

**DEPARTMENT OF DEFENSE****Department of the Air Force****32 CFR Part 806**

RIN: 0701-AA-61

**Freedom of Information Act Program**

AGENCY: Department of the Air Force, DoD.

ACTION: Final rule.

**SUMMARY:** The Department of the Air Force is revising our rules on the Freedom of Information Act Program of the Code of Federal Regulations (CFRs) to reflect current policies. Part 806 implements Air Force Policy Directive (AFPD) 37-1, Air Force Information Management (will convert to AFPD 33-3), and applies to all Air Force activities. It provides policies and procedures for implementing the Freedom of Information Act (FOIA), Title 5 United States Code (U.S.C.) Section 552, as amended, and "For Official Use Only (FOUO)" information requirements.

EFFECTIVE DATE: November 1, 1999.

**ADDRESSES:** Mrs. Anne P. Rollins, HQ AFCIC/ITC, 1250 Air Force Pentagon, Washington, DC 20330-1250, 703-588-6187.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Anne P. Rollins, HQ AFCIC/ITC, 703-588-6187.

**List of Subjects in 32 CFR Part 806**

Freedom of Information.

For the reasons set forth in the preamble, the Department of the Air Force is revising 32 CFR part 806 as follows:

**PART 806—AIR FORCE FREEDOM OF INFORMATION ACT PROGRAM**

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Authority: 5 U.S.C. 552.

**§ 806.1 Summary of revisions.**

This part makes this guidance an Air Force supplement to the DoD regulation at 32 CFR part 286. It transfers responsibility for the Air Force Freedom of Information Act (FOIA) Program from the Office of the Secretary of the Air Force (SAF/AAI) to Headquarters United States Air Force (HQ USAF/SC) and Headquarters Air Force Communications and Information Center/Corporate Information Division (HQ AFCIC/ITC); contains significant changes and additions to implement the Electronic Freedom of Information Act (EFOIA) Amendments of 1996; addresses electronic records; increases time limits to 20 working days; adds procedures for multiple tracking and expedited processing of requests; changes annual report date and content; adds major command (MAJCOM) inspectors general (IG), MAJCOM Directors of Inquiries (IGQ), and wing commanders as initial denial authorities (IDAs).

**§ 806.2 Applicability.**

A list of Air Force MAJCOMs, field operating agencies (FOAs), and Direct Reporting Units (DRUs) is at § 806.26.

**§ 806.3 Public information.**

(a) *Functional requests.* Air Force elements may receive requests for government information or records from the public that do not refer to the FOIA. Often these requests are sent to a public affairs office (PAO) or a specific unit. All releases of information from Air Force records, whether the requester cites the FOIA or not, must comply with the principles of the FOIA and this part. If the requested material contains personal privacy information that the Air Force must withhold, it is particularly important to handle that "functional" request as a request under the FOIA and coordinate it with the appropriate FOIA office and an Air

Force attorney. Regardless of the nature of the functional request, if the responding element denies the release of information from Air Force records, then control the request as a FOIA and follow FOIA denial procedures for records withheld (cite the pertinent FOIA exemption and give the requester FOIA appeal rights).

(b) HQ AFCIC/ITC will make the Air Force handbook and guide for requesting records available on the World Wide Web (WWW) from Air ForceLINK, at <http://www.foia.af.mil/handbook.htm>.

**§ 806.4 Definitions.**

(a) *Electronic reading room (ERR).* Rooms established on Internet web sites for public access to FOIA-processed (a)(2)(D) records.

(b) *FOIA request.* This includes FOIA requests made by members of Congress either on their own behalf or on behalf of one of their constituents. Process FOIA requests from members of Congress in accordance with this Air Force supplement. Air Force-affiliated requesters, to include military and civilian employees, should not use government equipment, supplies, stationery, postage, telephones, or official mail channels to make FOIA requests.

(1) Simple requests can be processed quickly with limited impact on the responding units. The request clearly identifies the records with no (or few) complicating factors involved. There are few or no responsive records. Only one installation is involved and there are no outside Office of Primary Responsibility (OPRs). There are no classified or nongovernment records. No deliberative process/privileged materials are involved. The responsive records contain no (or limited) personal privacy information and do not come from a Privacy Act system of records. No time extensions are anticipated.

(2) Complex requests take substantial time and cause significant impact on responding units. Complications and delays are likely. Records sought are massive in volume. Multiple organizations must review/coordinate on requested records. Records are classified; originated with a nongovernment source; are part of the Air Force's decision-making process; or are privileged.

(c) *Government Information Locator Service (GILS).* GILS is an automated on-line card catalog of publicly accessible information. The Office of Management and Budget (OMB) Bulletin 95-01, December 7, 1994, and OMB Memorandum, February 6, 1998, mandates that all federal agencies create

a GILS record for information available to the public. The DoD GILS resides on DefenseLINK, the official DoD home page, at "<http://www.defenselink.mil/locator/index.html>."

(d) *Initial denial authority.* Only approved IDAs may deny all or parts of records. FOIA managers may: initially deny fee category claims, requests for expedited processing, and waiver or reduction of fees; review fee estimates; and sign "no records" responses. IDAs are the deputy chiefs of staff and chiefs of comparable offices or higher at HQ USAF and Secretary of the Air Force (SAF), and MAJCOM commanders. Deputy Chiefs of Staff and chiefs of comparable offices or higher at HQ USAF and SAF may name one additional position as denial authority. MAJCOM commanders may appoint two additional positions at the headquarters and also the wing commander at base level. MAJCOM IGs and MAJCOM Directors of Inquiries (IGQ) may act as IDAs for IG records. MAJCOM FOIA managers must notify HQ AFCIC/ITC in writing (by facsimile, e-mail, or regular mail) of IDA position titles. Send position titles only—no names. HQ AFCIC/ITC sends SAF/IGQ a copy of the correspondence designating IDA positions for IG records. When the commander changes the IDA designee position, MAJCOM FOIA managers will advise HQ AFCIC/ITC immediately. In the absence of the designated IDA, the individual filling/assuming that position acts as an IDA, however; all denial documentation must reflect the position title of the approved or designated IDA, even if in an acting capacity (for example, Acting Director of Communications and Information, Headquarters Air Combat Command).

(e) *Office of primary responsibility (OPR).* A DoD element that either prepared, or is responsible for, records identified as responsive to a FOIA request. OPRs coordinate with the office of corollary responsibility (OCR) and FOIA managers to assist IDAs in making decisions on FOIA requests.

(f) *OCR.* A DoD element with an official interest in, and/or collateral responsibility for, the contents of records identified as responsive to a FOIA request, even though those records were either prepared by, or are the primary responsibility of, a different DoD element. OCRs coordinate with OPRs and FOIA managers to assist IDAs in making decisions on FOIA requests.

(g) *Appellate authority.* The SAF has designated the Deputy General Counsel, Fiscal, Ethics, and Civilian Personnel (SAF/GCA) as the FOIA appellate authority.

(h) *Reading room.* Any place where a member of the public may view FOIA records.

#### **§ 806.5 Responsibilities.**

(a) The Director, Communications and Information (HQ USAF/SC) has overall responsibility for the Air Force FOIA Program. The Corporate Information Division (HQ AFCIC/ITC) administers the procedures necessary to implement the Air Force FOIA Program, submits reports to the Director, Freedom of Information and Security Review (DFOISR), and provides guidance and instructions to MAJCOMs. Responsibilities of other Air Force elements follow.

(b) SAF/GCA makes final decisions on FOIA administrative appeals.

(c) Installation commanders will: Comply with FOIA electronic reading room (ERR) requirements by establishing a FOIA site on their installation public web page and making frequently requested records (FOIA-processed (a)(2)(D)) records available through links from that site, with a link to the Air Force FOIA web page at <http://www.foia.af.mil>. See § 806.12(c).

(d) MAJCOM commanders implement this instruction and appoint a FOIA manager, in writing. Send the name, phone number, office symbol, and e-mail address to HQ AFCIC/ITC, 1250 Air Force Pentagon, Washington, DC 20330-1250.

(e) Air Force attorneys review FOIA responses for legal sufficiency, provide legal advice to OPRs, disclosure authorities, IDAs, and FOIA managers, and provide written legal opinions when responsive records (or portions of responsive records) are withheld. Air Force attorneys ensure factual and legal issues raised by appellants are considered by IDAs prior to sending the FOIA appeal files to the Secretary of the Air Force's designee for final action.

(f) Disclosure authorities and IDAs apply the policies and guidance in this instruction, along with the written recommendations provided by staff elements, when considering what decisions to make on pending FOIA actions. Where any responsive records are denied, the IDA tells the requesters the nature of records or information denied, the FOIA exemption supporting the denial, the reasons the records were not released, and gives the requester the appeal procedures. In addition, on partial releases, IDAs must ensure requesters can see the placement and general length of redactions with the applicable exemption indicated. This procedure applies to all media, including electronic records. Providing placement and general length of

redacted information is not required if doing so would harm an interest protected by a FOIA exemption. When working FOIA appeal actions for the appellate authority review:

(1) IDAs grant or recommend continued denial (in full or in part) of the requester's appeal of the earlier withholding of responsive records, or adverse determination (for example, IDAs may release some or all of the previously denied documents).

(2) IDAs reassess a request for expedited processing due to demonstrated compelling need, overturning or confirming the initial determination made by the FOIA manager.

(3) When an IDA denies any appellate action sought by a FOIA requester, the IDA, or MAJCOM FOIA manager (for no record, fee, fee estimates, or fee category appeals) will indicate in writing that the issues raised in the FOIA appeal were considered and rejected (in full or in part). Include this written statement in the file you send to the Secretary of the Air Force in the course of a FOIA appeal action. Send all appeal actions through the MAJCOM FOIA office.

(g) OPRs:

(1) Coordinate the release or denial of records requested under the FOIA with OCRs, FOIA offices, and with Air Force attorneys on proposed denials.

(2) Provide requested records.

Indicate withheld parts of records annotated with FOIA exemption. Ensure requesters can see the placement and general length of redactions. This procedure applies to all media, including electronic records. Providing placement and general length of redacted information is not required if doing so would harm an interest protected by a FOIA exemption.

(3) Provide written recommendations to the disclosure authority to determine whether or not to release records, and act as declassification authority when appropriate.

(4) Make frequently requested records (FOIA-processed (a)(2)(D)) available to the public in the FOIA ERR via the Internet. As required by AFIs 33-129, Transmission of Information Via the Internet, and 35-205, Air Force Security and Policy Review Program, OPRs request clearance of these records with the PAO before posting on the WWW, and coordinate with JA and FOIA office prior to posting. The FOIA manager, in coordination with the functional OPR or the owner of the records, will determine qualifying records, after coordination with any interested OCRs.

(5) Complete the required GILS core record for each FOIA-processed (a)(2)(D) record.

(6) Manage ERR records posted to the installation public web page by updating or removing them when no longer needed. Software for tracking number of hits may assist in this effort.

(h) FOIA managers:

(1) Ensure administrative correctness of all FOIA actions processed.

(2) Control and process FOIA requests.

(3) Obtain recommendations from the OPR for records.

(4) Prepare or coordinate on all proposed replies to the requester. FOIA managers may sign replies to requesters when disclosure authorities approve the total release of records. If the MAJCOM part directs the OPR to prepare the reply, the OPR will coordinate their reply with the FOIA office.

(5) Make determinations as to whether or not the nature of requests are simple or complex where multitrack FOIA request processing queues exist.

(6) Approve or initially deny any requests for expedited processing.

(7) Provide interim responses to requesters, as required.

(8) Provide a reading room for inspecting and copying records.

(9) Provide training.

(10) Review publications for compliance with this part.

(11) Conduct periodic program reviews.

(12) Approve or deny initial fee waiver requests.

(13) Make the initial decision on chargeable fees.

(14) Collect fees.

(15) Send extension notices.

(16) Submit reports.

(17) Sign "no record" responses.

(18) Provide the requester the basis for any adverse determination (i.e., no records, fee denials, fee category determinations, etc.) in enough detail to permit the requester to make a decision whether or not to appeal the actions taken, and provide the requester with appeal procedures.

(i) On appeals, FOIA managers:

(1) Reassess a fee category claim by a requester, overturning or confirming the initial determination.

(2) Reassess a request for expedited processing due to demonstrated compelling need, overturning or confirming the initial determination.

(3) Reassess a request for a waiver or reduction of fees, overturning or confirming the initial determination.

(4) Review a fee estimate, overturning or confirming the initial determination.

(5) Confirm that no records were located in response to a request.

(j) The base FOIA manager acts as the FOIA focal point for the FOIA site on the installation web page.

