

Office of Government Ethics

§ 2604.304

OGE will not, however, generally develop a completely new record (as opposed to providing a copy of an existing record in a readily reproducible new form or format, as requested) of information in order to satisfy a request.

(d) *Record cannot be located.* If a requested record cannot be located from the information supplied, the FOIA Officer will so notify the requester in writing.

[60 FR 10007, Feb. 23, 1995, as amended at 64 FR 28090, May 25, 1999]

§ 2604.303 Form and content of responses.

(a) *Form of notice granting a request.* After the FOIA Officer has made a determination to grant a request in whole or in part, the requester will be notified in writing. The notice shall describe the manner in which the record will be disclosed, whether by providing a copy of the record with the response or at a later date, or by making a copy of the record available to the requester for inspection at a reasonable time and place. The procedure for such an inspection may not unreasonably disrupt the operations of the Office. The response letter will also inform the requester in the response of any fees to be charged in accordance with the provisions of subpart E of this part.

(b) *Form of notice denying a request.* When the FOIA Officer denies a request in whole or in part, he will so notify the requester in writing. The response will be signed by the FOIA Officer and will include:

(1) The name and title or position of the person making the denial;

(2) A brief statement of the reason or reasons for the denial, including the FOIA exemption or exemptions which the FOIA Officer has relied upon in denying the request;

(3) When only a portion of a document is being withheld, the amount of information deleted and the FOIA exemption(s) justifying the deletion will generally be indicated on the copy of the released portion of the document. If technically feasible, such indications will appear at the place in the copy of the document where any deletion is made. If a document is withheld in its entirety, an estimate of the volume of the withheld material will generally be

given. However, neither an indication of the amount of information deleted nor an estimation of the volume of material withheld will be included in a response if doing so would harm an interest protected by any of the FOIA exemptions pursuant to which the deletion or withholding is made; and

(4) A statement that the denial may be appealed under § 2604.304 of this subpart, and a description of the requirements of that section.

[60 FR 10007, Feb. 23, 1995, as amended at 64 FR 28091, May 25, 1999]

§ 2604.304 Appeal of denials.

(a) *Right of appeal.* If a request has been denied in whole or in part, the requester may appeal the denial to the General Counsel of the Office of Government Ethics, 1201 New York Avenue, NW., Suite 500, Washington, DC 20005-3917.

(b) *Letter of appeal.* The appeal must be in writing and must be sent within 30 days of receipt of the denial letter. An appeal should include a copy of the initial request, a copy of the letter denying the request in whole or in part, and a statement of the circumstances, reasons or arguments advanced in support of disclosure of the request for the record. Both the envelope and the letter of appeal must be clearly marked "Freedom of Information Act Appeal."

(c) *Action on appeal.* The disposition of an appeal will be in writing and will constitute the final action of the Office on a request. A decision affirming in whole or in part the denial of a request will include a brief statement of the reason or reasons for affirmance, including each FOIA exemption relied on. If the denial of a request is reversed in whole or in part on appeal, the request will be processed promptly in accordance with the decision on appeal.

(d) *Judicial review.* If the denial of the request for records is upheld in whole or in part, the Office will notify the person making the request of his right to seek judicial review under 5 U.S.C. 552(a)(4).

[60 FR 10007, Feb. 23, 1995, as amended at 66 FR 3439, Jan. 16, 2001]