.1.4.14.1.1 \(07-08-2015\), Sensitive But Unclassified \(SBU\) Information](#)
 - [10.8.1.4.14.1.3 \(07-08-2015\), Personally Identifiable Information \(PII\)](#)
 - [11.3.13.9.11.1 \(08-14-2013\), Public Information Listing](#)
3. The Office of Personnel Management Memo, "Addition to Sensitive Occupation List in Data Release Policy" provided to IRS February 17, 2011.
4. Internal Revenue Service (IRS) and National Treasury Employees Union (NTEU) Jane Doe Settlement Agreement signed January 19, 2007.
5. The Director, Governmental Liaison and Disclosure June 7, 2007, Memorandum – Subject: Processing Requests for Public Information Listing (PIL) Information.

Program/Process Owner and/or Point of Contact(s):

Chief, Technology Reporting Section: (b)(6)

APPROVED: (b)(6) DATE: _____
Associate Director, Personnel Systems
Human Capital Office

cc: Privacy Governmental Liaison Division
IRS Payroll Center Chiefs

BUSINESS UNIT REPORT - SOP

PURPOSE:

This SOP established procedures for authorizing PGLD to coordinate efforts to increase and improve information dissemination to the Freedom of Information Act (FOIA) request. Through coordinated and joint efforts throughout the Internal Revenue Service.

The FOIA requires all Federal agencies to timely respond to requests for records and information the agency maintains. Under Freedom of Information Act, brings forth a federal statute of 20 days to process a requested FOIA. This is a statutory obligation that belongs to all Internal Revenue Service employees to comply with the "Open Government Initiative and IRC 6103 (e).

All Federal agencies are required to take action to reduce FOIA backlogs. The IRS regularly reports its progress to the Secretary of the Treasury. PGLD Disclosure Programs is the driving force in meeting all federal statutory timeframes for FOIA request.



Beth Tucker Memo on
FOIA Federal Statutes

BACKGROUND

OPEN GOVERNMENT INITIATIVE AND IRC 6103 (e).

FOIA is an integral part of creating an open and transparent government. On his first full day in office, President Obama signed the [Memorandum on Transparency and Open Government](#) calling for unprecedented openness and transparency in government and declaring "Information maintained by the Federal Government is a national asset."

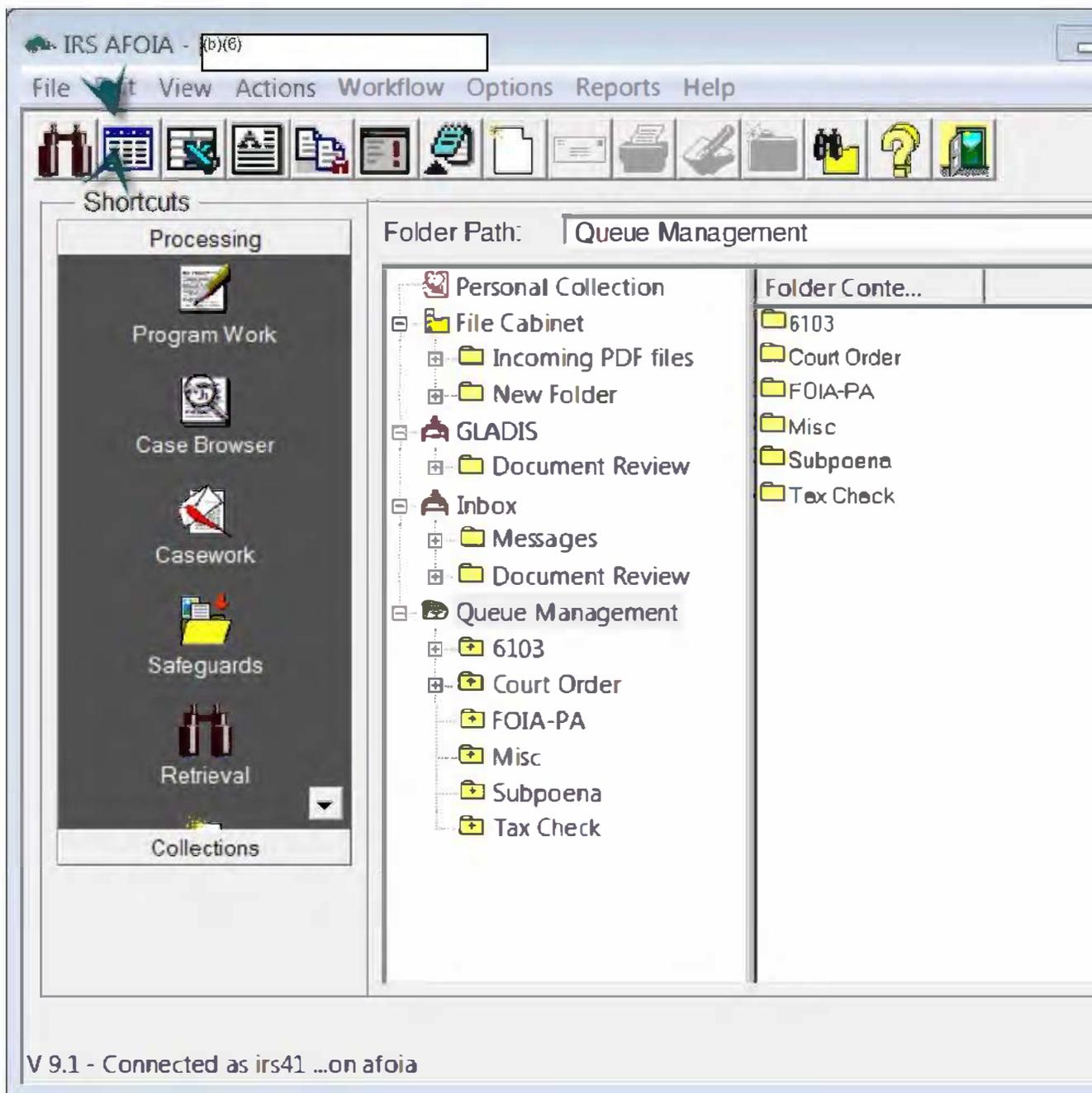
To that end, we are committed to posting government information proactively online in downloadable formats consistent with applicable law. Before filing a FOIA request, there are several places online where you might already find the information you are seeking. Looking in these places first, will help you get the information you want faster and increase the efficiency of the FOIA process.

3. ROLES/RESPONSIBILITIES

- Disclosure employees are responsible for entering the proper workflow status which should indicate "Records Order" or "Records Pending" these

two workflow indicators convey that there is an issue with the respective Business Unit delivering the needed documents to the Disclosure employee.

