§ 1303.106 Responsibility, form, and content of responses.

The Board’s Executive Director of his/her designated FOIA Officer is authorized to grant or deny any request for a record and determine appropriate fees. When determining which records are responsive to a request, the Board will include only records in its possession as of the date of the search.

(a) If no records are responsive to the request, the FOIA Officer will notify the requestor in writing.

(b) When a FOIA Officer denies a request in whole or in part he/she will notify the requestor in writing. The response will be signed by the FOIA Officer and will include:

1. The name and title or position of the person making the denial;
2. A brief statement of the reasons for the denial, including the FOIA exemption(s) that the FOIA Officer has relied on the denying the request; and
3. A statement that the denial may be appealed under §1303.114 and a description of the requirements of that section.

(c) Consultations and referrals. When a request for a record not produced by the Board is received, the Board shall refer the requestor to the issuing agency in writing. The Board may hold records that contain or refer to non-public information obtained from other federal agencies (co-mingled records). If those co-mingled records are requested, the Board shall determine whether the portion of those records produced by the Board can be released. Before any portion of a co-mingled record is released, the Board shall redact the non-public information obtained from other federal agencies. The Board shall inform the requestor of the reason for the redaction and shall refer the requestor to the issuing agency in writing.

(d) Notice of referral. When the Board refers all or part of a request to another agency, it shall give the requestor the address of the agency contact and the section(s) referred.
§ 1303.107 Timing of responses to requests.

(a) General. The Board shall normally respond to requests in the order of their receipt.

(b) Acknowledgement of requests. On receipt of a request, the Board shall send an acknowledgment letter or an e-mail confirming the requestor’s agreement to pay fees under § 1303.108 and providing a request number for further reference.

(c) Granting requests. The Board shall have 20 business days from when a request is received to determine whether to grant or deny it. Once the Board determines whether it can grant a request entirely or in part, it shall notify the requestor in writing. The Board shall advise the requestor of any fees to be charged under § 1303.108 and shall disclose records promptly on payment of the fees. Records disclosed in part shall be marked or annotated to show the amount of information deleted unless doing so would harm an interest protected by an applicable exemption. The location of the information deleted also shall be indicated on the record when technically feasible.

(d) Unusual circumstances:

(1) If the statutory time limits for processing a request cannot be met because of “usual circumstances” as defined in the FOIA, the Board shall promptly notify the requestor in writing, explaining the circumstances and giving the date by which the request can be completed or if the Board cannot complete the request. If the extension is for more than 10 working days, the Board shall provide the requestor with an opportunity either to:

(i) Modify the request so that it can be processed within the time limits; or

(ii) Arrange an alternative time period for processing the original request.

(2) If the Board believes that multiple requests submitted by a requestor or by requestors acting in concert constitute a single request that would otherwise involve unusual circumstances, and if the requests involve clearly related matters, they may be aggregated. Multiple requests involving unrelated matters will not be aggregated.

(e) Expedited processing:

(1) Requests and appeals shall be taken out of order and given expedited processing whenever it is determined that they involve:

(i) Circumstances that could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) An urgency to inform the public about an actual or alleged activity if made by a person primarily engaged in disseminating information.

(2) Requests for expedited processing may be made either at the time of the initial request or at a later time.

(3) Requests for expedited processing must include a statement explaining in detail the basis for requesting expedited processing. For example, a requestor under § 1303.108 must demonstrate that their professional activity involves news reporting or otherwise disseminating information to the public, although this need not be their sole occupation. A requestor also must establish a particular urgency to inform the public about government activity involved in the request, beyond the public’s right to know about government activity generally.

(4) Within 10 calendar days of receipt of a request for expedited processing, the Board shall decide whether to grant the request and notify the requestor of its decision. If a request for expedited treatment is granted, the request shall be processed as soon as practicable. If a request for expedited processing is denied, an appeal of that decision shall be acted on expeditiously.

§ 1303.108 Fees.

(a) General. The Board shall charge for processing requests the FOIA in accordance with paragraph (c) of this section, except where fees are limited.