

**BY ORDER OF THE
SECRETARY OF THE AIR FORCE**

**HEADQUARTERS OPERATING INSTRUCTION 33-18
30 SEPTEMBER 2014**



Communications and Information

**HEADQUARTERS AIR FORCE FREEDOM OF INFORMATION ACT
(FOIA) AND MANDATORY DECLASSIFICATION REVIEW (MDR)
PROGRAMS**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This Headquarters Operating Instruction (HOI) implements Air Force Policy Directive (AFPD) 33-3, Air Force Information Management. It applies to all Headquarters Air Force (HAF) military, civilian and contractor personnel. Users must comply with Air Force Manual (AFMAN) 33-302, Freedom of Information Act Program (FOIA and Air Force Instruction (AFI) 31-401, Information Security Program (MDR) which provide overarching Air Force FOIA and MDR program guidance, to include roles and responsibilities; and must ensure that records created as a result of processes prescribed in this publication are maintained in accordance with the AFMAN 33-363, Management of Records, and disposed of in accordance with the Air Force Records Disposition Schedule (RDS) located at <https://www.my.af.mil/afrims/afrims/afrims/rims.cfm>. In addition, this HOI implements DOD5400.7-R_AFMAN 33-302, Freedom of Information Act Program, and DOD 5200.1, Vols 1, 2, and 3, DOD Information Security Programs. Refer recommended changes and questions about this publication to the Office of Primary Responsibility (OPR) HAF Freedom of Information Act Program Officer, usaf.pentagon.saf-aa.mbx.haf-foia-workflow@mail.mil or HAF Mandatory Declassification Review Program Manager at usaf.pentagon.saf-aa.mbx.mdr-workflow@mail.mil on AF Form 847, Recommendation for Change of Publication.

SUMMARY OF CHANGES

This document has been substantially revised and must be completely reviewed.

1. Overview/Background:

1.1. The FOIA is an access statute that opens the business of government to the general public. The FOIA allows anyone, regardless of citizenship, to request copies of existing government records without giving a reason for their request.

1.2. Generally, all government information is subject to the FOIA. This information includes all paper and electronic materials (not just records maintained in the organization's official filing system), including information maintained in Privacy Act (PA) systems of records. It also includes e-mail, word processing files, agency working files, etc. The public may inspect or obtain copies of all public filings (public records) maintained by an agency through public reference facilities or public web pages. However, requests for access to non-public agency records must be submitted in writing under the provisions of the FOIA.

1.3. The FOIA requires all federal agency records to be released to the public upon written request. **EXCEPTIONS:** There are nine specific exemptions and two specific law enforcement record exclusions that may require and/or allow an agency to deny access by the requester. For more information on these exemptions and exclusions, refer to AFMAN 33 302, Chapter 3.

1.4. The FOIA, as implemented in AFMAN 33-302, requires the government to respond to written requests (including facsimile or e-mail) for information within 20 workdays after receipt of the request. Therefore, when an office receives a written FOIA request for agency records from anyone outside the organization the request must be forwarded to the HAF FOIA Requester Service Center (SAF/AAII (FOIA)) for log in and staffing. The request must be forwarded by either email to usaf.pentagon.saf-aa.mbx.haf-foia-workflow@mail.mil or by fax to (703) 703-693-5728. In addition to emailing or faxing, the original (hardcopy) request letter must be forwarded to SAF/AAII (FOIA), 1000 Air Force Pentagon, Washington, DC 20330-1000.

1.5. Once a request has been received by a designated FOIA monitor or OPR, all responsive information must be reviewed for release by the office receiving the request; no information may be created or destroyed. If the organization's Initial Denial Authority (IDA) determines that some or all of the responsive documents should not be released to the public, the letter to SAF/AAII (FOIA) must cite the rationale and the applicable FOIA exemption(s) or exclusion(s).

1.6. Accurate recordkeeping is a must! Without authorization from SAF/AAII (FOIA) or as provided in this HOI, a copy of all records, legal reviews, and any other applicable correspondence related to the request must be forwarded to SAF/AAII (FOIA) for filing and final processing.

2. Air Force Program Guidance (see AFMAN 33-302).

2.1. All HAF organizations must implement both the FOIA and Privacy Act (PA) to comply with this HOI and protect the rights of the U.S. Government and persons directly affected by Air Force actions.

2.2. This HOI applies to contractors performing FOIA/PA management support and those contractors performing duties/services/functions in place of, or in support of, U.S. Government employees. Performance work statements must include FOIA/PA requirements.

