



Community- Led FOIA:

A Practice



Environmental Data
& Governance Initiative

What is FOIA?

In 1955, California Democratic Congressman John Moss championed government transparency, following a trend during the Cold War that normalized bureaucratic secrecy. The bill Moss proposed met opposition from federal agencies and politicians alike. After significant clarifications (and debates), the House passed the bill with a 307 - 0 vote. President Lyndon B. Johnson reluctantly signed the bill into law on July 4th, 1966. See more here (5 U.S. Code § 552).

FOIA stands for the Freedom of Information Act. FOIA laws allow people to access publicly held records and require government information to adhere to record retention laws. People have the right to know. Some examples of public records include government emails from one agency to the next, a budget approved by a city official, death records, surveillance of a government building, the algorithm that runs the Calscreen environmental mapping project, audio from a city hall meeting, and many more.

FOIA practices became more affordable following the Nixon Watergate issues. In 1974, Congress revised the law to include sanctions, timeframes, and language to waive fees for journalists, public interest groups, and concerned people. FOIA availability varies based on Federal or State regulations. Federal records tend to be more open, and States can define what is in the public record individually or state-by-state.

Why FOIA?

Public information should be open and accessible. The United States has a representative democracy, where our tax dollars pay for the government. The government represents and operates in the interest of the people—citizens and non-citizens alike. It is our right to see how the government operates, and the public retains a tremendous amount of information.

Through Freedom of Information Act (FOIA) requests, we can piece together critical information about how our government functions, specific actions taken, and decisions made. For example, we can learn how laws and policies are and are not implemented or enforced, about communications between agencies, governmental personnel, and industry representatives, and how scientific findings or questions were or were not included in policy development.

While an abundance of information is technically available to the public through FOIA requests, that information can, in practice, be relatively inaccessible. It is important to note that many types of records are private, namely, records that are considered deliberative or are old enough that they are no longer retained, so creating productive FOIA requests often requires some amount of information triangulation. Writing effective FOIAs can take patience, persistence, and learning specific tactics. One of the most essential functions of someone who engages with FOIA is to make these inaccessible records more accessible to other members of your communities. Public records should be truly public.

Through FOIA and other government transparency laws, often called “Sunshine” laws, civil organizations and journalists have shed light on places where our institutions are not functioning as designed and where critical design flaws exist. FOIA facilitates our advocacy for effective and just governance.



FOIA: A Case Study

Critical community questions that can support advocacy strategies and goals can be answered through records received through FOIA requests. Here we present one recent example of Community-Led FOIA producing useful information for that community's advocacy.

Cold War-era military installations on Sivuqaq (also known as the colonial name of St Lawrence Island) have contaminated the land and water. Throughout the 2000s, the US Army Corps of Engineers (USACE) oversaw the remediation of these Formerly Used Defense Sites (FUDS). Members of the community and community advocates argued that the remediation activities did not clean up the sites enough for them to utilize these lands and waters as they had before the military presence. Subsequently, the Environmental Protection Agency (EPA) placed these sites on the National Priorities List (NPL), the list of the US' most contaminated sites, which the EPA leverages Superfund funds to remediate. The EPA declined to place the Sivuqaq FUDS on the NPL, and in 2013, the USACE's cleanup of the sites officially concluded. Members of the communities attest that the land and water are not clean and continue to advocate for a more thorough and just remediation of the sites. The advocacy organization, Alaska Community Action on Toxics (ACAT), has led this advocacy campaign throughout its history. ACAT wanted to understand why the EPA excluded the Sivuqaq sites from the NPL.



To support ACAT's advocacy and find out why the EPA declined to place the Sivuqaq FUDS on the NPL, EDGI filed the following FOIA request in 2023 to the EPA's Region 10 office (which includes Alaska).

Hello, I am researching the federal response to environmental contamination at Formerly Used Defense Sites (FUDS). I am requesting information about EPA's involvement, including actions and evaluations, at three FUDS on St Lawrence Island: The Northeast Cape (including Site 7 Cargo Road Beach) and Gambell. These are project numbers F10AK096903, F10AK096905, and F10AK0696. The records I am requesting are:

- Notes, correspondences, and reports regarding the decision not to list these sites on the National Priorities List.
- Notes, correspondences, testing results, and reports from any evaluative work conducted, including review of the USACE's decision documents.
- Materials developed for public engagement and education related to these three sites
- Notes and reports from any public engagement or feedback received.

