§ 2400.45 Information Security Program Review.

(a) The Director, OSTP, shall require an annual formal review of the OSTP Information Security Program to ensure compliance with the provisions of Executive Order 12356 and Directive No. 1, and this regulation.

(b) The review shall be conducted by a group of three to five persons appointed by the Director and chaired by the Executive Director. The Security Officer will provide any records and assistance required to facilitate the review.

(c) The findings and recommendations of the review will be provided to the Director for his determination.

§ 2402.1 Purpose and scope.

The regulations in this part prescribe procedures to obtain information and records from the Office of Science and Technology Policy (OSTP) under the Freedom of Information Act (FOIA), 5 U.S.C. 552. The regulations in this part apply only to records that are:

(a) Either created or obtained by OSTP; and

(b) Under OSTP control at the time of the FOIA request.

§ 2402.2 Delegation of authority and responsibilities.

(a) The Director of the Office of Science and Technology Policy designates the OSTP General Counsel as the Chief FOIA Officer, and hereby delegates to the Chief FOIA Officer the authority to act upon all requests for agency records and to re-delegate such authority at his or her discretion.

(b) The Chief FOIA Officer shall designate a FOIA Public Liaison, who shall serve as the supervisory official to whom a FOIA requester can raise concerns about the service the FOIA requester has received following an initial response. The FOIA Public Liaison will be listed on the OSTP Web site (http://www.whitehouse.gov/administration/eop/ostp) and may re-delegate the FOIA Public Liaison’s authority at his or her discretion.

(c) The Director establishes a FOIA Requester Service Center that shall be staffed by the Chief FOIA Officer and the FOIA Public Liaison. The contact information for the FOIA Requester Service Center is Office of Science and Technology Policy, Eisenhower Executive Office Building, 1650 Pennsylvania Ave. NW., Washington, DC 20504; Telephone: (202) 456–4444 Fax: (202) 456–6021; Email: ostpfoia@ostp.eop.gov. Updates to this contact information will be made on the OSTP Web site.

§ 2402.3 General policy and definitions.

(a) Non-exempt records available to public. Except for records exempt from disclosure by 5 U.S.C. 552(b) or published in the Federal Register under 5 U.S.C. 552(a)(1), agency records of OSTP subject to FOIA are available to any person who requests them in accordance with these regulations.
(b) Record availability at the OSTP e-FOIA Reading Room. OSTP shall make records available on its Web site in accordance with 5 U.S.C. 552(a)(2), as amended, and other documents that, because of the nature of their subject matter, are likely to be the subject of FOIA requests. To save both time and money, OSTP strongly urges requesters to review documents available at the OSTP e-FOIA Reading Room before submitting a request.

(c) Definitions. For purposes of this part:

(1) All of the terms defined in the Freedom of Information Act, and the definitions included in the “Uniform Freedom of Information Act Fee Schedule and Guidelines” issued by the Office of Management and Budget apply, unless otherwise defined in this subpart.

(2) The term “commercial use request” means a request from or on behalf of a person who seeks information for a use or purpose that furthers his or her commercial, trade, or profit interests, which can include furthering those interests through litigation. OSTP shall determine, whenever reasonably possible, the use to which a requester will put the requested records. When it appears that the requester will put the records to a commercial use, either because of the nature of the request itself or because OSTP has reasonable cause to doubt a requester’s stated use, OSTP shall provide the requester a reasonable opportunity to submit further clarification.

(3) The terms “disclose” or “disclosure” refer to making records available, upon request, for examination and copying, or furnishing a copy of records.

(4) The term “duplication” means the making of a copy of a record, or of the information contained in it, necessary to respond to a FOIA request. Copies can take the form of paper, microform, audiovisual materials, or electronic records (for example, magnetic tape or disk), among others.

(5) The term “educational institution” means a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, or an institution of vocational education that operates a program of scholarly research. To be in this category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are not sought for a commercial use but are sought to further scholarly research.

(6) The term “fee waiver” means the waiver or reduction of processing fees if a requester can demonstrate that certain statutory standards are satisfied.

(7) The term “FOIA Public Liaison” means an agency official who is responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.

(8) The term “noncommercial scientific institution” means an institution that is not operated on a “commercial” basis, as that term is defined in these regulations, and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry. To be in this category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are not sought for a commercial use but are sought to further scientific research.

(9) The term “perfected request” means a FOIA request for records that adequately describes the records sought, that has been received by OSTP, and for which there is no remaining question about the payment of applicable fees.

(10) The terms “representative of the news media” or “news media requester” mean any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. In this clause, the term “news” means information that is about current events or that would be of current interest to the public. Examples of news-media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if
such entities qualify as disseminators of ‘news’) who make their products available for purchase by or subscription by or free distribution to the general public. These examples are not all-inclusive. Moreover, as methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news-media entities. A freelance journalist shall be regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation; the Government may also consider the past publication record of the requester in making such a determination.

(11) The term “search” refers to the process of looking for and retrieving records or information responsive to a request. It includes page-by-page or line-by-line identification of information within records and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format.

(12) The term “working day” means a regular Federal working day. It does not include Saturdays, Sundays, or legal Federal holidays.

§ 2402.4 Procedure for requesting records.

(a) Format of requests. (1) In general. Requests for information must be made in writing and may be delivered by mail, fax, or electronic mail, as specified in §2402.2(c). All requests must be made in English. Requests for information must specify the preferred form or format (including electronic formats) of the response. When requesters do not specify the preferred form or format of the response, OSTP shall produce printed copies of responsive records.

(2) Electronic format records. (i) OSTP shall provide the responsive record or records in the form or format requested if the record or records are readily reproducible by OSTP in that form or format. OSTP shall make reasonable efforts to maintain its records in forms or formats that are reproducible for the purpose of disclosure. For purposes of this paragraph, the term readily reproducible means, with respect to electronic format, a record or records that can be downloaded or transferred intact to a floppy disk, computer disk (CD), tape, or other electronic medium using equipment currently in use by the office or offices processing the request. Even though some records may initially be readily reproducible, the need to segregate exempt from non-exempt records may cause the releasable material to be not readily reproducible.

(ii) In responding to a request for records, OSTP shall make reasonable efforts to search for the records in electronic form or format, except where such efforts would significantly interfere with the operation of the agency’s automated information system(s). For purposes of this paragraph, the term “search” means to locate, manually or by automated means, agency records for the purpose of identifying those records that are responsive to a request.

(iii) Searches for records maintained in electronic form or format may require the application of codes, queries, or other minor forms of programming to retrieve the requested records.

(b) Contents. A request must describe the records sought in sufficient detail to enable OSTP personnel to locate the records with a reasonable amount of effort. OSTP will regard a request for a specific category of records as fulfilling the requirements of this paragraph if it enables responsive records to be identified by a technique or process that is not unreasonably burdensome or disruptive to OSTP operations. Whenever possible, a request should include specific information about each record sought, such as the date, number, title or name, author, recipient, and subject matter of the record. If OSTP determines that a request does not reasonably describe the records sought, it will either provide notice of any additional information needed or otherwise state why the request is insufficient. OSTP will offer a requester reasonable opportunity to reformulate the request so that it meets the requirements of this section.