3. HAF Responsibilities

3.1. HAF FOIA Requester Service Center (SAF/AAl (FOIA)) shall:

3.1.1. Manage the HAF FOIA program exercising the same procedural and staff responsibilities as specified in AFMAN 33-302.

3.1.1.1. Where SAF/AAl (FOIA) can support FOIA management requirements for DRUs, FOAs, or other tenant organizations, that support will be delineated in a support agreement.

3.1.1.2. Help Two-Letter FOIA Monitors and OPRs with requests as required.

3.1.2. Ensure administrative correctness of all FOIA actions processed.

3.1.2.1. Control and process FOIA requests.

3.1.2.2. Provide acknowledgement of the request and interim responses to requesters, as required.

3.1.2.3. Approve or deny initial fee waiver requests.

3.1.2.4. Approve or initially deny any requests for expedited processing.

3.1.2.5. Task FOIA requests via eFOIA, the Air Force enterprise FOIA reporting and tracking system, to the Two-Letter FOIA Monitor and a notification to the Two-Letter workflow via Task Management Tool (TMT).

3.1.2.6. Refer documents containing external agency information for consultation.

3.1.2.6.1. When another federal agency has a clear and substantial interest in the requested documents, consultation with that organization is required.

3.1.2.6.2. Processes for FOIA requests for classified Air Force records that contains another federal agency's or DOD component's equities can be found in AFMAN 33-302, Chapter 5.1.5.

3.1.2.7. Send extension notices.

3.1.2.7.1. In unusual circumstances as defined in 5 U.S.C. § 552(6)(B)(iii), the time limits may be extended by written notice to the requester setting

forth the unusual circumstances for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten workdays, except as provided in paragraph 3.1.2.6.2.

3.1.2.7.2. With respect to a request for which a written notice under paragraph

3.1.2.7.3. extends the time limits, SAF/AII (FOIA) shall notify the requester the request cannot be processed within the time limit specified, and shall provide the requester an opportunity to limit the scope of the request, so that it may be processed within that time limit, or an opportunity to arrange an alternative time frame for processing the request or a modified request. Refusal by the requester to modify the request reasonably or arrange such an alternative time frame shall be considered as a factor in determining whether exceptional circumstances exist as discussed in 5 U.S.C. § 552(6)(C).

3.1.2.8. Obtain recommendations from the OPR for records.

3.1.2.9. Prepare or coordinate on all proposed replies to the requester. Sign replies on behalf of the IDA when information is withheld from an Air Force record under the DOD policy to withhold the names of DOD personnel, no records replies, and when disclosure authorities approve the total release of records.

3.1.2.9.1. Some FOIA requests, especially at the HAF level, are broad and complex, and may involve multiple AF, DOD and other federal agencies. In such cases, the FOIA works best when all involved parties (SAF/AII (FOIA), FOIA Monitors, OPRs, and requesters) work together.

3.1.2.9.2. Accordingly, SAF/AII (FOIA) will be the focal point for HAF FOIA Monitors/OPRs recommendations; process recommendations to other AF, DOD, and federal agencies; refer HAF documents, containing external agency equities, for consultation to the appropriate office(s) of collateral responsibility; provide status updates; and keep requesters informed on the progress of response determinations.

3.1.2.10. Make the final decision on chargeable fees.

3.1.2.10.1. Ensure that all time expended on FOIA cases (e.g. OPR/legal office hours and costs etc.) is accounted for on DD Form 2086 and entered into eFOIA.

3.1.2.10.2. Collect fees within 30 days and assess interest on overdue fees pursuant to AFMAN 33-302

3.1.2.10.3. Notify SAF/A6PP when a requester is delinquent in paying an assessed fee to assert the non-payment as a basis for denying requests.

3.1.2.11. Provide the requester with appeal procedures and 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 requestor with appeal procedures.

3.1.2.12. Train HAF personnel on the FOIA program.

3.1.2.13. Provide a reading room for inspecting and copying records.

3.1.2.14. Post non-PII records to the FOIA Electronic Reading Room.

3.1.2.15. Work with Public Affairs Office, OPRs, and Directors to post records that are likely to be of public interest in the AF Reading Room ahead of receiving FOIA for such information.

