



June 21, 2024

MEMORANDUM FOR: Department Distribution
Department Leadership and DHS FOIA Officers

FROM: Catrina Pavlik-Keenan
Deputy Chief Freedom of Information Act Officer

SUBJECT: Proper use of “Still Interested” Letters in Compliance with
Department of Justice Guidance

The Department of Homeland Security (DHS) Freedom of Information Act (FOIA) Offices must still follow the Department of Justice, Office of Information Policy (OIP) guidance on the proper use of “still-interested” letters.¹ The DOJ OIP guidance, issued on July 2, 2015,² is designed to improve the way “still interested” inquiries are utilized by agencies. As noted in this guidance:

“While use of ‘still-interested’ inquiries is an understandable way to help ensure that agency resources are appropriately spent processing requests for records where the requester remains interested in receiving the documents, it is equally important that requesters are not in any way disadvantaged by their use.”

This guidance outlines a series of procedures that agencies should use when inquiring whether a requester remains interested in the continued processing of his or her request. More specifically:

- Reasonable Grounds to Make “Still-Interested” Inquiry in the First Instance;
- Limiting the Number of Times “Still-Interested” Inquiries are Made;
- Using Requester’s Preferred Method of Communicating;
- Providing Requesters with a Reasonable Amount of Time and Method to Respond to “Still-Interested” Inquiries; and
- Ensuring Requesters are not Disadvantaged.

Additionally, OIP has prepared the following implementation checklist³ to assist agencies in following this guidance.

1. Ensure there are reasonable grounds to make a “still-interested” inquiry in first instance.

¹ In order to determine whether a requester remains interested in the continued processing of his or her FOIA, agencies request, agencies traditionally sent letters asking requesters whether they remain interested in the processing of their requests – a practice that has come to be called “sending a ‘still-interested’ letter.”

² U.S. Department of Justice, Office of Information Policy, FOIA Post, [“OIP Releases New Guidance for Agency Still-Interested Inquiries.”](#) July 2, 2015. See also U.S. Department of Justice, Office of Information Policy, FOIA Post, [“OIP Guidance: The Importance of Good Communication with FOIA Requesters.”](#) March 4, 2010.

³ Available at [Office of Information Policy | Implementation Checklist for OIP Guidance on “Still-Interested” Inquiries \(justice.gov\)](#).

2. Absent good cause, do not make multiple “still-interested” inquiries.
3. Use requester’s preferred method of communication and in the absence of a preference, communicate by telephone or email as the default.
4. Memorialize any decision by a requester to withdraw a request that is conveyed by telephone by sending the requester a brief email or letter noting the withdrawal.
5. Provide requesters no less than thirty (30) working days to respond to the “still-interested” inquiry and ensure that there is a simple way to do so.
6. Advise the requester that if they elect not to respond to the inquiry, the request will be administratively closed at the conclusion of the designated time period (which must be at least 30 working days).
7. Prior to administratively closing a request based upon the lack of a response by the requester, make good faith efforts to reach out to the requester using multiple methods of communication.
8. In the event a requester responds to the “still- interested” inquiry within a reasonable time after the deadline has passed, reopen the request and place it back into the processing queue where it would have been.

To ensure limited DHS resources are used most efficiently, it can be appropriate for DHS to inquire whether a requester is still interested in the continued processing of his or her FOIA request whenever there is reason to believe that the requester’s interest may have changed. In doing so, DHS FOIA offices should use the procedures outlined above to ensure that requesters are given sufficient time to respond, which should be *at least thirty working days*. Importantly, in the event a requester responds within a reasonable time after the allotted time period (10 working days), he or she should in no way be disadvantaged. Instead, the request should be reopened and put back in its place in the queue. By taking these steps agencies will be working with requesters in a true spirit of cooperation, while also ensuring they are operating efficiently, which benefits everyone involved in the FOIA process.

Every DHS employee is reminded of the Department’s commitment to the Administration’s policy on transparency and Open Government.

Thank you for your continued support of the presumption of openness in FOIA. Please direct any questions to Catrina Pavlik-Keenan, Deputy Chief FOIA Officer.