

What is the FOIA?

The FOIA, Title 5, United States Code, Section 552, was signed into law on July 4, 1966, by President Lyndon B. Johnson. Since then, the FOIA has been amended in 1974, 1986, and most recently, with the enactment of the Electronic Freedom of Information Act Amendments of 1996 (E-FOIA). The E-FOIA and requires federal agencies to make records available both electronically and through public reading rooms. The U.S. Department of Energy (DOE) implements the FOIA regulation at [Title 10, Code of Federal Regulations, Part 1004 \(10 CFR 1004\)](#).

The FOIA establishes the premise that any person has a right of access to federal agency records, and that federal agency records must be made available to the public unless they are specifically exempt from public release.

The FOIA applies to records created and maintained by agencies in the executive branch of the federal government. The FOIA does not apply to Congress, the judicial branch of the federal government, or to state or local governments. Many state governments have enacted open records laws. The attorney general of a state could provide information about that state's laws upon request.

The FOIA and E-FOIA require that certain agency records, such as description of agency organization and office addresses, statements of agency operations, rules of procedures, general policy statements, final opinions made in the adjudication of cases, and administrative staff manuals that affect the public, be made available for inspection and copying regardless of the format. These records and many other agency records, in the spirit of openness, are also made available to the public in the public reading facilities, including at DOE Headquarters in Washington, DC.

Although the FOIA is primarily a disclosure law, not all records requested under FOIA are automatically released. The FOIA has nine exemptions that allow certain information contained in records or the entire records to be withheld from public inspection. The exemptions apply to records that are:

- properly classified in the interest of national defense or foreign policy
- related solely to internal rules and practices
- specifically mandated to be withheld from public release by statutes
- trade secrets and commercial or financial information which is obtained from a person and is privileged or confidential
- inter-agency or intra-agency memoranda or letters, attorney-client privilege information, or attorney work product
- personnel and medical files and similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy
- investigatory records or information compiled for law enforcement purposes, the release of which (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or impartial adjudication, (C) could

reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose investigative techniques, and /or (F) could reasonably be expected to endanger the life or physical safety of any individual

- information contained in or related to certain examination, operating, or condition reports concerning financial institutions
- certain information concerning gas or oil wells

Reasonably segregable nonexempt information will be released unless it is inextricably intertwined with exempt material. Agencies are encouraged to make discretionary releases of information in cases in which no foreseeable harm from the release of the information can be determined.

The FOIA mandates a response within 20-days of receipt of a request (excluding weekends and federal holidays). The DOE strives to meet this processing time frame; however, due to voluminous requests, and legal reviews, some requests may take a longer period of time to complete. If it is determined additional is needed time to complete your request, you will be notified as appropriate.

All requests made pursuant to the FOIA become a matter of public record, with personal Information about requesters deleted. Requests for classified records, including requests for mandatory review pursuant to Executive Order 12598, will automatically be considered a FOIA request. The DOE Director of the Office of Classification in Washington, D.C., is responsible for the release determination of any classified records that are identified as responsive to FOIA requests.

The adequacy of search for records, the partial or full denial of records, and fees assessed may be appealed. Such appeals must be made in writing, within 30-days of receipt of the denial letter, to the following address; Director, Office of Hearings and Appeals, HG-1, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Judicial review will thereafter be available within the district in which the requester resides or has their principal place of business, in which the Department's records are situated, or in the District of Columbia.