

U.S. Immigration and Customs Enforcement (ICE)
Information Governance and Privacy (IGP)
Freedom of Information Act (FOIA) Division

Intake Standard Operating Procedures

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Recent Updates

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Intake

The FOIA intake process is a crucial step in ensuring that requests are accurately received and prepared for processing. Intake carefully reviews every request and ensures the requests meet the necessary requirements for processing. A well-executed intake process sets the stage for a smooth and efficient processing experience. This SOP provides foundational knowledge of intake procedures and guidelines for handling unique situations that arise during the intake process.

Types of Requests

ICFO (FOIA Requests)

New requests to be processed under the FOIA. Includes incoming referrals.

ICPA (Privacy Act Requests)

Privacy Act requests are more limited and can be made only by (a) U.S. citizens or non-citizens that are lawfully admitted for permanent U.S. residence, (b) who are seeking information about themselves, (c) which is maintained in a system of records and accessed using their names or other personal identifiers. When applicable, requests for records contained in Privacy Act system of records are processed under the FOIA and the Privacy Act.

- The ICPA request type should not be assigned to any request.
- Privacy Act requests submitted through the portal should be immediately changed to an ICFO during triage.

ICAP (Appeals)

Appeals of previously submitted FOIA requests.

ICCO (Consults)

Incoming requests from other government agencies for review of ICE equities and return to the requesting government agency.

ICLI (Litigation)

ICE FOIA requests that are in litigation.

ICSP (Special Projects)

Special FOIA projects that should not be counted as an actual request.

Requester Categories

Educational

The requester – whether student or teacher/professor – is seeking information in connection with their role at an educational institution which operates a program of scholarly research. The request to further coursework or other school sponsored activities.

Example – A student or teacher/professor is seeking statistical data for research.

Commercial

Those who seek records for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is being made. Designation of a requester as a "commercial requester," therefore, will turn to the use of which the requested information will be utilized, rather than on the identity of the requester.

Example - A company seeks records to enhance prospect of the company securing a contract.

When the requester is an attorney, you must look to the client's intended use of the documents.

Example - An attorney or representative submitting a request on behalf of their client for records pertaining to that client does not qualify as a commercial requester. These types of requesters are to be placed in the "all other" category.

Media

Any person or entity that gathers information of potential interest to the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.

Example 1 - Newspaper/television reporters are representatives of the news media regardless of how much interest there is in the particular story for which they are requesting information.

Example 2 - A freelance journalist shall be regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity.

Scientific (Non-commercial)

Institution operated solely for the purpose of conducting scientific research not intended to promote any particular product or industry.

Agency/Component

Any agency or representative of an agency seeking a consult of records with ICE equities.

Do not use this category for agency/component employees that are requesting records in their individual capacity.

All Other

Requesters that do not fit into any of the categories. Applies to individuals requesting records about themselves and attorneys requesting records on behalf of their client.

Request Date and Received Date

Identifying proper request and received dates into the system is crucial for reporting purposes. It is imperative that these dates are entered into the system correctly.

Physical Mail

- Request Date: the most recent date as annotated on the FOIA request and/or supporting documentation submitted with the request.
- Received Date: the date you are entering the request into the system.

Email

- Request Date: the date that the e-mail was received in the ICE FOIA inbox.
- Received Date: the date that the e-mail was received in the ICE FOIA inbox.

Portal

- Request Date: the date that the request was received through the portal.
- Received Date: the date that the request was received through the portal.

If we are entering an e-mail request into the system after the date of when the e-mail was received, then we need to backdate the request and received dates to match the date of the e-mail.

The FOIA Office cannot argue that we “received” an e-mail after the date of when it hit our ICE-FOIA inbox or the portal, so backdating is essential even if we are backed up on entering requests into the system. Therefore, it is very important that we stay on top of new requests to ensure that the least amount of processing time is spent on the intake process.

Incoming FOIA Referrals and Consults

Referrals - Documents are to be released directly to the requester.

There are two types of incoming referrals:

1. Referrals with documents for ICE to process.
 - During the search, the referring agency/component located records that originated from ICE.
 - Create the case in the system (ICFO), send an acknowledgement letter (referral received), and assign it to the corresponding Processing Track (Assigned Queue) in the system according to the page count of the documents.
 - Ingest the referred documents.
2. Referrals without documents to process.
 - The referring agency/component did not conduct a search.
 - Create the case in the system (ICFO), send an acknowledgement letter, send taskings to the necessary program offices, and place the request in the Pending Search Response queue.

Consults - ICE equities within the documents are to be processed and returned to the agency/component seeking the consult.

- Create the case in the system and ensure the requester listed in the system is the agency/component seeking the consult.
- Assign the consult to Processing Track #1 (Assigned Queue).
- Ingest the consult documents.

Incoming Appeals

A requester can appeal a FOIA response within 90 days of ICE's final determination of the request. All incoming appeals be immediately forwarded to (b)(7)(E)@ice.dhs.gov. OPLA GILD adjudicates all appeals and handles the initial entry of the appeal into the system.

Key phrases to identify incoming appeals include "appealing the constructive denial; appealing the adequacy of the search; appealing the exemptions applied; appealing the denial of records."

This section does not apply to FIRST appeals.

Incoming Litigation Referrals, Consults, and Correspondence

Intake should be on the lookout for any/all litigation, classified litigation, consults, or referrals, along with any correspondence related to litigation cases. This information is typically time sensitive so immediately forwarding these communications is imperative.

All e-mails related to litigation matters must be immediately forwarded to the Litigation team.

- (b)(7)(E)@ice.dhs.gov and cc the Deputy FOIA Officer for Litigation (b)(6),(b)(7)(C)y@ice.dhs.gov).

To identify litigation materials, look for key terms such as “litigation”, “organization v. ICE”, “19-cv-12345”, “2023-ICLI-12345”, and “2023-HQLI-12345.”