- Disclosure employees are responsible for uploading AFOIA with the Business Unit (BU) owner/contact employee's name and the BU Manager's name of the documents being requested. This uploaded AFOIA information will populate the BU Report.
- Disclosure employees are responsible for correcting the workflow decision criteria when a case action changes the document request status. This must be done for each stage of the document request as it will generate the proper workflow case status on the BU Report.
- Frontline Manager is to ensure that the Disclosure employees are correctly changing the workflow status with each case document and case action. This will ensure accuracy of the current case action workflow decision on the BU Report.
- Tax Law Specialist is responsible for extracting the BU Report at least 5 to 10 days in advance of 15th (Reporting Date) day of the following month.
- Tax Law Specialist is responsible for extracting the BU Report from AFOIA with the use of the BU Report button (show AFOIA BU report symbol) located on the IRS AFOIA Screen.



- Select (Run) the BU Report will generate without selecting any options as the report will capture all of the necessary information needed from the Disclosure employees' case work.
- Tax Law Specialist responsible selecting the export table on toolbar in the BU Report Page. This will create a window where you are able to request the size of the exported report which should be Excel 3.0 Draft Standard. Open a Microsoft Excel page and copy the report onto the Excel page.

- Tax Law Specialist is responsible for deleting duplicates with identical Information as the Business Units only needs one case for research purposes. Review each case for workflow accuracy and correct Business Unit's Point of Contact (POC) information this is necessary as to ensure that the case is under the proper business unit.

4. PROCEDURES/REVIEW PROCESS

STORE PRIOR YEAR REPORTS TO SHARE POINT

1. Extract prior reports on SharePoint site

(b)(7)(E)

2. Create new folder
 - 2A. click the tab for new folder contained in the toolbar.
3. Click library contained in the toolbar.
4. Click button for open with explorer which is contained in the toolbar.
Blank window will appear.
Sit this window aside for future merge.
5. Go into the SharePoint site to open an additional window.
Begin the transfer of prior month reports for purposes of storage.
6. Click button for library contained in the toolbar.
7. Click button for open with explorer contained in the toolbar.
8. While both windows are now open, drag prior month reports to blank
9. Window.
10. Close window with prior year reports and save as Archive Reports
For respective month.

Load New Reports to SharePoint

1. Click onto the SharePoint Site
2. Click Add Documents
3. Window should appear which will allow individual/multiple uploads.
4. Select Browse and find the document or multiple documents and transfer Documents and transfer to the SharePoint site.

Quality Check

1. Review each report for consistency and accuracy as this is the final products that goes to the respective business units.

Update Email Information Sent to POCs.

1. Check for date changes (Prior month to current month)
within body of email.
2. Cut and paste the name lines and transfer to the new email..
3. Conduct spell Check of the document.

All trends and patterns identified from Disclosure case workers should be extracted from the report and sent in an email to the Deputy Directors of the field for quality review and case action updates.

Make all corrections and notes from the BU contacts immediately as it will improve the accuracy of future reports.

5. EFFECT ON STAKEHOLDERS

Make all corrections noted from BU Contact immediately to improve the quality of the report.

6. Points of Contact – Will be provided by the Business Units and these name can change based upon work assignment.

| |
|--------|
| (b)(6) |
|--------|

o

- o Functional: Executive assistant or equivalent

7. GOALS/MEASURES

To Foster Compliance with the Freedom of Information Act process in accordance with the "OPEN GOVERNMENT INITIATIVE AND IRC 6103 (e)."

8. DOCUMENT RECORDS RETENTION

All BU Reports are to be maintained for one calendar year and then destroyed.

9. EFFECT ON COST AND RISK MANAGEMENT

Failure to meet the FOIA federal statute could result in Congressional Intervention and noncompliance of the Open Government initiative and IRC 6103(e).

| | | | |
|---------|--------|-------|-----------------|
| Author: | (b)(6) | Date: | August 10, 2015 |
|---------|--------|-------|-----------------|

| | | | |
|-----------|------------|-------|--|
| | Specialist | | |
| Approved: | (b) (6) | Date: | |

Expiration date and cancellation provisions: These procedures will be reviewed a year from the date signed.

Standard Operating Procedures for Sensitive Case Report

Weekly Sensitive Case Report

The Weekly GLDS FOIA Backlog and Sensitive Case Report is prepared every week on Friday afternoon.

Tools Needed:

Friday's Daily Backlog Report – from Data Services

Weekly SCR Report from Data Services

New Individual SCRs received since the prior Friday

The prior week's GLDS Weekly Update: FOIA Backlog & Sensitive Cases Report

AFOIA Report of cases closed including the prior Friday to the current Friday

The Clearance List from the prior week

1. Update the date at the top of the report.
Delete two charts at the top of the report.

Open the Daily Backlog Report Select the Sensitive Case History Tab - Select Unhide and Select Weekly Report. This provides the two charts used at the top of the SCR Report. You highlight each table separately and Paste them into the SCR Report selecting Paste as Picture to keep all the original formatting.

2. Next I review the Clearance List and move any cases included on this list that have closed (according to the AFOIA Closed Case Report) and move them to the cleared tab of this report entering the closing date from AFOIA.

When EO SCR cases are sent for clearance, I generally receive a final SCR. I check with (b)(6) and/or (b)(6) to ensure that I have everything that was sent to the Counsel Team before closing out the listing for the week.

I then save the Clearance List in Microsoft Excel 97-2003 Worksheet Format so that individuals still in the old operating system will be able to open it.

Then I import the Clearance List to the SCR Report by selecting Insert – Object – and then browsing for the correct file and inserting it as an icon.

3. Moving on to the Non-EO Sensitive Case List. This is a list of all the Sensitive Cases in Inventory with a summary page:

Weekly_SCR Report

| Date | Open SC (Cumulative) | Open SC (Cumulative Backlog) | Open EO SC (Cumulative) | Open EO SC (Cumulative Backlog) |
|-----------|-------------------------|------------------------------------|----------------------------|---------------------------------------|
| 7/25/2014 | 132 | 109 | 96 | 80 |

(b)(6)

| Composition of SC Inventory | |
|-----------------------------|-----|
| EO | 96 |
| ACA | 2 |
| Budget | 1 |
| EMP REL | 3 |
| Other | 1 |
| Other - | 1 |
| Other - Misc | 28 |
| Other - Travel Card | 0 |
| Other - Training | 0 |
| Other - Videos | 0 |
| Total SCs | 132 |

The second tab includes a complete listing of all the current cases on AFOIA that have been designated as Sensitive Cases.

First I autosort for blanks, which identifies all the new cases received since the last Friday. I use the SCRs received (or AFOIA if I have not received and SCR) to complete the category, subject of request, ECD, and Backlog indicator. When I have completed the updates, the Open SC (Cumulative) and Total SCs should match. If not, I have entered a category incorrectly and need to correct it. If there are SCRs that have not been received, I advise the appropriate Disclosure Manager that there is an SCR outstanding.

Once I have made the updates I return the updated report to Data Services to be used in generating the next week's report.

Then I sort the inventory tab for all category entries that do not include EO. Leave the EO Data on the tab, because if you delete it, the summary will change. I then save the report as the Non-EO Sensitive Case List in Microsoft Excel 97-2003 Worksheet Format so that individuals still in the old operating system will be able to open it.

