



## **U.S. Coast Guard FOIA Process Guide for Requesters**

Office of Privacy Management (CG-6P)

U.S. COAST GUARD FOIA OFFICE

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## U.S. Coast Guard FOIA Process Guide for Requesters

The following is a guide to provide requesters with information on how to submit requests, an overview of how requests are handled within the USCG, and to provide information on how records are reviewed for release. Requesters may still contact the FOIA Public Liaison at 202-475-3522 or via email at [EFOIA@uscg.mil](mailto:EFOIA@uscg.mil) with any questions or processing issues.

### 1. Step One: Submitting Your FOIA Request

- a. You may submit a request via the following avenues:  
Online: DHS FOIA website <https://www.dhs.gov/freedom-information-act-foia>,  
Email: [EFOIA@uscg.mil](mailto:EFOIA@uscg.mil)  
Fax: 202-372-8413  
Mail: Commandant (CG-6P)  
Attn: Freedom of Information Act/Privacy Act  
U.S. Coast Guard  
2703 Martin Luther King Jr. Ave SE  
STOP 7710  
Washington, DC 20593-7710

Your request should include as much detailed information as possible about the records you are seeking. Include the document name(s), investigation number(s), date range(s), location of incident(s), names of individuals or positions involved, and the office(s) which may have the responsive records.

- b. Additional documentation is required if you are seeking records on yourself (first party request) or records on another individual (third party request).
  - 1) For records pertaining to yourself, the DHS regulations, 6 C.F.R. Part 5 § 5.21(d)<sup>1</sup> require verification of your identity, including your full name, current address and date and place of birth. In addition, your request must be made in writing, must contain your signature, and should either be notarized or contain a statement made under penalty of perjury as permitted by 28 U.S.C. § 1746.
  - 2) For copies of records pertaining to another individual (third-party requesters), DHS FOIA regulations at 6 C.F.R. Part 5 § 5.3(a)<sup>2</sup> provide, that in the case of third party information requests, you will obtain the greatest access if you provide a statement from the individual verifying his or her identity and certifying that individual's agreement that records concerning him or her may be accessed, analyzed, and released to a third party. DHS regulations require that absent a statement from the subject of the records permitting you to access such records, the Coast Guard is required to balance the privacy interests of the subject of the records against any public interest in the records that you have articulated. If the subject of your request is deceased, we require some type of affirmation of his/her death, such as a copy of a death certificate or an obituary column.

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<sup>1</sup> DHS FOIA Regulations, 6 C.F.R. Part 5 § 5.21 [dhs\\_foia\\_reg\\_2016.pdf](#).

<sup>2</sup> DHS FOIA Regulations, 6 C.F.R. Part 5 § 5.3 (a) [dhs\\_foia\\_reg\\_2016.pdf](#).

This is required in order to protect the privacy rights of third parties who are the subject of such requests.

- c. If you are requesting expedited processing, include that information in the request if there is a compelling need. Requesters seeking expedited processing must submit a statement explaining in detail the basis for the request, and that statement must be certified by the requester to be true and correct pursuant to 6 C.F.R. Part 5 § 5.5(e)(3)<sup>3</sup>. CG-6P will review your request for expedited processing and make a determination based on the requirement found in Reference A. Requests that are granted expedited processing will be moved to the front of the responding office's queue of requests and processed as soon as practicable.
- d. Under the FOIA, we presume you are willing to pay up to \$25 for the processing of your request. You may include the amount you are willing to pay in your request or include information in your request for a fee reduction or waiver. The processing office will review your request for the fee reduction or waiver in conjunction with the requirements as outlined in Reference B.

## **2. Step Two: FOIA Intake Process**

- a. Once your request is received, CG-6P will review the request to ensure it is a “perfected” FOIA request. This includes, but is not limited to, ensuring your request is not too broad or too narrow, is not requesting the USCG to create a record, and has the appropriate proof of identity. If any additional information or clarification is required, you will receive correspondence from our office and you will have 30 calendar days to amend your request or provide any required documentation. If no response is received by the end of the 30 calendar days, your request will be administratively closed.
- b. Perfected requests are logged into the FOIA Office's tracking system, and correspondence containing your FOIA request number, as well as information on how to track the progress of your request will be provided.
- c. Requests for expedited processing are reviewed by CG-6P and a determination will be made within 10 calendar days for receipt.