Incoming Subpoenas

All subpoenas or follow ups related to subpoenas are handled by OPLA as this is not a FOIA process. Individuals requesting an address of where to send a subpoena should be directed to use:

Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
500 12th Street SW
Mailstop 5900
Washington, DC 20536-5900

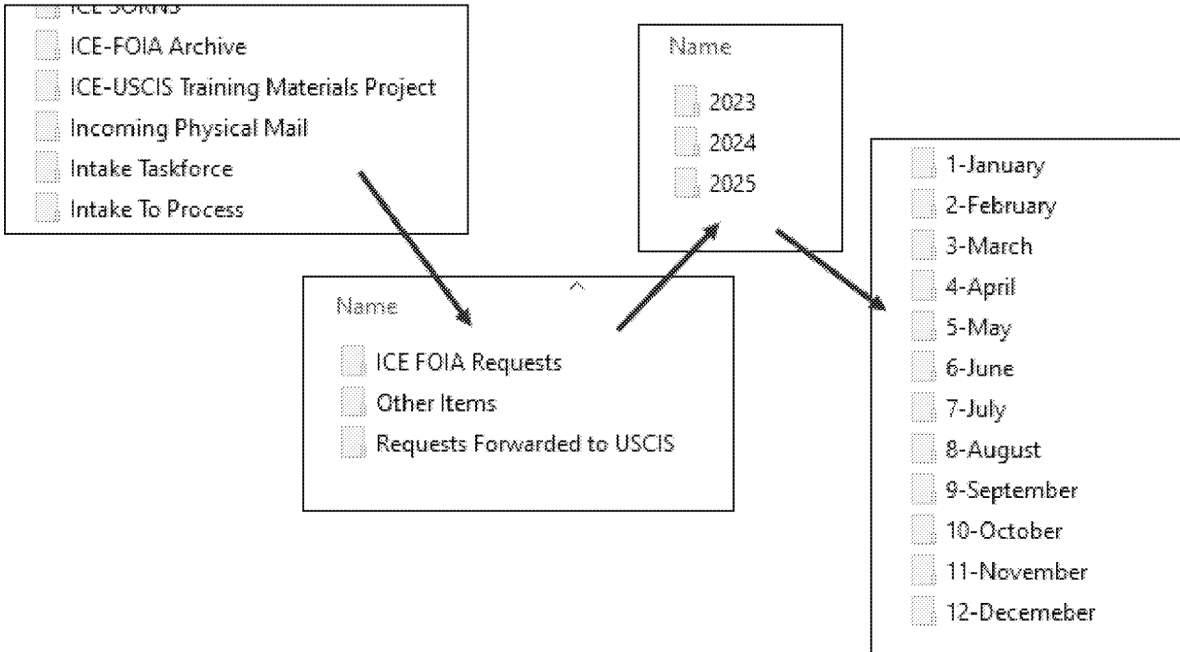
Please forward any e-mails related to subpoenas to (b)(7)(E)@ice.dhs.gov for their handling as deemed necessary.

Physical Mail

Incoming physical mail is to be sent to the Supervisory Paralegal Specialist that is managing intake to be handled accordingly.

- Each incoming piece of mail is to be scanned individually (separate pdf file for each).
- Requests that are being forwarded to USCIS should be attached to an email and sent to (b)(7)(E)@uscis.dhs.gov
- Non-perfected ICE FOIA requests should be created in the system and placed on hold. Send the requester the proper Need More Information correspondence.
- Perfected ICE FOIA requests should be created in the system, acknowledged, and tasked.

When the processing of physical mail is complete, the scanned files of the requests should be placed in the “Incoming Physical Mail” folder for records keeping purposes.



ICE FOIA Inbox

Emails in the ICE FOIA inbox should be addressed as quickly as possible. For situations regarding incoming emails that are not addressed in this SOP, contact the Supervisory Paralegal Specialist managing intake.

Perfected FOIA Requests

Newly received perfected FOIA requests should be created in the system in the system as soon as possible. After the request has been created, follow the triage process.

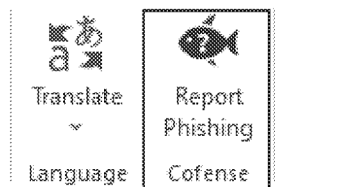
Non-Perfected FOIA Requests

If a request received in the ICE FOIA Inbox is not perfected, reply to the requester from the ICE FOIA Inbox informing them that they have submitted a non-perfected request. These requests are usually 1st party, 3rd party, and requests that are not reasonably described. When responding to non-perfected 1st and 3rd party requests, be sure to include the proper consent form with your reply.

ICE FOIA's Microsoft Outlook Quick Step Guide provides instructions on how to quickly respond to these types of emails in the ICE FOIA inbox.

Junk Emails

The ICE FOIA Inbox receives hundreds of junk emails every day. Many of these emails are not presorted by Outlook and end up in the ICE FOIA Inbox. After verifying that an email is a junk email, the email can be deleted. DO NOT CLICK ON ANY LINKS IN THESE EMAILS. If you believe an email in the ICE FOIA inbox is phishing, use the "Report Phishing" tool in Outlook to report the email to OCIO.



Threats

All threats should be reported to the Supervisory Paralegal Specialist managing intake.

Clarification Responses and Consent Forms

Clarification Responses and consent forms should be uploaded to the request. If necessary, update the normalized description and continue to triage the request.

Submitter Notice Responses

Responses for Submitter Notices should be immediately uploaded to the request. Notify the assigned processor that a Submitter Notice response has been received.

Employment Verification for Current and Former ICE Employees

Requests for employment verification for current and former ICE employees should not be created in the system. Immediately forward these OHC-Payroll via email to (b)(7)(E)

(b)(7)(E)@ice.dhs.gov.

Referring to a DHS Component

If a request is received and it is determined that another DHS component is better suited to respond to the request, ICE FOIA is required to route the misdirected request to the proper DHS component (i.e., USCIS, CBP, OBIM, etc.).

ICE FOIA's Microsoft Outlook Quick Step Guide provides instructions on how to quickly forward and respond to these types of emails in the ICE FOIA inbox.

Status Inquiries

All incoming status inquiries are to be uploaded to the corresponding request in the system. Use the "EMAIL: Status Inquiry Response" template to provide a response to the requester through the system.

- When editing the template, delete any text that does not apply to the current status of the request. Also delete the bolded text.

PICK ONE AND DELETE THE OTHERS THAT DO NOT APPLY. ALSO DELETE ANY BOLDED WORDS.

As of today, your request is currently pending the search for responsive documents. If any responsive records are located, they will be reviewed for a determination of releasability.