4. Noteworthy Sensitive Case Updates starts with information on the EO cases. These figures come from the Weekly Summary Listing. For example, based on the summary report provided I would enter that "We have 96 requests (no change from last week), 80 (up from 78) of which are backlog."
If we are receiving requests for new information related to EO, I note that information at the end of the EO Case paragraph.
5. Any information on current FOIA Litigation related to Sensitive Cases is listed here also. I have also begun noting the additions to the Clearance List on this page:

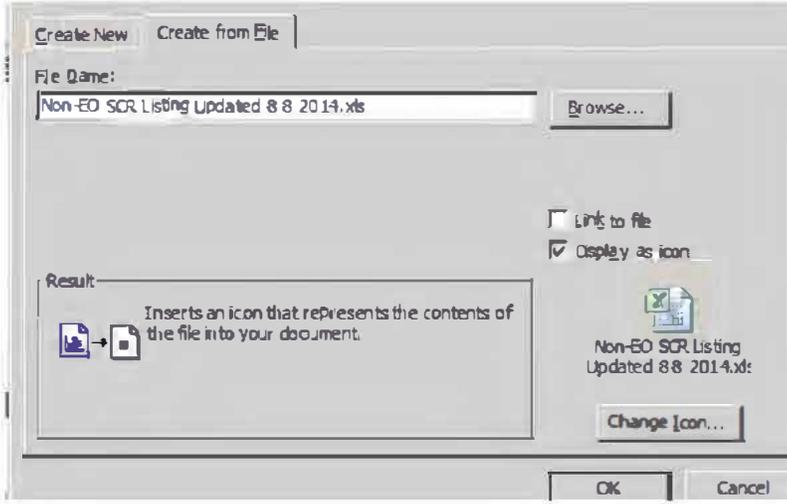
- **Clearance List:** Ten (10) additional EO cases were forwarded to the Counsel Team for clearance this week.

Any information on the Clearance list and specific new Sensitive cases should be entered in blue font. I generally list only the cases that are new issues here.

First you list the general topic bold and underlined, colon, then the full name of the requester and their affiliation and what they are requesting, and finally the FOIA case number at the end in parenthesis.

6. Then I send the report to the Management and Program Analyst for the Director, Disclosure, (b)(6) and the Deputy Associate Director Disclosure HQ, (b)(6) for review before he sends it to Director, Disclosure.

This report is then imported to the Weekly SCR Report by selecting Insert Object and then browsing for the correct file and inserting it as an icon:



| | |
|----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|
| <i>Internal Revenue Service</i> Standard Operating Procedure | Effective Date: |
| | Office: Privacy, Governmental Liaison and Disclosure (PGLD) Office: Office of Disclosure |
| Subject: National Contracts | Date of Issue: |

PURPOSE & SCOPE

This document describes the process for the processing of Freedom of Information Act (FOIA) requests for National contracts and related records. The intended audience is all Disclosure Managers and Tax Law Specialists in PGLD.

BACKGROUND

Business Submitters (Contractors) provide information to the IRS that may contain trade secrets and commercial or financial information that is privileged or confidential. The IRS routinely receives FOIA requests for this information and must give the business submitter the opportunity to provide a detailed statement of any objections to disclosure.

PROCEDURES

1. Review the FOIA request. Make sure you have a valid IRS and/or Treasury contract number listed in the request. If not, send Imperfect Contract pattern letter.
2. After verifying request is valid, prepare a search memo and forward it, with a copy of the FOIA request, to the procurement FOIA Functional Contact (FFC) for processing.
3. Ask procurement to notify you if they estimate the fee to process the request will exceed the fee commitment provided by the requester. Contact requester if estimated fee exceeds amount cited in the request to obtain approval of additional fees required to process the request.
4. The contracting officer (CO) assigned to the request should follow the steps in their checklist, see attached, to respond to the request. The CO will contact the business submitter and give them the opportunity to provide a detailed statement of any objections to disclosure of the requested information.
5. If the CO is unable to reach to business submitter, CO will provide business submitter's contact information and TLS will attempt to contact them by sending a 10 Day Letter, phone, and/or email. See IRM 11.3.13.9.2(9) and L-FOIA-Contact Business Submitter
6. A complete response from the CO should include the following: a completed attachment 1 of the search memo, CO's response to the request (including the CO's release recommendations and analysis of the documents), business submitter's objections to disclosing the information, and two copies of the responsive documents (clean set and redacted set).
7. Import responsive documents into responsive document section of the case, review and redact accordingly. Prepare final response letter and follow established procedures for closing.

TECHNICAL GUIDANCE:

1. Review the documents received from the CO to ensure you received a complete response (see #5 above).
2. Redact the documents. We typically uphold the business submitter's and CO's release recommendations since they are more familiar with the contract records.
3. If you make a determination to release some or all of the business information over the objections of a business submitter, you must notify the business submitter in writing. See IRM 11.3.13.9.2(12)
4. Documents usually requested include:
 - Contract/Award
 - Task Orders
 - Modifications
 - Solicitations-Requests For Quotes (RFQ) & Requests For Proposal (RFP). RFQ and RFP are normally released in full.
 - Winning Proposal Usually denied in full under (b)(3)/41 USC 4702, unless the proposal is included in the contract- CO will determine this.
5. Exemptions (b)(4) and (b)(6) are often used to redact the contract documents.
6. Items usually redacted include:
 - Unit Pricing Information (b)(4)
 - Quantities (b)(4)
 - Key Personnel Information (exception- the information is available on the business submitter's website) (b)(6)
 - Management and Staffing Plans (b)(4) and/or (b)(6)
 - Detailed descriptions of the business submitter's proprietary processes and procedures. (b)(4)

IRM Link: (b)(7)(E)

Procurement FOIA Response Checklist:



Procurement FOIA
Response Checklist.d

| | |
|----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|
| <i>Internal Revenue Service</i> Standard Operating Procedure | Effective Date: |
| | Office: Privacy, Governmental Liaison and Disclosure (PGLD) Office: Office of Disclosure |
| Subject: Contracts | Date of Issue: |

SCOPE

This document describes the process for the processing of Freedom of Information Act (FOIA) requests for National contracts and related records. The intended audience is all Disclosure Managers, and Tax Law Specialists in PGLD.

BACKGROUND

Business Submitters (Contractors) provide information to the IRS that may contain trade secrets and commercial or financial information that is privileged or confidential. The IRS routinely receives FOIA requests for this information and must give the business submitter the opportunity to provide a detailed statement of any objections to disclosure.

PROCEDURES

1. Review the FOIA request. Make sure you have a valid IRS contract number. If not see, Imperfect letter for contracts.
2. After verifying request is valid, prepare a search memo and forward it to the procurement FOIA Functional Coordinator (FFC) for processing. Ask procurement to notify you if they estimate the fee to process the request will exceed the fee approved by the requester. Contact requester for fee approval if necessary.
3. The contracting officer (CO) assigned to the request should follow the steps in their checklist to respond to the request. The CO will contact the business submitter and give them the opportunity to provide a detailed statement of any objections to disclosure of the requested information.
4. If the CO is unable to reach to business submitter, CO will provide business submitter's contact information and TLS will attempt to contact them by sending a 10 Day Letter, phone, and/or email.
5. A complete response from the CO should include the following: a completed search memo, CO's response to the request (including the CO's release recommendations and analysis of the documents), business submitter's objections to disclosing the information, and two copies of the documents (clean set and redacted set).