## **3. Step Three: Assignment to Processing Office(s)**

- a. Once perfected, your request is assigned to the USCG office(s) or unit(s) that maintains the records you are seeking. The processing office(s) are your point of contact to receive detailed status requests, such as expected completion dates.
- b. Status Updates
  - i. You may inquire as to the status of your request by using the portal link provided in your acknowledgement email and entering your request number. You may also email the EFOIA inbox at [EFOIA@uscg.mil](mailto:EFOIA@uscg.mil), including your request number, to request a status update.

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<sup>3</sup> DHS FOIA Regulations, 6 C.F.R. Part 5 § 5.5(e)(3) [dhs\\_foia\\_reg\\_2016.pdf](#)

- ii. CG-6P will provide you with the location of your request and the contact information for the FOIA point of contact(s) (POC) handling your request.

#### **4. Step Four: Processing Your Request**

- a. The processing office(s) will provide you with an acknowledgement letter within 10 days of receipt. The office will also make a determination on your fee reduction or fee waiver request, provide you with a fee estimate should any fees be applicable. Once fee issues are resolved, the office will begin to search for the requested records and review the responsive for releasability.
- b. Under the FOIA, agencies have twenty (20) working days to respond to requests. However, additional time may be needed depending on the amount of records requested, whether coordination is required with more than one USCG FOIA office or another agency, or if records must be retrieved from the Federal Records Center (FRC). An additional ten (10) days may be requested. If additional time is needed, the processing office(s) will contact you to come to an agreement on a response timeline.
- c. The USCG operates under a presumption of openness. The processing office(s) will review the responsive records in their entirety and only withhold items that are protected from release under FOIA exemptions and/or Privacy Act (PA) exemptions. For a full list of FOIA and PA exemptions, see Reference (C) and Reference (D) below.
- d. The FOIA provides three levels of fees that may be assessed in processing a FOIA request depending on the category of the FOIA requester: 1) Commercial, 2) Educational, 3) Media, and 4) Others. Definitions on requester types can be found in Reference E.
  - i.
    - 1) Commercial requesters are responsible to pay 10-cents per page for duplication and for search and review time at the per quarter-hour rate (\$4.00, \$7.00, \$10.25) of the searcher and reviewer.
    - 2) Educational requesters are charged 10-cents a page for duplication, although the first 100 pages are free.
    - 3) Media requesters are charged 10-cents a page for duplication, although the first 100 pages are free.
    - 4) Other requesters or non-commercial requesters are responsible to pay 10-cents a page for duplication, although the first 100 pages are free, as are the first two hours of search time, after which you will pay the per quarter-hour rate (\$4.00, \$7.00, \$10.25) of the searcher.
  - ii. Fee estimates over \$14 and up to \$250 can be processed without prepayment. Fees estimated over \$250 require payment before processing begins. Requesters who have been delinquent in paying for previous requests may be required to submit their payment prior to the finalization of the process no matter the amount.

- iii. FOIA fees can be submitted online at [www.Pay.gov](http://www.Pay.gov) or by sending a check or money order made payable to the Treasury of the United States. The FOIA request number should be included on the check or money order.
- e. Administrative costs associated with your request may also be applicable. For example, costs associated with providing records on a CD-Rom, costs associated with records retrieval from Federal Records Centers (FRCs), replying by express mail when requested, and/or costs associated with hiring personnel to review voluminous records.