3.1.2.16. Manage RedactXpress licenses for the HAF FOIA program.

3.1.2.17. Submit annual reports to the Air Force FOIA Monitor (SAF/A6PP) as required by AFMAN 33-302, Chap 7, C 7.1.2.

3.1.3. On Appeal, SAF/AAII (FOIA) will:

3.1.3.1. Reassess a fee category claim by a requester, overturning or confirming the initial determination.

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

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

3.1.3.4. Review a fee estimate, overturning or confirming the initial determination.

3.1.3.5. Confirm that no records were located in response to a request.

3.1.3.6. Assemble the initial appeal package in accordance with AFMAN 33-302, Appendix 9 (AP9.5), and forward the tasking along with the draft appeal package to the applicable HAF organizational FOIA monitor for further processing.

3.1.3.6.1. Provide AFLOA/JACL a clean and bracketed copy of the records proposed for release.

3.1.3.6.2. Notify requester when the appeal has been accepted by AFLOA/JACL.

3.2. HAF Two-Letter Organizations shall:

3.2.1. Comply with this instruction and basic guidance contained in AFMAN 33-302.

3.2.2. Appoint in writing a primary and alternate Initial Denial Authority and FOIA Monitor for their two-letter organization (HAF/ES for the offices of the Secretary of the Air Force and the offices of the Chief of Staff) with responsibility to assist with the implementation of the FOIA Program in their organization.

3.2.2.1. Prepare and send an appointment letter to HAF FOIA Office usaf.pentagon.saf-aa.mbx.haf-foia-workflow@mail.mil (a sample appointment letter is at Attachment 3).

3.2.2.2. Submit changes as they occur, but not later than 5 duty days from date of the change

3.2.3. Ensure RedactXpress is readily available to process FOIA requests; ensure the organization has adequate copies of the RedactXpress software to process FOIA requests

3.3. FOIA Monitors shall:

3.3.1. Serve as the focal point for FOIA questions, reports, requirements, and correspondence.

3.3.2. Act as liaison between the organization and SAF/AAIL (FOIA).

3.3.3. Create a local log book or database to log in all FOIA tasks for the organization

3.3.4. Staff request to appropriate office for action and suspense accordingly.

3.3.5. Ensure OPRs provide a written recommendation for records located and deemed releasable. This also applies to "no records" determinations.

3.3.6. Ensure all time expended on FOIA cases (e.g., OPR/legal office hours, FOIA monitors, etc.) are accounted for on DD Form 2086 and sent to SAF/AAIL (FOIA) with the responsive records.

3.3.7. Review denial packages to ensure all appropriate coordination was obtained (i.e., IDA's decision and AF/JAA review(s)) and copies are provided to SAF/AAIL (FOIA).

3.3.8. Request an extension.

3.3.8.1. The FOIA requires a government response within 20 workdays upon receipt by SAF/AAII (FOIA) of a perfected or correct FOIA request which complies with the requirements outlined in AFMAN 33-302, subsection C1.4.3. In unusual circumstances, as soon as OPRs determine the need for additional time to respond to the initial request, the FOIA Monitor shall acknowledge the request in writing, facsimile, or e-mail to SAF/AAII (FOIA) prior to the suspense set by SAF/AAII (FOIA); describe the circumstances requiring the delay; and indicate the anticipated date for a final response determination by the SAF two-letter organization's senior leadership, which at a minimum not exceed 10 additional workdays.

3.3.8.2. Request for extensions beyond the suspense date set by SAF/AAII (FOIA) must be signed by a senior officer (0-6 or GS-15). See Chapter 5, paragraph 2.6 (C5.2.6.) for more details concerning extension requests. Failure to meet extension suspense will result in notification of the staff principal (Secretariat Office, Air Staff Deputy Chief of Staff or equivalent).

3.3.9. Use the FOIA Monitor checklist at Attachment 2 to ensure required actions are complete.

3.3.10. Send FOIA responses to usaf.pentagon.saf-aa.mbx.haf-foia-workflow@mail.mil.

3.4. Offices of Primary Responsibility shall:

3.4.1. Review the FOIA request and provide SAF/AAII (FOIA) an estimate of fees, if cost will exceed \$15 or the amount the requester has agreed to pay, whichever is higher. Also, notify the FOIA Office if additional information is needed to conduct a reasonable search for records. Provide SAF/AAII (FOIA) a fee estimate and request for additional information not later than 5 duty days from receipt. The FOIA Office will notify your office to resume processing the request upon receipt of the requester's commitment to pay the fees or clarification.

