



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

**PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE**

May 30, 2024

Control Number: PGLD 11-0524-0015
Expiration Date: May 30, 2026
Affected IRMs: 11.3.41.3.3,
11.3.41.13.5.1 and 11.3.13.4.2

MEMORANDUM FOR ALL DISCLOSURE EMPLOYEES

FROM: Celia Y. Doggette /s/ *Celia Y. Doggette*
Director, Governmental Liaison, Disclosure and Safeguards

SUBJECT: Interim Guidance on Adequacy of Search

This memorandum clarifies Disclosure policy on what is considered a reasonable or adequate search, until Internal Revenue Manual (IRM) 11.3.41, *Disclosure Case Processing and Inventory Management* and IRM 11.3.13, *Freedom of Information Act*, are updated. This policy applies to all Disclosure employees who process IRS Freedom of Information Act (FOIA) requests.

Purpose: This Interim Guidance (IG) clarifies existing policy on reasonable or adequate search standards.

Background/Source(s) of Authority: 5 USC §552; 26 CFR §601.702

Procedural Change: IRM 11.3.13.4.2(1), IRM 11.3.41.3.3 and IRM 11.3.41.13.5.1(1), Adequacy of Search will be updated to include the following clarifications:

Reasonable or Adequate Search

A reasonable or adequate search is one that is made in good faith, using methods which can be reasonably expected to produce the information requested. In other words, a search must be made of locations that are likely to have the responsive documents requested in the FOIA request. Additional research may be required if initial contacts or leads identify other potential locations for the responsive documents.

Example: If the caseworker is not sure what area has records and the initial business unit (BU) contacted states they are not the custodian of records, additional inquiry should be made to determine if they are aware of who is the custodian of record for the requested documents.

Case notes should include the search terms used, the database(s) or location(s) searched, and a statement that all locations likely to contain responsive records were searched. If a search of specified records systems is not reasonably likely to contain responsive records, state that in the case notes.

Search Memos

Caseworkers must ensure all items requested of a particular BU are listed out on the search memo. A copy of the FOIA request should be sent to the BU with the search memo.

The Attachment 1 must be completed and returned by the BU. A complete response, including a completed Attachment 1, meets the reasonable search standard. When the BU returns the search memo along with the responsive records (if applicable), caseworkers should review in detail to ensure that all requested records were searched and/or have been received. Specifically ensure the "Files Searched and Method of Access" item on the Attachment 1 is completed and matches all items requested in the Search Memo.

Incomplete responses need follow up to confirm the status of items requested. If all information identifying a reasonable search is provided outside of the Attachment 1, requirement for Attachment 1 can be waived. Incomplete responses will require a follow up with the BU. It is the BUs responsibility to correctly complete and provide information regarding their search and review efforts including a clear statement of harm when necessary.

The BU should be providing both a clean copy and a redacted copy of the responsive records.

If the BU determines there are no records, ensure they have completed the "Negative Responses" item on the Attachment 1.

If the BU determines that disclosure of the requested records would harm or impair an ongoing investigation, the function with control over the records must make a written attestation and provide it to Disclosure personnel. Disclosure personnel will include the attestation in the FOIA case file. See IRM 11.3.41.13.6.5, Attestation Process, for additional information.

Federal Record Center Responses on Forms 2275

- 1) **Charged Out:** Caseworkers must locate the employee identification number on the charge out form, such as, Form 5546, Examination Return Chart Out and Form 4251 Return Charge Out. Once identified, use one of the methods below on Integrated Data Retrieval System (IDRS) to locate the employee:
 - a) IDRS CC FIEMP is used to locate an employee.
 - b) IDRS Unit and USR database (IUUD) search tool is used to identify the manager using the first 5 digits of the employee number.

- 2) **Block Not in File (BNIF):** If a Form 2275 is returned indicating Block Not in File (BNIF), caseworkers must research IDRS to ensure that the Document Locator Number (DLN) is correct and determine if the document is still in transit. Allow enough time for source document folders to arrive and be shelved. If it is determined that the DLN is correct, the caseworker should re-submit the F2275 in 30 days.
Caseworkers should contact the requester to advise of the delay and discuss a possible rescope or withdrawal of the FOIA request.
- 3) **Document Not in File (DNIF):** If a Form 2275 is returned Document Not in File (DNIF), caseworkers must review IDRS to ensure that the DLN is correct. If the DLN is correct, then forward the F2275 to the appropriate Special Search Campus. If the DLN is not correct, research any open or recently closed control bases to determine the existence of a new controlling DLN.
- 4) **Not in File (NIF):** If a Form 2275 is returned Not in File (NIF). Caseworkers must review IDRS to ensure that the DLN is correct and take the actions described for BNIF and DNIF (insert IRM section) prior to submitting a subsequent request.
- 5) **Destroyed:** Although the retention period may have expired, caseworkers still must search to confirm the document was destroyed. If document is CONFIRMED as destroyed by the document owner, the search is complete, such as a Form 2275 returned indicating the document is “Destroyed.”

Effect on Other Documents: This guidance will be incorporated into IRM 11.3.13, *Freedom of Information Act* and IRM 11.3.41, *Disclosure Case Processing and Inventory Management*, by September 30, 2026.

Effective Date: May 30, 2024

Contact: If you have any questions, please contact Mary Brunelle, Senior Disclosure Analyst at Mary.N.Brunelle@irs.gov.

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