

Freedom of Information Act (FOIA) Guidelines

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A. The Scope of the Freedom of Information Act (FOIA)

The Freedom of Information Act, 5 U.S.C. 552, provides any person the right to request access of federal agency records or information. The FOIA applies to records either created or obtained by an agency and under agency control at the time of the FOIA request. Agencies within the executive branch of the federal government, including the Executive Office of the President and independent regulatory agencies are subject to the FOIA. State governments, municipal corporations, the courts, Congress and private citizens are not subject to the FOIA.

All IRS records are subject to FOIA requests. However, FOIA does not require the IRS to release all documents that are subject to FOIA requests. The IRS may withhold information pursuant to nine exemptions and three exclusions contained in the FOIA statute.

While the Freedom of Information Act is an option in some cases, records that can be processed routinely in accordance with procedures identified in 26 CFR 601.702(d) are specifically excluded from the processing requirements of the FOIA. Many FOIA requests for IRS information can be obtained more efficiently using routine established agency procedures.

Background

The Freedom of Information Act established an effective statutory right that records of the Executive Branch of the United States Government are accessible to the people. This was not always the policy regarding disclosure of Federal information. Before the FOIA was enacted in 1966, the Administrative Procedure Act governed the disclosure of agency records to the public and was viewed as a withholding statute rather than a disclosure statute.

The FOIA sets standards for determining which records must be made available for public inspection and which records (or portions of records) should or may be withheld from disclosure. The law also provides administrative and judicial remedies for those denied access to records. Above all, the statute requires Federal agencies to provide the fullest possible disclosure of information to the public.

See the [Department of Justice Office of Information Policy \(OIP\)](#) website for additional information on FOIA administration.

B. The Electronic Freedom of Information Act Amendments of 1996 (EFOIA)

The FOIA contains seven subsections; the first two establish that certain categories of information must automatically be disclosed by federal agencies. Subsection (a)(1) of the FOIA (5 U.S.C. 552) requires disclosure through publication in the Federal Register of information such as:

- Descriptions of IRS organization and office addresses where the public may obtain information, make requests, or obtain decisions.
- Statements of the general course and method of IRS operations including the nature and requirements of all formal and informal procedures.
- Rules of procedure and descriptions of forms.
- Substantive rules of general applicability adopted as authorized by law and general policy statements adopted by the agency.
- Each amendment, revision, or repeal of the above.

Section (a)(2) of FOIA requires that the IRS make the following materials available for inspection and copying:

- Final opinions and orders made in the adjudication of cases.
- Statements of policy and interpretations adopted by an agency, but not published in the Federal Register.
- Administrative staff manuals and instructions to staff that affect the public.
- Copies of records released in response to FOIA requests that the IRS determines have been or will likely be the subject of additional requests.
- A general index of these four categories of records.

Documents listed under section (a)(2) of the FOIA created on or after Nov. 1, 1996, must be made available electronically. The IRS maintains a FOIA Library in compliance with section (a)(2) which is found on IRS.gov, search keyword " FOIA Library " to visit the online [FOIA Library](#).

The form in which IRS maintains a record does not affect its availability. A requester may seek a printed or typed document, tape recording, map, photograph, computer printout, computer tape or disk, or a similar item. The IRS must provide the requested record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format, and make reasonable efforts to maintain its records in forms or formats that are reproducible for such purposes.

However, not all records that can be requested under the FOIA must be disclosed. Information that is exempt from disclosure is described below in [Section F, "Reasons Access May Be Denied Under the FOIA."](#)

FOIA requires that each request reasonably describe the records being sought. Each request must be specific enough to permit an employee of the IRS to reasonably ascertain exactly what records are being requested and locate them.

Requesters should make requests as detailed as possible, including the date and title of requested documents, if available. Requests should include information broad enough to specify all desired information, but narrow enough to be practical when the date and title are unknown.

For example, a request for all tax records pertaining to the requester does not clearly define the records needed. As a result, the request will be returned without processing or you will be contacted to rescope the request. It is better to narrow the request to ask for specific documents. For example: "my examination file for tax year 1999."

Requesters should include a contact telephone number in their request to allow an IRS Disclosure employee to make contact to resolve issues, clarify the scope of a request or help identify a specific document containing the information sought.