## 5. Step Four: Closing Your Request

- a. When the processing of your request has been completed by the processing office(s), you will receive a signed final response letter, including any responsive documents relating to your request. Responses will be provided in your preferred method whenever possible. Your request will then be considered closed and completed.
- b. If you are not satisfied with your response, you may submit an appeal to the FOIA office within ninety (90) days of the date of the final response to:

Commandant (CG-6P)  
Attn: Freedom of Information Act/Privacy Act Appeal  
U.S. Coast Guard  
2703 Martin Luther King Jr. Ave SE  
STOP 7710  
Washington, DC 20593-7710  
Email: [EFOIA@uscg.mil](mailto:EFOIA@uscg.mil)

- c. Requesters also have the right to right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Contacting the FOIA Public Liaison or OGIS does not stop the 90-day appeal clock and is not a substitute for filing an administrative appeal. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS,  
College Park, Maryland 20740-6001  
Email: [OGIS@NARA.GOV](mailto:OGIS@NARA.GOV)  
Telephone: 202-741-5770  
Toll Free: 1-877-684-6448  
Fax: 202-741-5769.

## **Reference A: Expedited Processing Requirements<sup>4</sup>**

Under DHS FOIA regulations, expedited processing of a FOIA request is warranted if the request involves:

1. Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual
2. An urgency to inform the public about an actual or alleged federal government activity, if made by a person who is primarily engaged in disseminating information
3. The loss of substantial due process rights
4. A matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence

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<sup>4</sup> DHS FOIA Regulations, 6 C.F.R. Part 5 § 5.5(e)(1)(i) [dhs\\_foia\\_reg\\_2016.pdf](#).

## Reference B: Fee Reduction and Fee Waiver Requirements<sup>5</sup>

DHS FOIA Regulations, 6 CFR § 5.11(k)(2), set forth six factors to examine in determining whether the applicable legal standard for a fee waiver has been met. We will consider these factors in our evaluation of your request for a fee waiver:

1. Whether the subject of the requested records concerns “the operations or activities of the government
2. Whether the disclosure is “likely to contribute” to an understanding of government operations or activities
3. Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor or a narrow segment of interested persons
4. Whether the contribution to public understanding of government operations or activities will be "significant;”
5. Whether the requester has a commercial interest that would be furthered by the requested disclosure; and
6. Whether the magnitude of any identified commercial interest to the requestor is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requestor.

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<sup>5</sup> DHS FOIA Regulations, 6 CFR § 5.11(k)(2) [dhs\\_foia\\_reg\\_2016.pdf](#).



## Reference C: FOIA Exemptions<sup>6</sup>

**FOIA Exemption 1** provides that an agency may exempt from disclosure matters that are (A) specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive Order. Records withheld under this exemption concern foreign government information, scientific, technological, or economic matters relating to the national security and United States government programs for safeguarding nuclear materials/facilities and are classified under § 1.4(b), (e), and (f) of Executive Order 12958, as amended. Portions of the document may have been marked unclassified; however, when assembled together, could reasonably be expected to damage the national security.

**FOIA Exemption 2** protects information related solely to the internal personnel rules and practices of an agency.

**FOIA Exemption 3** protects information specifically exempted from disclosure by another statute, if the statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) established particular criteria for withholding or refers to particular types of matters to be withheld.

- **Proposals**

Section 253b(m) of Title 41, United States Code, prohibits the release of any competitive proposal under the FOIA, except for those portions of the proposal set forth or incorporated by reference in a government contract. Since the statute leaves the agency with no discretion, all sections of the contractor proposal which were required to be submitted, and which were not incorporated into the contract, must be withheld under subsection (b)(3) of the FOIA

- **Rule 6(e)**

Rule 6(e) of the Federal Rules of Criminal Procedure is an exemption 3 statute. It prohibits the release of materials relating to grand-jury proceedings to prevent the unauthorized disclosure of a matter occurring before a grand jury.

- **TSA Info -**

The Federal Watch Lists include the No-Fly and Selectee Lists.

**FOIA Exemption 4** protects trade secrets and commercial or financial information obtained from a person that is privileged or confidential. The U.S. Supreme Court, in *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2363 (2019), has held that Exemption 4 protects information submitted to the government with assurances that the information will remain secret, and where the submitter of the information customarily keeps it private, holds it in confidence, or does not release it to the public. In absence of express or implied government assurances, the submitter's practice of keeping such information confidential is sufficient for

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<sup>6</sup> Department of Justice, Guide to the Freedom of Information Act [Department of Justice Guide to the Freedom of Information Act](#).

withholding the information. The information responsive to the request and confirmed that the information was either provided with the assurance of confidentiality/is of the type that the submitter customarily keeps private/is information that the submitter holds in confidence or does not release to the public and is therefore exempt from disclosure under FOIA Exemption 4.