(k) When any appellate action sought by a FOIA requester is denied by an IDA

or FOIA manager for authorized actions, the IDA or FOIA manager will indicate, in writing, that the issues raised in the FOIA appeal were considered and rejected (in full or in part). Include this written statement in the file you send to the Secretary of the Air Force in the course of a FOIA appeal action. Send all appeal actions through the MAJCOM FOIA office.

#### **§ 806.6 Prompt action on requests.**

(a) Examples of letters to FOIA requesters (e.g., response determinations and interim responses) are included in § 806.27.

(b) Multitrack processing. (1) Examples of letters to FOIA requesters (e.g., letters to individuals who have had their FOIA request placed in the complex track) are included in § 806.27.

(2) Simple requests can be processed quickly, with limited impact on the responding units. The request clearly identifies the records with no (or few) complicating factors involved. There are few or no responsive records, only one installation is involved, there are no outside OPRs, no classified or nongovernment records, no deliberative process/privileged materials are involved, records contain no (or limited) personal privacy information/did not come from Privacy Act systems of records concerning other individuals, or time extensions not anticipated.

(c) Complex requests will take substantial time, will cause significant impact on responding units. Complications and delays are likely. Records sought are massive in volume, multiple organizations must review/coordinate on records, records are classified, records originated with a nongovernment source, records were part of the Air Force's decision-making process or are privileged.

(d) Expedited processing. Examples of letters to individuals whose FOIA requests and/or appeals were not expedited are included in § 806.27.

#### **§ 806.7 Use of exemptions.**

(a) A listing of some AFIs that provide guidance on special disclosure procedures for certain types of records is provided in § 806.28. Refer to those instructions for specific disclosure procedures. Remember, the only reason to deny a request is a FOIA exemption.

(b) Refer requests from foreign government officials that do not cite the FOIA to your foreign disclosure office and notify the requester.

(c) If you have a non-U.S. Government record, determine if you need to consult with the record's originator before releasing it (see § 806.9 and § 806.15(c)). This includes records created by foreign governments and organizations such as

North Atlantic Treaty Organization (NATO) and North American Aerospace Defense (NORAD). You may need to coordinate release of foreign government records with either the U.S. Department of State or with the specific foreign embassy, directly through the MAJCOM FOIA office. Coordinate release or denial of letters of offer and acceptance (LOA) with SAF/IA through 11 CS/SCSR (FOIA), 1000 Air Force Pentagon, Washington DC 20330-1000.

#### **§ 806.8 Description of requested record.**

Air Force elements must make reasonable efforts to find the records described in FOIA requests. Reasonable efforts means searching all activities and locations most likely to have the records, and includes staged or retired records, as well as complete and thorough searches of relevant electronic records, such as databases, word processing, and electronic mail files.

#### **§ 806.9 Referrals.**

(a) Send all referrals through the FOIA office. The receiving FOIA office must agree to accept the referral before transfer. The FOIA office will provide the name, phone number, mailing address, and e-mail address of both the FOIA office point of contact and the record OPR point of contact in their referral letter. Include the requested record. If the requested records are massive, then provide a description of them. Referrals to, or consultations with, DFOISR are accomplished from the MAJCOM level. Section 806.27 has an example of a referral memo.

(b) In some cases, requested records are available from the GPO and NTIS, 5285 Port Royal Road, Springfield VA 22161. These organizations offer certain records for sale to the public. Current standard releasable Air Force publications are available electronically on the WWW at <http://afpubs.hq.af.mil/>. For requesters without electronic access, NTIS has paper copies for sale. Give requesters the web address or NTIS address when appropriate. However, if the requester prefers to pursue the FOIA process, consult with HQ AFCIC/ITC through the MAJCOM. Refer FOIA requests for Air Force publications that are classified, FOUO, rescinded, or superseded to the OPR through the appropriate FOIA office.

#### **§ 806.10 Records management.**

Keep records that were fully released for 2 years and denied records for 6 years. Include in the 6-year record file copies of records or parts of records that

were released in response to the same request. Refer to Air Force Manual (AFMAN) 37-139, Records Disposition Schedule (converting to AFMAN 33-339, see § 806.9(b)). The functional OPR or FOIA office may keep the records released or denied. The FOIA office keeps the FOIA case file for each request. The FOIA case file consists of: the initial request; tasking to OPRs; OPR's reply; memoranda for record (MFR) of phone calls or other actions related to the FOIA request; DD Forms 2086, Record of Freedom of Information (FOI) Processing Cost, or 2086-1, Record of Freedom of Information (FOI) Processing Cost for Technical Data; final response; and any of the following, if applicable: extension letter; legal opinions; submitter notification letters and replies; the appeal and required attachments (except for the released or denied records if maintained by the OPR); and all other correspondence to and from the requester.

#### **§ 806.11 FOIA reading rooms.**

Each FOIA office will arrange for a reading room where the public may inspect releasable records. You do not need to co-locate the reading room with the FOIA office. The FOIA does not require creation of a reading room dedicated exclusively to this purpose. A "reading room" is any location where a requester may review records. For FOIA-processed (a)(3) records, if requesters meet the criteria for search and review costs, they must be paid before inspecting records. Assess reproduction costs at the time of inspection, if appropriate.

#### **§ 806.12 Record availability.**

(a) HQ AFCIC/ITC will make the traditional FOIA-processed (a)(2) materials (5 U.S.C. 552(a)(2)(A), (B), and (C)) available to the public. Each Air Force activity must make 5 U.S.C. 552(a)(2)(D) records ("FOIA-processed (a)(2)(D) records"—records which they determine will, or have become, the subject of frequent or subsequent requests) available to the public in a reading room in hard copy and electronically by posting it to their appropriate web site. There is no requirement to make all FOIA-released records available electronically. The FOIA manager, in coordination with the functional OPR, or the owner of the records, determines qualifying records, after coordination with any interested OCRs. As required by AFIs 33-129 and 35-205, OPRs request clearance of these records with the PAO before posting on the WWW.

(b) Normally, if the FOIA office or OPR receives, or anticipates receiving,

five or more requests for the same record in a quarter, they will consider it a frequently requested record (FOIA-processed (a)(2)(D) record) and make it publicly available in hard copy and electronically as outlined in § 806.12(a). OPRs may elect to make other records publicly available if they receive, or expect to receive, less than five requests a quarter. The purpose is to make records available in an ERR to potential future FOIA requesters instead of waiting to receive a FOIA request, and reduce the number of multiple FOIA requests for the same records requiring separate responses. In making these determinations, recognize there are some situations in which a certain type of record becomes the subject of simultaneous FOIA requests from all interested parties and then ceases to be of interest. Activities may typically receive a "flurry" of FOIA requests for contract records immediately after a contract is awarded, but do not receive any subsequent requests for such bulky records after that point. In some cases, activities may decide that placing records in the ERR would not serve the statutory purpose of "diverting some potential FOIA requests for previously released records." The following types of records should be considered for inclusion in the ERR (excluding individuals assigned to overseas, sensitive, and routinely deployable units): organizational charts and limited staff directories; lists of personnel reassigned with gaining base; MAJCOM FOIA supplements; lists of International Merchant Purchase Authority Card (IMPAC) card holders. Do not post lists of e-mail addresses.

(c) GILS. Each activity that posts FOIA-processed (a)(2)(D) records (records which they determine will, or have become, the subject of frequent or subsequent requests) must create a GILS record for each FOIA-processed (a)(2)(D) record and post it to DefenseLINK. The OPR prepares the GILS record. You can complete and submit a GILS record on-line using a web browser. Instructions for completing the GILS record, and an on-line form are at <http://www.defenselink.mil/locator/index.html>. Follow the steps listed on the web page. The GILS site on DefenseLINK will serve as the central index of Air Force FOIA-processed (a)(2)(D) records.

(d) In addition, installations will post a list, or index, of locally produced FOIA-processed (a)(2)(D) records on their web page at their FOIA site. Each listing will point or link to the particular record. In addition, MAJCOMs may choose to post their own index of MAJCOM specific FOIA-

processed (a)(2)(D) records to their appropriate web site. Installation web pages will include the following phrase (or similar words) on their FOIA site if they do not have any frequently requested FOIA records to post at this time." Include the following statement, or a similar one, on the installation web page with the records: "Some records are released to the public under the FOIA, and may therefore reflect deletion of some information in accordance with the FOIA's nine statutory exemptions. A consolidated list of such records is on DefenseLINK." Link the word "DefenseLINK" to [www.defenselink.mil/locator/fpr\\_index.html](http://www.defenselink.mil/locator/fpr_index.html). Qualifying releasable records with exempt information redacted must show on the record the amount of information withheld and the exemption reason (for example, (b)(6)). Activities with such records should provide the public an index and explanation of the FOIA exemptions. All installation FOIA pages will include a link to the Air Force page.

(e) FOIA web pages should be clearly accessed from the main installation page, either by a direct link to "FOIA" or "Freedom of Information Act" from the main page, or found under a logical heading such as "Library" or "Sites."

#### **§ 806.13 "5 U.S.C. 552(a)(2)" materials.**

The GILS records on DefenseLINK will serve as the index for 5 U.S.C. 552(a)(2)(D) materials.

#### **§ 806.14 Other materials.**

HQ AFCIC/ITC makes the appropriate FOIA-processed (a)(1) materials available for the Air Force.

#### **§ 806.15 FOIA exemptions.**

(a) *Exemption number 1.* When a requester seeks records that are classified, or should be classified, only an initial classification authority, or a declassification authority, can make final determinations with respect to classification issues. The fact that a record is marked with a security classification is not enough to support withholding the document; make sure it is "properly and currently classified." Review the record paragraph by paragraph for releasable information. Review declassified and unclassified parts before release to see if they are exempt by other exemptions. Before releasing a reviewed and declassified document, draw a single black line through all the classification markings so they are still legible and stamp the document unclassified. If the requested records are "properly and currently classified," and the Air Force withholds

from release under FOIA exemption (b)(1), and the requester appeals the withholding, include a written statement from an initial classification authority or declassification authority certifying the data was properly classified originally and that it remains properly classified per Executive Order. Examples of initial classification and declassification authority statements are included in § 806.27. Guidance on document declassification reviews is in AFI 31-401, Managing the Information Security Program, and DoD 5200.1-R, Information Security Program, January 1997.

(b) *Exemption number 3.* HQ AFCIC/ITC will provide the current FOIA-processed (b)(3) statutes list to the MAJCOMs.

(c) *Exemption number 4.* The Air Force, in compliance with Executive Order 12600, will advise submitters of contractor-submitted records when a FOIA requester seeks the release of such records, regardless of any initial determination of whether FOIA exemption (b)(4) applies. (See § 806.20(a) and § 806.31). Due to a change to Title 48 CFR, Federal Acquisition Regulations System, submitter notification is not required prior to release of unit prices contained in contracts awarded based upon solicitations issued after January 1, 1998. For solicitations issued before January 1, 1998, conduct a normal submitter notice. Unit prices contained in proposals provided prior to contract award are protected from release, as are all portions of unsuccessful proposals (before and after contract award) (10 U.S.C. 2305(g), Prohibition on Release of Contractor Proposals).

(d) *Exemption number 5.* (1) Attorney-client records could include, e.g., when a commander expresses concerns in confidence to his or her judge advocate and asks for a legal opinion. The legal opinion and everything the commander tells the judge advocate in confidence qualify under this privilege. Unlike deliberative process privilege, both facts and opinions qualify under the attorney work product or attorney-client privilege. Attorney work product records are records an attorney prepares, or supervises the preparation of, in contemplating or preparing for administrative proceedings or litigation.

(2) Based on court decisions in FOIA litigation, which led to the release of results of personnel surveys, FOIA managers and IDAs should get advice from an Air Force attorney before withholding survey results under FOIA exemption (b)(5).

(e) *Exemption number 6.* (1) AFI 37-132, Air Force Privacy Act Program

(will convert to AFI 33-332) provides guidance on collecting and safeguarding social security numbers (SSN). It states: "SSNs are personal and unique to each individual. Protect them as FOUO. Do not disclose them to anyone without an official need to know." Before releasing an Air Force record to a FOIA requester, delete SSNs that belong to anyone other than the requester. In any subsequent FOIA release to a different requester of those same records, make sure SSNs are deleted. When feasible, notify Air Force employees when someone submits a FOIA request for information about them. The notification letter should include a brief description of the records requested. Also include a statement that only releasable records will be provided and we will protect personal information as required by the FOIA and Privacy laws.

(2) Personal information may not be posted at publicly accessible DoD web sites unless to do so is clearly authorized by law and implementing regulation and policy. Personal information should not be posted at nonpublicly accessible web sites unless it is mission essential and appropriate safeguards have been established. See also AFIs 33-129 and 35-205.

