

Freedom of Information Act



ACLU
Washington



Transparent Government: Your Rights Under the Freedom of Information Act

This guide provides information about the people's right to access government records and documents under the Freedom of Information Act (FOIA). This guide is not intended to provide legal advice. If your rights have been violated or if you seek additional information, contact our [Information and Referral Program](#).

What is the Freedom of Information Act?

Since 1967, the Freedom of Information Act ([5 U.S.C. § 552](#)) has empowered people to request records from the *federal* government. This includes records held by any federal agency.

Do you have to be a citizen to make a FOIA request?

No. Anyone can make a FOIA request regardless of their immigration status.

What steps are involved in making a FOIA request?

To make a successful FOIA request, first identify which agency possesses the records you want. The second step is to draft a request for the information.

Many agencies have published sample FOIA letters that are tailored to their specific work. In addition, the ACLU of Washington has a sample FOIA letter available [here](#). Similarly, organizations like the National Freedom of Information Coalition have [extensive samples](#) of FOIA request letters.

The government also has a [FOIA website](#) to assist you in crafting the best request. This website enables requesters to make a request based on the agency targeted, and provides contact information, addresses, and names of specific FOIA record officers for each federal agency. Below is a non-exhaustive list of samples of FOIA letters, including:

- U.S. Department of Defense¹

¹ U.S. Department of Defense sample FOIA letter;
<https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fopen.defense.gov%2FPortals%2F23%2FDocuments%2FSampleFOIARequestLetter.doc&wdOrigin=BROWSELINK>

- Federal Trade Commission²
- Federal Labor Relations Authority³
- FBI⁴
- U.S. Department of Education⁵
- U.S. Department of Transportation⁶
- U.S. Department of the Interior: Bureau of Land Management⁷
- U.S. Secret Service⁸
- U.S. Department of Commerce⁹
- U.S. Department of Justice: Drug Enforcement Administration¹⁰

Which records can I request under FOIA?

Unless the exemptions below apply, most governmental records are available through a FOIA request. To figure out whether the information you seek can be attained via FOIA, review the nine exemptions below to determine if they apply to the request you are drafting. Note that the government will not create new information or documents for you — FOIA exists to disclose responsive documents that already exist.

Which records will not be provided in a response to a FOIA request?

Congress has outlined nine FOIA exemptions. These are categories of information that cannot be released under FOIA. Information disclosed to the public via FOIA will not include:

- Information that is classified by Executive Order (i.e., by the President) in the interest of national defense or foreign policy.
- Information related to internal personnel rules and practices of a federal agency.
- Information that is protected from public disclosure by another federal statute.
- Trade secrets and commercial or financial information that is privileged or confidential.
- Privileged documents and records that are exchanged within or between federal agencies.
- Information about individual personnel, medical files, and information that constitutes an invasion of personal privacy.

² Federal Trade Commission [sample FOIA letter: https://www.ftc.gov/foia/make-foia-request/sample-foia-request-letter](https://www.ftc.gov/foia/make-foia-request/sample-foia-request-letter)

³ Federal Labor Relations Authority [sample FOIA letter: https://www.flra.gov/foia_sample-letter](https://www.flra.gov/foia_sample-letter)

⁴ FBI [sample FOIA letter: https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/freedom-of-information-privacy-act/sample-fbi-foia-request-letter](https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/freedom-of-information-privacy-act/sample-fbi-foia-request-letter)

⁵ U.S. Department of Education [sample FOIA letter: https://www2.ed.gov/policy/gen/leg/foia/samples_foia.html](https://www2.ed.gov/policy/gen/leg/foia/samples_foia.html)

⁶ U.S. Department of Transportation [sample FOIA letter: https://www.transportation.gov/sites/dot.gov/files/2021-08/Sample FOIA Request Letter.pdf](https://www.transportation.gov/sites/dot.gov/files/2021-08/Sample%20FOIA%20Request%20Letter.pdf)

⁷ U.S. Department of the Interior: Bureau of Land Management [sample FOIA letter: https://www.blm.gov/sites/blm.gov/files/foia_samplefoiarequestletter.pdf](https://www.blm.gov/sites/blm.gov/files/foia_samplefoiarequestletter.pdf)

⁸ U.S. Secret Service [sample FOIA letter: https://www.secretservice.gov/foia/request](https://www.secretservice.gov/foia/request)