**FOIA Exemption 5** protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. One or more of the following may be protections may be applicable to the responsive documents:

- **Deliberative Process Privilege**  
The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel.
- **Attorney Work-Product Privilege**  
The attorney work-product privilege protects documents and other memoranda prepared by an attorney in contemplation of litigation.
- **Attorney-Client Privilege**  
The attorney-client privilege protects confidential communications between an attorney and their client relating to a legal matter for which the client has sought professional advice. It applies to facts divulged by a client to their attorney, and encompasses any opinions given by an attorney to their client based upon, and thus reflecting, those facts, as well as communications between attorneys that reflect client-supplied information. The attorney-client privilege is not limited to the context of litigation.
- **Government's Commercial Data Privilege**  
The Government's commercial data privilege protects various government cost estimates. Release would not only cause harm to the government's decision-making process, it would also provide a contractor with insight into the government's price negotiation position. This would place the government at a disadvantage in their efforts to obtain fair and reasonable prices in the future.

**FOIA Exemption 6** exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right privacy. The types of documents and/or information that withheld under this exemption may consist of birth certificates, naturalization certificates, driver license, social security numbers, home addresses, dates of birth, or various other documents and/or information belonging to a third party that are considered personal. The privacy interests of the individuals in the records requested outweigh

any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

**FOIA Exemption 7(A)** protects from disclosure records or information compiled for law enforcement purposes, the release of which could reasonably be expected to interfere with enforcement proceedings. The information relates to an ongoing criminal law enforcement investigation. All records, documents, and/or other material, which if disclosed prior to completion, could reasonably be expected to interfere with law enforcement proceedings and final agency actions related to those proceedings. Please be advised that once all pending matters are resolved and FOIA Exemption 7(A) is no longer applicable, there may be other exemptions which could protect certain information from disclosure, such as FOIA Exemptions (2), 7(C), 7(D), and 7(E).

**Exemption 7(B)** provides protection for records or information compiled for law enforcement purposes when the disclosure would deprive a person of a right to a fair trial or an impartial adjudication.

**Exemption 7(C)** protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. The privacy interest in the identities of individuals in the records clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination. The types of documents and/or information withheld could consist of names, addresses, identification numbers, telephone numbers, fax numbers, or various other documents that are considered personal.

**Exemption 7(D)** pertains to records or information compiled for law enforcement purposes, the release of which could reasonably be expected to disclose the identities of confidential sources. The types of documents and/or information could consist of names, addresses, telephone numbers, institutions, source symbol numbers, or source provided information, such as testimony, statements, reports, investigations, audio/video tapes, or various other documents or information withheld to protect the identity of a confidential source.

**Exemption 7(E)** protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. Disclosure of information, i.e., law enforcement systems checks, manuals, checkpoint locations, and/or

surveillance techniques could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

**FOIA Exemption 7(F)** permits the government to withhold all information about any individual when disclosure of information about him could reasonably be expected to endanger the life or physical safety of any individual. This exemption also protects physical security at critical infrastructure sites. The types of documents and/or information withheld could consist of names, addresses, telephone numbers, source provided information, such as testimony, statements, reports, investigations, audio/video tapes, or various other documents or information withheld as to not endanger the life or physical safety of an individual. This exemption would also apply to physical security at any site, so long as the information is about a person

#### **Lists of USCG employees' names and/or contact information**

Under 5 U.S.C. §§ 552(b)(2), (b)(6), and (b)(7)(C) (when law enforcement employees are included), lists of employee names and/or contact information are protected from release. Weighed against the privacy interest of the individuals is the lack of public interest in the release of their personal information and the fact that the release generally adds no information about agency activities, which is the core purpose of the FOIA.