(3) Withhold names and duty addresses of personnel serving overseas or in sensitive or routinely deployable units. Routinely deployable units normally leave their permanent home stations on a periodic or rotating basis for peacetime operations or for scheduled training exercises conducted outside the United States or United States territories. Units based in the United States for a long time, such as those in extensive training or maintenance activities, do not qualify during that period. Units designated for deployment on contingency plans not yet executed and units that seldom leave the United States or United States territories (e.g., annually or semiannually) are not routinely deployable units. However, units alerted for deployment outside the United States or United States territories during actual execution of a contingency plan or in support of a crisis operation qualify. The way the Air Force deploys units makes it difficult to determine when a unit that has part of its personnel deployed becomes eligible for denial. The Air Force may consider a unit deployed on a routine basis or deployed fully overseas when 30 percent of its personnel have been either alerted or actually deployed. In this context, alerted means that a unit has received an official written warning of an impending operational mission outside the United States or United

States territories. Sensitive units are those involved in special activities or classified missions, including, for example, intelligence-gathering units that collect, handle, dispose of, or store classified information and materials, as well as units that train or advise foreign personnel.

(i) Each MAJCOM and FOA will establish a system and assign OPRs to identify United States-based units in their command qualifying for the "sensitive or routinely deployable unit" designation, under this exemption. Appropriate OPRs could include directors of operations, plans and programs, and personnel.

(ii) MAJCOM FOIA managers will ensure the list of sensitive and routinely deployable units is reviewed in January and July, and will follow that review with a memo to the Air Force Personnel Center (HQ AFPC/MSIMD), 550 C Street West, Suite 48, Randolph AFB, TX 78150-4750, either validating the current list or providing a revised listing based on the current status of deployed units at that time. This listing is in American Standard Code for Information Interchange (ASCII) format on a 3½" (double-sided, high-density) diskette, which contains the unit's eight-position personnel accounting symbol (PAS) code, with one PAS code per line (record) (8-byte record). The MAJCOM FOIA manager will send an electronic copy of the list of nonreleasable units to HQ AFPC/MSIMD which is included in the personnel data system. The MAJCOM and HQ AFPC FOIA offices will use it to determine releasable lists of names and duty addresses. This reporting requirement is exempt from licensing with a reports control symbol (RCS) in accordance with AFI 37-124, The Information Collections and Reports Management Program; Controlling Internal, Public, and Interagency Air Force Information Collections (will convert to AFI 33-324).

(f) *Exemption number 7.* Guidance provided in § 806.15(e)(1) also applies to SSNs in records compiled for law enforcement purposes. Do not disclose SSNs to anyone without an official need to know.

#### **§ 806.16 For official use only.**

(a) Markings. Record owners may also add the following sentence to the statement above: "(Further distribution is prohibited without the approval of (owner's organization, office symbol, phone).)"

(b) Dissemination and transmission.

(1) When deciding whether to send FOUO records over facsimile equipment, balance the sensitivity of the

records against the risk of disclosure. When faxing, use cover sheets to indicate FOUO attachments (*i.e.*, AF Form 3227, Privacy Act Cover Sheet, for Privacy Act information). Consider the location of sending and receiving machines and ensure authorized personnel are available to receive FOUO information as soon as it is transmitted.

(2) For Privacy Act records, refer to AFI 33-332 for specific disclosure rules. For releases to GAO and Congress, refer to AFI 90-401, Air Force Relations With Congress and AFI 65-401, Relations With the General Accounting Office. See § 806.9(b) for availability.

(c) Termination, disposal and unauthorized disclosures. You may recycle FOUO material. Safeguard the FOUO documents or information to prevent unauthorized disclosure until recycling. Recycling contracts must include specific responsibilities and requirements on protecting and destroying FOUO and Privacy Act materials.

#### **§ 806.17 Release and processing procedures.**

(a) Individuals seeking Air Force information should address requests to an address listed in § 806.26. MAJCOM FOIA office phone numbers and mailing addresses are available on the Air Force FOIA Web Page at <http://www.foia.af.mil>.

(1) A list of Air Force FOIA processing steps, from receipt of the request through the final disposition of an administrative appeal is at § 806.29, which also includes guidance on preparing and processing an Air Force FOIA appeal package.

(2) Air Force host tenant relationships. The Air Force host base FOIA manager may log, process, and report FOIA requests for Air Force tenant units. In such cases, the host base FOIA office refers all recommended denials and "no records" appeals to the Air Force tenant MAJCOM FOIA manager. This does not apply to the Air National Guard (ANG), Air Force Reserves, or to disclosure authorities for specialized records.

(b) Use FOIA procedures in this part to process any congressional request citing FOIA, or covering a constituent letter citing FOIA. This does not apply to requests from a Congressional Committee or Subcommittee Chair on behalf of the committee or subcommittee.

#### **§ 806.18 Initial determinations.**

(a) Disclosure authorities make final decisions on providing releasable records within the time limits and provide recommendations to the IDA on

proposed denials and partial denials after coordination with the appropriate FOIA and JA office. Normally, disclosure authorities are division chiefs or higher at Air Staff level. MAJCOMs will designate their disclosure authority levels. The level should be high enough so a responsible authority makes the disclosure according to the policies outlined in this part. At out sourced units or functions, the disclosure authority must be a government official. Contractors who are functional OPRs for official government records are not authorized to make the decision to disclose government records.

(b) On receipt, Air Force FOIA offices will promptly inform Air Force PAOs of all FOIA requests that are potentially newsworthy, or that are submitted by news media requesters. FOIA offices will coordinate final replies for such cases with public affairs.

#### **§ 806.19 Reasonably segregable portions.**

Delete information exempt from release under the FOIA from copies of otherwise releasable records. Do not release copies that would permit the requester to "read through the marking." Examples of records with deletions of exempted data are in § 806.30.

#### **§ 806.20 Records of non-U.S. government source.**

(a) The Air Force, in compliance with Executive Order 12600, will advise submitters of contractor-submitted records when a FOIA requester seeks the release of such records, regardless of any initial determination as to whether FOIA exemption (b)(4) applies. See § 806.15(c) and § 806.31. Due to a change to 48 CFR, submitter notification is not required prior to release of unit prices contained in contracts awarded based upon solicitations issued after January 1, 1998. For solicitations issued before January 1, 1998, conduct a normal submitter notice. Unit prices contained in proposals provided prior to contract award are protected from release, as are all portions of unsuccessful proposals (before and after contract award) (10 U.S.C. 2305(g)).

(b) Department of State involvement. Air Force FOIA managers will notify their MAJCOM (or equivalent) FOIA office, in writing, via fax or e-mail when the Department of State becomes involved in any Air Force FOIA actions. The MAJCOM FOIA office will provide 11 CS/SCSR, via fax or e-mail, a summary of the issues involved, and the name, phone number, mailing address and e-mail address of: their own FOIA office point of contact; the Air Force record OPR point of contact, the DoD

component FOIA office point of contact (if any), and the Department of State point of contact. 11 CS/SCSR will inform SAF/IA of any State Department involvement in Air Force FOIA actions. (See § 806.7(b).) An example of a memo advising 11 CS/SCSR of State Department involvement in an Air Force FOIA action is provided in § 806.27.

#### **§ 806.21 Appeals.**

(a) FOIA requesters seeking Air Force records must address appeals to the Office of the Secretary of the Air Force, through the FOIA office of the IDA that denied the request. Requesters should attach a copy of the denial letter to their appeal and give reasons for appealing. Air Force IDAs may reconsider any prior denials and may grant all or part of a requester's appeal. When any appellate action sought by a FOIA requester is denied by an IDA, the IDA will include a statement that the issues raised in the appeal were considered and rejected (in full or in part) in any file sent to the Secretary of the Air Force in the course of a FOIA appeal action. Send all appeals to IDA decisions at the wing level through the MAJCOM FOIA office for sending to the Secretary of the Air Force's designated appellate authority, SAF/GCA (and Air Force Legal Services Agency (AFLSA/JACL)). (See §§ 806.4(g), 806.5(b), and § 806.5(k).) Additional steps are required prior to sending an appeal file.

(1) MAJCOM FOIA offices and record OPRs are responsible for ensuring adequate preparation of the FOIA appeal package for reconsideration by the IDA. FOIA offices and records OPRs will coordinate with Air Force attorneys, who will provide written opinions on substantive issues raised in the appeal.

(2) If a requester appeals an Air Force "no records" determination, Air Force elements must search again or verify the adequacy of their first search. The package must include documents that show the Air Force element systematically tried to find responsive records. Tell, for example, what areas or offices were searched and how the search was conducted—manually, by computer, by telephone, and so forth. In the event a requester sues the Air Force to contest a determination that no responsive records exist, formal affidavits are required to support the adequacy of any searches conducted.

(3) FOIA requesters seeking to appeal denials involving Office of Personnel Management's controlled civilian personnel records must appeal to the Office of the General Counsel, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415.

(4) If a requester appeals a denial of a fee waiver, fee estimate, or fee reduction request, FOIA offices and record OPRs must account for actual and estimated costs of processing a request, and will include copies of the DD Forms 2086 or 2086-1 in the appeal package.

(5) When any appellate action sought by a FOIA requester is denied by an IDA, prepare the FOIA appeal package as specified in § 806.29, and then the MAJCOM FOIA office forwards the appeal file to the Secretary of the Air Force's designated appellate authority, SAF/GCA (through AFLSA/JACL), for a final administrative determination.

(b) Air Force activities will process appeal actions expeditiously to ensure they reach the Office of the Secretary of the Air Force in a timely manner.

#### § 806.22 Time limits.

Any FOIA appeals received after the 60-day time limit are not processed, unless the requester provides adequate justification for failing to comply with the time limit. If a late appeal is received, and there is no adequate justification for failing to comply with the time limit, the FOIA office will advise the FOIA requester their appeal has been closed. An example of a closure letter is included in § 806.27.

#### § 806.23 Delay in responding to an appeal.

For an appeal in process and not yet forwarded to AFLSA/JACL, the MAJCOM FOIA office is responsible for advising the requester of the status of the appeal. For an appeal in process at AFLSA/JACL, that office will advise the requester regarding status of the appeal.

#### § 806.24 Fee restrictions.

For FOIA purposes, Air Force activities will consider the cost of collecting a fee to be \$15 and will not assess requesters' fees for any amount less than \$15.

#### § 806.25 Annual report.

(a) MAJCOM FOIA managers and AFLSA/JACL send a consolidated report for the fiscal year on DD Form 2564, Annual Report Freedom of Information Act, to HQ AFCIC/ITC by October 30 via regular mail, e-mail, or facsimile.

AFLSA/JACL will prepare the appeals and litigation costs sections of the report. HQ AFCIC/ITC will make the Air Force report available on the WWW.

(b) Total requests processed. "Processed" includes responses that give an estimated cost for providing the records, even if the requester has not paid.

(c) Denied in full. Do not report "no record" responses as denials.

(d) Other reasons.

(1) *Referrals*. Also include referrals within Air Force in this category.

(2) *Not an agency record*. The "not an agency record" other reason category only applies to requests for: objects or articles such as structures, furniture, vehicles and equipment, whatever their historical value, or value as evidence; anything that is not a tangible or documentary record such as an individual's memory or oral communication; and personal records of an individual not subject to agency creation or retention requirements, created and maintained primarily for the convenience of an agency employee and not distributed to other agency employees for their official use. This category does not include "no record" responses.

(e) Other. The "Other (Specify)" block must contain the reason with the total number for the reason. For example: "FOIA request had no return address—4."

(f) 5 U.S.C. 552(b)(3) statutes invoked on initial determinations. A corresponding statute is required for each instance entered in the Exemption 3 block. List the statute by number, not title. For any statute on the report that is not on DoD's list of commonly used 5 U.S.C. 552(b)(3) statutes, attach a copy of the pertinent page of the statute that states information must be withheld from public disclosure. HQ AFCIC/ITC makes the DoD list available to FOIA managers electronically. Statutes on the DoD list with an asterisk indicate they are valid 5 U.S.C. 552(b)(3) statutes from litigation. Do not enter any of the following as 5 U.S.C. 552(b)(3) statutes:

5 U.S.C. 552  
5 U.S.C. 552a  
28 U.S.C. 1498  
17 U.S.C. 101  
18 U.S.C. 1905.

(g) Appeal determinations. Enter the total number of FOIA appeals received and total number of FOIA appeals completed during the fiscal year.

(h) Average. Air Force will use the "median age" and will not collect or report averages.

(i) Number of initial requests received during the fiscal year. This number includes open and closed cases.

(j) Total number of initial requests. "Processed" includes responses which give an estimated cost for providing the records, even if the requester has not paid.

(k) Total program cost. This figure includes all costs from the DD Forms 2086 and 2086-1, as well as personnel costs for individuals primarily involved in administering the FOIA program. To figure personnel costs, multiply the

annual salary of each person by the percentage of time spent on FOIA.

