

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

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

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CONSTRUCTION (OALC) RELEASE OF RECORDS UNDER THE FREEDOM OF
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k. MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND
AGENCIES, Subject: Freedom of Information Act
http://www.whitehouse.gov/the_press_office/Freedom_of_Information_Act/

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

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

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

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

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

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

5. **ROLES AND RESPONSIBILITIES:**

a. **Director, Acquisition Management & Interagency Services:**

(1) Overall authority and responsibility for ensuring OALC compliance with FOIA.

(2) Assign and designate appropriate FOIA officers responsible for OALC's FOIA program.

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

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

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

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

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

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

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

**PROCEDURES FOR IMPLEMENTING OFFICE OF ACQUISITION, LOGISTICS, AND
CONSTRUCTION (OALC) RELEASE OF RECORDS UNDER THE FREEDOM OF
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- (18) Coordinate and mitigate with the Office of General Counsel any issues or concerns affecting the release or withholding of questionable information, proper use of exemptions and/or administrative appeals.

c. FOIA Team Members:

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

e. Contracting Officers:

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

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

f. OA&L Staff Assistant:

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

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

h. Fiscal Activity

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