The FOIA only applies to existing records, and does not require the IRS to collect information not available, or to research or analyze data in response to a request. The IRS is not obliged to create a new record to comply with a FOIA request. However, when records are maintained in an electronic format, the IRS may be required to retrieve information in response to a FOIA request. The process of retrieving the information may result in the creation of a new document when the data is printed out on paper or written on computer tape or disk.

C. Making a FOIA Request

The FOIA request must be in writing and sent to the Disclosure Central Processing Unit. Letters requesting records under the FOIA can be short and simple.

IRS has prepared a document at [Appendix A - "How to Write Your Freedom of Information Act Request"](#) that describes the request process in greater detail. A requester who follows the IRS's specific procedures may receive a faster response.

There are four basic elements to a FOIA request letter:

- The letter should state that the request is being made under the Freedom of Information Act.

- The letter should identify the records that are being sought as specifically as possible.
- The name and address of the requester must be included. If the request involves the tax records of an individual or business, the requester must also include a copy of the requester's driver's license or a sworn or notarized statement swearing to or affirming their identity. In this case, the authority of the requester to receive such records must be established. If the request is for the Centralized Authorization File (CAF), you must attach a valid photo identification which includes your signature as proof of identity. If the request is for agency records only the name and address of the requester is required.
- The requester should make a firm commitment to pay any fees which may apply (the complete regulatory requirements for FOIA requests filed with the IRS are available at 67 *Federal Register* 69673, Treasury Regulation 601.702).

Section (a)(4) of the FOIA requires the IRS to establish fees associated with searching for, reviewing and copying records, which may vary depending on the status of the requester or the purpose of the request. As a result, a requester may have to provide information on their status and their purpose for making the request to allow the IRS to determine the appropriate fees. Different fees apply to: commercial requesters; representatives of the news media; educational or noncommercial scientific institutions; and individuals. More information on fees can be found below in [Section E, "Fees and Waivers"](#) and [Appendix B – "IRS FOIA Fee Schedule"](#).

Optional FOIA Items

Several optional items may be included in a FOIA request:

1. The requestor's telephone number which allows the IRS employee processing a request to speak with the requester, if necessary.
2. A limitation amount for the maximum fees the requester is willing to pay is commonly included. The requester will be notified in advance if the charges will exceed the specified amount, and may withdraw or revise their request. This may also avoid unnecessary delays and the need for additional correspondence with the requester.
3. A request for a waiver or a reduction of fees will be considered if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and is not primarily in the commercial interest of the requester. Fee waiver decisions are separate and distinct from decisions about the amount of fees that a requester can be charged.
4. If the requester desires the responsive information in a particular format, then specification of the form or format which the requested material is sought is an important consideration. For example, information maintained by IRS in an electronic form can be provided in that same or a similar form, such as on a CD-ROM, DVD, or USB. FOIA requires agencies to help requesters by providing information in the form requested, including requests for electronic records, if the IRS can readily reproduce it in that form. For more information see subsection (a)(3)(B) of the FOIA.
5. A request for expedited processing can be granted if the requester shows a "compelling need" for a speedy response. The Department of Treasury regulations authorize expedited processing where a requester demonstrates a "compelling need" for quick response. A "compelling need" warranting faster FOIA processing exists in three categories of circumstances.
 - That the failure to obtain the records within an expedited deadline could reasonably be expected to pose an imminent threat to an individual's life or physical safety. A threat to an individual's life or physical safety qualifying for expedited access should be imminent. A reasonable person should be able to appreciate that a delay in obtaining the requested information poses such a threat.
 - A request by someone "primarily engaged in disseminating information" and "a matter of current exigency to the American public." The standard of "primarily engaged" requires that information dissemination be the main activity of the requester, although it need not be his or her sole occupation. A requester who only incidentally engages in information dissemination, besides other activities, would not satisfy this requirement.
 - The loss of substantial due process rights. For more information see section (c)(6)(A)-(C) of the FOIA. The standard of "current exigency" requires that a reasonable person would conclude that the consequences of delaying a response to a FOIA request would compromise a significant recognized interest to and throughout the American general public. The public's right to know

about government activity generally, although a significant and important value, would not by itself be sufficient to satisfy this standard.