OR

As of today, the search for responsive documents is complete and your request is currently in queue to be processed. If responsive records have been located, they will be reviewed for a determination of releasability.

OR

As of today, your request has been assigned to a processor and your request is being reviewed. If responsive records have been located, they will be reviewed for a determination of releasability.

If the requester is unable to provide a tracking number for their request, a reasonable search should be conducted in the system based on the information provided by the requester in their status inquiry (i.e., requester's name and subject of the request).

- Respond to the requester's email in Outlook and inform them that a request could not be located with the information they have provided. Also inform them that they could provide more information in order to conduct a more thorough search, or they can officially submit a new request, preferably through the portal.
- If a request cannot be located in the system **AND** the requester includes the original request with their inquiry, a new request is to be created in the system.
- Check the "Incoming Physical Mail" folder on the shared to determine if a mailed in request was forwarded to USCIS.

HSI Tip Line

The ICE FOIA Inbox often receives emails from individuals from individuals reporting alleged immigration violations (smuggling/trafficking, benefit/marriage fraud, child exploitation, employment violations, etc.). Reply to the emails by instructing them to contact the HSI Tip Line.

ICE FOIA's Microsoft Outlook Quick Step Guide provides instructions on how to quickly respond to these types of emails in the ICE FOIA inbox.

Online Detainee Locator System/ERO Detention Reporting and Information Line

- Emails inquiring about the location of someone detained by ICE should be replied to with the link for the Online Detainee Locator System.
- Emails regarding detention conditions and individual immigration cases should be replied to with information on how to contact ERO's Detention Reporting and Information Line (DRIL). ERO's DRIL has representatives who will answer calls and assist with resolution on subjects such as:
 - Incidents of sexual or physical assault or abuse;
 - Serious or unresolved problems in detention;
 - Reports of victims of human trafficking and other crimes;
 - Reports on individuals with serious mental disorders or conditions;
 - Separation of minor child or other dependent and other parental related issues;
 - Inquiries from the general public, law enforcement officials, and others;
 - Assistance with legal access issues when your local ICE field office is unable to assist;
 - Requests for basic case information; and
 - Reports that someone in detention has a serious mental disorder or condition.

ICE FOIA's Microsoft Outlook Quick Step Guide provides instructions on how to quickly respond to these types of emails in the ICE FOIA inbox.

Multi-Track Designation: Expedited vs. Simple vs. Complex

The FOIA processing system requires a Multi-Track designation for each request. Use the table below to determine the correct designation for each request.

Expedited	<ul style="list-style-type: none">• Only for requests that have been granted expedited treatment.
Simple	<ul style="list-style-type: none">• Consults• Referrals• Duplicate requests• Publicly available records• Glomar• Improper requests• No records*• Requests that only have one search tasking for records pertaining to the ICE FOIA office (i.e., FOIA operations and FOIA logs)
Complex	<ul style="list-style-type: none">• All other program office search taskings**

*Requests designated as Complex during the intake stage should be changed to Simple if all searches result in a no records response.

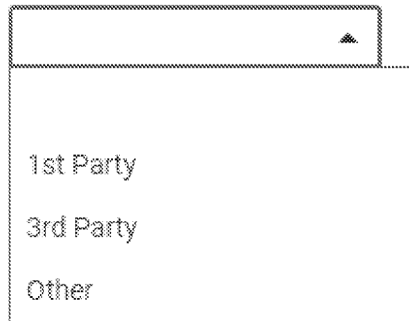
**Includes search taskings to IGP that do not include records pertaining to the ICE FOIA office (Privacy, IGP Front Office, and Information Governance).

Request Designation

To ease the processing of requests for ICE FOIA logs, ICE FOIA has implemented a required “Request Designation” field. Select the appropriate designation based on the requester and the type of records being requested.

1st Party	The requester is seeking records about themselves.
3rd Party	The requester is seeking records about another person.
Other	The requested documents are not related to a person.

Request Designation *



1st Party

3rd Party

Other

Request Description and Normalized Description

The FOIA processing system requires the completion of the Request Description and the Normalized Description when creating a new request.

- Prior to completing these fields, the entire request and all supporting documentation must be reviewed to determine exactly what is being requested.
- The information entered into the Request Description and Normalized Description fields depends on the method in which ICE FOIA received the request.

Email	<ul style="list-style-type: none">• The Request Description and Normalized Description should be the same.
Physical Mail	<ul style="list-style-type: none">• The Request Description and Normalized Description should be the same.
Portal	<ul style="list-style-type: none">• Do not edit the Request Description.• Enter the Normalized Description according to the guidelines below.

The Normalized Description is used to auto-populate all correspondence for the request. The Normalized Description should begin with a lower-case letter, have no ending punctuation, and not written in all caps.

For 1st and 3rd party requests, the Normalized Description should also contain identifying information about the subject of record such as A#, date of birth, and country of birth.

HSI will not conduct a search without the date of birth and the country of birth for the subject of record.

Request Description*	ALL OF JOHN DAVID DOE'S ICE RECORDS AND DOCUMENTS IF ANY.
Normalized Description*	all records pertaining to John David Doe, A#123456789 DOB: 2/30/1990 COB: Genova

Fee Waivers

Any requester may request to have the fees associated with the processing of their request waived. Requests for fee waivers should be considered on a case-by-case basis; requesters should not be granted a fee waiver solely because they have been granted a fee waiver for a previously submitted request.

- If the requester is seeking a fee waiver based on indigence (the fact that he/she is not able to pay), then the fee waiver should be denied and the "ICE Ack Letter (Fee Waiver Denied – INDIGENCE)" letter should be sent.
- A fee waiver determination should not be made if the request is not perfected.