TECHNICAL GUIDANCE:

1. Review the documents received from the CO to ensure you received a complete response (see #5 above).
2. Redact the documents. We typically uphold the business submitter's and CO's release recommendations since they are more familiar with the contract records.
3. If you make a determination to release some or all of the business information over the objections of a business submitter, you must notify the business submitter in writing.
4. Documents usually requested include:
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 - Solicitations-Requests For Quotes (RFQ) & Requests For Proposal (RFP). RFQ & RFP are normally released in full.
 - Winning Proposal- Usually denied in full under (b)(3)/41 USC 4702, unless the proposal is included in the contract CO will determine this.
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 - Unit Pricing Information (b)(4)
 - Quantities
 - Key Personnel Information (exception- the information is available on the business submitter's website.(b)(6)
 - Management and Staffing Plans
 - Detailed descriptions of the business submitter's proprietary processes and procedures. (b)(4)

IRM Link: (b)(7)(E)

| | |
|-------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p style="text-align: center;"><i>Internal Revenue Service</i></p> <p style="text-align: center;">Standard Operating Procedure</p> | <p>Effective Date:</p> <p>Office: Privacy, Governmental Liaison and Disclosure (PGLD)</p> <p>Office: Office of Disclosure</p> |
| <p>Subject: IRS Executive & National Public Information Listing</p> | <p>Date of Issue:</p> |

PURPOSE & SCOPE

This document describes the procedures for processing Freedom of Information Act (FOIA) requests for IRS Executive & National Public Information Listing (PIL). The intended audience is all Disclosure Managers, Disclosure Specialists, Sr. Disclosure Specialists and Tax Law Specialists in PGLD.

BACKGROUND

FOIA requests for IRS Executive & National Public Information Listing are currently processed by Tax Law Specialists in the Field Disclosure Offices. With the realignment of the Tax Law Specialists to the Field in July, 2015, and the fact that these types of requests do not require processing by a GS-13 Tax Law Specialist, the Disclosure Headquarters Office is issuing an overview of case processing guidelines to assist those processing such requests.

PROCEDURES

Responsive documents are under the jurisdiction of Agency Wide Shared Services (AWSS).

Requests for Information Related to an IRS Executive

1. When processing a request for the information of an IRS Executive (*An executive is someone listed in the Discovery Directory in the ES or EX series*), verify on Discovery Directory the executive is an IRS employee (*the Commissioner is an IRS employee*)
2. Consider the necessity of a Sensitive Case Report
3. For requests for information related to an IRS Executive, prepare a search memo addressed to AWSS, PPS, Human Resources System Specialist, (b)(6) (back-up is (b)(6)). Email search memo and copy of FOIA request to (b)(6)

Requests for the National PIL

1. For requests for a National PIL of all IRS employees, prepare and send a FOIA Search Memo requesting no more than the six items as specified in 5 CFR § 293.311 to AWSS, PPS, Human Resources System Specialist (b)(6) (back-up is (b)(6)). Include a copy of the FOIA request with the search memo.

(Note: even if the request is seeking more than the six items of information, we are precluded by regulation from releasing more information than what the OPM regulation allows. If awards are specifically requested, those will be provided and should be requested from AWSS (But see IRM. 11.3.13.9.11.1(3) and redact award amounts paid to Bargaining Unit employees based on the Average Critical Element Rating or ACER, but not those that are based on a QSI or are a non-performance based award)

TECHNICAL GUIDANCE

1. The note accompanying IRM 11.3.13.9.11.1(2) indicates that employee phone numbers and e-mail addresses can be released as those items are encompassed in the definition of "name". The IRS will not release phone numbers or e-mail addresses of IRS employees upon request for fear that the requester will compromise the IRS Enterprise network system, use those e-mails for various schemes or solicit the purchase of insurance or other items. Employee e-mail addresses will not be provided pursuant to FOIA Exemption (b)(6) and should not be requested from AWSS. In response to the FOIA request, inform the requester, if they requested email addresses, that employee e mails are being denied pursuant to FOIA exemption (b)(6).
2. Redactions required per IRM 11.3.13.9.11.1(4) for employees using a pseudonym or for those in a protected job series should already be completed by AWSS. Likewise, redactions of the award amounts for bargaining unit employees should also be completed by AWSS. AWSS will do this by providing an excel spreadsheet containing XXXX'd out, masked, information. The XXXX'd out, or masking of, information applies to pseudonyms, protected job series, bargaining unit awards, and possibly home addresses that are prohibited from release under FOIA Exemption (b)(6). You should check the output to be sure it conforms with the IRM and also to the request prior to release.
3. It is not necessary to obtain a "clean" copy, one without XXXX's contained in the file, of the excel spreadsheet provided by AWSS. Import the excel spreadsheet into a Responsive Document folder within the AFOIA Research HitList of the case, notating in the case notes the location of the responsive excel file. It is not necessary to import this large excel spreadsheet into the responsive document section of the AFOIA case. Import a blank page into the responsive document section of the case to capture the FOIA Exemption (b)(6) that is being applied to the items XXXX'd out by AWSS. Annotate the case notes of this action. Prepare final response letter and follow established procedures for closing.

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| <p style="text-align: center;"><i>Internal Revenue Service</i></p> <p style="text-align: center;">Standard Operating Procedure</p> | <p>Effective Date: August 17, 2015 {Optional- Document NO:}</p> <p>Office: Privacy, Governmental Liaison and Disclosure (PGLD)</p> |
| <p>Subject: IRS Executive & National Public Information Listing</p> | <p>Date of Issue: [insert date]</p> |

PURPOSE & SCOPE

This document describes the procedures for processing Freedom of Information Act (FOIA) requests for IRS Executive & National Public Information Listing. The intended audience is all Disclosure Specialists, Sr. Disclosure Specialists and Tax Law Specialists in PGLD.

BACKGROUND

FOIA requests for IRS Executive & National Public Information Listing are currently processed by Tax Law Specialists in Disclosure Headquarters Freedom of Information Act (FOIA) Office. With the realignment of the Tax Law Specialists to the Field, and the fact that these types of requests do not require processing by a GS-13 Tax Law Specialist, the Disclosure Headquarters Office is issuing an overview of case processing guidelines to assist those processing such requests.

GUIDANCE

Responsive documents are under the jurisdiction of Agency Wide Shared Services (AWSS).

Requests for Information Related to an IRS Executive

1. When processing a request for the information of an IRS Executive (*An executive is someone listed in the Discovery Directory in the ES or EX series*), verify on Discovery Directory the executive is an IRS employee (*the Commissioner is an IRS employee*)
2. For requests for information related to an IRS Executive, send a FOIA Search Memo to AWSS, PPS, Human Resources System Specialist (b)(6) (back-up is (b)(6) (b)(6)). Include a copy of the FOIA request with the search memo.

