

FOIA Requests

Freedom of Information Act Requirements

What is FOIA?

- **The Freedom of Information Act (FOIA)** provides for public access to records of Federal agencies. Under the FOIA, Federal agencies must make agency records available to the public, unless the records fall into certain narrow exemptions.

FOIA Information for RAs

1. FOIA requests are always sent to SPO and the PI.
2. PIs are typically upset by such requests and make the following mistakes:
 - They think the entire proposal is confidential and that all parts of the proposal can be redacted.
 - They try to contact the following groups instead of working through SPO.
 - The sponsor's representative
 - Berkeley's legal counsel.
 - The University's PRA Coordinator
 - They try to contact the person making the request to discuss why the request is being made.

How to Help the PI

1. Explain that the PI should contact the SPO CGO assigned to the PI's department/unit for guidance. It is not necessary to involve Berkeley's legal counsel or the PRA representative.
2. Explain that "no response" is not an option, but when the PI contacts SPO the SPO CGO can request additional time to provide a response.
3. Explain that there are only certain reasons (exemptions) that a PI can use to redact sections of a funded proposal, and SPO will provide these to the PI.
4. Explain that all contact with the sponsor's representative should be made through SPO.
5. Explain that if they happen to know who is making the request, the PI should not contact this person directly. This will not terminate the FOIA process..

What Will SPO Do?

- SPO will provide the list of exemptions to the PI. If the PI wishes to make no redactions, the SPO will notify the sponsor's representative, and the FOIA case will be closed.
- If the PI wishes to make any redactions, the SPO CGO will inform SPO's director.
- SPO's director will work with the PI to provide this information to the sponsor's representative in the format required.

Exemptions

- Exemption 3 - to protect information required by other statutory authority to be withheld.
- **Exemption 4** - to protect trade secrets and commercial or financial information received from a private source when release would cause harm to the competitive position of submitter
- Exemption 5 - to protect agency's internal deliberative process in areas of decision-making, recommendations and legal advice

Exemptions

- **Exemption 6** - to protect personal information about individuals when release would result in an unwarranted invasion of privacy. (Note: It is not necessary to redact personal information of key personnel (SSN, date/place of birth, individual salaries, bios, pending and non-Federal grants) in the proposal file.
- Exemption 7 - may be used by the Office of the Inspector General to protect investigative records