

**UNITED STATES DEPARTMENT OF THE INTERIOR**  
**BUREAU OF LAND MANAGEMENT**  
**Arizona State Office**  
222 N. Central Avenue  
Phoenix, Arizona 85004  
www.az.blm.gov

**In Reply Refer to:**  
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Instruction Memorandum No. AZ-2001-010  
Expires: 9/30/2001

To: All Field Managers; All Deputy State Directors  
Attn: FOIA Coordinators; Records Managers

From: State Director

Subject: Congressional Requests and the Freedom of Information Act

DD: None

**Purpose:** The purpose of this Instruction Memorandum is to explain the existing procedure for handling requests for records received from members of Congress in relation to the Freedom of Information Act (FOIA). This also transmits Arizona policy to expedite the FOIA processing and to grant fee waivers when filling such requests.

**Background:** A request for records from a member of Congress needs to be processed the same way as a request from any other requester. A Congressional request is **not** entitled to preferential treatment that involves full disclosure of any and all documents requested. The BLM 1278 Manual at Section .4 states: "Access requests from individual Congressmen are handled like other FOIA requests..."

The decision to treat any request for records as a FOIA, including a request received from a member of Congress, is determined by the type of information being requested. That decision is based on the "Records Access Category" (RAC) of the information contained within the records. (Refer to Washington Office IM No. 97-94 for a complete list of records common to all BLM offices and their designated RAC.) The three RAC's for all BLM records are as follows:

- CATEGORY 1: PUBLIC INFORMATION**  
(Free for view, charges for copies. FOIA request not required.)
  
- CATEGORY 2: PUBLIC INFORMATION**  
(Electronic Records with charges for access and copying. FOIA request not required)
  
- CATEGORY 3: NON-PUBLIC RECORDS**  
(Contains sensitive or protected information, requires a FOIA request.)

A broad request made for “any and all records” should always be reviewed for possible protection under the FOIA exemptions. This is true whether or not the request letter contains the actual words “Freedom of Information Act” in it. A FOIA review is the only way to ascertain whether “any and all records” might contain Category 3, non-public information, (such as home phone numbers, home addresses, or proprietary information). After reviewing all the records involved, if they are found to contain only public information, then FOIA processing is not required. However, should the records contain non-public information, the request must be processed as a FOIA in order to withhold that information under the applicable FOIA exemptions.

**Policy/Action:** A request for records submitted by an individual member of Congress is to be processed like any other request for records. If the records being sought are all Category 1 or 2 (public records), then follow existing established procedures for filing routine Congressional Requests. If any portion of the requested records are Category 3 (non-public records), then the request must be processed as a FOIA.

It is Arizona policy to expedite a Congressional FOIA request, whenever possible, in order to fill the request earlier than the 20 days mandated by the FOIA. This policy is a courtesy to members of Congress. In addition, FOIA regulations contained at 43 CFR § 2.21 (b)(6) allow for a discretionary waiver of the fees involved in processing such requests. Accordingly, it is Arizona policy to waive all fees for processing Congressional FOIA requests. No additional preferential treatment is permitted, particularly when determining what records will be released. All FOIA exemptions must still be applied to the non-public records being requested.

Except as explained below, whenever a request for records is received from anyone whether it is an individual citizen, a member of an environmental group, a BLM employee, or a member of Congress, the records being requested are what determines whether or not we process that request as a FOIA. That decision is never based on the identity of the requester. If you are uncertain of the RAC category of the records being requested, seek advice from someone familiar with FOIA to review the request before proceeding.

**Exception to this Policy/Action:** The only exception to regular FOIA processing is when a request for records is received from a Congressional Committee or Subcommittee. The FOIA does not give authority to withhold information from either of these entities. BLM Manual 1278 at Section .41 contains procedures for providing protected or proprietary/confidential information to a Congressional Committee. Those procedures must be followed when releasing any non-public information to a Congressional Committee or Subcommittee.

**Time Frame:** These procedures are mandated by the Freedom of Information Act at 5 U.S.C. 552, and 43 CFR, Part 2, and remain in effect indefinitely.

**Manual/Handbook Sections Affected:** BLM Manual 1278.

**Contact:** If you have any questions, please contact Toni Klimek, State Records Administrator at 602-417-9364.

SIGNED BY:  
Denise P. Meridith

AUTHENTICATED BY:  
Lucy Ontiveros  
Staff Assistant