Requests for the National PIL

1. For requests for a National PIL, send a FOIA Search Memo requesting no more than the six items as specified in 5 CFR § 293.311 to AWSS, PPS, Human Resources System Specialist (b)(6) (b)(6) (back-up is (b)(6)). Include a copy of the FOIA request with the search memo.

(Note: even if the request is seeking more than the six items of information, we are precluded by regulation from releasing more information than what the OPM regulation allows. If awards are specifically requested, those will be provided and should be requested from AWSS (But see IRM. 11.3.13.9.11.1(3))

Also, the note accompanying IRM 11.3.13.9.11.1(2) indicates that employee phone numbers and e-mail addresses can be released as those items are encompassed in the definition of "name". The IRS will not release e-mails upon request for fear that the requester will compromise the IRS

Enterprise network system, use those e-mails for various schemes or solicit the purchase of insurance or other items. Employee e-mails will not be provided pursuant to Exemption (b)(6) and should not be requested from AWSS. In reply, you can inform the requester that employee e-mails, although considered a part of the PIL will not be provided and are being denied pursuant to exemption (b)(6).

2. Redactions required per IRM 11.3.13.9.11.1(4) for employees using a pseudonym or for those in a protected job series should already be completed by AWSS. Likewise, redactions of the award amounts for BU employees should also be already made by AWSS. You should check the output to be sure it conforms with the IRM prior to release.

| | |
|----------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|
| Internal Revenue Service Standard Operating Procedure | Effective Date: TBD {Optional- Document NO:} |
| | Office: Privacy, Governmental Liaison and Disclosure (PGLD) Office: Disclosure Field Offices |
| Subject: Incoming Referrals & Consultations | Date of Issue: TBD |

SCOPE

This document applies to all Disclosure Assistants, Disclosure Specialist, Sr. Disclosure Specialists and Tax Law Specialists in PGLD.

BACKGROUND

Incoming Referrals & Consultations had previously been processed by Tax Law Specialists (TLS) in Disclosure Headquarters Freedom of Information Act (FOIA) Office. With the realignment of the Tax Law Specialists to the Field, and the fact that these types of requests do not require processing by a GS-13 Tax Law Specialist, the Disclosure Headquarters Office is issuing an overview of case processing guidelines to assist those processing such requests.

In the course of processing records responsive to FOIA requests, it is not uncommon for agencies to locate records which either originated with another agency, or another component within their agency, or which contain information that is of interest to another agency or component. The long-standing practice in such situations is to either refer the requested record to the originating agency or component for it to process, or to consult with the other agency or component that has equity in the document to get its views on the sensitivity of the documents content prior to making a disclosure determination.

Typically, agencies refer records for direct handling to another agency when the records originated with that other agency. By contrast, when records originated with the agency processing the request, but contain within them information of interest to another agency, the agency processing the request will typically consult with that other agency prior to making a release determination.

DEFINITIONS

Consultations: There are several situations where it is appropriate for agencies to consult with another agency or entity which holds an interest in the documents that are the subject of a FOIA request. This most commonly arises when an agency locates records in response to a request that originated with the agency, but which contain within them information of interest to another agency or another component. In those situations, the agency processing the request should consult with that

other agency, or equity holder, to obtain its views prior to disclosure of the records. The agency with jurisdiction reviews the recommendations from the consulted agency and applies the exemptions as they see fit.

Note: These requests are to be classified as a **Miscellaneous** case. (i.e. Tax returns or tax return information referenced in FBI files obtained via an ex parte Court order or by other means). You will have to change the case classification to **Miscellaneous** from **FOIA** if the request is identified as a Consultation. Failure to respond timely may impact the other agency's FOIA overage, since they cannot respond to the requester without the documents under IRS jurisdiction.

Referral: Situations where the agency processing a FOIA request finds responsive documents that originated with another agency. In these situations, the agency processing the request should send the responsive documents that originated from agency to that agency for a withholding determination and to directly reply to the requestor.

These requests are classified as **an IRS FOIA**. (i.e. the FBI locating tax check records sent by the IRS that is within an individual's FBI file). These will be subject to our normal FOIA processing, including making attempts to close these within the 20 business day period.

Some requests will contain records subject to consultation and records for direct release to the requester.

PURPOSE

1. To establish an overview and/or guidelines for the case processing of Incoming Referrals & Consultations.
2. These procedures are for the use of all Disclosure Assistants, Disclosure Specialist, Sr. Disclosure Specialists and Tax Law Specialists in PGLD.

GUIDANCE

Case Receipt and Analysis

Incoming Correspondence: The responsive records for all inter-agency cases will be located in the Incoming Correspondence section of AFOIA. This file will need to be retrieved from AFOIA to your desktop to allow for editing in Adobe.

Cover Sheet: All inter-agency requests should have a cover sheet. This cover sheet should inform you of the assigned employee in the originating agency; whether the requestor has been notified of the referral/consultation; and if the IRS is to directly respond to the requestor, whether the originating agency would like a courtesy copy of the response.

This cover sheet could also include: the number of records or pages included in the package; whether the submission contains a referral and/or consultation; and may contain background information as to how the originating agency handled the request. Independently confirm the accuracy of the cover-sheet as to the document handling procedures of either a FOIA case or MISC case.

a. Export Steps: Select Folder: Incoming Correspondence; Select Sub-Folder: Incoming Correspondence; Select Options drop-down; Select Document Export; Set Directory to Desktop; Select Export as PDF; and Select OK. File will appear as .TIFF and then convert automatically to a .PDF. It may take several attempts to have AFOIA do this correctly.

b. Retrieval and Association of Responsive Records:

1. Responsive Records need to be imported to the AFOIA Responsive Documents field.
2. Prior to importing the responsive records into AFOIA it is necessary to review the responsive records in their entirety to determine whether the referral and consultation records have been properly segregated. For instance, the FBI will place all referred info under Index A and the consulted info under Index B. This segregation cannot be relied upon and needs to be independently confirmed.
3. Once the records are properly segregated if required, you will need to reduce the Adobe PDF to just the responsive records to be associated with the case you have been assigned.
4. Return of Records: See 11.3.13.5.8(3) This guidance applies strictly to referrals, not consultations. **NOTE:** Occasionally records are erroneously referred that did not originate in the IRS. When this occurs, the records shall be referred back to the originating agency. If the requester was notified of the transfer to the IRS, a letter shall be prepared informing the requester that an error was made and that the records are being returned for the consideration of the original agency.

c. Associated Cases: If your responsive records contain both referral and consultation documents you will need to have a FOIA and miscellaneous case in process. If you have been assigned the MISC case and you cannot locate an associated FOIA case in AFOIA it will need to be created – and vice-versa. Below are the case details that need to be entered:

Case Details in AFOIA:

Consultation: MISC

Backlog Indicator: N/A

Case Type: Assisting Office

Subject Category: FOIA Consultation

Subject: Consulting Agency (ie. FBI, DEA, OPM, etc.)

