

National Reconnaissance Office Freedom of Information Act Handbook 2016

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Introduction

The purpose of the Freedom of Information Act (FOIA) is to provide universal right of access to Federal records, that is, data recorded on various media for official purposes as evidence of the organization's mission, policies, decisions, functions, or transactions as a Federal agency.

This handbook is intended to assist you in making a Freedom of Information Act request for National Reconnaissance Office (NRO) records. It will get you started and provide you with a brief description of your rights and of the manner in which the NRO will respond to your request.

The FOIA, which is known by its legal citation 5 U.S.C. §552, as amended, along with "The National Reconnaissance Office Freedom of Information Act Program Regulation," 32 Code of Federal Regulations (CFR) Part 296.1, governs how a request will be processed by the NRO. Additionally, the NRO is in compliance with DoD regulation 5400.7-R, "Department of Defense Freedom of Information Act Program," which can be found at Part 286 of Chapter 32 of the CFR.

Information about the NRO Electronic Reading Room can be found at:
<http://www.nro.gov/foia/reading-room.html>

Frequently Asked Questions

What is the FOIA?

The Freedom of Information Act (FOIA) is a Federal law that establishes the public's right to request existing records from Federal government agencies.

Who can file a FOIA request?

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

Who is subject to the FOIA and what type of information can be requested?

The FOIA applies to Federal Executive Branch Departments, agencies and offices, Federal regulatory agencies, and Federal corporations. However, Congress, the Federal Courts, and parts of the Executive Office of the President, are not subject to the FOIA. State and local governments are not subject to the Federal FOIA, but most states have equivalent access laws for their records.

What is an NRO record?

An NRO record is recorded information, regardless of media, made or received by the NRO in accordance with law or in the conduct of business, preserved or appropriate for preservation, as evidence of the NRO's organization, function, policies, decisions or other activities of the NRO or because of the value of the information it contains.

A record must exist and be controlled by the NRO at the time of the request to be considered subject to NRO FOIA regulations. **To satisfy a FOIA request there is no obligation to create, compile, or obtain a record that does not already exist.**

Can we ask questions under the FOIA?

The FOIA does not require Federal agencies to answer questions, render opinions, or provide subjective evaluation. Requester must ask for existing records, such as those mentioned above.

How do I file a FOIA request?

Mail: National Reconnaissance Office
OCIO/Information Review and Release Group
14675 Lee Road
Chantilly, VA 20151-1715

Fax: (703) 227-9198;

Electronic Form: www.nro.gov/foia/RequestInput.aspx; OR

Email: foia@nro.mil

In the request letter:

- state that you are making a FOIA request;
- describe the specific records you are requesting in enough detail that they can be located with a reasonable amount of effort. Generally, a record is adequately described when the description contains sufficient file-related information (type of document, title, subject area, date of creation, originator, etc); or the request contains enough event-related information (date and circumstances surrounding the event the record covers) to permit the conduct of an organized search; and
- state your willingness to pay applicable fees. If you seek a fee waiver, provide a justification for such a waiver.

Note: A sample request letter can be found at the end of this handbook.

Will I receive every record that I request?

Not necessarily. The NRO may determine that it cannot release a record for any one of the following reasons:

1. The requester has not described the record with sufficient detail to enable the NRO to locate it by conducting a reasonable search;
2. The requester has failed to comply with procedural requirements, including payment of fees, imposed by NRO regulations;
3. The request is withdrawn by the requester;
4. "Information" is requested rather than a "record" within the meaning of the FOIA and the NRO Regulations;
5. The record is denied in whole or in part in accordance with exemptions set forth in the FOIA and NRO Regulations;
6. The requested records would be contained in "Operational" files of the NRO which are exempt from the provisions of FOIA by 50 U.S.C. § 432a.

What are FOIA exemptions?

Records (or portions of records) will be disclosed unless that disclosure harms an interest protected by a FOIA exemption. The nine FOIA exemptions are cited in the FOIA, 5 U.S.C. §552, as amended, (b) (1) through (b) (9):

- (b) (1)--records currently and properly classified in the interest of national security;
- (b) (2)--records related solely to internal personnel rules and practices which if released would allow circumvention of an agency function;
- (b) (3)--records protected by another law that specifically exempts the information from public release;
- (b) (4)--trade secrets and commercial or financial information obtained from a private source which would cause substantial competitive harm to the source if disclosed;
- (b) (5)--internal records that are deliberative in nature and are part of the decision making process that contain opinions and recommendations;
- (b) (6)--records which if released would result in a clearly unwarranted invasion of personal privacy;
- (b) (7)--investigatory records or information compiled for law

enforcement purposes;

- (b) (8) and (b) (9) are not applicable to NRO records.