IRS may determine other circumstances, as prescribed by regulation, which would qualify a FOIA request for expedited processing, although the specified categories for compelling need are intended to be narrowly applied.

The requester must also certify that the statement of compelling need is true and correct to the best of his or her knowledge and belief.

A requester should keep a copy of the request letter and related correspondence until the request has been completely resolved.

D. Requirements for IRS Responses

The IRS is required to determine within 20 days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of a request whether to comply with the request under the FOIA. The IRS must provide the requester reasons if the request is denied in whole or in part. IRS must provide information about the right to appeal any adverse determination to the head of the IRS or his or her designee under section (a)(6)(A)(i) of the FOIA.

The FOIA permits the IRS to extend the 20-day statutory time limit by 10 additional days in unusual circumstances as set forth in the FOIA and Treasury Regulation 601.702(c)(11)(i)(A)(1)-(4). These circumstances include the need to collect records from field locations, review large numbers of records, and consult with other agencies. The IRS must notify requesters of any statutory extensions.

IRS may also make a showing of exceptional circumstances based on the amount of material withheld, on the resources devoted to review, or on the number of requests for records by courts or administrative tribunals. Courts may also consider a requester's unwillingness to reasonably limit the scope of his or her request or to agree upon a processing timeframe prior to seeking judicial review.

A delay that results from a predictable IRS workload of requests is not an "unusual circumstance" unless the IRS demonstrates reasonable progress in reducing its backlog of pending requests. Any statutory extension of time for unusual circumstances may not exceed 10 days (excluding Saturdays, Sundays and legal public holidays). If additional time is needed to process the request, the IRS will notify the requester and provide the requester an opportunity to limit the scope of the request or arrange for an alternative time frame for processing the request.

If the IRS fails to comply with the time limitations set forth in Treasury Regulation 601.702 (c)(9), (10) or (11)(i), any person making a request for records having satisfied the requirements of Treasury Regulation 601.702 (c)(4)(i)(A) through (I) of this section shall be deemed to have exhausted administrative remedies with respect to such request. A person may initiate suit in Federal District Court when the IRS has failed to comply with these time limits.

E. Fees and Fee Waivers

FOIA requesters may be required to pay fees to cover some or all of the costs of processing their requests. Please do not submit an advance payment with your request. If a fee is incurred more than the maximum fees you are willing to pay, you will be notified in advance if the charges will exceed the specified amount, and may withdraw or modify your request. This may also avoid unnecessary delays and additional correspondence.

FOIA establishes three types of fees that may be charged:

1. Fees to recover the cost of copying documents. IRS has a fixed price for making copies using copying machines. A requester is usually charged the actual cost of copying computer tapes, photographs, and other nonstandard records.
2. Fees to recover the costs of searching for documents, including the time spent looking for material responsive to a request. FOIA defines "search" as a "review, manually or by automated means," of

IRS "records to locate those records which are responsive to a request." IRS need not create documents that do not exist under the FOIA, although the IRS must make reasonable efforts to search for records. With respect to electronic records, this may require the application of codes or some form of programming to retrieve the information, unless such efforts would significantly interfere with the operation of the IRS' automated information system.

3. Review costs apply to commercial requesters only. Review is the process of examining documents to determine whether any portion is exempt from disclosure. Review charges only include costs incurred during the initial examination of a document. IRS may not charge for any costs incurred in resolving issues of law or policy that may arise while processing a request.

Different fees apply to different categories of requesters. The categories of FOIA requesters are:

- Representatives of the news media, and educational or noncommercial scientific institutions whose purpose is scholarly or scientific research. A requester in this category who is not seeking records for commercial use can only be billed for reasonable standard document duplication charges. A request for information from a representative of the news media is not considered to be for commercial use if the request is in support of news gathering.
- Commercial requesters - FOIA requesters seeking records for commercial use. Commercial use is not defined in the law, but it generally includes profit making activities. A commercial user can be charged reasonable standard charges for document duplication, search, and review.
- Other requesters – this includes everyone not in the first two categories. People seeking information for personal use, public interest groups, and nonprofit organizations are examples of requesters who fall into the third group. Charges for these requesters are limited to reasonable standard charges for document duplication and search. Review costs may not be charged.

