

[Redacted]

(b)(3)

From: [Redacted] (b)(3)
Sent: Tuesday, September 26, 2017 1:48 PM
To: COMM-IMSO-IRRG-FOIA
Subject: FW: FOIA Requests for (a)(1) and (a)(2) records (UNCLASSIFIED) --- UNCLASSIFIED//~~FOUO~~
Attachments: (a)(1) (a)(2) Request.pdf
Importance: High

Classification: UNCLASSIFIED//~~FOUO~~
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All,

Please read how DOD recommends we (and other DOD agencies) respond to SAI's request.

-----Original Message-----

From: OSD MC-ALEX ODCMO Mailbox DoD FOIA Policy Office [mailto:osd.mc-alex.odcmo.mbx.dod-foia-policy-office@mail.mil]
 Sent: Tuesday, September 26, 2017 12:54 PM
 To: OSD MC-ALEX ODCMO Mailbox DoD FOIA Policy Office
 Subject: FOIA Requests for (a)(1) and (a)(2) records (UNCLASSIFIED)
 Importance: High

CLASSIFICATION: UNCLASSIFIED

DoD FOIA Officers and Attorneys,

Please disseminate this to all of your component FOIA offices.

It has come to our attention that DoD FOIA Offices have received a FOIA request similar to the attached. This requester is asking for documents categorized as FOIA Sections (a)(1) and (a)(2) documents. We recommend that the DoD Components respond in this way:

- According to (a)(3)(A) of the FOIA, agencies do not have to respond to FOIA requests for (a)(1) and (a)(2) documents.
- Furthermore, concerning (a)(2) documents, DoDM 5400.07, Section 4, "FOIA Libraries", establishes the following:
 - (a)(2)(A), Final Opinions. DoD Component websites such as the Defense Office of Hearings and Appeals (DOHA) and Armed Services Board of Contract Appeals (ASBCA) meet this requirement. For DOHA, the website is <http://ogc.osd.mil/doha/>, and for ASBCA the website is <http://www.asbca.mil/>. Furthermore, you may add additional websites of final opinions that your component has, such as JAG websites (e.g. <https://www.jagcnet.army.mil/ACCA#>)..
 - (a)(2)(B), Statements of Policy. You can direct the requester to the DoD Issuances website at <http://www.esd.whs.mil/DD/DoD-Issuances/>. Additionally, if your component has a publicly accessible issuance/regulation/instruction website, please provide that link, too.
 - (a)(2)(C), Administrative Staff Manuals or Instructions. Please provide the requester with the same links as (a)(2)(B), above.
 - (a)(2)(D), Frequently Requested Records, please provide the link to your component's FOIA Library/Reading Room.

As for the part of the request asking for "all records relating to the fulfillment of this request", you can answer in one of two ways. 1), Even though the requester says that he wants the search for this information to be conducted at the END of the processing of this request, you can conduct your search, properly documented, at the beginning right after receipt of the request. That would result in only a few responsive documents created, when the request is received. 2), You can consider this part of the request as a separate request with a new case number, entered into your system AFTER the completion of the first part of the request. Please advise the requester of this, and then process accordingly, with the date of receipt the day that you enter it into your system. If you consider this email from me as responsive to this part of the request, you may provide it to the requester without any consultation/referral. We recommend the second option.

We also recommend that you provide the requester with appeal rights.

Please let me know if you have any questions.

Jim Hogan
DoD FOIA Policy
Directorate for Oversight & Compliance
CLASSIFICATION: UNCLASSIFIED

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