The requester bears the burden of showing that all fee waiver factors have been met in order to have their fee waiver request granted. ICE FOIA makes fee waiver determinations based upon the information provided by the requester addressing the following 6 factors:

1. **Whether the subject of the requested records concerns "the operations or activities of the government."** The subject of the requested records must concern identifiable operations or activities of the federal government, with a connection that is direct and clear, not remote.
2. **Whether the disclosure is "likely to contribute" to an understanding of government operations or activities.** The disclosable portions of the requested records must be meaningfully informative about government operations or activities in order to be "likely to contribute" to an increased public understanding of those operations or activities. The disclosure of information that already is in the public domain, in either a duplicative or a substantially identical form, would not be as likely to contribute to such understanding when nothing new would be added to the public's understanding.
3. **Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor or a narrow segment of interested persons.** The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area and ability and intention to effectively convey information to the public will be considered. It is presumed that a representative of the media will satisfy this consideration.
4. **Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities.** The public's understanding of the subject in question, as compared to the level of public understanding existing prior to the disclosure, must be enhanced significantly by the disclosure. ICE FOIA will not make

value judgments about whether information that would contribute significantly to public understanding of the operations or activities of the government is "important" enough to be made public.

5. **Whether the requester has a commercial interest that would be furthered by the requested disclosure.** ICE FOIA will consider any commercial interest of the requester or of any person on whose behalf the requester may be acting, that would be furthered by the requested disclosure. Requesters will be given an opportunity in the administrative process to provide explanatory information regarding this consideration.
6. **Whether any identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure that disclosure is "primarily in the commercial interest of the requester."** A fee waiver or reduction is justified where the public interest standard is satisfied, and that public interest is greater in magnitude than that of any identified commercial interest in disclosure. ICE FOIA will ordinarily presume that when a media requester has satisfied the public interest standard, the public interest will be the interest primarily served by disclosure to that requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return will not be presumed to primarily serve the public interest.

If a fee waiver determination cannot be made (based on the information provided by the requester and the evaluation of the six factors) and a fee waiver determination should be based upon the responsive documents after searches have been conducted, contact the Supervisory Paralegal Specialist managing intake to determine if a fee waiver should be conditionally granted.

For more information regarding fee waivers, see the Department of Justice, Office of Information Policy's [Fee Waiver Policy Guidance](#).

Follow the [Fee Waiver Flow Chart](#) to determine if a fee waiver request should be granted.

Expedited Requests

- Expedited treatment should not be considered if the requester did not specifically state they are seeking expedited treatment.
- Expedited treatment should not be considered if the request is not perfected.
- Requesters may seek expedited processing of their request at any time if they can show a compelling need.

Compelling Need

- The lack of expedited treatment will pose an imminent threat to the life or physical safety of an individual (Includes medical records).
- There would be a substantial loss of due process rights by the failure to process the request immediately.
- If the requester is primarily engaged in disseminating information, there is an urgency to inform the public about an actual or alleged federal government activity that extends beyond the public's right to know about government activity generally.

For requests that have been granted expedited processing, program offices have **5 business days** to conduct a search. The search time frame for program offices must be changed in the tasking email for requests that have been granted expedited treatment.

Follow the Expedited Treatment Flow Chart to determine if a request should be granted expedited treatment.

High Profile Requests

A request can be designated as a high profile request for the following reasons:

1. The requester is a representative of a news/media organization OR any other organization whose primary duties include disseminating information to the public.
2. The requested records are likely to attract a significant amount of attention and publicity for ICE (i.e., detainee deaths, a current news story involving ICE, etc.).

High Profile Notification Process

1. When creating/triaging a high profile request, the corresponding radio button must be selected in the Significant Request section.

Significant Request ☒ Media
☐ Subject Matter

2. After the request has been created/triaged in the system, navigate to “Other Correspondence”, and select the “EMAIL: High Profile Notification template.
3. In the Recipient Email field, enter (b)(6),(b)(7)(C)@ice.dhs.gov and (b)(6),(b)(7)(C)@ice.dhs.gov.
4. Correct any missing tokens that did not auto-populate in the text of the email.
5. Include any supporting documentation provided by the requester as attachments and then send the email.

Requests for Body Worn Camera (BWC) Video

All requests for Body Worn Camera (BWC) Video must have the BWC box checked in the system when creating the request.

Body Worn Camera (BWC) ☒
Request

All BWC requests must go through the high profile notification process, except for 1st or 3rd party requests in which the video requested pertains to the subject of record.

It is the responsibility of the person creating the request/triaging the request to send the high profile notification email.

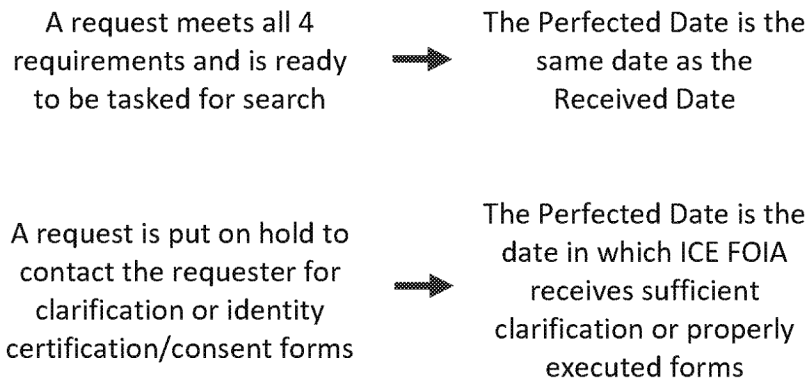
What is a Perfected Request?

A perfected request is a written request that is:

1. Submitted to the agency/component in possession of the records.
2. There is no remaining question about the payment of applicable fees.
3. Includes properly executed identity certification/consent forms for 1st and 3rd party requests.
4. Reasonably describes the requested records.

Perfected Date

The perfected date is the date a FOIA request meets the 4 requirements of a perfected request.



The Perfected Date is never based on the date the request is created/triaged.

Perfected Request Requirements

1. Submitted to the agency/component in possession of the records.
 - Is ICE in possession of the requested records?
 - Yes – This requirement has been met.
 - No – This requirement has **not** been met.
2. There is no remaining question about the payment of applicable fees.
 - Is there a request for a fee waiver?
 - Yes – This requirement will be met after a fee waiver determination has been made.
 - No - This requirement has been met.

3. Includes properly executed identity certification/consent forms for 1st and 3rd party requests.
 - Is this a 1st or 3rd party request?
 - Yes – Make sure the request includes properly executed identity certification/consent forms. If it does, this requirement has been met. This requirement is not met if the request does not include properly executed identity certification/consent forms.
 - No – This requirement has been met.
4. Reasonably describes the requested records.
 - Can ICE reasonably ascertain which records are being requested and locate them with a “reasonable amount of effort” without conducting an unduly burdensome search?
 - Yes – This requirement has been met.
 - No – This requirement has not been met.

