



PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

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MEMORANDUM FOR ALL DISCLOSURE EMPLOYEES

FROM: Phyllis T. Grimes, /s/ *Phyllis T. Grimes*
Director, Governmental Liaison, Disclosure and Safeguards

SUBJECT: Interim Guidance for Freedom of Information Act (FOIA) Referral and Consultation Processes

This memorandum updates Disclosure policy on the process for referring documents to, and discussing documents with, non-IRS agencies and/or requesting consultations from other agencies or Treasury components, until *Internal Revenue Manual (IRM) 11.3.41, Disclosure of Official Information, Disclosure Case Processing and Inventory Management*, is updated. This policy applies to all Disclosure employees who process IRS FOIA requests.

Purpose: This Interim Guidance (IG) updates and clarifies terms and language currently used in *IRM 11.3.41.13.3.8, Requests for Records of Other Treasury Components or Other Agencies*, which does not match *IRM 11.3.13.3.6, Records of Other Treasury Components or Other Agencies*, which was more recently updated and contains similar instructions for referrals and consultations to other agencies. IRM 11.3.13.3.6 will be removed and IRM 11.3.41.13.3.8 will be the sole IRM reference containing instructions for referrals and consultations to other agencies. These clarifications should also eliminate Disclosure caseworker and Disclosure manager confusion on current procedures.

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

Procedural Change:

IRM 11.3.41.13.3.8, Requests for Records of Other Treasury Components or Other Agencies, is being revised to update and clarify the appropriate procedures taken by

Disclosure caseworkers and managers when processing of a FOIA request and the records of other agencies or Treasury components are located within IRS files. The process for making determinations on referrals and consultations to other agencies is:

- 1) After locating records that either originated with another agency or contain equities of other agencies, the caseworker must discuss the FOIA request and records with their manager to get concurrence that the records or equities are non-IRS agency records.
- 2) If the manager agrees that the responsive records require referral and/or consultation with another agency, the manager will provide the responsive records to a FOIA policy analyst for their review. If further discussions are necessary, the FOIA policy analyst will discuss it with the manager.
- 3) The FOIA policy analyst will review the request and records to determine if the policy analyst needs to contact the other agency FOIA contact. The FOIA policy analyst will act as a liaison between the IRS FOIA office and the other agency FOIA office. The FOIA policy analyst will advise the Disclosure manager of any discussions that were held with the other agency's FOIA contact. This will be determined on a case-by-case basis.
- 4) The FOIA policy analyst will provide information to the Disclosure manager, as needed, i.e., providing any details such as another agency's contact information to send correspondence. The caseworker will be responsible for completing all actions as stated in (5) and (6) below.
- 5) If the records are determined to be IRS agency records that contain equities of another agency requiring a consultation, the caseworker will prepare the response letter(s) to the other agency FOIA office and will mail the response letter(s), copies of the appropriate records and a copy of the request to the other agency.
- 6) If the records are determined to be non-IRS agency records requiring referral to the originating agency for direct response to the requester, the caseworker will prepare the response letter to the other agency FOIA office as well as a response letter to advise the requester that records are being referred. The caseworker will mail the agency response letter, copies of the appropriate records and a copy of the request to other agency as well as mail the requester's response letter to the requester.

Effect on Other Documents: This guidance will be incorporated into *IRM 11.3.41, Disclosure of Official Information*, Disclosure Case Processing and Inventory Management, by September 30, 2022.

Effective Date: February 8, 2022

Contact: If you have any questions, please contact William White, Senior Disclosure Analyst, at 312-292-3297 or at William.White@irs.gov

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