Smaller requests (involving the release of 100 or fewer pages and two hours or fewer of search time) are free for all requesters except commercial requesters. A noncommercial requester limiting a request to a small number of easily-retrieved records will generally incur no fees. However, if a requester breaks up a large request into smaller requests to avoid fees, the smaller requests may be aggregated and charged as though only one request had been made.

The law also prevents agencies from charging fees if the cost of collecting the fee would exceed the amount collected. This limitation applies to all requests, including those seeking documents for commercial use. Thus, if the allowable charges for any FOIA request are less than \$25.00, no fees are imposed.

IRS sets charges for duplication, search, and review based on its own costs. IRS also sets its own threshold for minimum charges. See [Appendix B - IRS Fee Schedule](#).

The FOIA requires that IRS waive or reduce fees if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

Fee category determinations are separate and distinct from fee waiver determinations. For example, a requester determined to be a news reporter will only be charged duplication fees. However, the requester is not automatically entitled to a waiver of those fees upon request. A reporter who seeks a fee waiver must demonstrate that the request also meets the standards for waivers. The issue of a fee waiver typically arises only after a requester's fee category has been determined. Any requester who seeks a fee waiver should ask for a waiver in the original request letter. However, a request for a waiver can be made later.

The request for fee waiver must describe how disclosure would contribute significantly to public understanding of the operations or activities of the IRS.

Any requester may ask for a fee waiver. Some will find it easier to qualify than others. A news reporter who is only charged duplication costs may still ask that the charges be waived because of the public benefits that will result from disclosure. A representative of the news media, a scholar, or a public interest group is more likely to qualify for a waiver of fees, whereas a commercial user may find it difficult to qualify for a waiver.

Eligibility of other requesters may vary. Key elements in qualifying for a fee waiver is the relationship of the information to public understanding of the operations or activities of IRS and the ability of the requester to convey that information to other interested members of the public.

A requester is not eligible for a fee waiver solely because of indigence or inability to pay.

F. Reasons Access May Be Denied Under the FOIA

The IRS may withhold an IRS record that falls under one of the FOIA's nine statutory exemptions or by one of three exclusions.

FOIA Exemptions

The exemptions protect against the disclosure of information that would harm: national security, the privacy of individuals, the proprietary interests of business, the functioning of the government, and other important recognized interests.

An entire record is not necessarily exempt when a record contains some information that qualifies as exempt. Instead, the FOIA specifically provides that any reasonably segregable portions of a record must be provided to a requester after exempt portions are deleted. FOIA requires the IRS to identify the location of deletions in the released portion of the record and, where technologically feasible, to show the deletion at the place on the record where the deletion was made, unless including that indication would harm an interest protected by an exemption.

Exemption 1. Classified Documents Pertaining to National Defense and Foreign Policy

The first FOIA exemption permits the withholding of matters specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and which are in fact properly classified under such executive order. IRS does not generally deal with these types of matters; thus, this exemption is rarely used.

Exemption 2. Internal Personnel Rules and Practices

The second exemption covers matters related solely to IRS's internal personnel rules and practices.

Exemption 3. Information Exempt Under Other Laws

The third exemption incorporates into the FOIA other laws that restrict the availability of information. A statute must require that matters be withheld from the public in such a manner as to leave no discretion on the issue to qualify under this exemption. Information may also be exempt if the other law establishes criteria for withholding or refers to particular types of matters to be withheld. Internal Revenue Code (IRC) Section 6103, which governs the disclosure of tax returns and return information, provides an example of a qualifying statute. By law, tax records may not be disclosed to any individual unless authorized by IRC Section 6103.

Exemption 4. Trade Secrets and Confidential Commercial or Financial Information

The fourth exemption protects from public disclosure two types of information: Trade secrets and confidential commercial or financial information. A trade secret has been narrowly defined by the courts under the FOIA as a commercially valuable plan, formula, process, or device that is used for making, preparing, compounding or processing trade commodities and that can be said to be the end product of either innovation or substantial effort. Protected data is also commercial or financial information obtained from a person that is privileged or confidential.