Non-Perfected Requests

Administratively Closing Non-Perfected Requests

Requests Received Through the Portal

- 1st and 3rd party requests received through the portal can be administratively closed during the triage phase if they are not perfected. There are several “Triage” correspondence templates for different scenarios in the system that can be utilized to administratively close these requests.

Do not administratively close requests for records pertaining to a minor or requests in which form G-28 was submitted with no supplemental information. These requests should be placed on hold to seek the additional information/documents necessary to make them perfected requests.

Requests Received by Email

- Non-perfected requests received by email (1st and 3rd party, not reasonably described, burdensome, etc.) should be replied to in Outlook and inform the requester why their request is not perfected and instructing them to resubmit their request with the necessary documents/information.

ICE FOIA’s Microsoft Outlook Quick Step Guide provides instructions on how to quickly respond to these types of emails in the ICE FOIA inbox.

Requests Received by Physical Mail

- Non-Perfected requests that are not forwarded to another DHS component should be created in the system and placed on hold. Create/send correspondence in the system informing the requester why their request not perfected. Be sure to include blank copies of identity certification/consent forms if necessary.

Identity Certification and Third Party Consent Forms

All 1st and 3rd party requests must include properly executed identity certification/consent forms. Make sure the information provided on the forms matches the information provide in the request description (portal and emails). All forms must be signed. Digital signatures created by employees of the Federal Government with their PIV Card are acceptable.

Commonly received forms include:

- G-28*
- G-639
- DOJ-361
- DHS Certification of Identity
- ICE Affirmation/Declaration

*Additional information (description of records, A#, date of birth, country of birth) is required if a requester only submits a G-28.

If the subject of the request is deceased, the requester must submit proof that the individual is deceased (death certificate or obituary).

Glomar

If a requester submits a FOIA request for Privacy Act information about another individual, the information will not be disclosed without that person's prior written consent. In unique scenarios, ICE FOIA will issue a Glomar response.

Scenario 1 - Employee A asks for Employee B Privacy Act protected information using employee B's name without consent.

Scenario 2 - Random private individual asks for another private individuals' records protected by the Privacy Act without consent.

Use the "TRIAGE – Glomar" template in the system to administratively close these types of requests.

This response can only be used if the requester/requested records are protected by the Privacy Act. *Privacy Act requests can be made only by (a) U.S. citizens or non-citizens that are lawfully admitted for permanent U.S. residence, (b) who are seeking information about themselves, (c) which is maintained in a system of records and accessed using their names or other personal identifiers.*

The notable exception for issuing a Glomar response during the Intake phase is when the requester is a representative of the media.

Scenario - Reporter X asks about an investigation pertaining to John Smith (publicly available name) without a 3rd party release.

- Contact the Supervisory Paralegal Specialist managing Intake for approval before tasking.
- Complete the High Profile Notification process.
- Send the acknowledgment letter to the requester.
- Task the appropriate program office.

Not Reasonably Described, Unreasonably Burdensome, and Fishing Expeditions

Not Reasonably Described

- Does the request reasonably describe exactly which records are being requested?

- Requesters should include specific information that may assist in identifying the requested records, such as the date, title or name, author, recipient, subject matter of the record, case number, file designation, or reference number.
- If the requester is asking a question, it is not a FOIA request and should be closed.

Unreasonably Burdensome

ICE is not required to conduct wide-ranging, unreasonably burdensome searches for records. Unreasonably burdensome requests require a considerable number of resources to conduct a search and/or a vast number of records that would need to be searched to locate responsive records.

When contacting a requester to narrow the scope, consider the following:

- Area of Responsibility (AOR)/Field Office
- Positions
- Search terms*
- Time frame*
- Guidance provided by program offices

*The inclusion of search terms and times frames with a request does not imply that the request is not unreasonably burdensome. Be cognizant of what would be an unreasonably burdensome request for ICE based on agency resources.

Fishing Expeditions

When the requester casts their net widely with the hope that they catch information of interest without prior knowledge of what information may be held within the scope of their request. The requester does not know what information the responsive records may reveal and could contain information that the requester is not interested in receiving.

Example – all communication (emails, memos, text, instant messages, etc.) between X and Y from August 1, 2023, to August 7, 2023.

Placing a Request on Hold

When ICE FOIA requires clarification or identity certification/consent forms, the request is to be placed on hold. This stops the clock, so the time elapsed between our request and the time that the requester responds does not count against us. If the requester has not responded within 30 days, the request will be administratively closed.

A request can be placed on hold only one time during the processing of the request for clarification or identity certification/consent forms. There is no limit on the number of times a request can be placed on hold for issues regarding fees.

Request Closure Dispositions

Dispositions commonly used for requests that are closed during the intake phase:

- **Other - Records Not Reasonably Described** → The request is not reasonably described, is unreasonably burdensome, or is a fishing expedition.
- **Other - Not Agency Record** → The records requested are not under the purview of ICE. Also used when the request is referred to another agency.
- **Other - Fee Related Reason** → Requester does not agree with the proposed fees associated with the processing of their request.
- **Other - Duplicate Request** → A duplicate of the request has been previously received from the same requester.
- **Other - Improper Request** → The request does not include the required documentation to process the request (i.e., 1st and 3rd party requests).

Duplicate Requests

Before creating/triaging a request, the system should be searched to locate a duplicate request. For a request to be deemed a duplicate, it must match a previously received request, asking for identical information, and submitted by the same requester.

Common duplicate requests include:

- Consecutive requests received through the portal or email.
- Case transfers from DHS PRIV.
- Requests that state they have submitted the request to ICE via email, physical mail, and the portal.

Common Request Scenarios

Requests for Records Pertaining to a Minor

In order to process a request for a child or minor's records, the FOIA requester is required to furnish a copy of the birth certificate or guardian papers to prove that there is a parent-child or parent-guardian relationship.

If the FOIA requester does not initially provide this documentation, then the FOIA office is required to send the "ICE NMI Minor Subject of Record" letter to the requester asking for a copy of the birth certificate or guardian papers showing the relationship between the subject of record and person signing on their behalf. This needs to be done before acknowledgment and tasking of the request.