(l) MAJCOMs and bases do not include the 25 percent. HQ AFCIC/ITC will add to the final Air Force report to DoD.

(m) Authentication. MAJCOM SCs will sign as approving official (or two-letter functional equivalent for FOIA offices in other functional areas).

#### § 806.26 Addressing FOIA requests.

(a) FOIA requests concerning Air National Guard Inspector General records should be sent to 11 CS/SCSR (FOIA), 1000 Air Force Pentagon, Washington, DC 20330-1000.

(b) Addressing Air Force Freedom of Information Act requests. The Department of the Air Force, a component of the DoD, includes the Office of the Secretary of the Air Force, the Chief of Staff of the Air Force (who is supported by Headquarters Air Force or "Air Staff" elements), the MAJCOMs, the FOAs, and DRUs. This section lists the FOIA office addresses. A selected subordinate unit is also included in this section. Realignment of Air Force elements is frequent; addresses listed below are subject to change.

(c) The Department of the Air Force does not have a central repository for Air Force records. FOIA requests are addressed to the Air Force element that has custody of the record desired. In answering inquiries regarding FOIA requests, Air Force personnel will assist requesters in determining the correct Air Force element to address their requests. If there is uncertainty as to the ownership of the record desired, refer the requester to the Air Force element that is most likely to have the record. Two organizations that include Air Force elements, and hold some Air Force-related records, are also included in the addresses listed below.

(d) MAJCOMs:

- (1) Air Combat Command (ACC): HQ ACC/SCTC, 230 East Flight Line Road, Langley AFB VA 23665-2781.
- (2) Air Education and Training Command (AETC): HQ AETC/SCTS, 61 Main Circle Suite 2, Randolph AFB TX 78150-4545.
- (3) Air Force Materiel Command (AFMC): HQ AFMC/SCDP, 4225 Logistics Avenue, Suite 6, Wright-Patterson AFB, OH 45433-5745.
- (4) Air Force Reserve Command (AFRC): HQ AFRC/SCSM, 155 2nd Street, Robins AFB, GA 31098-1635.
- (5) Air Force Special Operations Command (AFSOC): HQ AFSOC/SCMN, 100 Bartley Street, Suite 201, Hurlburt Field, FL 32544-5273.
- (6) Air Force Space Command (AFSPC): HQ AFSPC/SCMA, 150 Vandenberg



- Street, Suite 1105, Peterson AFB, CO 80914-4400.
- (7) Air Mobility Command (AMC): HQ AMC/SCYNR, 203 West Losey Street, Room 3180, Scott AFB, IL 62225-5223.
- (8) Pacific Air Forces (PACAF): HQ PACAF/SCT, 25 E Street, Suite C220, Hickam AFB, HI 96853-5409.
- (9) United States Air Forces in Europe (USAFE): HQ USAFE/SCMI, Unit 3050, Box 125, APO AE 09094-0125.
- (e) FOAs:
- (1) Air Force Audit Agency (AFAA): HQ AFAA/IMP, 1126 Air Force Pentagon, Washington, DC 20330-1126.
- (2) Air Force Base Conversion Agency (AFBCA): AFBCA/ESA, 1700 North Moore Street, Suite 2300, Arlington, VA 22209-2802.
- (3) Air Force Center for Environmental Excellence (AFCEE): HQ AFCEE/MSI, 3207 North Road, Brooks AFB, TX 78235-5363.
- (4) Air Force Civil Engineering Support Agency (AFCEA): HQ AFCEA/IMD, 139 Barnes Drive Suite 1, Tyndall AFB, FL 32403-5319.
- (5) Air Force Historical Research Agency (AFHRA): AFHRA/RSA, 600 Chennault Circle, Maxwell AFB, AL 36112-6424.
- (6) Air Force Inspection Agency (AFIA): (Shared FOIA office/function, AFIA and Air Force Safety Agency) AFSA/JAR, 9700 Avenue G SE, Suite 236B, Kirtland AFB, NM 87117-5670.
- (7) Air Force Medical Support Agency (AFMSA): AFMSA/CCEA, 2510 Kennedy Circle, Suite 208, Brooks AFB, TX 78235-5121.
- (8) Air Force News Agency (AFNEWS): HQ AFNEWS/SCB, 203 Norton Street, Kelly AFB, TX 78241-6105.
- (9) Air Force Office of Special Investigations (AFOSI): HQ AFOSI/SCR, P. O. Box 2218, Waldorf, MD 20604-2218.
- (10) Air Force Personnel Center (AFPC): HQ AFPC/MSIMD, 550 C Street West, Suite 48, Randolph AFB, TX 78150-4750.
- (11) Air Force Center for Quality and Innovation (AFCQMI): AFCQMI/CSP, 550 E Street East, Randolph AFB, TX 78150-4451.
- (12) Air Force Safety Agency (AFSA): (Shared FOIA office/function, AFIA, and AFSA) AFSA/JARF, 9700 Avenue G SE, Suite 236B, Kirtland AFB, NM 87117-5670.
- (13) Air Force Security Forces Center (AFSFC): AFSFC/CCQ 1720 Patrick Street, Lackland AFB, TX 78236-5226.
- (14) Air Force Services Agency (AFSVA): AFSVA/SVSR, 9504 1H-35 North, Suite 250, San Antonio, TX 78233-6635.
- (15) Air Force Technical Applications Center (AFTAC): AFTAC/LSCS, 1030 South Highway, Suite A1A, Patrick AFB, FL 32925-6001.
- (16) Air Intelligence Agency (AIA): AIA/DOOI, 102 Hall Boulevard, Suite 229, San Antonio, TX 78243-7029.
- (17) Air Reserve Personnel Center (ARPC): ARPC/SCS, 6760 East Irvington Place, #6600, Denver, CO 80280-6600.
- (18) Air Force Weather Agency (AFWA): HQ AFWA/SCI, 106 Peacekeeper Drive Suite 2N3, Offutt AFB, NE 68113-4039.
- (19) Air Force History Support Office (AFHSO): AFHSO, 500 Duncan Avenue Box 94, Bolling AFB, DC 20332-1111.
- (f) DRUs:
- (1) Air Force Operational Test and Evaluation Center (AFOTEC): AFOTEC/SCM, 8500 Gibson Boulevard SE, Kirtland AFB, NM 87117-5558.
- (2) 11th Wing: 11 CS/SCSR (FOIA), 1000 Air Force Pentagon, Washington, DC 20330-1000 (if a person is unsure where to send a FOIA request for Air Force records, or is seeking records from the Office of the Secretary of the Air Force, or other Headquarters Air Force records, use this address).
- (3) United States Air Force Academy (USAF): 10 CS/SCBD, 2304 Cadet Drive, Suite 232, USAFA, CO 80840-5060.
- (g) Selected subordinate units: Air Force Communications Agency (AFCA): HQ AFCA/CCQI, 203 West Losey Street, Room 1022, Scott AFB, IL 62225-5203.
- (h) Organizations which include air force elements:
- (1) Army and Air Force Exchange Service (AAFES): HQ AAFES/GC-E, P.O. Box 660202, Dallas, TX 75266-0202.
- (2) National Guard Bureau (NGB)/Air National Guard: NGB-AD, 2500 Army Pentagon, Washington, DC 20310-2500. (FOIA requests concerning Air National Guard IG records should be sent to 11 CS/SCSR (FOIA), 1000 Air Force Pentagon, Washington, DC 20330-1000.)
- § 806.27 Samples of Air Force FOIA processing documents.**
- (a) This section includes suggested language in paragraph format that tracks Air Force and DoD FOIA guidance. The rest of the body of letters and memorandums should comply with Air Force administrative guidance. Each MAJCOM may elect to prepare their own verbiage to meet their specific needs, so long as FOIA processing actions are consistent with guidance in DoD 5400.7-R and this part. In this section, language in parentheses is for explanatory purposes only. Do not include any of the parenthetical language of this section in your FOIA

correspondence. When optional language must be selected, the optional language will be presented within parentheses. Use only the portions that apply to the specific request or response.

(b) Initial receipt of Freedom of Information Act request.

We received your Freedom of Information Act (FOIA) request dated ## Month year, for (summarize the request) on ## Month year (date received). We will provide you our release determination by (enter date that is 20 workdays from date you received the request). (Based on our initial review, we believe we cannot process your request within 20 workdays.) (If "cannot" is used, add appropriate explanation; examples follow.) Please contact (name and commercial telephone number) if you have any questions and refer to case number #####.

(c) Interim response:

Your request will be delayed because: all or part of the responsive records are not located at this installation; (and/or) Processing this FOIA request will require us to collect and review a substantial number of records (and/or) Other Air Force activities or other agencies (if applicable) to include the submitter of the information, need to be involved in deciding whether or not to release the responsive records. We expect to reply to your request not later than (give a date that is not more than 30 workdays from the initial receipt of the request); (or) If processing the FOIA request will take more than the allowed time limits to respond). We find we are unable to meet the time limits imposed by the FOIA in this instance because (tell the requester the reason for the delay) (example: the records are classified and must be reviewed for possible declassification by other activities or agencies). We anticipate completing your request by (date).

(When charging fees is appropriate.) The FOIA provides for the collection of fees based on the costs of processing a FOIA request and your fee category. Based on the information in your request, we have determined your fee category is (commercial/educational or noncommercial scientific institution or news media/all others). As a result, you (if commercial category) are required to pay all document search, review and duplication costs over \$15.00. (or) As a result, you (if educational or noncommercial scientific institution or news media) will be provided the first 100 pages free of charge; you are required to pay any duplication costs over and above those amounts. (or) As a result, you will be provided the first 2 hours of search time and the first 100 pages free of charge; you are required to pay any search and duplication costs over and above those amounts.

(d) Request for a more specific description:

Your request does not sufficiently describe the desired records. The FOIA applies to existing Air Force records; without more specific information from you, we cannot



identify what documents might be responsive to your request. Please give us whatever additional details you may have on the Air Force records you want. Can you tell us when the records were created, and what Air Force element may have created the records? If this request involves an Air Force contract, do you know the contract number and dates it covered? Our address is (include name and complete mailing address), our fax number is (give fax number), our e-mail address is (optional—give complete e-mail address). Based on the original request you sent us, we are unable to respond.

(e) Single letter acknowledging receipt of request and giving final response. (If you can complete a FOIA request within the statutory 20-workday processing period, Air Force elements may elect to send a single letter to the requester, along with responsive records which are released to the requester in full).

We received your Freedom of Information Act (FOIA) request dated ## Month year, for (summarize the request) on ## Month year (date received). A copy (or) Copies of (describe the record(s) being released) (is/are) releasable and (is/are) attached.

(f) Collection of fees:

The FOIA provides for the collection of fees based on the costs of processing a FOIA request and your fee category. We have placed you in the (enter the fee category) fee category. In your case, we have assessed a charge of \$\_\_\_\_ for processing your request. The fee was calculated in the following manner: (Give a detailed cost breakdown: for example, 15 pages of reproduction at \$0.15 per page; 5 minutes of computer search time at \$43.50 per minute, 2 hours of professional level search at \$25 per hour.) Please make your check payable to (appropriate payee) and send it to (give your complete mailing address) by (date 30 days after the letter is signed). (or) The FOIA provides for the collection of fees based on the costs of processing a FOIA request and your fee category. We have placed you in the (enter the fee category); however, in this case, we have waived collecting fees.

(g) Multitrack processing letters to FOIA requesters. (When using the multitrack FOIA processing system, determine which of the following paragraphs to include in your letters to the requester. To the extent it may apply, include language from paragraph 2 of the sample. If a requester asks for expedited processing, answer carefully if you decide not to provide expedited processing, because requesters may appeal denial of their request for expedited processing. Advise requesters placed into the complex track in writing how they can simplify their request to qualify for the simple track.)

We received your Freedom of Information Act (FOIA) request dated ## Month year, for (summarize the request) on ## Month year (date received). Because our organization has a significant number of pending FOIA

requests, which prevents us from making a response determination within 20 workdays, we have instituted multitrack processing of requests. Based on the information you provided, we have placed your request in the (simple or complex) track. We have assigned number ##### to identify your request; should you need to contact us about your request, please write or call (name and telephone) and use this number to assist us in responding more promptly.

Based on our current backlog, we expect to respond to your request not later than (give an estimated date). Our policy is to process requests within their respective tracks in the order in which we receive them. We do process each FOIA request as quickly as we can.

