

USING THE FREEDOM OF INFORMATION ACT: HOW TO GET INFORMATION FROM THE GOVERNMENT

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How To Get Information from the Government

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Insight Features

The Freedom of Information Act (FOIA) guarantees citizens access to information about what the government and its various bureaucracies are doing. Congress passed the federal Freedom of Information Act in 1966. Since then, state laws have expanded on the federal guarantees. The Illinois law was effective July 1, 1984.

What it means is that any citizen has the right to follow up on the records of the institutions governing society--such as property title and deed transfers, court cases and politician's voting records. FOIA requests can lead to public disclosure of information useful to organizers--such as environmental impact studies or budget allocations to certain projects. In one Utah case, FOIA requests proved government knowledge of health hazards (including cancer risk) caused by atomic fallout from testing in Nevada. In another instance, National Highway Safety Administration documents disclosed to the public forced the recall of 500 defective tires.

While federal FOI laws do not apply to state or local governments, most states have their own open records laws--some of which are more inclusive than the federal law. Any documents of a state or local agency which are submitted to a federal agency, however, automatically become subject to the federal FOIA. Contact your state attorney general's office for copies of your state's act.

What Can You Get?

The federal law covers all agencies of the federal government, from the Pentagon to your local post office. It does not extend to activities at the White house, Congress, the federal courts or private corporations. The Illinois law covers all branches of the state and local government except the judiciary. It also applies to all local public bodies, including school districts, city and county governments, state universities, and the innumerable board, bureaus and committees that spend tax dollars. Local bodies may have their own FOI regulations.

In general, you're entitled to review and copy public records of any of these bodies. These can include reports, forms, memoranda, maps, photographs, microfilms, tapes and computerized data. You can be charged for the cost of searching for and copying the records; however, if you can prove disclosure of the information will benefit the public, those fees may be waived. This provision usually applies to journalists, researchers and scholars.

What Can't You Get

The law assumes you are entitled to information unless specified otherwise. Exemptions are for such information as:

--classified material (federal);

--information that would invade personal privacy, such as medical records, personnel files, student records (although other laws guarantee you access to your own files);

--criminal investigations;

--trade secrets, sealed bids, exam questions and answers--the kind of information that would give you unfair advantage over others;

--investigatory records which, if released, would "impede law enforcement, disclose confidential sources or investigative techniques;"

--documents concerning government regulation or supervision of financial institutions;

--internal agency memoranda and policy discussions;

--national security;

--oil and gas wells (location of and other trade specifications).

How Does It Work?

Formal written requests for information (as opposed to inquiries in person or over the phone) are the only requests considered as falling within the FOI guidelines and subject to the law.

Mention in your letter that you are asking for information under the FOIA. Identify the source that led you to this agency. (For example, send a clipping that mentions the study you want, or give the name of the person who referred you.) Describe what you want as specifically as possible (documents, letters, bills, financial records relating to the sale of the former school building at 1211 Oak St.). You are not required to explain why you are making the request.

Mention that you will expect a reply within seven days (10 days for the federal government). If you want copies of records--not just the chance to look at them--you can specify how much you are willing to pay for copying, in case your request turns out to be bigger than you expected. Keep a copy of all correspondence.

Once you submit your written request, the government must reply within seven (or 10) working days. They can give you the information, ask for an extension, or turn you down.

Extensions cover situations where the records are stored elsewhere, where they require an extensive search, where the agency wants time to review them for exempt material or to check

with another agency involved in the case, or where the seven-day limit is "unduly burdensome." Extensions cover the same period as the original request.

Be persistent. Despite deadline requirements for releasing information, in practice some agencies will take months (or even years) to fulfill an FOI request. At the same time, if you can prove you need a document urgently--for example, for a court case-- you can also persuade the agency to meet your request early.

Getting What You Want

The more targeted your request for information, the more likely you are to get the specific information you need. This means filing your request with the appropriate agency of office as well as knowing what kinds of documents you're looking for (as opposed to asking for general information on a subject). Most large agencies have a designated FOI officer to handle requests; if no such officer exists, it is a good idea to call and find out how to best direct your letter.

Federal law requires each agency to issue quarterly indexes of its records dating back to July 4, 1967. Illinois law requires each public body to make available "reasonably detailed" lists of its records and information on how they are stored. The information must be comprehensible even to those who don't understand computers.

You can also call an agency and ask about records on your subject, trying to first identify what will be most useful to you. Also, if the information you need is not stored elsewhere, sometimes visiting the office and viewing the documents there, rather than waiting for copies to arrive in the mail, is quicker.

What If They Say No?

Under provisions of the FOIA, once you make a written request for information, the burden of compliance with the law is on the agency. If the agency denies your request (not answering within a time limit is a denial), they have to say why that information is exempt. If only a part of what they ask for is exempt, they have to cut that part out and send you the rest.

The first step in appealing a denial is to write a formal letter citing the date and basic information of your original request, the date of the denial, and a statement that you believe the denial violated the FOIA. Send the letter and copies of all previous correspondence to the head of the agency (state or local) or to specified federal appeals offices.

If you get no action in 20 days of your request or appeal, you can file a lawsuit provided you have the appropriate copies of the paper trail). If you win, you can still be awarded attorneys' fees if the material is considered of significant public interest.

For a 32-page booklet, How To Use The Freedom of Information Act, contact the FOI Service Center, c/o Reporters Committee, 1735 Eye St, NW, Suite 504, Washington DC 20006, 202-466-6312. The book contains an actual copy of the act. It also summarizes and explains how to use the act; list Supreme Court cases which are relevant to the act (and their rulings); contains a

directory of addresses for federal agencies; and gives sample letters for requests, appeals, a filing a lawsuit. Cost is \$3.

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