If the requester chooses to challenge this requirement, or fails to provide the required documentation, ICE FOIA should send the letter in the system titled "ICE Response to Requester (3rd Party Denial)" and administratively close the request with the "Other-Improper Request" disposition.

Child Support/Child Passport Requests

ICE FOIA routinely receives requests for records about a third party for the purpose of verifying the individual's deportation for the purpose of facilitating the resolution of issues related to the custody, care, or legal rights (including the issuance of a U.S. passport) of a non-citizen's minor children, or the adjudication or collection of child support payments. These requests often do not include proper third-party authorization.

In the above scenarios, this request should be created in the system and ICE FOIA will still need to attempt to obtain proper third party authorization, unless the requester specifically addresses that they are unable to obtain a signature because they cannot locate the subject of record. If/when the requester writes back explaining that they have no way to contact the third party, but still need the records to assist their child with obtaining a passport or collecting child support payments, then intake team will need to issue the letter in the system titled ICE Response to Requester (Child Support). After delivery, the request should be administratively closed with the "Other-Improper Request" disposition.

Requests from State/Local/Federal Governments

State, Local, and Federal agencies, or individuals acting in their official capacity on behalf of those agencies, do not have the right of access to records under the FOIA. These types of requests are usually seeking documents about someone previously detained or arrested by ICE. Do not enter these types of requests into the system. Reply to the requester directing them to contact the ICE Law Enforcement Support Center (<https://www.ice.gov/lesc>).

ICE FOIA's Microsoft Outlook Quick Step Guide provides instructions on how to quickly respond to these types of emails in the ICE FOIA inbox.

The only exception to this is if the individual is asking for the records on their *personal behalf as a private citizen*, and not for an official purpose. Examples of this would be situations where the requester applied for a job and would like records related to the application process, they themselves were involved in an investigation, etc. If you are unsure of the purpose for their request, please contact the requester and ask if the request is being made on an official or personal capacity.

Requests by ICE Employees

ICE employees are not prohibited from requesting records under the FOIA, however, they must submit a perfected request. Additionally, ICE employees should not submit requests using their government email address. Please contact the requester for their personal email address and update their profile in the system.

Requests by Members of Congress

Members of Congress often submit record requests under FOIA on behalf of themselves or their constituents. If the request comes in through the ICE FOIA Office directly, the request should be treated as a high profile request.

The U.S. Department of State

The ICE FOIA office often receives requests that are under the purview of the U.S. Department of State (i.e., DS-2019). The U.S. Department of State does not accept referrals. Inform the requester that the requested records are not under the purview of ICE and provide them with the contact information for the U.S. Department of State.

For requests that are received through the portal, use the "TRIAGE – State Dept Letter to Requester" template.

ICE FOIA's Microsoft Outlook Quick Step Guide provides instructions on how to quickly respond to these types of emails in the ICE FOIA inbox.

Requests for the Return of Original Documents

Requesters looking to obtain their original documents (passport/birth certificate), direct to USCIS form G-884 (<https://www.uscis.gov/g-884>).

ICE FOIA's Microsoft Outlook Quick Step Guide provides instructions on how to quickly respond to these types of emails in the ICE FOIA inbox.

Correspondence Etiquette

All correspondence sent by ICE FOIA is official government correspondence and should be treated as such. Improper correspondence can have legal ramifications for ICE FOIA. When editing correspondence templates:

- Make sure the letter is grammatically correct – use complete sentences, proper punctuation, and capitalize the first letter in each sentence.
- Do not use ALL CAPS.
- Many ICE FOIA correspondence templates require the processor to add additional information or remove certain text. Make sure each correspondence is accurate before sending it out.

For any extension for your request, as allowed by the U.S.C. § 552(a)(6)(B), if you are able to narrow the scope of your request please contact our office. Narrowing the scope may speed up the search process. We will make every effort to comply with your request in a timely manner.

PICK ONE OF THE FOLLOWING AND DELETE THE OTHERS THAT DO NOT APPLY. ALSO DELETE ANY BOLDED WORDS.

FOR COMMERCIAL REQUESTERS:

Provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS Interim FOIA regulations as they apply to commercial requesters. As a commercial requester, you will be charged 10 cents per page for duplication, and for search and review time at the per quarter-hour rate (\$4.00 for clerical personnel, \$7.00 for professional personnel, \$10.25 for managerial personnel) of the searcher and reviewer. We will construe the submission of your request as an agreement to pay up to \$25.00. You will be contacted before any further fees are accrued.

FOR MEDIA REQUESTERS:

Provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS Interim FOIA regulations, as they apply to media requesters.

ICE has considered your request under the FOIA, 5 U.S.C. § 552.

A search of the ICE (insert name(s) of program office) for records responsive to your request produced 0 pages that are responsive to your request. After review of those documents, I have determined that 0 pages will be released in their entirety. Portions of 0 pages will be withheld pursuant to Exemptions of the FOIA as described below.

FOIA Exemption 2 protects information related solely to the internal personnel rules and practices of an agency.

Types of Records Not in ICE Possession

Record/Request Type		Where to Find Them
<ul style="list-style-type: none"> ICE issued forms (located in the A-file) 		<u>U.S. Citizenship and Immigration Services (USCIS)</u>
I-166	Notice to Removable Alien	
I-200	Warrant for Arrest of Alien	
I-205	Warrant of Removal/Deportation	
I-213	Record of Deportable Alien	
I-220A	Order to Release on Recognizance	
I-220B	Order of Supervision	
I-221	Order to Show Cause	
I-286	Notice of Custody Determination	
I-294	Warning to Alien Ordered Removed or Deported	
I-296	Notice to Alien Ordered Removed/Departure Verification	
I-826	Notificación Derechos y Solicitud de Resolución	
I-826	Notice of Rights and Request for Disposition	
I-830	Notice to EOIR: Alien Address	
I-851	Notice of Intent to Issue a Final Administrative Deportation Order	
I-851A	Final Administrative Deportation Order	
I-862	Notice to Appear	
I-871	Notice of Intent/Decision to Reinstate Prior Order	