(h) If the request is placed in the complex track:

In your case, processing your request is complex because (give basic reasons this is a complex case: request was vague or complicated; the records sought are voluminous; multiple organizations will have to work on this request; records are classified; responsive records came from another command/another service/a nongovernment source; responsive records were part of the Air Force's decision-making process, and the prerelease review will require policy determinations from different Air Force elements; records describe law enforcement activities; records involve foreign policy issues; due to the nature of your request and/or the nature of our computer system, responding to your request or providing a response in the electronic format you requested will be technically complex, etc.). Simplifying your request might permit quicker processing in the following ways: (describe ways the search could be narrowed to fewer records, or ways policy issues could be avoided, etc.) Can you tell us when the records were created, and what Air Force element may have created the records? If this request involves an Air Force contract, do you know the contract number? Please give us whatever additional details you may have on the Air Force records you are seeking, so we can attempt to streamline the processing of your request. Our address is (give complete mailing address), our fax number is (give fax number), our e-mail address is (optional—give complete e-mail address).

(i) If the requester asks that you expedite their request:

Because individuals receiving expedited processing may receive a response before other earlier requesters, there are administrative requirements you must meet before we can expedite a request. In your request, you asked that we expedite processing. In order for us to expedite a request, the requester must provide a statement certifying the reasons supporting their request are true and correct to the best of their knowledge.

In the second category, "urgently needed" means the information itself has a particular value that it will lose if it is not disseminated quickly. Ordinarily this means the information concerns a breaking news story

of general public interest. Historic information, or information sought for litigation or commercial activities usually would not qualify for expedited processing in the second category. Also, the fact that a news organization has an internal broadcast or publication deadline, so long as the deadline was unrelated to the nature of the information itself (for example, the information was not a breaking news story of general public interest) would not make the information "urgently needed."

In this case, we have determined your FOIA request (will/will not) receive expedited processing. We came to this conclusion because you (did/did not) demonstrate you need the information because failure to obtain the records on an expedited basis (could or could not) reasonably expect to pose an imminent threat to life or physical safety of an individual (or) the information (is or is not) urgently needed in order to inform the public about actual or alleged Federal Government activity (or) failure to obtain the records on an expedited basis (could or could not) reasonably expect to lead to an imminent loss of substantial due process rights, (or) release (would or would not) serve a humanitarian need by promoting the welfare and interests of mankind (and/or) your request for expedited processing did not meet the statutory requirements of the FOIA; you did not provide enough information to make a determination of compelling need for the information you requested (and/or) you did not properly certify your request.

(j) If you deny a request for expedited processing:

If you consider our decision not to expedite your request incorrect, you may appeal our decision. Include in your appeal letter the reasons for reconsidering your request for expedited processing, and attach a copy of this letter. Address your appeal to Secretary of the Air Force through (address of MAJCOM FOIA office). In the meantime, we will continue to process your request in the (simple/complex) processing track.

(k) Certification, computer systems manager (electronic records or format requested).

(When answering a request for electronic records, based on the configuration of your hardware and/or software, certain factors may make a particular request complex. Have your computer system manager advise you whether or not they can create the new record/format on a "business as usual" basis. If producing the record/format would entail a significant expenditure of resources in time and manpower that would cause significant interference with the operation of the information system and adversely affect mission accomplishment, you do not need to process the request. The FOIA office needs to get a certification from the computer systems manager to document this determination to support their response. Possible language for this certification is provided below.)

I, (rank/grade and name) am the computer systems manager for (organization with electronic records responsive to FOIA request). In consultation with (FOIA office), I have considered the FOIA request of

(requester's name), our ##### (FOIA identifier), which asked for (describe electronic record or format). We (do/do not) have electronic records that are responsive to this request (or) data that we (can/cannot) configure into the requested format. (If there are electronic records) The existing electronic records (do/do not) contain nonreleasable data that we (can/cannot) remove from the electronic record. Because of the way our (computer system/database/software) (use all that apply, specify hardware and/or software nomenclature if possible; for example, IBM ###, Microsoft Excel) is configured, creating the electronic record (or) modifying the existing record/format would entail a significant expenditure of resources in time and manpower that would cause significant interference with the operation of the information system and adversely affect mission accomplishment (describe how responding would interfere and time/manpower resources required, give estimated reprogramming time, if possible). I have applied the DoD "standard of reasonableness" in considering this request. I understand that when the capability exists to respond to a FOIA request that would require only a "business as usual" approach to electronically extract the data and compile an electronic record or reformat data to satisfy a FOIA request, then creation of the electronic record or reformatting the data would be appropriate. In this case, a significant expenditure of resources and manpower would be required to compile the electronic record (or) reformat existing data. This activity would cause a significant interference with the operation of our automated information system. I certify creation of the electronic record (or) reformatting existing data in order to respond to this request would not be reasonable, under the circumstances.

Signature

(Date Signed) (Signature Block)

(Note: Some electronic data requests may include a request for software. You may have to release government-developed software that is not otherwise exempt, if requested under the FOIA. Exemptions 1—classified software, 2—testing, evaluation, or similar software, 3—exempt by statute, 5—deliberative process/privileged software, and 7—law enforcement operations software may apply, based on the nature of the requested software. If the software is commercial off-the-shelf software, as opposed to software developed by the government, the software may qualify to be withheld from release under FOIA exemption 4.

(l) "No (paper or electronic) records" or "requested format not available" letters.

This is in response to your Freedom of Information Act (FOIA) request dated ## Month year, for (summarize the request) on ## Month year (date received), our number #####.

A thorough search by (identify the unit(s) that tried to locate responsive records) did not locate any records responsive to your request. (If the requester asked questions, and there are no responsive records that would

provide the answers to those questions): The FOIA applies to existing Air Force records; the Air Force need not create a record in order to respond to a request.

(or) A thorough assessment by the OPR and the computer systems manager has determined we cannot provide the (electronic record data) in the format you requested. (If this can be done on a "business as usual basis):" (Paper copies American Standard Code for Information Interchange (ASCII) files) of the data you requested are attached.

If you interpret this "o records" response as an adverse action, you may appeal it in writing to the Secretary of the Air Force. Your appeal should be postmarked no later than 60 calendar days from the date of this letter. Address your letter as follows: Secretary of the Air Force, Thru: (MAJCOM FOIA Office), (mailing address).

The FOIA provides for the collection of fees based on the costs of processing a FOIA request and your fee category. We have placed you in the (enter category) fee category; however, in this case, we have waived fees. (If paper copies or ASCII files are provided: ) The FOIA provides for the collection of fees based on the costs of processing a FOIA request and your fee category. In your case, as a requester in the fee category of (add appropriate category), we have assessed a charge of \$\_\_\_\_ for processing your request. The fee was calculated in the following manner: (Give a detailed cost breakdown: for example, 15 pages of reproduction at \$0.15 per page; 5 minutes of computer search time at \$43.50 per minute, 2 hours of professional level search at \$25 per hour.) Please make your check payable to (appropriate payee) and send it to (give your complete mailing address) by (date 30 days after the letter is signed).

(m) Referral or coordination letters. (These letters are to tell the requester all or part of the request was referred to another Air Force organization, to refer or coordinate the request to another federal government organization, and to advise a nongovernment submitter a FOIA request was received for information they submitted.)G56

(1) Letter to requester.

(If all or part of a request has been referred, write to the requester:) Your Freedom of Information Act (FOIA) request dated ## Month year, for (summarize the request) received on ## Month year (date received), our number #####, was referred (or) must be coordinated with (give mailing address of the FOIA office to which you are referring all or part of the request, the identity of the federal government organization you are either coordinating with or are referring all or part of the request to, or that you must coordinate with the nongovernment submitter of responsive information). (On referrals:) That office will process (all/part) of your request (describe which part is being referred if the entire request is not being referred) and they will respond directly to you. (On coordinations:) That organization has a significant interest in the records (or) created the records that may answer to your request.

(Before notifying a requester of a referral to another DoD component or federal agency, consult with them to determine if their association with the material is exempt. If so, protect the association and any exempt information without revealing the identity of the protected activity.) (When a nongovernment submitter is involved:) The nongovernment submitter of information that may answer your request needs time to respond to the possible release of information under the FOIA.

Because we must refer (or) coordinate your request outside our organization, your request will be delayed. We will determine whether any records are available; as soon as is practicable, a decision will be made whether to release or to withhold from disclosure any responsive records under the FOIA, 5 U.S.C. 552. Your request will be processed as expeditiously as circumstances permit.

(2) Letter to another government agency.

(If all or part of a request was referred or requires coordination, write to the government entity:) On ## Month year (date received), our organization received a Freedom of Information Act (FOIA) request from (identity of requester), Attachment 1, dated ## Month year, for (summarize the request). Based on our assessment of that request, our number #####, we need to (refer/coordinate) (all/part) of that request to you (describe which part is being referred or coordinated, if it was not the entire request). (Name and phone number of person who agreed to the referral or coordination) accepted this referral (or) coordination action was on (date). We notified the requester of this action (see § 806.31).

We (do/do not) hold records responsive to this request. (If do hold is used:) Copies of responsive records located in our files are included at Attachment 3 to assist you in making your assessment on the releasability of (our/your) related records. If you need to contact us, our phone number and address is (give name, phone and complete mailing address), our fax number is (give fax number), our e-mail address is (give complete e-mail address).

(3) Letter to submitter of contract-related information.

(If contractor-submitted information is involved, write to the submitter:) On ## Month year (date received), our organization received a Freedom of Information Act (FOIA) request from (identity of requester), our number #####, dated ## Month year, for (summarize the request). Information you submitted to the Air Force was identified as responsive to this request, see copies attached.

To determine the releasability of the information contained in these documents and to give you the maximum protection under the law, please review the attached documents and give us the information outlined in § 806.31. If you feel the information is privileged or confidential, consists of proprietary commercial or financial information, and otherwise meets the statutory requirements for withholding

the information from release under FOIA exemption 4, 5 U.S.C. 552(b)(4), respond to us in writing not later than ## working days from the date of this letter (usually 30 calendar days). If you object to release of this information under the FOIA, identify the items, lines, columns or portions you believe we should withhold from release.

You will also need to provide a written explanation of how release would adversely impact or cause harm to your competitive position, your commercial standing, or other legally protected interests. An assertion that "we should deny because all of the information was submitted in confidence" or "deny because all of the information was marked as proprietary in nature" would not justify withholding of the requested information under the FOIA. If you need to contact us, call or write (give name), phone number is (give commercial number), our address is (give complete mailing address), our fax number is (give fax number), our e-mail address is (give complete e-mail address).

(4) Letter requesting State Department coordination. (If the State Department is involved in coordinating on a request, fax or e-mail 11 CS/SCSR so they can inform SAF/IA if appropriate).

On ## Month year (date received), our organization received a Freedom of Information Act (FOIA) request from (identity of requester), our number ####, dated ## Month year, for (summarize the request). Because of the nature of this request, we were advised by (note the individual and organization who told you to coordinate the request with the State Department; this may be a MAJCOM or Combatant Command—give telephone and facsimile numbers if known) we need to coordinate this request with the Department of State. In accordance with DoD 5400.7-R, Air Force Supplement, we are informing you of their involvement in this FOIA request. (Provide any specifics available.) Air Force records are involved in this action. If you need to contact us, our phone number is (give commercial and DSN numbers), our address is (give complete mailing address), our fax number is (give fax number), our e-mail address is (give complete e-mail address).

(n) Certification of initial classification or declassification authority (When denying a FOIA request, in whole or in part, because the information requested is classified, the initial classification authority, his or her successor, or a declassification authority, needs to determine if the records are "properly and currently classified," and therefore must be withheld from release under FOIA exemption (b)(1); also, you need to determine that you cannot release any reasonably segregable additional portions. Language that certifies such a determination was made on a FOIA request involving classified records follows).

(1) Sample certification format—all information remains classified.

I, (rank/grade and name) am the initial classification authority (or) the successor to the original initial classification authority (or) the declassification authority for (give an unclassified description of the records concerned). In consultation with (FOIA office), I have assessed the FOIA request of (requester's name), our #### (FOIA identifier), for records that were properly classified at the time of their creation and currently remain properly classified in accordance with Executive Order (E.O.) 12958, National Security Information, (or) contain information that we have determined is classified in accordance with E.O. 12958 Section 1.5( ) (or) in accordance with E.O. 12958 Section 1.5( ) and is also exempt from declassification in accordance with Section 1.6( ) of the E. O. (or if the record is more than 25 years old) contain information that we have determined is exempt from declassification in accordance with E.O. 12958 Section 3.4(b)( ). Unauthorized release could cause (for TOP SECRET use exceptionally grave; for SECRET use serious; for CONFIDENTIAL do not add language; should read cause damage) damage to national security. There are no reasonably segregable portions that we can release. Consequently release of this information is denied pursuant to 5 U.S.C. 552(b)(1).

Signature

(Date Signed) (Signature Block)

(2) Sample certification format—portions remain classified.