Exemption 5. Inter-Agency or Intra-Agency Memorandums or Letters

The fifth exemption applies to inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency. An example may be a letter from one IRS office to another about a decision that has not yet been adopted by the agency. One purpose of this exemption is to safeguard the deliberative policymaking process of government (the deliberative process privilege). The exemption encourages frank discussion of policy matters between IRS officials by allowing certain pre-decisional, deliberative documents to be withheld from public disclosure. The exemption also protects against premature disclosure of deliberations before final adoption of an agency policy or position. While the policy behind the deliberative process privilege is well accepted, the application of the exemption is complicated. For example, the exemption protects the policymaking process, but does not generally protect purely factual information related to the policy process, which is protected under the deliberative process privilege. The deliberative process privilege distinguishes between documents that are pre-decisional and post-decisional. The public has a greater interest in knowing the basis for the decision once a policy is adopted. Therefore, the deliberative process privilege does not ordinarily apply to post-decisional documents. The exemption also incorporates other privileges that apply in litigation involving the government, including the attorney client and work product privileges. For example, certain documents prepared by IRS's lawyers may be withheld in the same way that documents prepared by private lawyers for clients are not available through discovery in civil litigation.

Exemption 6. Personal Privacy

The sixth exemption applies to personnel, medical, and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. This exemption protects the privacy interests of individuals by allowing IRS to withhold personal data kept in its files where there is an expectation of privacy. Only individuals have privacy interests. Corporations and business associations have no privacy rights under exemption six, except for closely held corporations or similar business entities. Once it has been determined that a personal privacy interest is threatened by a requested disclosure, the exemption requires agencies to strike a balance between an individual's privacy interest and the public's interest in disclosure. The Privacy Act of 1974 also regulates the disclosure of personal information about an individual. The IRS will automatically consider a request for personal information under both the FOIA and the Privacy Act and will rely on the statute that provides the greater access.

Exemption 7. Law Enforcement

The seventh exemption allows agencies to withhold records or information compiled for law enforcement purposes, but only to the extent that the production of such records would cause one of the following harms described below:

- (A) allows the withholding of a law enforcement record that could reasonably be expected to interfere with enforcement proceedings. This exemption protects an active law enforcement investigation from interference through premature disclosure.
- (B) allows the withholding of law enforcement information that would deprive a person of a right to a fair trial or an impartial adjudication.
- (C) recognizes that individuals have a privacy interest in information maintained in law enforcement files. If the disclosure of information could reasonably be expected to constitute an unwarranted invasion of personal privacy, the information may be exempt from disclosure.
- (D) protects the identity of confidential sources. Information that could reasonably be expected to reveal the identity of a confidential source is exempt. A confidential source can include a state, local, or foreign agency or authority, or a private institution that furnished information on a confidential basis. In addition, the exemption protects information furnished by a confidential source if the data was compiled by a criminal law enforcement authority during a criminal investigation.
- (E) protects from disclosure information that would reveal techniques and procedures for law enforcement investigations or prosecutions or that would disclose guidelines for law enforcement investigations or prosecutions if disclosure of the information could reasonably be expected to risk circumvention of the law.
- (F) protects law enforcement information that could reasonably be expected to endanger the life or physical safety of any individual.

Exemption 8. Financial Institutions

The eighth exemption protects information that is contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions (such as FDIC, the Federal Reserve, or similar agencies).

Exemption 9. Geological Information

The ninth exemption protects geological and geophysical information, data, and maps, concerning wells.

FOIA Exclusions

The FOIA also contains three special protection provisions that expressly authorize federal law enforcement agencies under certain specified circumstances, to treat especially sensitive records as not subject to the FOIA. IRS may not be required to confirm the existence of these categories of records. If these records are requested, IRS may respond that there are no records responsive to the request. However, these exclusions do not broaden the authority of the IRS to withhold documents from the public. The exclusions are only applicable to information that is otherwise exempt from disclosure.

Exclusion 1

The first exclusion may be used when a request seeks information described in the FOIA, subsection (b)(7)(A), and meets the following requirements:

- The investigation in question must involve a possible violation of criminal law.
- There must be reason to believe that the subject of the investigation is not already aware that the investigation is underway.
- Disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings.