Referral: FOIA

Backlog Indicator: Always E

Case Type: (a)(3) Specific Request

Subject Category: Other

Subject: Referral: Referring Agency (ie. FBI, DEA, OPM, etc.)

Requestor: Confirm this information is correct. For a Referral the Requestor should be the party who initiated the FOIA. For a Consultation the Requestor should be the individual in charge of the consulting agency's disclosure office, which will be on the Cover Sheet.

Review:

Referral: These records were created by the IRS and need to be reviewed in their entirety. The IRS issues the appeal rights in any case resulting in less than a grant in full. In effect, this is our FOIA.

Consultation: The originating agency will usually, but not always, bracket the IRS equity contained within their record. The additional un-bracketed information is there to provide you background into the case. Use your discretion in explaining in the case notes why information is being withheld. If a bracketed area is to be released without redaction, a statement as to why no overlay is being placed is necessary in the case notes. Any identified IRS equity outside of the bracketed area should be overlaid. The sealed IRS overlays are received at the originating agency from the consulted agency as a recommendation of overlay application. The originating agency is the one placing the overlay for release and providing the appeal rights.

Agency & Topical Special Considerations

1. FBI: Academic Researcher – researchers often request records after an individual dies, so are rarely if ever requested from the person to whom the record pertains. These requests represent a bulk of the incoming inter-agency work handled.
2. OPM: Personnel Files – Typically the request is from the individual to whom the record pertains. A valid Privacy Act authorization is sufficient to allow release to a 3rd party.
3. Post-Conviction Discovery: Convicted individuals often use FOIA to request their records from law enforcement agencies such as the FBI or DEA, while incarcerated. Usually these records are current and may require the review of CI in the event of any on-going CI involvement. See Internal Referral below.

Exemptions:

§552(b)(3) in conjunction with IRC § 6103

Commonly, tax information is present in files requested by 3rd parties. The information will be redacted if there are copies of returns, information taken from those returns, and records created due to actions taken by the IRS in tax administration situations. Records subject to IRC § 6103 can only be released to the Taxpayer or their Authorized Third-Party. This privacy right extends past a person's natural life.

Rarely will requests be made by 1st party requesters, but that could be the case, then you will apply IRC §6103 as you would any other situation where a person is seeking his/her own records.

Source and Attribution

In determining the applicability of IRC § 6103 to a record, the source of the record or information in that record must be considered. A record that is ordinarily protected if sourced to the IRS could become available if it is sourced to a party other than the IRS or a party that the IRS entrusted with the record. For example: the FBI conducts a search of an individual's credit through a commercial database and discovers an IRS lien and the fact of the lien is present in the files. Since that information is not sourced to the IRS, but the public record, that can be released. Other examples are; an IRS Revenue Agent conducts an audit of bank records while under the control and direction of an AUSA working a Title 18 matter. In that case the records did not come from the IRS, but the IRS was involved only in the review; the FBI conducts an interview of an individual who is not connected with the IRS and the subject discloses tax information regarding themselves or another person and that information is found in the file.

§ 552(b)(6): applies this exemption to non-law enforcement records to protect the identity of IRS employees or other individuals referenced in non-law enforcement records.

§ 552(b)(7)(C): applies to civil and criminal investigator files and will be applied to protect the identity of IRS employees identified by name in FBI, DEA and other similar files. Regardless of the age of the record, apply this to the employee named.

§ 552(b)(7)(D): applies when there is a confidential source and to records compiled by criminal law enforcement of information relayed by the confidential source. If the IRS is referenced as an informant or the IRS is the source of the information and identified as the informant, redact any named employees or the coding that identifies the IRS as the source.

§ 552(b)(7)(E): applies when the disclosure of law enforcement methods would create a reasonable expectation to allow for circumvention of those methods. If this exemption is to be applied the CI officer needs to provide a supporting statement to ensure that the application of the exemption is sustainable. Rarely will this ever be applied. The fact that the IRS was involved in an investigation is not subject to redaction. Only situations that reveal investigative techniques (and not just surveillance, everybody knows we conduct surveillance) need to be cleared with CID. See below for clearance information.

Internal Referral/Clearances: ~~All contacts subject to change.~~

a. Criminal Investigation (CI): requests involving a discussion of sensitive investigative techniques involving CI from 1995 forward needs to be sent to the CI FOIA Coordinator for review. You will not send references to the IRS just being involved in an investigation, nor will you send for clearance references to the IRS conducting surveillance or conducting interviews. Requests from individuals incarcerated seeking their own law enforcement records may require a review by CI.

b. Human Capital Office-Office of Personnel Management (HCO or OPM): any case involving sensitive references found in employee background records from January 19, 1999 forward need to

be sent to HCO FOIA Coordinator for review. Note, this does not apply to tax checks records being disclosed to the person to whom they pertain, but only to sensitive statements found in OPM background checks involving most likely top secret or secret clearance files.

c. Treasury Inspector General for Tax Administration (TIGTA): any case involving employee background records from January 18, 1999 prior need to be sent to TIGTA's Disclosure Officer and FOIA Public Liaison. These would normally be TIGTA's documents in the first place.

2. Response and Closing

a. Response Letter:

Referral: a Referral response letter is issued directly to the FOIA requestor or their designated recipient. Sometimes the originating agency will request a courtesy copy of what is sent to the requestor.

Consultation: a Consultation response letter is issued only to the originating agency. When placing a rule statement it is only necessary to explain exemptions unique to the IRS such a IRC § 6103. It is not necessary to place language into the letter to explain common exemptions such as (b)(6) or (b)(7)(C).

Once completed the letter is placed into AFOIA in the Response Letter folder under AFOIA naming conventions of FRSPLT CASE# for the response letter and FRSPLT CC CASE# for the courtesy copy.

Templates & Examples are below.

Workflow Decision

Referral: use the action associated with the package status of GIF, GIP or DIF.

Consultation: always use the action Grant.

Letter Templates & Examples

Referral Letters:

This is our final response to your Freedom of Information Act (FOIA) request dated DATE, originally submitted to the RECEIVING AGENCY that we received on DATE. While processing your request, the RECEIVING AGENCY located # page(s) that originated within the Internal Revenue Service. The document was forwarded to our office for a release determination and a direct reply to you.

WITHHOLDING STATEMENT

RULE EXPLANATION

You have the right to appeal this response. I have enclosed Notice 393 explaining your appeal rights.

Example

This is our final response to your Freedom of Information Act (FOIA) request dated April 15, 2014, originally submitted to the U.S. Department of Justice, Federal Bureau of Investigation (FBI) that we received on September 15, 2014. While processing your request, the FBI located 12 pages that originated within the Internal Revenue Service. The document was forwarded to our office for a release determination and a direct reply to you.

We are withholding the responsive information in part under FOIA exemption (b)(3) in conjunction with Internal Revenue Code (IRC) section 6103(a) and (b)(6) & (7)(C).