3.4.2. Conduct a thorough review for requested records.

3.4.3. Complete the "no records" statement if the office is the OPR for the record and no responsive record found. Also, include the records management disposition governing the requested documents.

3.4.4. Identify external agency equities and refer the documents to the SAF/AAII (FOIA) to forward to the appropriate organization for consultation. If the external agency fails to reply by the suspense date set forth in AFMAN33-302, Chapter 5.1.5, redact and deny classified information pursuant to Exemption (b)(1).

3.4.5. Coordinate the release or denial of records requested with the organization's IDA and with AF/JAA on proposed denials.

3.4.6. Provide the organizational FOIA Monitor with the requested records, IDA's decision memo, and a copy of the legal review from AF/JAA.

3.4.7. Provide the FOIA Office a copy of the bracketed and clean copy of the responsive documents in a single .adx or .tiff file for Secret and below and hardcopy for Top Secret.

3.4.8. Provide written recommendations to the disclosure authority to determine whether to release records; obtain declassification authority approval when appropriate; and forward recommendations to the organization's FOIA Monitor.

3.4.9. Coordinate with the FOIA Monitor on requests for extensions, clarification, or guidance.

3.4.10. Ensure appeals are prepared IAW AFMAN 33-302, Appendix 9.5 and obtain AF/JAA and IDA coordination. Appeal packages should be forwarded to SAF/AAL (FOIA) for completion and forwarding to AFLOA/JACL. Organizations that process FOIA actions do not have the authority to make a final decision to deny an appeal.

3.4.10.1. OPRs are responsible for ensuring adequate preparation of the FOIA appeal package for reconsideration by the IDA. Coordinate with AF/JAA, who will provide written opinions on substantive issues raised in the appeal.

3.4.10.2. 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.

3.4.10.3. All appeals must be reviewed by the Air Force IDA, who may grant some, all, or none of the appeal;

3.4.10.4. Appeals must generally be processed within twenty (20) days.

3.4.10.5. Capture all processing costs on DD Form 2086.

3.4.10.6. Use the appropriate OPR checklist(s) at Attachment 2 to ensure the required actions are completed.

4. Air Force Mandatory Declassification Review Program Guidance and Basic Principles

4.1. Basic Principles

4.1.1. A Mandatory Declassification Review (MDR), is a provision of Executive Order (EO) 13526, "Classified National Security Information", that allows members of the public to request a declassification review of a classified document(s) in order to obtain a publicly releasable version of the document(s). These requests are submitted to the agency whose equity, or "ownership", is invested in the document. Once an MDR request has been submitted to an agency for the review of a particular document, the agency must respond within one year from date of receipt of the request, either with an approval, a denial, or the inability to confirm or deny the existence or nonexistence of the requested document. Any individual or organization may request a review for declassification of information under EO 13526

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4.1.2. Headquarters Air Force (HAF), Major Commands (MAJCOMs), Field Operating Agencies (FOAs) and Direct Reporting Units (DRUs) process MDR requests from the public for classified information originating within their agency.

4.1.3. MDRs must:

4.1.3.1. Clearly delineate the communication as a request for mandatory declassification review

4.1.3.2. Identify the document(s) or information with sufficient specificity to enable OPRS to locate it with reasonable effort.

4.1.3.3. The requester must provide sufficient personal identifying information (name, address, phone number, and email address) to enable MDR staff to contact them for clarification or other matters concerning their request

4.2. Responsibilities

4.2.1. The Administrative Assistant to the Secretary of the Air Force (SAF/AA) has overall responsibility for ensuring Air Force compliance with the MDR program

4.2.2. The Secretary of the Air Force Information Management Directorate (SAF/AII), through the Office of Mandatory Declassification Review (SAF/AII (MDR)):

