

## **Multi-State Freedom of Information Act (FOIA) Requests**

### **Recognizing a Multi-State FOIA Request:**

At times, the Bureau of Land Management (BLM) Washington Office (WO) receives requests asking for responsive records from all, or many, BLM offices. However, when a request is sent to various states/centers (“states”) individually, it is not always clear to the receiving office whether the request was also sent to other BLM offices/states. A request may be a multi-state request if:

- The request is not limited to a smaller or specific geographic area;
- The request is from a group not normally heard from, especially if not located in the receiving state;
- The request is for records on a national level program or a subject that pertains to more than one state, or
- The requester states they are representing several groups, or the request is from an attorney representing several groups (and the groups are not ones customarily dealt with in the receiving state).

### **Communicating With Other States and WO:**

The State FOIA Coordinator in any state receiving a potential multi-state request sends an email to the BLM FOIA email group asking whether any other state has received the same request;

If another state responds that they have received the same request, then the FOIA Coordinator who initiated the inquiry sends a copy of the request via fax to the WO FOIA Officer at (202) 452-5002, and

The State FOIA Coordinator replies to all messages by email, selecting “Reply to All with History.” If you have reason to recommend a consolidated response; or recommend a lead for a coordinated response (see below), include this in your email.

### **Processing Multi-State FOIA Requests:**

1. When a multi-state request is received and recognized, the BLM FOIA Officer determines whether the request is answered with a consolidated response or a coordinated response.

Use a consolidated response when all responsive records are located at one office (often WO or a National Center), or when the requested records are sensitive, relate to a national program/application, or there is potential for Bureauwide litigation:

Send one response letter to the requester along with all responsive records. The letter is sent from one office.

Use a coordinated response when multiple offices possess responsive records, and 1) the responsive records are not sensitive; 2) do not relate to a national program/application; 3) and there is not a high potential for Bureauwide litigation:

Each office receiving the request sends a standard response letter along with the responsive records.

2. Based on the workload of the offices involved and the nature of the request, the BLM FOIA Officer determines which state will lead the FOIA response and will disseminate this decision via email to the BLM FOIA email group.
3. Each state receiving the request faxes a copy of the request to the lead FOIA Coordinator (“Lead”) to verify that all requests are in fact identical/similar.
4. Only the Lead, or a program specialist at the request of the Lead, contacts the requester. Any office contacted by the requester, refers the requester to the Lead. The Lead may ask the appropriate Bureau program office to name a lead program specialist, if necessary.
5. If there is high potential for litigation, the Lead works with the Office of the Solicitor rather than their Regional Solicitor.
6. State FOIA Coordinators in the affected states facilitate communication between their state program staff and the Lead. They obtain input and feedback from program specialists and provide such information to the Lead, and ensure that all transmittals from the Lead are forwarded to the program staff. FOIA Coordinators notify the Lead of any delays in providing responsive records, so that the Lead can notify the requester. Keeping the Lead informed helps prevent appeal and litigation activity. If an issue arises after the initial coordinated response is made, such as a question as to whether certain records are considered responsive, the FOIA Coordinator contacts the Lead with the issue.
7. Response Letters for Consolidated Responses:

The Lead is responsible for resolving any administrative or fee issues. The Lead office generates a single response letter that addresses any clarification or fee issues; The Lead performs fee waiver analysis using the criteria listed in 43 CFR 2.21, when necessary;

The letter shall explain that all responsive records for the Bureau are being provided by the Lead office. This limits any potential appeals to a single appeal. Include all responsive records with the letter. No other receiving offices need to respond;

In determining fees, if the request was received by only one office, but multiple offices perform search and copying of responsive documents, consolidate the fees and then apply copy and search allowances and minimum charge (\$15.00) per 43 CFR 2.20. If the request was received by multiple offices, each office performing search and providing records determines fees and then applies allowances and minimum charge per 43 CFR 2.20, and

The Lead sends a copy of the response letter to the FOIA Coordinator in all affected states, and to the BLM FOIA Officer.

#### 8. Response Letters for Coordinated Responses:

The Lead is responsible for contacting the requester and resolving any administrative or fee issues;

The Lead performs the fee waiver analysis using the criteria listed in 43 CFR 2.21, when necessary;

- The Lead generates a template response for each office to use for their response to the requester. Each office provides specific information to the requester regarding (in the case of a records denial) the number and type of records withheld and (in the case of a fee waiver denial) the amount of fees required before that office provides responsive records;
- If an office needs to modify the template, the State FOIA Coordinator works with the Lead on the modified wording;
- Each office providing responsive records calculates fees and provides allowances per 43 CFR 2.20;
- The FOIA Coordinator for each state/center providing records notifies the Lead when their state/center responsive action is complete. Notify by email or a courtesy copy verification of their response letter. The Lead notifies the BLM FOIA Officer when all states/centers complete the request, and
- The Lead coordinates with the FOIA Appeals Office if an appeal is received so the Appeals Office understands that a coordinated response was made, and is aware of

any differences between the state responses.