FOIA exemption (b)(3) requires us to withhold from disclosure matters that are specifically exempted by statute. The information being withheld under FOIA exemption (b)(3) consists of third party tax information, the disclosure of which is prohibited by IRC section 6103(a).

FOIA exemption (b)(6) exempts from disclosure files that, if released, would clearly be an unwarranted invasion of personal privacy. These include medical, personnel, and similar files. We base the determination to withhold on a balancing of interests between the protection of an individual's right to privacy and the public's right to access government information.

The Supreme Court ruled that Congress intended the "similar files" provision to be construed broadly, so that all information which applies to a particular individual qualifies for consideration under exemption (b)(6). FOIA exemption (b)(7)(C) exempts from disclosure personal information in law enforcement records that if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

You have the right to appeal this response. I have enclosed Notice 393 explaining your appeal rights.

Courtesy Copy:

Template

We are enclosing a copy of our response to the Freedom of Information Act request from REQUESTER that was forwarded to our office for a response via your agency cover letter dated DATE. The referring letter provided the case number as CASE#.

Example

We are enclosing a copy of our response to the Freedom of Information Act request from John Smith that was forwarded to our office for a response via your agency cover letter dated August 17, 2015. The referring letter provided the case number as FBI FOIA/PA 123456.

Consultation Letters:

Template

This is our final response to your request dated DATE, that we received on DATE.

We are returning the documents your agency forwarded to our office concerning the Freedom of Information Act (FOIA) request of REQUESTOR, AGENCY CASE#.

We have reviewed the IRS information in the enclosed AGENCY document(s) (# page(s)) (Index #). RECOMMENDATION

Example

This is our final response to your request dated April 15, 2015, that we received on August 19, 2015.

We are returning the documents your agency forwarded to our office concerning the Freedom of Information Act (FOIA) request of John Smith, FBI FOI/PA # 123456. We have reviewed the IRS information in the enclosed FBI documents (44 pages) (Index B).

We recommend withholding the IRS information in part under FOIA exemption (b)(3) in conjunction with Internal Revenue Code (IRC) section 6103(a) and (b)(6) & (7)(C).

FOIA exemption (b)(3) requires us to withhold from disclosure matters that are specifically exempted by statute. The information being withheld under FOIA exemption (b)(3) consists of third party tax information, the disclosure of which is prohibited by IRC section 6103(a).

References:

DOJ OIP Guidance on Referrals & Consults - <http://www.justice.gov/oip/blog/foia-guidance-13>

IRM 11.3.13.5.8 – IRS records located in Other Agencies or Other Treasury Components

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| <p style="text-align: center;"><i>Internal Revenue Service</i></p> <p style="text-align: center;">Standard Operating Procedure</p> | <p>Effective Date:</p> <p>Office: Privacy, Governmental Liaison and Disclosure (PGLD)</p> <p>Office: Office of Disclosure</p> |
| <p>Subject: Offshore Credit Card Project (OCCP) database</p> | <p>Date of Issue:</p> |

PURPOSE & SCOPE

This document describes the procedures for processing Freedom of Information Act (FOIA) requests for Offshore Credit Card Project (**OCCP**) database information. The intended audience is all Disclosure Specialists, Sr. Disclosure Specialists and Tax Law Specialists in PGLD.

BACKGROUND

FOIA requests for Offshore Credit Card Project (**OCCP**) database information are currently processed by Tax Law Specialists in Disclosure Headquarters Freedom of Information Act (FOIA) Office. With the realignment of the Tax Law Specialists to the Field Disclosure Offices, the Disclosure Headquarters Office is issuing an overview of case processing guidelines with this Standard Operating Procedures document.

GUIDANCE

1. You may receive requests for access to the data contained in OCCP databases for either general inspection, to study the data, or to determine if the name of the requester or a client of the requester appears in the data. The information in the OCCP databases pertains to live credit cards.
2. The Deputy Director, Compliance Policy, has determined that disclosure of data contained in the OCCP database would seriously impair tax administration within the meaning of IRC § 6103(e)(7) and would interfere with enforcement proceedings within the meaning of FOIA exemption (b)(7)(A).
3. Based on this determination, deny the following requests, citing FOIA exemption (b)(3) in conjunction with IRC § 6103(a) and/or (e)(7) and FOIA exemption (b)(7)(A) and/or (b)(7)(C):
 - a request for data that does not pertain to the requester or the requester's client
 - a request asking whether the subject taxpayer's name appears in the data
 - a request seeking copies of any transactional credit card records pertaining to the subject taxpayer

PROCEDURES

1. If denying to records in full, as stated above, you do not need to obtain the responsive documents.
2. Document case notes to support actions for not obtaining responsive documents.
3. Import blank page into the responsive document section of the case to capture the FOIA exemptions asserted for withholding in full.
4. Prepare final response letter and follow established procedures for closing.

References:

IRM 11.3.13.9.35, Requests for Offshore Credit Card Project (OCCP) Files.

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| <p style="text-align: center;"><i>Internal Revenue Service</i></p> <p style="text-align: center;">Standard Operating Procedure</p> | <p>Effective Date:</p> <p>Office: Privacy, Governmental Liaison and Disclosure (PGLD)</p> <p>Office: Office of Disclosure</p> |
| <p>Subject: Background documents pertaining to Written Determinations, & Public Comments</p> | <p>Date of Issue:</p> |

SCOPE

This document describes the process for the processing of Freedom of Information Act (FOIA) requests for background file documents pertaining to written determinations, & Public Comments. The intended audience is all Disclosure Managers and Tax Law Specialists in PGLD.

BACKGROUND

Written determinations include the following:

- a. Private Letter Rulings (PLR),
- b. Technical Advice Memoranda (TAM),
- c. Determination Letters,
- d. Chief Counsel Advice (CCA), and
- e. Ruling letters issued by the office of Exempt Organizations of Tax Exempt and Government Entities (TE/GE) Division denying or revoking tax exempt status.
- f. General Counsel Memoranda (GCM)

Background File Documents include:

- a) The request for a written determination,
 - b) Any written material submitted in support of such request by the person who made the request (or such person's authorized representative),
 - c) Any written communication, or memorandum of a meeting, telephone communication, or other contact between Internal Revenue Service (IRS) personnel and anyone outside the IRS about a written determination, received before the issuance of the written determination, except as excluded in IRM 11.3.8.4.2 (2) and
 - d) Any subsequent communication between Headquarters and area business division concerning the factual circumstances underlying the request for a technical advice memorandum, or concerning a request by the area business division for reconsideration by the Headquarters of a proposed technical advice memorandum.
1. establish an overview and/or guidelines for the case processing of Headquarters FOIA case work.
 2. These procedures are for the use of all Disclosure Assistants, Disclosure Specialist, Sr. Disclosure Specialists and Tax Law Specialists in PGLD.