4.2.2.1. Administers procedures described in this instruction

4.2.2.2. Submits required reports to the Office of the Assistant to the Secretary of Defense

4.2.2.3. Provides guidance and instruction to HAF Two-Letter Organizations

4.2.3. SAF/AII (MDR) shall:

4.2.3.1. Provide written acknowledgement to the requester not later than 24 hours after receiving the request

- 4.2.3.2. Ensure each request is logged into the SAF/AAII (MDR) database
- 4.2.3.3. Control and process MDR requests until completed
- 4.2.3.4. Refer requests to the appropriate Office of Primary Responsibility (OPR) for declassification determination
- 4.2.3.5. Establish procedures to assess and collect fees
- 4.2.3.6. Notify requester in writing of possible MDR fees
- 4.2.3.7. Approve or deny fee waivers
- 4.2.3.8. Send extension notices to requester
- 4.2.3.9. When information is denied in full or in part, SAF/AAII (MDR) will notify the requester of the right of administrative appeal
- 4.2.3.10. Submit required annual SF 311, Agency Security Classification Management Program Data to SAF/AAZ
- 4.2.3.11. Make final determination on all “no records” responses
- 4.2.3.12. Provide training to HAF Two Letter Organizations
- 4.2.4. HAF Two Letter Organization MDR Officers shall:
 - 4.2.4.1. Prepare and submit to SAF/AAII (MDR) an appointment letter (see attachment 4) designating a primary and alternate MDR Officer, responsible for implementing the MDR program within their organization.
 - 4.2.4.2. Prepare and submit to SAF/AAII (MDR) a letter identifying the agency Initial Denial Authority responsible for making final decisions on denial of records.
 - 4.2.4.3. Staff request to appropriate Office of Collateral Responsibility (OCR) and suspense accordingly.
 - 4.2.4.4. Act as liaison between the OCR and SAF/AAII (MDR)
 - 4.2.4.5. Coordinate the release or denial with the OCR and the SAF/AAII (MDR) office on proposed denials.
 - 4.2.4.6. Request an extension from SAF/AAII (MDR) if necessary. Requests for extensions may be submitted to usaf.pentagon.saf-aa.mbx.mdr-workflow@mail.mil

4.2.4.7. OPRs are required to conduct a line-by-line review of the information and are expected to release the information unless such release is prohibited under statutory law (i.e. FOIA). When information cannot be declassified in its entirety, OPRs will make reasonable efforts to release the classified portions of the request information.

4.2.4.8. Provide requested records. Records may be provided electronically to usaf.pentagon.saf-aa.mbx.mdr-workflow@mail.mil or mdr.workflow@af.pentagon.smil.mil

4.2.4.9. Identify external agency equities and refer the documents to SAF/AII (MDR) for Consultation with the appropriate organization

4.2.4.10. Assist the disclosure authority in determining release of records and act as declassification authority when appropriate/necessary

4.2.5. Initial Denial Authority shall:

4.2.5.1. Make final decision to deny records

4.2.5.2. Notify the requester, through SAF/AII (MDR), of the nature of records or information denied, the exemption(s) supporting the denial with reason and provide notification of appeal procedures. NOTE: In accordance with EO 13526, Sec 3.3, Para (b)-(d) and (g)-(j), all classified records that are more than 25 years old and older have been determined to have permanent historical value under Title 44, United States Code, shall be automatically declassified whether or not the records have been reviewed.

4.2.5.3. Ensure unclassified information is not exempt from public release pursuant to Exemptions 2 through 9 of the Freedom of Information Act

4.2.5.4. Identify external agency equities and refer the documents to SAF/AII (MDR) to forward to the appropriate organization for consultation.

4.2.5.5. Ensure that exemptions are applied to specific information, the release of which would clearly and demonstrably be expected to:

4.2.5.5.1. Reveal the identity of a confidential human source, a human intelligence source, a relationship with an intelligence or security of a foreign government or international organization, or a non-human intelligence source; or impair the effectiveness of an intelligence method currently in use, available for use, or under development

4.2.5.5.2. Reveal information that would assist in the development, production, or use of weapons of mass destruction

4.2.5.5.3. Reveal information that would impair U.S. cryptologic systems or activities

4.2.5.5.4. Reveal information that would impair the application of state-of-the-art technology within a U.S. weapon system

4.2.5.5.5. Reveal formally named or numbered U.S. military war plans that remain in effect, or reveal operational or tactical elements of prior plans that are contained in such active plans

4.2.5.5.6. Reveal information, including foreign government information that would cause serious harm to relations between the United States and a foreign government; or to ongoing diplomatic activities of the United States

4.2.5.5.7. Reveal information that would impair the current ability of the United States Government officials to protect the President, Vice President, and other protectees for whom protection services, in the interest of national security, are authorized.

4.2.5.5.8. Reveal information that would seriously impair current national security emergency preparedness plans or reveal current vulnerabilities of systems, installations or infrastructures relating to the national security

4.2.5.5.9. Violate a statute, treaty, international agreement that does not permit the automatic or unilateral declassification of information at 25 years

5. Mandatory Declassification Review requests must:

5.1. Clearly delineate the communication as a request for mandatory declassification review

5.2. Identify the document(s) or information with sufficient specificity to enable OPRs to locate the records with reasonable effort.