⁹ U.S. Department of Commerce [sample FOIA letter: https://osec.doc.gov/opog/foia/foia_requests.html](https://osec.doc.gov/opog/foia/foia_requests.html)

¹⁰ U.S. Department of Justice: Drug Enforcement Administration [sample FOIA letter: https://www.dea.gov/sites/default/files/2021-01/DEA-382 Form.pdf](https://www.dea.gov/sites/default/files/2021-01/DEA-382_Form.pdf)

- Information compiled for law enforcement purposes which could (a) interfere with law enforcement proceedings; (b) deprive a person of a right to a fair trial; (c) lead to an unwarranted invasion of privacy; (d) disclose the identity of a confidential law enforcement source; or (e) disclose techniques and procedures of law enforcement investigations.
- Information related to an examination or supervision of a financial regulatory institution.
- Geological and geophysical information (e.g., maps).

Can the government ignore my FOIA request?

No. The agency must send your requested documents within 20 business days after receiving your request. For burdensome requests, the agency can ask for a 10-day extension.

What happens if my FOIA request is denied?

If your request was partially or entirely denied, you can appeal. Send another letter stating that you are appealing the denial, that you contest the agency's actions, and that you expect a ruling on your appeal within 20 days.

How can I appeal my FOIA request denial?

While you typically have 20 days to appeal, the timeline for appeals is usually outlined in the agency's denial letter. Send the letter of appeal to the reviewing official that denied you. Many of the federal agencies that published FOIA sample letters also have templates or instructions for appeal letters of FOIA decisions. For example, here is the Federal Trade Commission's [appeal letter](#). A more general appeal sample is available from the National Freedom of Information Coalition.¹¹

Tips for a successful FOIA request:

FOIA requests exist for the purpose of disclosing government information to the public. This means that FOIA is not an appropriate tool for gathering information that is already public. For example, the [State Department](#) has already publicized many of former Secretary Clinton's emails, as well as transcripts of former Secretary Kissinger's telephone transcripts while serving as Secretary of State. Conduct a thorough [search](#)¹² of agency websites before making a request.

Use the government FOIA [website](#)¹³ if you are not sure how to frame your request or where to send it. In addition, by using the government's website, you can send most FOIA requests digitally. The website provides a centralized platform for the public to submit FOIA letters.

Specify the information you seek and provide a description of the records you want. Helpful information includes the agencies, offices, or individuals involved; the approximate dates of when the records were created; the subject or title of the records; and any reference numbers or case numbers you may have. If relevant, tell the agency the file format in which you want the

¹¹ Sample FOIA Request Letters – National Freedom of Information Coalition (nfoic.org): <https://www.nfoic.org/sample-foia-request-letters/#foiapp>

¹² FOIA search: <https://www.foia.gov/search.html>

¹³ Finding an agency: <https://www.foia.gov/#agency-search>

information. Ask yourself, am I looking for something that would be captured in a spreadsheet? A letter? A digital recording?

Finally, if you are concerned about costs, ask the agency for prior notice if their response will cost more than you want to spend (e.g., “please inform me if cost of disclosure will exceed \$25”).

How much does it cost to make a FOIA request?

There is no filing fee for FOIA requests. However, fees may be assessed once the government identifies documents that respond to your request.

Federal agencies can charge a “search fee.” Usually there is no fee for locating a personal file indexed under your own name. A fee is more likely if the agency must search several files or weed out documents you did not request. Each federal agency maintains a fee schedule (usually 10 or 20 cents per page). Again, tell the agency if you will not pay more than a certain amount.

What if I cannot afford a FOIA request search fee?

If the fees are more than you can afford, ask for a reduction in price or waiver. Congress did not intend for access to federal records to be obstructed because of cost. If your request is estimated to cost more than either \$20 total or the total amount you have already specified you are willing to pay, the agency will notify you and stop working on your request until you agree in writing to pay the actual or estimated total fee.

FOIA also provides that search and document review fees may not be charged to a scholar, educator, or news media requester, and it lets an agency waive or reduce fees if releasing the information will benefit the public. If you think your request qualifies, point this out in your letter by naming news articles or other items which show the public’s interest in the subject. If your request is on behalf of a scholar, reporter, or non-profit group, say so.

You may also request a waiver for FOIA processing fees if you can show that the disclosure of your request is in the public interest and is not primarily for your own commercial or private interest.