I, (rank/grade and name) am the initial classification authority (or) the successor to the original initial classification authority (or) the declassification authority for (give an unclassified description of the records concerned). In consultation with (FOIA office), I have assessed the FOIA request of (requester's name), our #### (FOIA identifier), that asked for records, (or) portions of which were properly classified at the time of their creation. Portions of the records currently remain properly classified in accordance with E.O. 12958. The bracketed information is currently and properly classified in accordance with Section 1.5 (add appropriate subparagraph), E.O. 12958, and is also exempt from declassification in accordance with Section 1.6( ) of the Executive Order (or if the record is more than 25 years old) contain information that we have determined is exempt from declassification in accordance with E.O. 12958 Section 3.4(b)( ). Unauthorized release could cause (for TOP SECRET use exceptionally grave; for SECRET use serious; for CONFIDENTIAL do not add language; should read cause damage) damage to national security. There are no other reasonably segregable portions that we can release. Consequently this information is denied pursuant to 5 U.S.C. 552(b)(1).

Signature

(Date Signed) (Signature Block)

(c) Letter to a requester who has withdrawn their request or appeal. (If a FOIA requester has withdrawn a FOIA request or appeal, sending a final letter

to the requester to close the file may be wise. Suggested language to the requester follows):

We received your Freedom of Information Act (FOIA) request (or) appeal dated ## Month year, on ## Month year (date received). After sending us your request (or) appeal, you indicated by (facsimile, letter) that you wished to withdraw your request (or) appeal. We have, therefore, closed your file without further action.

(p) Letter to a requester who has appealed after the 60-day deadline. (We will not process FOIA appeals received after the 60-day time limit, unless the requester provides adequate justification for failing to comply. If you receive a late appeal, and it gives inadequate justification for failing to comply, the FOIA office will advise the requester their appeal was closed; suggested language for a letter to an untimely requester follows.)

We received your Freedom of Information Act (FOIA) appeal dated ## Month year, on ## Month year (date received). You did not appeal within 60 days of the postmarked date of our denial letter as outlined in our agency regulation. Therefore, we are closing our file.

(q) Letter to a requester who has appealed. (There are occasions when, on reconsideration, an IDA grants all or part of an appeal. When sending their appeal to higher headquarters, notify the requester. Suggested language to a requester who has appealed follows):

We received your Freedom of Information Act (FOIA) appeal, our number ####, dated ## Month year, on ## Month year (date received). We considered the issues raised in your appeal carefully. We have decided to grant (or) partially grant your appeal.

(If you grant all or part of the appeal): Upon reconsideration, we are releasing the requested records (or) granting your request. (If the appeal is only partially granted, describe what portions remain in dispute). (If applicable): We are releasing and attaching all or portions of the responsive records. (If applicable): We will continue processing your appeal for the remaining withheld (records/information).

#### **§ 806.28. Records with special disclosure procedures.**

Certain records have special administrative procedures to follow before disclosure. Selected publications that contain such guidance are listed below.

- (a) AFI 16-701, Special Access Programs.
- (b) AFI 31-206, Security Police Investigations.
- (c) AFI 31-501, Personnel Security Program Management.
- (d) AFI 31-601, Industrial Security Program Management.
- (e) AFI 36-2603, Air Force Board for Correction of Military Records.

- (f) AFI 36-2706, Military Equal Opportunity and Treatment Program.
- (g) AFI 36-2906, Personal Financial Responsibility.
- (h) AFI 36-2907, Unfavorable Information File (UIF) Program.
- (i) AFI 40-301, Family Advocacy.
- (j) AFI 41-210, Patient Administration Functions.
- (k) AFI 44-109, Mental Health and Military Law.
- (l) AFI 51-201, Administration of Military Justice.
- (m) AFI 51-301, Civil Litigation.
- (n) AFI 51-303, Intellectual Property-Patents, Patent Related Matters, Trademarks, and Copyrights.
- (o) AFI 51-501, Tort Claims.
- (p) AFI 51-503, Aircraft, Missile, Nuclear and Space Accident Investigations.
- (q) AFI 51-504, Legal Assistance, Notary and Preventive Law Programs.
- (r) AFI 51-1102, Cooperation with the Office of the Special Counsel.
- (s) AFI 61-204, Disseminating Scientific and Technical Information.
- (t) AFI 61-303, Licensing Inventions Made Under Cooperative Research and Development Agreements.
- (u) AFI 71-101, Volume 1, Criminal Investigations, and Volume 2, Protective Service Matters.
- (v) AFI 84-101, Historical Products, Services, and Requirements.
- (w) AFI 90-301, Inspector General Complaints.
- (x) AFI 91-204, Safety Investigations and Reports.

**§ 806.29. Administrative processing of Air Force FOIA requests.**

(a) This section is a checklist format of processing steps and explanations of Air Force and DoD guidance. Each MAJCOM may elect to prepare its own checklists to tailor FOIA processing actions within its own organizations to meet their specific needs, so long as it remains consistent with guidance contained in DoD 5400.7-R, DoD Freedom of Information Act Program, and this part.

(b) Procedures: FOIA requests.

(1) Note the date the request was received, give the request a unique identifier/number, and log the request.

(2) Assess the request to determine initial processing requirements:

(3) Determine what Air Force elements may hold responsive records.

(i) Are responsive records kept at the same or different installations?

(ii) Is referral of (all/part) of the request required?

(4) Determine appropriate processing track (simple/complex/expedited). (Air Force FOIA offices without backlogs do not multitrack FOIA requests.)

**Note:** Requesters have a right to appeal an adverse tracking decision (for example, when it is determined their request will not be expedited). Also, if their request qualifies for the complex track, tell requesters so they may limit the scope of their request in order to qualify for the simple track. FOIA managers must assess a request before placing it into a specific processing track, and must support their actions should the requester appeal. If a request is determined to be complex, or is not expedited when the requester sought expedited processing, you must advise the requester of the adverse tracking decision in writing. See § 806.27 for sample language for this kind of letter to a requester.

(i) Simple. Defines a request that can be processed quickly, with limited impact on the responding units. The request clearly identifies the records, involves no (or few) complicating factors (e.g., there are few or no responsive records, involves only one installation and there are no outside OPRs, involves no classified records (Exemption 1), a law exempts the responsive records from disclosure (Exemption 3), no contractor-submitted records (Exemption 4), no deliberative process/privileged materials (Exemption 5), records contain no (or limited) personal privacy information/did not come from Privacy Act systems of records concerning other individuals (Exemption 6), release of records would have minimal impact on law enforcement (Exemption 7); no time extensions expected, other than the additional 10-workdays allowed in situations outlined in the FOIA). If the requested data must come from electronic records, response can be completed on a "business-as-usual" basis; requires no (or limited) reprogramming of automated information systems and would cause no significant interference with operation of information systems by processing a simple request/providing a response in the electronic format requested.

(ii) Complex. Defines a request whose processing will take substantial time, will cause significant impact on responding units. Complications and delays are likely (e.g., the request is vague (poor description of records, unclear who or when records were created), records are massive in volume, multiple organizations will receive tasking, records are classified (Exemption 1), records came from another command/service/a nongovernment source (Exemption 4), records are part of the Air Force's decision-making process, and not incorporated into a final decision (IG/audit reports, legal opinions, misconduct or mishap investigations etc.) or are attorney-client records

(Exemption 5), records are largely personal information on another individual or came from Privacy Act systems of records (Exemption 6), records describe law enforcement activities or information from (and/or identities of) confidential sources (Exemption 7); response cannot be completed on a "business as usual" basis and would require extensive reprogramming or cause significant interference with operation of the automated information systems. (Advise requester, in writing, of right to limit the scope of their request in order to qualify for simple track.)

(iii) An expedited request is when a requester asks for expedited processing and explains the compelling need (imminent threat to life or physical safety; urgently needed by a person primarily engaged in disseminating information; due process; or humanitarian need) for the requested information. In order to receive expedited processing, requesters must provide a statement certifying their "demonstration" (description) of their specific "compelling need" or due process/humanitarian need is true and correct to the best of their knowledge. When a requester seeks expedited processing, FOIA offices must respond in writing to the requester within 10 calendar days after receipt of the request approving or denying their request for expedited processing. Requesters have a right to appeal an adverse decision (e.g., when it is determined their requests will not be expedited). There are four categories of FOIA requests that qualify for expedited processing:

(A) The requester asserts a "compelling need" for the records, because a failure to obtain records quickly could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.

(B) The requester asserts a "compelling need" for the records, because the information is "urgently needed" by an individual engaged in disseminating information to inform the public (primarily news media requesters; and could also include other persons with the ability to disseminate information).

**Note:** "Urgently needed," in this case, means the information has a particular value that will be lost if it is not disseminated quickly. This normally would apply to a breaking news story of general public interest. Information of historical interest only, or sought for litigation or commercial activities would not qualify, nor would the fact a news media entity had an internal broadcast deadline of its own, which was unrelated to the "news breaking nature" of the information itself, cause the requested information to qualify as "urgently needed."

(C) Failure to obtain records quickly could cause imminent loss of substantial due process rights or providing the information quickly would serve a "humanitarian need" (i.e., disclosing the information will promote the welfare and interests of mankind). While FOIA requests falling into these third and fourth categories can qualify for expedited processing, process them in the expedited track behind the requests qualifying for expedited processing based on "compelling need" (the first two types of expedited FOIA requests).

(5) Determine fee category of requester (commercial/educational—noncommercial scientific institution—news media/all others) and assess fee issues. When all assessable costs are \$15.00 or less, waive fees automatically for all categories of requesters. Assess other fee waiver or reduction requests on a case-by-case basis.

(6) Apply fee waiver/fee reduction criteria in appropriate cases (when requester asks for fee waiver/reduction).

(7) Find the responsive Air Force records (if any).

(i) Send the request to the appropriate OPRs to search for responsive records and to decide whether to recommend release of any responsive records. Include a DD Form 2086, Record of Freedom of Information (FOI), or a DD Form 2086-1, Record of Freedom of Information (FOI) Processing Cost for Technical Data, in each request. The OPR must complete and return the appropriate forms and statements to the FOIA office.

(ii) If the OPRs find no responsive records, or if the OPRs desire to withhold any responsive records from release to the requester, the OPRs must provide a written certificate detailing either their unsuccessful search, or their reasons why the documents should be withheld from release under the FOIA; the written OPR statements must accompany the copies of the records the OPR desires to withhold as the FOIA action is processed (e.g., include it in any denial or appeal file).

**Note:** If any part of a FOIA request is denied, and the requester appeals that denial, include all forms, certificates and documents prepared by the OPRs in the FOIA appeal package required in paragraph (d)(5) of this section.

(c) Contacts with FOIA requesters and non-Air Force submitters of data.

(1) Contacts with Air Force elements. A FOIA request is considered "received" (and therefore ready to process) when the FOIA office responsible for processing the request physically receives it, when the

requester states a willingness to pay fees set for the appropriate fee category, or, if applicable, when the requester has paid any past FOIA debts and has reasonably described the requested records. Keep hard/paper copies of all memoranda documenting requester contacts with Air Force elements regarding a pending FOIA request in the requester's FOIA file. If the requester contacts Air Force elements telephonically about a pending FOIA request, the Air Force member participating in the conversation must prepare notes or memorandums for record (MFR), and keep those notes or MFRs in the requester's FOIA file. If any part of a FOIA request is denied, and the requester appeals that denial, submit documentation of requester contacts with Air Force elements in chronological order in the FOIA appeal package (see paragraph (d)(1) of this section).

(2) Contacts with the FOIA Requester. See § 806.27 for samples of language to use in various types of Air Force FOIA letters. If any part of a FOIA request is denied, and the requester appeals that denial, submit documents sent by Air Force elements to the requester in the FOIA appeal package in chronological order (see paragraph (d)(5) of this section). Letters that Air Force FOIA offices may need to send to a FOIA requester include:

(i) An initial notification letter that the FOIA request was received. This letter may advise the requester that processing of the FOIA request may be delayed because:

(A) All or part of the requested records are not located at the installation processing the FOIA request (see § 806.29(c)(2)(ii)).

(B) An enormous number of records must be collected and reviewed.

(C) Other Air Force activities or other agencies, to include (if applicable) the nongovernment submitter of information, need to be involved in deciding whether or not to release the records.

(D) If you cannot complete processing of a FOIA request within 20 workdays, advise the requester of the reasons for the delay and give a date (within 30 workdays after receiving the request) when the requester can expect a final decision.

(ii) The initial notification letter may advise the requester all/part of the request was referred to another Air Force element or government activity.

(iii) The initial notification letter may advise the requester of the appropriate fee category. In cases where fees are appropriate, and requesters have not agreed to pay for responsive records and

fees are likely to be more than \$15.00, seek assurances that the requester agrees to pay appropriate fees. If more information is needed to make a fee category determination, or to determine whether fees should be waived/reduced, inform the requester. FOIA offices may determine fee waiver/reduction requests before processing a FOIA request; if a fee waiver/reduction request is denied, the requester may appeal that denial; he/she may also appeal an adverse fee category determination (e.g., asked for news media fees, but was assessed commercial fees.)