5.3. The requester must provide sufficient personal identifying information (name, address, phone number, and email address) to enable MDR staff to contact them for clarification or other matters concerning their request

6. Information NOT subject to MDR

6.1. Information in unclassified documents or documents declassified prior to receipt of the MDR must be requested under the provisions of the Freedom of Information Act (FOIA) Section 552(b)

6.2. Information reviewed for declassification within 2 years preceding the date of the receipt of the MDR. If this is the case, the requester should be provided the documents as previously released and advised of the right to appeal to the DOD Component within 60 days unless the

documents are already under appeal to the Interagency Security Classification Appeals Panel (ISCAP)

6.3. Documents originated by the incumbent President; the incumbent President's White House Staff; committees, commissions, or boards appointed by the incumbent President; or other entities within the Executive Office of the President that solely advise and assist the incumbent President.

6.4. Restricted Data or Formerly Restricted Data

6.5. Information subject to pending litigation

7. MDR Timelines and Requests for Extensions

7.1. OPRs must make a final determination on MDRs and return to SAF/AII (MDR) within one year of receipt of the request.

7.2. SAF/AII (MDR) will set timelines for interim updates on progress in completing MDRs. OPRs may submit written requests for extensions to SAF/AII (MDR) at usaf.pentagon.saf-aa.mbx.mdr-workflow@mail.mil or 1000 Air Force Pentagon, Washington DC 20330-1000.

7.3 Extensions should be requested before the one year time period has elapsed to enable SAF/AII (MDR) to provide timely notification of the delay to the requester. Extension requests should be signed by an O-6, GS-15 or equivalent.

8. MDR Appeals

8.1. MDR appeals are for the denial of classified information only.

8.2. Appeals must be received by the coordinator within 45-days of the date of mailing of the Air Force's initial decision. Appeals must identify with specificity the documents or information to be considered on appeal and may provide a factual or legal basis for the appeal.

8.3. The MDR Manager shall promptly record each appeal received, acknowledge receipt to the requester, and task the originator and other interested parties. Additional taskings, as determined during the review process, shall be accomplished within 10 days of notification

8.4. Each Air Force officer which originated or has an interest in any of the records subject to the appeal, or designee, is a required party to any appeal; other interested parties may become involved through the request of the coordinator when it is determined that some or all of the information is also within their official cognizance. These parties shall respond in writing to the coordinator with a finding as to the classified status of the information including the category of protected information as set forth by EO 13526. These

parties shall also provide a statement as to whether or not there is any other statutory, common law or constitutional basis for withholding information.

9. Appeal Authority

9.1. The Secretary of the Air Force or designee will make the final Air Force decision on appeals of initial denial decisions IAW EO 13526. Matters decided by the Secretary of the Air Force or designee will be deemed a final decision by the Air Force.

9.2. The coordinator shall provide a summation memorandum for consideration of the Secretary of the Air Force or designee. The Secretary of the Air Force or designee shall personally decide each case; no personal appearance shall be permitted without the express permission of the Secretary of the Air Force or designee.

9.3. The coordinator shall communicate the decision of the SECAF to the requester, NARA or the Presidential Library or other government agency within 10 days of such decision. The correspondence shall include a notice that an appeal of the decision may be made to the Interagency Security Classification Appeals Panel (ISCAP)

10. MDR Fees

10.1. MDR fees apply to authorized services related to copying, certifying and searching records and will be assessed in accordance with the Schedule of Fees and Rates in Appendix 2, Volume 11A, Chapter 4 of the DOD Financial Management Regulation.

10.2. Fees will not be charged if the total amount to process the request is \$30.00 or less

10.3. Itemized listings of operations required to process the job will be maintained along with associated costs. OPRs will include the cost listing as supporting documentation when finalizing the case and submit to SAF/AAII (MDR).

10.4. Mailing costs for services (Express Mail, etc.) when request specifically specifies a means more expensive than first class mail.