IRS may respond to a FOIA request for investigatory records as if the records are not subject to the requirements of the FOIA when all of these conditions exist. In other words, the IRS response does not have to reveal that it is conducting an investigation.

Exclusion 2

Informant records maintained by IRS criminal law enforcement filed under the informant's name or personal identifier are covered by Exclusion 2. IRS is not required to confirm the existence of these records unless the informant's status has been officially confirmed. This exclusion helps agencies to protect the identity of confidential informants.

Exclusion 3

The third exclusion only applies to records maintained by the Federal Bureau of Investigation, which pertain to foreign intelligence, counterintelligence, or international terrorism. When the existence of these types of records is classified, the FBI may treat the records as not subject to the requirements of FOIA.

Requesters who believe that records were improperly withheld because of the exclusions can seek judicial review by filing suit in Federal District Court.

G. Administrative Appeal Procedures

The IRS must inform the requester of the reasons for the denial and the requester's right to appeal the denial to the head of the agency whenever a FOIA request is denied. A requester may appeal the withholding of a document or denial of a fee waiver request. A requester may contest the type or amount of fees that were charged, or may appeal any other type of adverse determination under the FOIA. A requester may also appeal because IRS failed to conduct an adequate search for the documents requested. However, a requester may not file an administrative appeal for the lack of a timely response.

A person may administratively appeal any portion denied when their request is granted in part and denied in part. An appeal does not affect the release of the documents that may be disclosed if the IRS has agreed to disclose some but not all requested documents.

There is no charge for filing an administrative appeal. More information about the procedural requirements for filing an appeal are found at Treasury Regulation 601.702 (c)(10). An appeal may be filed by sending a letter to:

IRS Appeals
Attn: FOIA Appeals
5045 E. Butler Ave.
M/Stop 55202
Fresno, California 93727-5136

The envelope containing the letter of appeal should be marked in the lower left hand corner with the words "Freedom of Information Act Appeal." The letter must identify the FOIA request that is being appealed, including the FOIA request number assigned by the IRS, the name and address of the requester. Inclusion of a telephone number and a copy of the IRS's initial decision letter is recommended, but not required for the appeal.

An appeal will normally include the requester's arguments supporting disclosure of the documents. A requester may include any facts or any arguments supporting the case for reversing the initial decision, although an appeal letter does not have to contain any arguments at all. It is sufficient to state that the IRS's initial decision is being appealed. The FOIA regulations require that an appeal be postmarked within 90 days after the date of the letter denying access to the information and within 90 days of the date of other adverse determinations as described in Treasury Regulation 601.702 (c)(10). An administrative appeal for denial of a request for expedited processing must be made by letter postmarked within 10 days after the date of the response letter denying expedited processing.

IRS is required to make a decision on an appeal within 20 days (excluding Saturdays, Sundays, and legal holidays) after the date of receipt of the appeal unless extended pursuant to Treasury Regulation 601.702(c)(11)(i). It is possible for IRS to extend the time limits by an additional 10 days under unusual circumstances (see Treasury Regulation 601-702(c)(11)(i)). The FOIA requester shall be deemed to have exhausted administrative remedies and may proceed with a judicial appeal in a Federal District Court if the IRS fails to comply with the time limitations.

H. Filing a Judicial Appeal

Treasury Regulation 601.702 (c)(13) sets forth the circumstances under which a FOIA requester may proceed with a judicial appeal. For example, a requester has the right to appeal the denial in court when an administrative appeal is denied. The burden of justifying the withholding of documents falls to IRS when a requester goes to court.

Most requesters require the assistance of an attorney to file a judicial appeal. A person who files a lawsuit and substantially prevails may be awarded reasonable attorney fees and litigation costs reasonably incurred. Some requesters may be able to handle their own case without an attorney. Details of the judicial appeal process have not been included because this is not a litigation guide. Anyone considering filing a FOIA lawsuit can begin by reading the provisions of the FOIA on judicial review.