<ul style="list-style-type: none"> • A-file (an individual's immigration records) <ul style="list-style-type: none"> - apprehension documents - immigration history - encounters/interactions - enforcement documents • Record of removal from the U.S. • Immigration history • Petitions, Applications, and Certifications <ul style="list-style-type: none"> - Petition status - I-129: Petition for a Nonimmigrant Worker - I-90: Application to Replace a Permanent Resident Card (green card) - I-130: Petition for Alien Relative - I-140: Immigrant Petition for Alien Workers - I-485: Application to Register Permanent Residence or Adjust Status - I-751: Petition to Remove Conditions on Residence - N-400: Application for Naturalization - Labor certification - Naturalization Certificate • Proof of Lawful Permanent Resident (LPR) status 	<u>U.S. Citizenship and Immigration Services (USCIS)</u>
<ul style="list-style-type: none"> • Records of apprehension at the border, detention, deportation, entry, exit, expedited removal, background investigations, or inspections by Customs and Border Protection (CBP) • Form I-94 records • Travel industry reservation data such as a passenger name; or record (PNR) • Voluntary return records • Trusted Traveler Programs <ul style="list-style-type: none"> - Global Entry - Nexus - Sentri - FAST 	<u>Customs and Border Protection (CBP)</u>
<ul style="list-style-type: none"> • Visa requests from noncitizens to enter the United States • Form DS-2019 	<u>U.S. Department of State</u>

<ul style="list-style-type: none"> Form I-20 	ICE does not retain copies of this form. The requester will have to contact the educational institution that created the form to obtain a copy.
<p>Inquiries or resolutions regarding difficulties experienced during travel</p> <ul style="list-style-type: none"> Repeated referrals for security screenings or belief of being denied boarding or entry into the U.S. because of inaccurate information in law enforcement databases 	<u>DHS Traveler Redress Inquiry Program (DHS TRIP)</u>
Requesters providing information that may be of investigative interest, or to report suspicious criminal activity	Call ICE Tip Line: 866-DHS-2-ICE (24 Hours a day, seven days a week)
Requesters seeking information about an immigration case or an individual detained by ICE	<u>ICE ERO Detention Reporting and Information Line (DRIL)</u>
Requesters seeking the return of original documents (passport, birth certificate, etc.)	<u>Form G-884</u> to USCIS

Program Offices

Deputy Director's Office

- Documents or e-mails created by the Deputy Director of ICE

Director's Office (Current and Previous Directors)

- Documents or e-mails created and maintained by the current Director of ICE and previous directors of ICE

Enforcement and Removal Operations (ERO)

- Arrest, detention, encounter, deportation, and medical records of non-U.S. citizens.
- Secure Communities/287g program
- Detention facility inspections
- Immigration statistics

Homeland Security Investigations (HSI)

- Intelligence operations
- Arrests of U.S. citizens
- Worksite enforcement operations
- Fraud and money laundering
- Non-citizen smuggling
- Drug smuggling
- Child pornography/exploitation
- Terrorism investigations
- SEVIS/SEVP database
- International incidents

Management and Administration (M&A)

- Documents or e-mails created by the Executive Associate Director of M&A

Office of Acquisition Management (OAQ)

- ICE contracts

Office of Asset and Facilities Management (OAFM)

- ICE owned facilities and the physical operation of those facilities.

Office of Congressional Relations (OCR)

- Congressional inquiries and correspondence

Office of Diversity and Civil Rights (ODCR)

- EEO/ODCR investigations

Office of Firearms and Tactical Programs (OFTP)

- Lost/stolen firearms
- Firearms and tactical programs training

Office of Human Capital (OHC)

- Vacancy announcements
- Employee actions and medical records
- Workman's compensation
- ICE employee statistics
- Employee and Labor Relations

Office of Immigration Program Evaluation (OIPE)

- Task if requested by ERO

Office of Information Governance and Privacy (IGP)

- Past FOIA requests and FOIA operations
- Privacy incidents and Privacy operations
- Data governance

Office of Leadership and Career Development (OLCD)

- Coaching and mentoring programs
- ICE online training system

Office of Partnership and Engagement (OPE)

- Victims of Immigration Crime Engagement (VOICE) records to include call logs, policies, and outreach records.

Office of Professional Responsibility (OPR)

- Background investigations for ICE employees/prospective employees.
- Detainee deaths
- Employee misconduct

Office of Public Affairs (OPA)

- Public affairs announcements/comments
- News stories and press releases
- ICE public facing website
- ICE social media

Office of Regulatory Affairs and Policy (ORAP)

- ICE policies
- ICE regulations and Federal Register publications

Office of the Chief Financial Officer (OCFO)

- Financial documents pertaining to equipment, operations, and personnel

Office of the Chief Information Officer (OCIO)

- System databases, database schematics, and database user manuals
- Records management.
- This office is only to be searched for OCIO related records. E-mails for past employees are to be requested by the employee's program office using the RED Ticket System.

Office of the Executive Secretariat (OES)

- Major operations
- Major businesses
- Official documents signed by high-ranking members of ICE
- ICATT taskers

Office of the Principal Legal Advisor (OPLA)

- Litigation
- Court appearances
- Legal documents

Tasking Program Offices

Perfected requests are to be tasked to program offices through the system. When sending taskings be sure to include the following:

- The original request (mail and email)
- Request summary (portal)
- All supporting documentation provided by the requester
- All clarification and need more information responses
- Search form

Search timeframes and due dates:

- **Normal search** → 10 business days
- **Expedited search** → 5 business days

The search tasking template in the system will automatically populate with “10 business days.” For expedited requests, edit the template to show “5 business days.”

Message: *

Please conduct a reasonable search within **10 business days** to locate all responsive records for Case

The due date does not automatically populate. Type in the due date the corresponds to 5/10 business day search timeframe.

rm (even if no responsive records were located), 2) the suspense form and 3) any responsive documents to the ICE FOIA Office at RESPONSE.ICEFOIA@ice.dhs.gov by the due date **DUE DATE**

RED Requests

OCIO's RED Request system allows for the retrieval of electronic data (emails and text messages) of former employees. When ICE FOIA receives a request for emails of a former employee, the program office of the former employee is responsible for submitting the RED request to OCIO. After the program office receives the emails from OCIO, it is their responsibility to provide the responsive emails. Outlook Data files (.pst and .ost) are not acceptable as responsive records.