PATRICIA J. ZARODKIEWICZ
Administrative Assistant

Attachment 1

GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION***References***

AFMAN 33-302, Freedom of Information Program, 21 Oct 10
AFI 31-401_AFGM2 30 Jan 13, Information Security Program
AFMAN 33-363, Management of Records, 1 Mar 08
DOD 5400.7-R_AFMAN 33-302, Freedom of Information Act, 21 Oct 10
DOD 5200.1, Vol 1, 2 and 3, DOD Information Security Programs, 24 Feb 12
5 U.S.C § 552, The Freedom of Information Act
Executive Order (EO) 13526, Classified National Security Information, 29 Dec 09
Title 44, U.S.C, Chapter 21 §2107, Acceptance of Records for Historical Preservation
DOD Financial Management Regulation, Appendix 2 Vol 11A, Schedule of Fees and Rates

Forms

AF Form 847, *Recommendation for Change of Publication*
DD Form 2086, *Record of Freedom of Information (FOI) Processing Cost*

Abbreviations and Acronyms

AFI – Air Force Instruction
AF/JAA - Administrative Law Division, Office of the Judge Advocate General
AFLOA/JACL - Air Force Legal Operations Agency/General Litigation Division
AFMAN - Air Force Manual
AFRIMS - Air Force Records Information Management System
DOD - Department of Defense
DODI - Department of Defense Instruction
DODR - Department of Defense Regulation
DRUs - Direct Reporting Unit
EFOIA - Electronic Freedom of Information Act
ERR - Electronic Reading Room
FOAs - Field Operating Agencies
FOIA - Freedom of Information Act
FOUO - For Official Use Only
HAF - Headquarters Air Force (Includes Secretariat and Air Staff)
HOI - Headquarters Operating Instruction
IAW - In accordance with
IDA - Initial Denial Authority
MAJCOM - Major Command
MDR-Mandatory Declassification Review
OCR - Office of Collateral Responsibility
OPR - Office of Primary Responsibility
PA - Privacy Act

SAF/AAMI – Secretary of the Air Force, CIO Support Division, Operations Branch

Terms & Definitions

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.

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.

Interagency Security Classification Appeals Panel (ISCAP)—a sub-agency of the Information Security Oversight Office, the ISCAP provides the public and users of the classification system a forum for further review of classification decisions; panel to which classification decisions on MDRs can be appealed

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 US 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 information exempt from release/declassification.

Attachment 2

FOIA CHECKLISTS**A. ORGANIZATONAL FOIA MONITOR CHECKLIST**

REFERENCE: DOD 5400.7-R_AFMAN 33-302 and Title 5, United States Code 552.

FOIA Monitors are responsible for monitoring all FOIA requests within their assigned area of responsibility and assigning action to the appropriate OPR. The monitor must ensure the OPR completes the case by the suspense date indicated on the staffing package and provide written responses. The FOIA Monitor also serves as liaison between SAF/AAL (FOIA) and the OPRs.

No.	Checklist Item	Yes	No	N/A
1	Was the FOIA tasker logged into the organization's database or logbook and tracked to meet required suspense?			
2	Does the FOIA request have a case number assigned by SAF/AAL (FOIA)?			
	If the FOIA request does not have a case number assigned to it:			
3a	Was a copy of the request e-mailed to SAF/AAL (FOIA) at: foia@pentagon.af.mil or faxed to them 703-693-5728 (DSN 223-5728)?			
3b	Was the original (hardcopy) letter forwarded to SAF/AAL (FOIA), 1000 Air Force Pentagon, Washington, DC 20330-1000?			
4	<u>If there was an appeal:</u>			
4a	Was the package prepared IAW DOD 5400.7-R_AFMAN 33-302, AP9.5?			
4b	Was the package coordinated with AF/JAA?			
4c	Was the package coordinated with the IDA?			
4d	Was appeal package forwarded to SAF/AAL (FOIA) for final processing and forwarding to AFLOA/JACL?			
5	Have all OPR. Checklist items below been completed?			

B. OFFICE OF PRIMARY RESPONSIBILITY CHECKLIST

OPRs are responsible for the actual processing of FOIA requests within their assigned area of responsibility. The OPR must complete the case by the suspense date indicated on the staffing package (as adjusted for approved extensions) and provide written responses to the FOIA Monitor for forwarding to SAF/AAL (FOIA). Request for extensions and/or guidance must be processed through the FOIA Monitor who serves as the liaison between SAF/AAL (FOIA) and the OPR.