May I appeal a denial?

Yes. If your request is initially denied in whole or in part under one or more of the above exemptions or denied for some other reason, you will be advised of your appeal rights and the proper procedures for submitting the appeal within 60 days.

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

In fairness to all requesters, the NRO processes requests in order by date of receipt and according to their complexity. An initial determination to release or deny records is made within 20 working days after receipt of the request, whenever possible. Under certain conditions expedited access may be granted if there is a compelling need, such as: a threat to life or safety; an imminent loss of substantial due process rights; a humanitarian need; or if information is *urgently needed** by a person engaged in disseminating to inform the public on actual or alleged Federal Government activity.

****Urgently needed*** means that the information has a particular value that will be lost if not disseminated quickly. Ordinarily this means a breaking news story of general public interest. Information of historical interest only, or information sought for litigation or commercial activities would not qualify, nor would a news media publication or broadcast deadline unrelated to the news breaking nature of the information.

Do I have to pay for a FOIA request?

The FOIA allows fees to be charged to certain categories of requesters; however, it also provides that waivers or reductions in fees be given if disclosing the records is in the public interest, that is, records which significantly enhance the public's knowledge of NRO operations and activities. NRO's FOIA fees follow Department of Defense guidelines. The FOIA requires that requesters be placed into one of the categories below:

Commercial: Requesters who seek records for a use or purpose that furthers their commercial, trade, or profit interest, pay all fees for search, review and duplication.

Educational/ Scientific/ News Media: Requesters from educational, non-commercial scientific institutions, or requesters actively gathering news for an entity organized and operated to publish or broadcast news to the public, pay only duplication fees (the first 100 pages are always provided at no cost) unless fees are waived or reduced in the public interest.

"Other" Requesters: Requesters who do not qualify in another category and are making requests for agency records for their personal use,

receive two hours search, all review costs, and the first 100 pages at no cost.

All requesters should submit a statement of willingness to pay fees regardless of the fee category. The statement, however, does not mean they will be charged.

Except for commercial requesters whose fees total more than \$25, waivers are always considered.

The following factors are weighed in making a fee waiver determination:

- The subject of the request;
- The informational value of the record to be disclosed;
- The contribution to an understanding of the subject by the general public that is likely to result from the disclosure;
- The significance of the contribution to public understanding;
- Disclosure of the record is not primarily in the commercial interest of the requester; and
- The ability of the requester to disseminate the information.

The NRO Electronic Reading Room

The NRO has a Virtual Reading Room:

<http://nro.gov/foia/declass/frequent.html>. We are adding records regularly. If you are interested in any of the documents posted on this page or the Declassification Initiatives pages (<http://nro.gov/foia/declass/released.html>) you can download/print from the web site.

The NRO Addresses and Phone Numbers

National Reconnaissance Office
OCIO/Information Management Services Office
Information Review and Release Group
14675 Lee Road
Chantilly, VA 20151-1715

FOIA Requester Service Center: (703) 227-9326
Public Liaison Telephone: (703) 227-9128

FAX: (703) 227-9198

Email: foia@nro.mil

Request Form: www.nro.gov/foia/RequestInput.aspx

NRO Virtual Reading Room:
<http://www.nro.gov/foia/reading-room.html>

Sample FOIA Request Letter

Date

National Reconnaissance Office
OCIO/Information Management Services Office
Information Review and Release Group
14675 Lee Road
Chantilly, VA 20151-1715

Dear IRRG:

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

In order to help you determine my status for the purpose of assessing fees, you should know that I am *[insert one of the descriptions below]*:
a representative of the news media affiliated with the [newspaper, magazine, television station, etc.], and this request is made as part of newsgathering and not for commercial use;
affiliated with an educational or noncommercial scientific institution, and this request is made for a scholarly or scientific purpose and not for a commercial use;
affiliated with a private business and seeking records for us in the company's business; or
a private individual doing personal research.

I am willing to pay fees if my request for a waiver is denied [you may put in an amount "not to exceed \$ ____"]."

[Optional] I request a waiver of fees for this request because disclosure of the requested information to me is in the public interest. It is likely to contribute significantly to public understanding of the operations or activities of the NRO and is not primarily in my commercial interest [include details about how the requested information will be disseminated by you to the general public.]

[Optional] I include a telephone number at which I can be contacted if necessary to discuss any aspect of my request.

Sincerely,

Name
Address
City, State, Zip Code
Telephone number [optional]