(iv) The initial notification letter may advise the requester the request does not sufficiently describe the desired records. If possible, help the requester identify the requested records by explaining what kind of information would make searching for responsive records easier.

(v) If Air Force elements can complete a FOIA request within the statutory 20-workday processing period, you may elect to send only a single letter to the requester, along with responsive records that are released to the requester in full.

(vi) A letter to the requester that the responding FOIA office uses multitrack processing due to a significant number of pending requests that prevents a response determination from being made within 20 workdays. This letter advises the FOIA requester that track the request is in (simple/complex); in this letter, if expedited processing was requested, the requester is advised if the request will be expedited or not. If the request is found to be complex, you must advise the requester he/she may alter the FOIA request to simplify processing. If it is determined the request will not be expedited, the requester must be told he/she can appeal. (This may be the initial letter to the requester, for Air Force elements with multitrack processing; if that is the case, this letter may include sections discussed in § 806.29(c)(2)(i)).

(vii) Subsequent letters to the requester on various subjects (for example, releasing requested records; advising reasons for delays; responding to the letters, facsimiles or calls; advising the requester of referrals to other Air Force units or government activities; involves a non-Air Force submitter, etc.).

(viii) A release letter to the requester, forwarding releasable responsive records with a bill (if appropriate).

(ix) A "no records" response letter to the requester if there are no responsive records, or, a denial letter, if any responsive records are withheld from release. FOIA managers may sign "no records" or "requested format not available" responses; they may also sign

a letter that advises a requester the fee category sought was not determined to be appropriate, or that a fee waiver/fee reduction request was disapproved, or that a request for expedited processing has been denied. An IDA must sign any letter or document withholding responsive records. When denying records, you must tell the requester, in writing: the name and title or position of the official who made the denial determination, the basis for the denial in enough detail to permit the requester to make a decision concerning appeal, and the FOIA exemptions on which the denial is based. The denial letter must include a brief statement describing what the exemptions cover. When the initial denial is based (in whole or in part) on a security classification, this explanation should include a summary of the applicable executive order criteria for classification, as well as an explanation of how those criteria apply to the particular record in question. Estimate the volume of the records denied and provide this estimate to the requester, unless providing such an estimate would harm an interest protected by an exemption of the FOIA. This estimate should be in number of pages or, for records in other media, in some other reasonable form of estimation, unless the volume is otherwise indicated through deletions on records disclosed in part. Indicate the size and location of the redactions on the records released. You must also tell the requester how he/she can appeal the denial.

(3) Contacts with non-Air Force submitters of data. Before releasing data (information or records) submitted from outside the Air Force, determine whether you need to write to the submitter of the data for their views on releasability of their data. In many cases, this non-Air Force data may fall under FOIA Exemption 4. If it appears you must contact the submitter of the data, advise the requester in writing that you must give the submitter of the data the opportunity to comment before the Air Force decides whether to release the information. Give the submitter a reasonable period of time (30 calendar days) to object to release and provide justification for withholding the documents. If the submitter does not respond, advise the submitter in writing that you have not received a reply and plan to release the records. Provide the submitter with the reasons the Air Force will release the records, and give the submitter your expected release date (at least 2 weeks from the date of your letter). This permits the submitter time to seek a temporary restraining order

(TRO) in federal court, if they can convince the judge to issue such an order. See § 806.27 for samples of language to use in Air Force letters to both the FOIA requester and nongovernment submitters. Remember to include a copy of § 806.31 as an attachment to the letter sent to the nongovernment submitter.

(i) The notice requirements of this section need not be followed if the Air Force determines that the information should not be disclosed, the information has been lawfully published or officially made available to the public, or disclosure of the information is required by law.

(ii) If the submitter objects to release of the records, but the Air Force disclosure authority considers the records releasable, tell the submitter before releasing the data. Include in the letter to the submitter a brief explanation and a specific release date at least 2 weeks from the date of the letter. Advise the submitter once a determination is made that release of the data is required under the FOIA, failure to oppose the proposed release will lead to release of submitted data. Also advise the requester such a release under the FOIA will result in the released information entering the public domain, and that subsequent requests for the same information will be answered without any formal coordination between the Air Force and the submitter, unless the information is later amended, changed, or modified. A person equal to, or higher in rank than, the denial authority makes the final decision to disclose responsive records over the submitter's objection.

(iii) When a previously released contract document has been modified, any contract documents not in existence at the time of an earlier FOIA request that are responsive to a later FOIA request for the same contract, will be processed as a first-time FOIA request for those newly created documents. Notify the nongovernment submitter of the pending FOIA action, and give them the same opportunity to respond as is detailed above. Passage of a significant period of time since the prior FOIA release can also require Air Force elements to comply with the notice requirements in this paragraph.

(d) Denying all or part of a request. When responsive records are withheld from release (denied), the appropriate offices must prepare a denial package for the IDA. Air Force elements must send the request, related documents, and responsive records through their IDA's FOIA office to the IDA for a decision. The denial package must include:

(1) The FOIA request and any modifications by the requester.

(2) A copy of the responsive records, including both records that may be released and records recommended for denial.

(3) Written recommendations from the OPRs and an Air Force attorney.

(4) The exemptions cited and a discussion of how the records qualify for withholding under the FOIA. This discussion should also include the reasons for denial: to deny release of responsive records requested under the FOIA, you must determine that disclosure of the records would result in a foreseeable harm to an interest protected by a FOIA exemption (or exemptions), that the record is exempt from release under one or more of the exemptions of the FOIA, and that a discretionary release is not appropriate.

(5) Any collateral documents that relate to the requested records. For example:

(i) If the requested records came from a non-Air Force or non-U.S. Federal Government submitter, include any documents from the submitter that relate to the release or denial of the requested records. If you are not sure whether or not the non-Air Force or non-U.S. Federal Government submitted information is potentially exempt from release under the FOIA, contact an Air Force attorney. FOIA Exemptions 3, 4, 5, 6, and 7 may apply.

(ii) If the requested records came from Privacy Act systems of records, include a written discussion of any Privacy Act issues.

(iii) If any requested records came from another Air Force element, or release of the requested records would affect another Air Force element, FOIA offices should coordinate with that other element. If the FOIA request is not completely referred to the other element, include documents from that element.

(iv) If any requested records are classified, include a written certification from a classification authority or declassification authority stating the data was properly classified originally, that it remains properly classified (per E.O. 12958), and, if applicable, that no reasonably segregable portions can be released.

(e) FOIA appeal actions.

(1) If an IDA, or a FOIA office responding on behalf of an IDA, withholds a record from release because they determine the record is exempt under one or more of the exemptions to the FOIA, the requester may appeal that decision, in writing, to the Secretary of the Air Force. The appeal should be accompanied by a copy of the denial

letter. FOIA appeals should be postmarked within 60 calendar days after the date of the denial letter, and should contain the reasons the requester disagrees with the initial denial. Late appeals may be rejected, either by the element initially processing the FOIA appeal, or by subsequent denial authorities, if the requester does not provide adequate justification for the delay. Appeal procedures also apply to the denial of a fee category claim by a requester, denial of a request for waiver or reduction of fees, disputes regarding fee estimates, review on an expedited basis of a determination not to grant expedited access to agency records, and for "no record" or "requested format not available" determinations when the requester considers such responses adverse in nature.

(2) Coordinate appeals with an Air Force attorney (and the OPR, if appropriate) so they can consider factual and legal arguments raised in the appeal, and can prepare written assessments of issues raised in the appeal to assist the IDA in considering the appeal. MAJCOM FOIA offices and 11 CS/SCSR (for OPRs at HQ USAF and SAF), send all appeals to the Secretary of the Air Force through AFLSA/JACL for consideration, unless the IDA has reconsidered the initial denial action, and granted the appeal.

(3) If a requester appeals a "no records" determination, organizations must search again or verify the adequacy of their first search (for example, if a second search would be fruitless, the organization may include a signed statement from either the records OPR or the MAJCOM FOIA manager detailing why another search was not practical). The appeal package must include documents (to include a certification from the records OPR) that show how the organization tried to find responsive records. In the event a requester sues the Air Force to contest a determination that no responsive records exist, formal affidavits will be required to support the adequacy of any searches conducted.

(4) General administrative matters. FOIA requesters may ultimately sue the Air Force in federal court if they are dissatisfied with adverse determinations. In these suits, the contents of the administrative appeal file are evaluated to determine whether the Air Force complied with the FOIA and its own guidance. Improper or inadequate appeal files make defending these cases problematic. Include all the documents related to the requester's FOIA action in the appeal file. If appeal file documents are sensitive, or are classified up to the SECRET level, send

them separately to AFLSA/JACL, 1501 Wilson Boulevard, 7th Floor, Arlington, VA 22209-2403. Make separate arrangements with AFLSA/JACL for processing classified appeal file documents TOP SECRET or higher. Cover letters on appeal packages need to list all attachments. If a FOIA action is complicated, a chronology of events helps reviewers understand what happened in the course of the request and appeal. If an appeal file does not include documentation described below, include a blank sheet in proper place and mark as "not applicable," "N/A," or "not used." Do not renumber and move the other items up. If any part of the requester's appeal is denied, the appeal package must include a signed statement by the IDA, demonstrating the IDA considered and rejected the requester's arguments, and the basis for that decision. This may be a separate memorandum, an endorsement on a legal opinion or OPR opinion, or the cover letter which forwards the appeal for final determination. Include in the cover letter forwarding the appeal to the Secretary of the Air Force the name, phone number and e-mail address (if any) of the person to contact about the appeal. The order and contents of appeal file attachments follow.

(i) The original appeal letter and envelope.

(ii) The initial FOIA request, any modifications of the request by the requester or any other communications from the requester, in chronological order.

(iii) The denial letter.

(iv) Copies of all records already released. (An index of released documents may be helpful, if there are a number of items. If the records released are "massive" (which means "several cubic feet") and AFLSA/JACL agrees, an index or description of the records may be provided in place of the released records. Do not send appeal files without copies of released records without the express agreement of AFLSA/JACL. Usually AFLSA/JACL requires all the released records in appeal files. If you do not send the released records to AFLSA/JACL when a FOIA requester has appealed a partial denial, retain a copy of what was released for 6 years.)

(v) Copies of all administrative processing documents, including extension letters, search descriptions, and initial OPR recommendations about the request, in chronological order.

(vi) Copies of the denied records or portions marked to show what was withheld. If your organization uses a single set of highlighted records (to show items redacted from records

released to the requester), ensure the records are legible and insert a page in the appropriate place stating where the records are located. (An index of denied documents may be helpful, if there are a number of items. If the records denied are "massive" (which means "several cubic feet") and AFLSA/JACL agrees, an index or description of the records may be provided in place of the denied records. Do not send appeal files without copies of denied records without the express agreement of AFLSA/JACL. Usually AFLSA/JACL requires all the denied records in appeal files. If you do not send the denied records to AFLSA/JACL, when a FOIA requester has appealed a denial, retain a copy of what was denied for 6 years.)

(vii) All legal opinions in chronological order. Include a point-by-point discussion of factual and legal arguments in the requester's appeal (prepared by an Air Force attorney and/or the OPR). If the IDA does not state in the cover letter he/she signed, that he/she considered and rejected the requester's arguments, asserting the basis for that decision (e.g., the IDA concurs in the legal and/or OPR assessments of the requester's arguments) include a signed, written statement containing the same information from the IDA, either as a separate document or an endorsement to a legal or OPR assessment. Include any explanation of the decision-making process for intra-agency documents denied under the deliberative process privilege and how the denied material fits into that process (if applicable).

#### **§ 806.30. FOIA exempt information examples.**

(a) Certain responsive records may contain parts that are releasable, along with other parts that the Air Force must withhold from release. Carefully delete information exempt from release under the FOIA from copies of otherwise releasable records. Do not release copies that would permit the requester to "read through the marking." In order to assist FOIA managers in redacting records, selected items appropriate to withhold in commonly requested Air Force records are illustrated below. When providing releasable portions from classified paragraphs, line through and do not delete, the classification marking preceding the paragraph.

(b) Exemption 1. Example used is an extract from a "simulated" contingency plan (all information below is fictional and UNCLASSIFIED; parenthetical information and marking is used for illustrative purposes only).

(U) Air Force members will safeguard all FELLOW YELLOW data (NOTE: FELLOW



YELLOW simulates an UNCLASSIFIED code name).

During the contingency deployment in Shambala, those members assigned to force element FELLOW YELLOW will cover their movements by employing specified camouflage and concealment activities while behind enemy lines. Only secure communications of limited duration as specified in the communications annex will be employed until FELLOW YELLOW personnel return to base. (Exemption 1)

(c) Exemption 2. Example used is an extract from a "simulated" test administration guide (all information below is fictional and is used for illustrative purposes only).