No.	Checklist Item	Yes	No	N/A
1	Was the tasker forwarded and suspended accordingly to the appropriate office for action?			
2	Did the OPR complete a thorough search of all maintained filing systems and locations of records pertaining to the FOIA request?			
3	If records are located and determined releasable, did the OPR provide the FOIA Monitor with a written memo (with documents) addressed to SAF/AAII (FOIA) stating the responsive documents are releasable?			
4	If no records were found, did the OPR provide the FOIA Monitor with a written negative response addressed to SAF/AAII (FOIA)?			
5	If a determination is made to withhold part or all of the record(s), did the OPR provide FOIA exemption(s) and/or exclusion(s), and justification for the denial? (NOTE: All denials must be coordinated with AF/JAA. Justification for denial must be provided to AF/JAA (which includes the OPR's recommendation, one unmarked copy of the requested record and another copy of the requested record on which the portions recommended for denial are highlighted in yellow and annotated with the appropriate FOIA exemption(s)).			
6	Did AF/JAA agree with the OPR's response? (If further action is required by the OPR or if AF/JAA provided recommendations, the package is sent back to the OPR. Upon review and/or completion of the action, the OPR must obtain another legal coordination with AF/JAA prior to forwarding the response to the FOIA Monitor).			
7	Did the OPR forward the completed package to the FOIA Monitor with all applicable documentation for forwarding to SAF/AAII (FOIA)?			
8	Did the OPR fill out the DD Form 2086 (Freedom of Information (FOI) Processing Cost)?			
9	If The OPR is not able to meet the suspense date, did the OPR contact the FOIA Monitor to request an extension from SAF/AAII (FOIA)? See paragraph 3.3.8. for information concerning requests for extensions.			

C. OFFICE OF PRIMARY RESPONSIBILITY APPEAL CHECKLIST

SAF/AAII (FOIA) will forward appeal packages to the FOIA Monitor who will in-turn forward to the appropriate denying OPR. The OPR is responsible for the reprocessing and review of their previous recommendation. Appeals require AF/JAA coordination.

No.	Checklist Item	Yes	No	N/A
	Was the appeal package forwarded to the appropriate OPR for applicable action? See DOD 5400.7-R AFMAN33-302, AP9.5)			
2	Was the package coordinated with the IDA?			
3	Was the appeal package coordinated with AF/JAA for legal review ?			
4	Was the appeal package returned to the FOIA Monitor for further processing and forwarding to SAF/AAII (FOIA)?			

D. RECORDS MANAGEMENT REQUIREMENT

The OPR must maintain a copy of the records released in full for 2 years and 6 years for records that were denied in full or in part. See Air Force Records Information Management System (AFRIMS) Table 37-19 for details.

Attachment 3

**SAMPLE APPOINTMENT OF FREEDOM OF INFORMATION ACT
INITIAL DENIAL AUTHORITITES AND MONITORS**

(Date)

MEMORANDUM FOR SAF/AAII (FOIA)

FROM: (Sender Two-Letter Organization)

SUBJECT: Appointment of Freedom of Information Act (FOIA) Initial Denial Authority and
Monitors

The following duty titles are authorized to serve as the Initial Denial Authorities. Also, the individuals listed below are appointed FOIA Monitors for this organization and will fulfill unit FOIA Monitor responsibilities described in HOI 33-18, Headquarters Air Force Freedom of Information Act Program.

INITIAL DENIAL AUTHORITY:

Duty Title:

PRIMARY FOIA MONITOR:

Rank/Name:

Unit/Office Symbol:

Phone:

Email:

Organizational email:

ALTERNATE FOIA MONITOR:

Rank/Name:

Unit/Office Symbol:

Phone:

Email:

Organizational email:

This letter supersedes previous letter, same subject.

Signature Block

Attachment 4

**SAMPLE APPOINTMENT OF MANDATORY DECLASSIFICATION REVIEW
INITIAL DENIAL AUTHORITITES AND MONITORS**

(Date)

MEMORANDUM FOR SAF/AII (MDR)

FROM: (Sender Two-Letter Organization)

SUBJECT: Appointment of Mandatory Declassification Review Initial Denial Authority and
Monitors

The following duty titles are authorized to serve as the Initial Denial Authorities. Also, the individuals listed below are appointed MDR monitors for this organization and will fulfill unit MDR Monitor responsibilities described in HOI 33-18, Headquarters Air Force Freedom of Information Act Program.

INITIAL DENIAL AUTHORITY:

Duty Title:

PRIMARY MDR MONITOR:

Rank/Name:

Unit/Office Symbol:

Phone:

Email:

Organizational email:

ALTERNATE MDR MONITOR:

Rank/Name:

Unit/Office Symbol:

Phone:

Email:

Organizational email:

This letter supersedes previous letter, same subject.

Signature Block