Program Office Responses

After a program office has been tasked, they will send all responses to the Response Box (b)(7)(E)@ice.dhs.gov). Anyone working the Response Box is responsible for uploading the response to the request and completing the tasking.

- Ensure the request number and subject of the request matches the request you are uploading it to in the system.
- Ensure the tasking is completed in the system by entering the Completed Date, Document Search Result, and any notes pertaining to the tasking (if necessary).

Request	Workflow Checklist	Attachments	Notes	Correspondence	History	Instructions	Tasks
<div>New Link Unlink</div> <div>1 of 3</div>							
Name	Category	Assign...	Assign...	Assigned...	Due Date	Completed D...	Document Search R...
Filter	(All)	Filter	Filter	(All)	(All)	(All)	Filter
<input type="checkbox"/> HSI	Document Search Request					8/25/2023	Records Located
<input type="checkbox"/> ERO	Document Search Request					8/25/2023	Did Not Search - Component would not have Records
<input type="checkbox"/> OPR	Document Search Request					8/25/2023	No Records Found

- If all taskings are complete, place the request in the proper Processing Track (Assigned Queue).
- If there are more taskings pending, leave the request in the Pending Search Response queue.
- Do not mark a tasking complete if the program office is submitting an interim or partial response.

Program Office Deferrals and Recommendations

- If a program office defers to another ICE program office, complete the tasking for the responding office, enter the appropriate search result, and enter notes describing the deferral. If the deferred to program office has not been tasked already, create and send a new tasking to that program office.

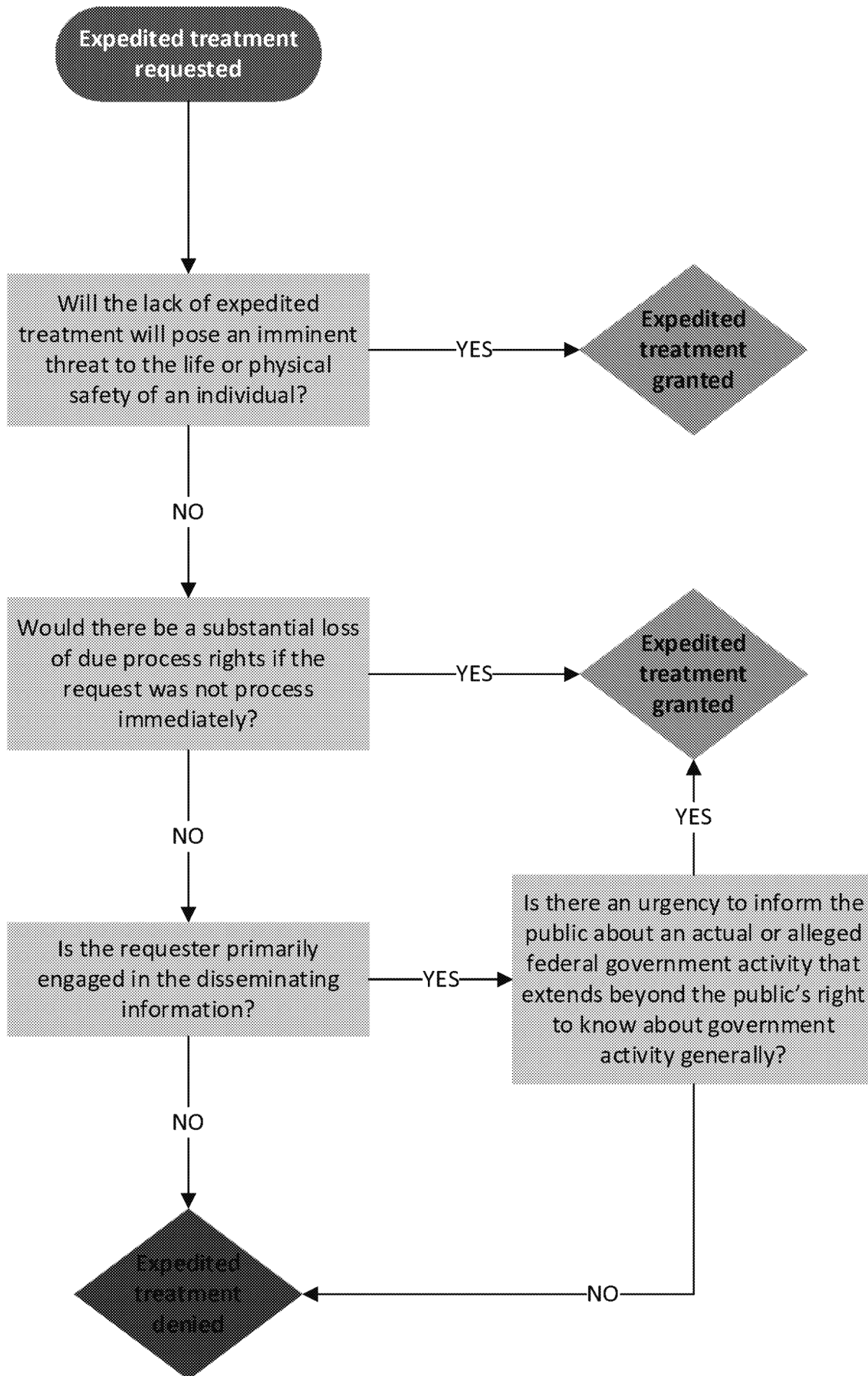
Request	Workflow Checklist	Attachments	Notes	Correspondence	History	Instructions	Tasks
<div>New Link Unlink</div> <div>1 of 2</div>							
Name	Category	Assign...	Assign...	Assigned...	Due Date	Completed D...	Document Search R...
Filter	(All)	Filter	Filter	(All)	(All)	(All)	Filter
<input type="checkbox"/> ERO	Document Search Request				8/25/2023	8/25/2023	Did Not Search - Component would not have Records
<input type="checkbox"/> OPR	Document Search Request				9/8/2023		

- If a program office provides a Records Located or a No Records response but also recommends that another ICE program office should conduct a search, check to see if

that program office was already tasked. If not, create and send a new tasking to that program office.

- **If program offices are deferring to each other, do not mark the program office responses as No Records. Immediately notify the Supervisory Paralegal Specialist managing intake.**

Expedited Treatment Flow Chart



Fee Waiver Flow Chart