SSgt Doe, Kerry E.  
Duty Title: Special Assistant to CINCPAC  
Duty Station: Hickam AFB HI 11111-1111  
Marital Status: Divorced

Home Phone: (112) 223-3344 (Exemption 6)

When administering the test to determine which technicians are ranked fully qualified, make sure to allow only the time specified in HQ AETC Pamphlet XYZ, which the technicians were permitted to review as part of their test preparation. For ease in scoring this exam, correct answers are A, A, B, B, A, B, C, C, A, B, D, D, C, C, C, C, D; the corresponding template for marking the standard answer sheet is kept locked up at all times when not in use to grade answer sheets. (Exemption "high" 2)

(d) Exemption 5. Example used is a simulated IG Report of Investigation (ROI) recommendation. All parenthetical information in this

SSN: 111-11-1112  
Office Symbol: CINCPAC/CCSA  
Date Assigned: 12 June 1998  
Dependents: 01

example is fictional and is used for illustrative purposes only:

Having interviewed the appropriate personnel and having reviewed the appropriate documents, I recommend additional training sessions for all branch personnel on accepted Air Force standards, and the Air Force pursue administrative or judicial disciplinary action with respect to Terry Hardcase. (Exemption 5)

(e) Exemption 6. Example used is a simulated personnel computer report on a military member selected for a special assignment (all information below is fictional; information and marking is used for illustrative purposes only.):

Date of Birth: 22 Jun 71

Home Address: 12 Anystreet, Downtown ST 11112

(f) Exemption 7. Example used is summary of a law enforcement report on a domestic disturbance at on-base family housing (all information below is fictional and all parenthetical information is used for illustrative purposes only):

At 2140, the law enforcement desk, extension 222-3456, took an anonymous call that reported a disturbance at 1234 Basestreet, quarters allegedly occupied by two military members. SrA Patrolman (names of law enforcement investigators usually are withheld under Exemptions 6 and 7(C)) arrived on the scene at 2155. SrA Patrolman met Nora Neighbor, (names of witnesses usually are withheld under Exemptions 6 and 7(C)) who was very agitated. Because she feared her neighbors would retaliate against her if they knew she reported their fight, she asked that her name not be released before she would talk. After she was promised her identity would remain anonymous, she stated: (Nora Neighbor became a confidential informant; data that could identify her, and in some cases, the information she related, should be withheld from release under Exemptions 6, 7(C) and (D).) "I heard cursing and heard furniture and dishes breaking. They fight all the time. I've seen Betty Battle (unless Betty is the requester, redact her name Exemptions 6 and 7(C)) with a black eye, and I also saw Bob Battle (unless Bob is the requester, redact his name Exemptions 6 and 7(C)) with bruises the day after they had their last fight, last Saturday night. This time, there was a tremendous crash; I heard a man scream "My Lord NO!" then I saw Betty Battle come out of the house with dark stains on her clothes—she got into her car and drove away. I could see this really well, because the streetlight is right between our houses; I'm the wife of their NCOIC. If only Nick, my husband, was here now, he'd know what to do! I haven't heard anything from Bob Battle." (Exemptions 6 and 7)

**§ 806.31 Requirements of 5 U.S.C. 552(b)(4) to submitters of nongovernment contract-related information.**

(a) The FOIA requires federal agencies to provide their records, except those specifically exempted, for the public to inspect and copy. Section (b) of the Act lists nine exemptions that are the only basis for withholding records from the public.

(b) In this case, the fourth exemption, 5 U.S.C. 552(b)(4), may apply to records or information the Air Force maintains. Under this exemption, agencies must withhold trade secrets and commercial or financial information they obtained from a person or organization outside the government that is privileged or confidential. This generally includes information provided and received during the contracting process with the understanding that the Air Force will keep it privileged or confidential.

(c) Commercial or financial matter is "confidential" and exempt if its release will probably:

(1) Impair the government's ability to obtain necessary information in the future.

(2) Substantially harm the source's competitive position or impair some other legitimate government interest such as compliance and program effectiveness.

(d) Applicability of exemption. The exemption may be used to protect information provided by a nongovernment submitter when public disclosure will probably cause substantial harm to its competitive position. Examples of information that may qualify for this exemption include:

(1) Commercial or financial information received in confidence with

loans, bids, contracts, or proposals, as well as other information received in confidence or privileged, such as trade secrets, inventions, discoveries, or other proprietary data.

**Note:** Certain proprietary and source selection information may also fall under exemption (b)(3), under the provisions of 10 U.S.C. 2305(g) or 41 U.S.C. 423, if statutory requirements are met.

(2) Statistical data and commercial or financial information concerning contract performance, income, profits, losses, and expenditures, offered and received in confidence from a contractor or potential contractor.

(3) Personal statements given during inspections, investigations, or audits, received and kept in confidence because they reveal trade secrets or commercial or financial information, normally considered confidential or privileged.

(4) Financial data that private employers give in confidence for local wage surveys used to set and adjust pay schedules for the prevailing wage rate of DoD employees.

(5) Information about scientific and manufacturing processes or developments that is technical or scientific or other information submitted with a research grant application, or with a report while research is in progress.

(6) Technical or scientific data a contractor or subcontractor develops entirely at private expense, and technical or scientific data developed partly with Federal funds and partly with private funds, in which the contractor or subcontractor retains legitimate proprietary interests per 10 U.S.C. 2320 to 2321 and 48 CFR, Chapter 2, 227.71-227.72.

(7) Computer software copyrighted under the Copyright Act of 1976 (17 U.S.C. 106), the disclosure of which would adversely impact its potential market value.

(e) Submitter's Written Response. If release of the requested material would prejudice your commercial interests, give detailed written reasons that identify the specific information and the competitive harm public release will cause to you, your organization, or your business. The act requires the Air Force to provide any reasonably segregable part of a record after deleting exempt portions. If deleting key words or phrases would adequately protect your interests, advise us in writing which portions you believe we can safely release, and which portions you believe we need to withhold from release. If you do not provide details on the probability of substantial harm to your competitive position or other commercial interests, which would be caused by releasing your material to the requester, we may be required to release the information. Records qualify for protection on a case by case basis.

(f) Pricing Information. Generally, the prices a contractor charges the government for goods or services would be released under the FOIA. Examples of releasable data include: bids submitted in response to an invitation for bids (IFB), amounts actually paid by the government under a contract, and line item prices, contract award price, and modifications to a contract. Unit prices contained in a contract award are considered releasable as part of the post award notification procedure prescribed by 48 CFR 15.503, unless they are part of an unsuccessful proposal, then 10 U.S.C. 2305(g) protects everything including unit price.

#### Appendix A to Part 806—References

Title 5, United States Code, Section 552, The Freedom of Information Act, as amended  
Title 5, United States Code, Section 552a, The Privacy Act (as amended)  
Title 10, United States Code, Section 2305(g), Prohibition on Release of Contractor Proposals  
Title 48, Code of Federal Regulations (CFR), Federal Acquisition Regulations (FAR) System  
OMB Bulletin 95-01, 7 December 1994  
OMB Memorandum, 6 February 1998  
DoD 5200.1-R, Information Security Program, January 1997  
AFI 16-701, Special Access Programs  
AFI 31-206, Security Police Investigations  
AFI 31-401, Information Security Program Management  
AFI 31-501, Personnel Security Program Management  
AFI 31-601, Industrial Security Program Management

AFI 33-129, Transmission of Information Via the Internet  
AFI 35-205, Air Force Security and Policy Review Program  
AFI 36-2603, Air Force Board for Correction of Military Records  
AFI 36-2706, Military Equal Opportunity and Treatment Program  
AFI 36-2906, Personal Financial Responsibility  
AFI 36-2907, Unfavorable Information File (UIF) Program  
AFPD 37-1, Air Force Information Management (will convert to AFPD 33-3)  
AFI 37-124, The Information Collections and Reports Management Program; Controlling Internal, Public, and Interagency Air Force Information Collections (will convert to AFI 33-324)  
AFI 37-132, Air Force Privacy Act Program (will convert to AFI 33-332)  
AFMAN 37-139, Records Disposition Schedule (will convert to AFMAN 33-339)  
AFI 40-301, Family Advocacy  
AFI 41-210, Patient Administration Functions  
AFI 44-109, Mental Health and Military Law  
AFI 51-201, Administration of Military Justice  
AFI 51-301, Civil Litigation  
AFI 51-303, Intellectual Property-Patents, Patent Related Matters, Trademarks, and Copyrights  
AFI 51-501, Tort Claims  
AFI 51-503, Aircraft, Missile, Nuclear and Space Accident Investigations  
AFI 51-504, Legal Assistance, Notary and Preventive Law Programs  
AFI 51-1102, Cooperation with the Office of the Special Counsel  
AFI 61-204, Disseminating Scientific and Technical Information  
AFI 61-303, Licensing Inventions Made Under Cooperative Research and Development Agreements  
AFI 65-401, Relations With the General Accounting Office  
AFI 71-101, Volume 1, Criminal Investigations  
AFI 71-101, Volume 2, Protective Service Matters  
AFI 84-101, Historical Products, Services, and Requirements  
AFI 90-301, Inspector General Complaints  
AFI 90-401, Air Force Relations With Congress  
AFI 91-204, Safety Investigations and Reports

#### Appendix B to Part 806—Abbreviations and Acronyms

AFCA—Air Force Communications Agency  
AFCIC—Air Force Communications and Information Center  
AFRC—Air Force Reserve Command  
AFI—Air Force Instruction  
AFLSA/JACL—Air Force Legal Services Agency, General Litigation Division  
AFMAN—Air Force Manual  
AFPC/MSIMD—Air Force Personnel Center/Records Management, FOIA, and Privacy Act Office  
AFPD—Air Force Policy Directive  
ANG—Air National Guard  
ASCII—American Standard Code for Information Interchange

CFR—Code of Federal Regulations  
DFAS—Defense Finance and Accounting Service  
DFOISR—Director, Freedom of Information and Security Review  
DoD—Department of Defense  
DRU—Direct Reporting Unit  
EFOIA—Electronic Freedom of Information Act  
ERR—Electronic Reading Room  
FOA—Field Operating Agency  
FOIA—Freedom of Information Act  
FOUO—For Official Use Only  
GAO—General Accounting Office  
GILS—Government Information Locator Service  
GPO—Government Printing Office  
IDA—Initial Denial Authority  
IG—Inspector General  
IMPAC—International Merchant Purchase Authority Card  
LOA—Letters of Offer and Acceptance  
MAJCOM—Major Command  
MFR—Memorandum for Record  
NATO—North Atlantic Treaty Organization  
NORAD—North American Aerospace Defense  
NTIS—National Technical Information Service  
OCR—Office of Corollary Responsibility  
OMB—Office of Management and Budget  
OPR—Office of Primary Responsibility  
PA—Privacy Act  
PAO—Public Affairs Office  
PAS—Personnel Accounting Symbol  
RCS—Reports Control Symbol  
SAF—Secretary of the Air Force  
SSN—Social Security Number  
USAF—United States Air Force  
U.S.C.—United States Code  
WWW—World Wide Web

#### Appendix C To Part 806—Terms

Appellate Authority—The Office of the General Counsel to the Secretary of the Air Force (SAF/GCA).  
Denial—An adverse determination on no records, fees, expedited access, or not disclosing records.  
Determination—The written decision to release or deny records or information that is responsive to a request.  
Disclosure—Providing access to, or one copy of, a record.  
Disclosure Authority—Official authorized to release records, normally division chiefs or higher.  
FOIA Manager—The person who manages the FOIA Program at each organizational level.  
FOIA Request—A written request for DoD records from the public that cites or implies the FOIA.  
Functional Request—Any request for records from the public that does not cite the FOIA.  
Government Information Locator Service (GILS)—An automated on-line card catalog of publicly accessible information.  
Glomar Response—A reply that neither confirms nor denies the existence or nonexistence of the requested record.  
Initial Denial Authority (IDA)—Persons in authorized positions that may withhold records.  
Partial Denial—A decision to withhold part of a requested record.

Public Interest—The interest in obtaining official information that sheds light on how an agency performs its statutory duties and informs citizens about what their government is doing.

Reading Room—A place where the public may inspect and copy, or have copied, releasable records.

Records—The products of data compilation, such as all books, papers, maps, and

photographs, machine readable materials inclusive of those in electronic form or format, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the U.S. Government under Federal Law in connection with the transaction of public business and in the agency's possession and control at the time

the FOIA request is made. Records include notes, working papers, and drafts.

Redact—To remove nonreleasable material.

**Janet A. Long,**

*Air Force Federal Register Liaison Officer.*

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