## Reference D: Privacy Act Exemptions<sup>7</sup>

**Privacy Act Exemption (d)(5)** permits the government to withhold all documents or information, which are compiled in reasonable anticipation of a civil action or proceeding. This extends to any records compiled in anticipation of civil proceedings, whether prepared by attorneys or lay investigators.

**Privacy Act Exemption (j)(1)** permits the government to withhold information maintained by the Central Intelligence Agency, such as polygraph records, sources and methods to gather intelligence, including the facilities, organization, functions, names, officials titles, salaries, or numbers of personnel employed by the Agency, and documents or information provided by foreign governments.

**Privacy Act Exemption (j)(2)** permits the government to withhold material reporting investigative efforts pertaining to enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals.

**Privacy Act Exemption (k)(1)** permits the government to withhold material that is currently and properly classified pursuant to Executive Order in the interest of national defense or foreign policy.

**Privacy Act Exemption (k)(2)** protects investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence.

**Privacy Act Exemption (k)(3)** permits the government to protect material maintained in connection with providing protective services to the President of the United States or other individuals pursuant of section 3056 of Title 18.

**Privacy Act Exemption (k)(5)** protects investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or for access to classified information, but only to the extent that the disclosure of such material would reveal the identity of the person who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

**Privacy Act Exemption (k)(6)** protects testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

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<sup>7</sup> Department of Justice, Office of Information Policy, Privacy Act Overview [Overview of the Privacy Act: 2020 Edition \(justice.gov\)](#).

## Reference E: Requester Fee Categories<sup>8</sup>

**Commercial Use Requesters** are defined as those who seek records for "a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is being made." Designation of a requester as a "commercial use requester," therefore, will turn on the use to which the requested information will be put, rather than on the identity of the requester.

**Educational Institution Requesters** include various schools, as well as institutions of higher learning and vocational education, "which operate[s] a program or programs of scholarly research." To qualify for inclusion in this fee subcategory, the request must serve a scholarly research goal of the institution, not an individual goal. While historically professors were the most likely individuals to fall into this category, students who make FOIA requests to further their coursework or other school-sponsored activities are eligible for reduced fees under FOIA. To qualify for this fee category the student requester must seek the information in connection with his or her role at the educational institution and that agencies may ask for reasonable verification of the student's enrolled status.

**Noncommercial Scientific Institution Requester** is defined as a "noncommercial" institution that is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

**Representative of the News Media** is any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience." Additionally, Congress incorporated into the statutory definition the OMB Fee Guidelines' definition of "news" as information that is about current events or that would be of current interest to the public. Freelance journalists shall be considered representatives of the news media if they can demonstrate a solid basis for expecting publication through [a news media] entity, whether or not the journalist is actually employed by the entity. A request from a representative of the news media that supports a news-dissemination function shall not be considered to be a request that is for a commercial use.

A requester must: (1) gather information of potential interest (2) to a segment of the public; (3) use its editorial skills to turn the raw materials into a distinct work; and (4) distribute that work (5) to an audience. The requester need not gather information from multiple sources to qualify as a news media representative; rather, a "distinct work" can be created based solely on FOIA released documents. The size of the "audience" is not prescribed, even disseminating to a small readership will suffice. Posting content to a public website can qualify as a means of distributing it – notwithstanding that readers have to affirmatively access the content, rather than have it delivered to their doorsteps or beamed into their homes unbidden. There is no basis to require

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<sup>8</sup> Department of Justice, Guide to the Freedom of Information Act [Department of Justice Guide to the Freedom of Information Act](#).

that an entity be "organized and operated" to disseminate news to the public in order to qualify as a representative of the news media.

**All Other Requesters** consists of all requesters who do not fall within either of the preceding categories. When any FOIA request is submitted by someone on behalf of another person – for example, by an attorney on behalf of a client – it is the underlying requester's identity or intended use, or both, that determines the requester category for fee purposes.

An agency is not required to establish at an earlier date a requester's proper fee category with regard to any future FOIA requests that requester might make, given that a requester's category can change over time.