The essential feature of both FOIA and the Privacy Act is that they make government agencies, including the IRS, accountable for information disclosure policies and practices. While neither law grants an absolute right to examine government documents, both laws establish the right to request records and to receive a response to the request. The requester is entitled to the reason for the denial if a record cannot be released. The requester also has a right to appeal the denial and, if necessary, to challenge it in court. These procedural rights granted by the FOIA and the Privacy Act make the laws valuable and workable.

Appendix A. How to Write Your Freedom of Information Act Request

Review documents available to you at IRS.gov before writing your request. You may have a better understanding of what you seek in your FOIA letter.

FOIA provides that any person may make a request for IRS records. The request must meet the following criteria:

- Include the address of the requester so that the IRS can properly respond. You may also wish to include your daytime phone number where an IRS Disclosure Manager or caseworker can contact you. We may need to contact you to further clarify what you are seeking or to work with you in addressing any possible fees. By providing this information we may be able to respond to your request more quickly.
- Send your request to the Disclosure Central Processing Unit. Visit IRS.gov, search keyword “FOIA” to find the “IRS Disclosure Offices, FOIA Service Centers” website, for the Disclosure Central Processing Unit address and fax number. Write “FOIA” on your envelope.
- State that you make your request pursuant to the Freedom of Information Act, and/or Privacy Act, if requesting personal records.
- Describe the records requested as specifically as possible. Provide the name, subject matter, location and years at issue of the requested documents, if available. State whether you wish to inspect the records or desire to have a copy made and furnished without first inspecting the records. The IRS Disclosure Office may be able to respond to your request quicker if you attach copies of any correspondence pertaining to the documents you are requesting.
- State your requester category to enable a proper fee determination. The categories of requesters are:
 - Commercial use
 - Media
 - Educational institutions and non-commercial scientific institutional
 - Others (including individual). See 26 CFR 601.702 (f)(3), and [Appendix B – “IRS FOIA Fee Schedule”](#) for more information on the IRS fee categories.
- Submit required proof of identity and proof of your authority to access the information if the records that you are requesting are confidential and not available to the general public (e.g., records subject to the Privacy Act or Internal Revenue Code 6103). The IRS will not, without proof of your identity, release to you, or anyone else, documents that should be available only to you to protect your privacy. See “[Establishing Proof of Identity and Right to Access](#)” for instructions on proving your identity and your authority to access information below.
- Include an agreement to pay all fees that the processing of your request may incur. You may specify an upper limit to the amount of money you are willing to pay to satisfy your request. See Appendix B for the [IRS FOIA Fee Schedule](#).
- Submit a written and signed request, (stamped or digital signatures are not acceptable).

Sample FOIA Letter

Your name or your company's name
 Your address or your company's address
 Your phone number (optional)

Date

For IRS policy and procedure agency records send request to:

Internal Revenue Service
 Central Processing Unit
 Stop 211
 PO Box 621506
 Atlanta, GA 30362-3006
 (fax) 877-807-9215

For personal/business taxpayer records send request to:

Internal Revenue Service
 Central Processing Unit
 Stop 93A
 Post Office Box 621506
 Atlanta, GA 30362
 (fax) 877-891-6035

Dear Disclosure Manager:

This is a request under the Freedom of Information Act/Privacy Act.

I request that a copy of the following documents (identify the documents or information as specifically as possible) be provided to me. I do not wish to inspect the documents first. In order to determine my status for the applicability of fees, you should know that I am (insert a suitable description of the requester and the purpose of the request).

[Sample requester descriptions (please choose only one if applicable):

A **Media Requester**: a representative of the news media affiliated with the XXXX newspaper (magazine, television station, etc.), and this request is made as part of newsgathering and not for a commercial use.

An **Educational Institution Requester** or a **Non-Commercial Scientific Institution Requester** 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.

A **Commercial-Use Requester** affiliated with a private corporation, seeking information for use in the company's business.

An **“Other” Requester** seeking information for personal or non-commercial use.]

As proof of identity I am including a photocopy of my driver's license, notarized declaration, sworn statement, etc. (See [“Establishing Proof of Identity and Right to Access”](#))

I am willing to pay fees for this request up to a maximum of \$XX. If you estimate that the fees will exceed this limit, please inform me first.

Thank you for your consideration of this request.