GUIDANCE

Public Comments:

1. Members of the public may obtain copies of comments by emailing a copy of a signed request to notice.comments@irsounsel.treas.gov or by mailing the signed request to:

Commissioner of Internal Revenue
PO Box 7604
Ben Franklin Station
Washington, DC 20044

PROCEDURES

1. Review the request. Determine if the requester is seeking documents under the FOIA, IRC Section 6110, or both.
2. If the request cites both FOIA and IRC 6110, prepare a response letter informing the requester that the 6110 portion of the request has been transferred to the Chief, Disclosure and Litigation Support Branch, Office of Chief Counsel to process and respond directly to the requester. Prepare memo to transfer IRC 6110 portion of the request to Chief, Disclosure and Litigation Support Branch, Office of Chief Counsel.
3. For the FOIA portion of the request, prepare a search memo to Chief Counsel and forward the request to Counsel through the GLD mailbox, (b)(7)(E) along with a copy of the transfer memo and response letter sent to the requester.
4. If the request only cites the FOIA, contact the requester and clarify whether or not IRC 6110 documents are being requested as well as the FOIA documents. If the requester is not seeking 6110 documents, please include this in the email to counsel.
5. If the request only cites IRC section 6110, contact the requester and clarify whether or not FOIA documents are being requested as well as the IRC 6110 documents. If the requester is not seeking FOIA documents, prepare a response letter informing the requester that the IRC 6110 portion of the request has been transferred to the Chief, Disclosure and Litigation Support Branch, Office of Chief Counsel to process and respond directly to the requester. Prepare a transfer memo and forward the request, memo, & response letter to counsel. Close the case.
6. Counsel reviews and redacts counsel records requested in FOIA requests. Counsel usually provides two sets of documents- one clean set & one redacted set. Review responsive documents to determine if any other exemptions need to be applied to the documents. Continue with normal procedure to process & close case.
7. For requests seeking GCMs- GCMs are located in storage at the Martinsburg Computing Center (MCC) in Martinsburg, WV. MCC only makes deliveries to the Main IRS building in Washington, DC. Contact Tax Law Specialist (b)(6)

REFERENCES

IRM 11.3.13 & 11.3.8 provides information pertaining to written determinations.

(b)(7)(E)

Publically available IRS Written Determinations may be found at: <http://apps.irs.gov/app/picklist/list/writtenDeterminations.html>.

IRM 11.3.7.7 provides information pertaining to public comments.

(b)(7)(E)

IRM 11.3.13 & 11.3.8 provides information pertaining to written determinations.

(b)(7)(E)

Publically available IRS Written Determinations may be found at: <http://apps.irs.gov/app/picklist/list/writtenDeterminations.html>.

IRM 11.3.7.7 provides information pertaining to public comments.

(b)(7)(E)

Freedom of Information Act (FOIA) Checklist for Contracting Officers

| 1. | <p>Read the instructions from the FOIA Disclosure Office in its entirety:</p> <ul style="list-style-type: none"> • The response due date is specified in the Disclosure Office search memorandum on the upper right hand side. • If for some reason, the CO is unable to submit their response to the disclosure representative by the due date, the CO will request an extension from the disclosure representative. The request for extension will include a justification for the delay. | |
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| 2. | <p>Calculate the search fees and complete the search memo:</p> <ul style="list-style-type: none"> • Upon receipt of the FOIA request, calculate the search fees associated with the document search and complete the search memo; instructions are located in the search memo from the Disclosure Office. • If the documents are archived, notify the disclosure representative and request an extension. • If the search fees do not exceed what the requestor has stated they are willing to pay, and if they are under \$250.00, proceed. • If the search fees <u>exceed</u> the amount stated in the request, immediately provide the estimated fee amount to the FOIA Office disclosure representative. The Disclosure Office will coordinate with the requestor to determine if they are willing to pay the additional fees. The disclosure representative will make a determination of whether you will need to proceed with the request or if the request will be closed. • If the search fees are estimated to be over \$250.00, the Disclosure Office will pre-bill the requestor prior to any further action on your part. <u>Immediately stop any action on the request.</u> | |
| 3. | <p>Documentation:</p> <ul style="list-style-type: none"> • Documents will be provided electronically. However, if for some reason they are not available in an electronic form, they may be mailed to the disclosure representative. The CO will email or mail <u>two</u> copies of the signed originals to the disclosure representative. • Ensure the documents provided to the disclosure representative are clearly annotated (e.g., contract number, modification number, order number, etc.). • If the documents are not clearly annotated, they will be returned to you for corrective action. • Contracting Officer will contact the contractor to request the contractor provide a detailed statement of any objections to disclosure of the requested documents or information included in the documents, | |

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| 4. | <p>Formulate the CO's response memo:</p> <ul style="list-style-type: none"> Your response memo must include a recommendation and analysis of why <u>or</u> why not a FOIA exemption(s) applies to the release of the requested information. In your memo, identify where in the document (by page number and section) what is recommended for redaction. The Department of Justice website below provides FOIA exemption information. (http://www.justice.gov/oip/foia-guide.html) | |
| 5. | <p>Document Checklist: The CO or other designated contracting personnel will forward all documents <u>directly</u> to the disclosure representative and notify the FOIA Functional Coordinator that the response has been completed.</p> <p>Include:</p> <ul style="list-style-type: none"> Response to FOIA Search Request (Attachment 1 of search memo); Signed CO's response memo (include recommendation and analysis); Contractor's detailed response (CO will contact contractor) Copies of signed originals. | |

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| <i>Internal Revenue Service</i> Standard Operating Procedure | Effective Date: |
| | Office: Privacy, Governmental Liaison and Disclosure (PGLD) Office: Office of Disclosure |
| Subject: Whistleblower Records | Date of Issue: |

PURPOSE & SCOPE

This document describes the procedures for processing Freedom of Information Act (FOIA) requests for Whistleblower Records. The intended audience is all Disclosure Specialists, Sr. Disclosure Specialists and Tax Law Specialists in PGLD.

BACKGROUND

FOIA requests for Whistleblower Records are currently processed by Tax Law Specialists in Field Disclosure Offices. With the realignment of the Tax Law Specialists to the Field Disclosure Offices in July, 2015, the Disclosure Headquarters Office is issuing an overview of case processing guidelines with this Standard Operating Procedures document.

GUIDANCE

Responsive documents are under the jurisdiction of the Deputy Commissioner Services & Enforcement, Whistleblower Office.

When processing a request for Whistleblower records, contact the Whistleblower Office to confirm the identity of the whistleblower.

If the request comes from anyone other than the whistleblower refuse to confirm or deny the existence of any responsive documents. State that any responsive documents that may exist are exempt from release under FOIA exemption (b)(3) in conjunction with IRC § 6103(a), and exemptions (b)(5), (b)(6), (b)(7)(A), and (b)(7)(C) (if applicable).

1. If the requester is the Whistleblower, send a FOIA Search Memo to the Whistleblower Office and include a copy of the FOIA request with the search memo to obtain a complete copy of all responsive records
2. Follow the instructions in Internal Revenue Manual 11.3.13.39(3) to redact any responsive documents.
3. Import responsive documents into responsive document section of the case, review and redact accordingly. Prepare final response letter and follow established procedures for closing.

References:

IRM 11.3.13.39 Whistleblower Office Records