Sincerely,

[your signature]

Additional Options for Your FOIA Request

You may also include in the body of your FOIA request additional optional requests. These requests require you to establish certain criteria by providing appropriate additional information.

Your FOIA request may include a request that any applicable fees be reduced or waived. You must include specific details (See 26 CFR 601.702 (f)(2)) to qualify for a waiver.

Refer to Subsection (a)(3)(B) of the FOIA (5 U.S.C. 552(a)(3)(B)), for information pertaining to requests for documents to be provided in an alternative media format.

You may be able to request expedited processing of your FOIA request if you qualify under stipulated criteria. You must have a 'compelling need' for expedited processing and must include specific details concerning your need for expedited processing in your FOIA request to receive expedited processing. You must also certify that the statement of compelling need is true and correct to the best of his or her knowledge and belief. See 26 CFR 601.702 (c)(6) for information on compelling needs and qualifications for expedited processing.

Where to Send Your Request

All requests for IRS Policy and procedure agency documents that are not already available on the IRS FOIA reading room should be sent to:

Internal Revenue Service
Central Processing Unit
Stop 211
PO Box 621506
Atlanta, GA 30362-3006
(fax) 877-807-9215

Freedom of Information Act requests for personal/business taxpayer records should be sent to:

Internal Revenue Service
Central Processing Unit
Stop 93A
Post Office Box 621506
Atlanta, GA 30362
(fax) 877-891-6035

Establishing Proof of Identity and Right to Access

You must show proof of identity and demonstrate your right to access information to receive copies of documents protected under the Privacy Act or Internal Revenue Code 6103. You can establish your identity and right to access by one of the following:

- Sign your FOIA request (stamped or digital signatures are unacceptable for establishing identity), include your address in the request, and attach a copy of one form of identification bearing your signature (such as a valid driver's license, passport or other government issued picture ID)
- Present a notarized statement swearing to or affirming your identity
- Present a sworn statement as to your identity, under penalty of perjury. The sworn statement must meet the requirements of 28 USC section 1746. (You may include in your FOIA request "I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct. Executed on [date]. I am [your name] and I am requesting....")
- Provide an official document showing proof of entitlement as the sole proprietor, member of partnership, corporate officer, shareholder, etc., if requesting the records of a business.
- For records of a deceased individual you must provide a document showing proof of status as administrator, executor, or trustee of estate; if an heir at law, next of kin, or beneficiary under the will, you must provide proof of a material interest which will be affected by information contained in the requested documents and proof of the kinship, e.g., a copy of birth certificate or will.

Appendix B. IRS FOIA Fee Schedule

Please do not submit an advance payment with your request. If a fee is incurred, more than the maximum fees you are willing to pay, you will be notified in advance if the charges will exceed the specified amount, and you may withdraw or modify your request.

Type of Request	Type of Charge	Price
Commercial requesters	Copying charges	\$.20 per page.
	Search charges	\$41 per hour or fraction of an hour (charges for computer searches may include search time expended by employees plus the actual direct costs to the IRS for performing the electronic

		search such as computer search time, runs, and the operator's salary).
	Review charges	\$45 per hour or fraction of an hour.
	Minimum charge	No fee charged if total charges are \$25 or less.
Media requesters	Copying charges	No charge for first 100 pages; \$.20 per page thereafter.
	Minimum charge	No fee charged if total charges are \$25 or less.
Educational or Non-commercial Scientific institution requesters	Copying charges	No charge for first 100 pages; \$.20 per page thereafter.
	Minimum charge	No fee charged if total charges are \$25 or less.
Other requestors (Individuals seeking records for their own use)	Copying charges	No charge for first 100 pages; \$.20 per page thereafter.
	Search charges	No charge for first 2 hours (or equivalent computer search cost); \$41 per hour or fraction of an hour plus any direct electronic search costs thereafter.
	Minimum charge	No fee charged if total charges are \$25 or less.
Other Charges	<p>Fees may be assessed at actual cost for any request that requires special services or materials.</p> <p>These services are provided at the discretion of the IRS and may include: certification fees (\$1 per certified document); shipping costs; employee transportation; contractor duplication costs; video tapes; computer disks; and shipping, etc. The charge for a copy of tax return as filed is \$50.</p>	