Thank you for your time!

EDGI received 20 records from 1985-2002 in response to this request. These were primarily memos from the EPA to leaders of Savoonga and Gambell, the Yupik communities in and near where the FUDS are located. In 2002 memos from the EPA Region 10 Administrator to the leaders of Savoonga and Gambell, the EPA responded that it decided not to place these sites on the NPL and provided the rationale for that decision. Notably, the EPA explained that the Department of Defense (DOD), through the USACE, was proceeding in a manner consistent with how the EPA would approach these hazardous waste sites and that even if the sites were placed on the NPL, the EPA would not be able to provide additional funding and the DOD would continue to be responsible for cleanup of the sites.



At the same time that EDGI had filed the request regarding the EPA's NPL decision, EDGI also filed a companion FOIA request to USACE regarding the remediation Feasibility Study for the FUDS at Gambell, which dictated the final remediation plans and actions for those sites. The request read:

I request that a copy of the following documents containing the following information be provided to me: Army Corps of Engineers Feasibility Study (FS) from 2004 supporting documents and records for the Gambell site on St. Lawrence Island. Additionally, any public meeting notes or documents to discuss the plan in Gambell on July 21, 2004. We also request any compliance testing or follow-up testing and site visits since the remediation work was completed.

Through this FOIA request, EDGI obtained 49 documents from 1992-2013. Several of these documents pointed to consistent advocacy by ACAT and the community-led Restoration Advisory Board for the FUDS to improve the remediation plans. Ultimately, the EPA evaluated USACE's remediation plans and actions, and in 2013, the EPA sent a memo to the USACE with the conclusions of its evaluation. The EPA stated that, while EPA may have done some things differently, the overall remediation activities conducted by the USACE were not substantially different from what would have been done if EPA had conducted them. However, the EPA stressed that for the sites where the USACE had left contaminants above target cleanup levels, the USACE needed to conduct site visits and long-term monitoring to protect human health despite the hazards.

While the EPA's 2002 decision and 2013 evaluation are frustrating and do not bring the Sivuqaq communities closer to complete remediation and restoration of their land and water, these records reveal the rationale for EPA's decisions and (in)actions at these sites. ACAT can leverage this information in its ardent advocacy strategy.





What is community-led FOIA?

Community-led FOIA is a process led by people in communities who are primarily knowledgeable about and accountable to those people. Communities (or their representatives) ask questions, and those questions are directed (by community members or their advocates) to the proper government agencies to get answers. Community-led processes reflect and represent the lived experiences, values, perspectives, and voices of community constituencies. The method includes transparent mechanisms and full accountability to communities. Community-led research is self-determining, not influenced by government, industry, or donors.

Obtaining community-led FOIA information is one step. The follow-up should include full transparency, education, and information sharing, advocacy, and monitoring of policies.

How to do environmental community-led FOIA

The process of filing federal FOIA requests and various states' public records requests can vary widely, as can the availability of different kinds of records. Here we detail the process for composing and filing effective records requests.



Federal Agency FOIA requests

Most federal agencies can receive FOIA requests through at least three means:

1. online through a central portal – [foia.gov](https://www.foia.gov),
2. online through their own FOIA website,
3. or by emailing the agency FOIA desk.

While [foia.gov](https://www.foia.gov) is convenient, we do not recommend it because [foia.gov](https://www.foia.gov) does not automatically provide the requester with a FOIA tracking number or any confirmation of receipt of your request, and in our experience, FOIA requests can occasionally be lost in this process. When agencies receive FOIA requests through their own agency portals, they often automatically issue a copy of your request and a FOIA number that can be used to track down your request if it has not been responded to appropriately. When submitting FOIA requests through email, you do not typically automatically receive a FOIA number, but you do have your own record of submission date and content, which is useful to have in the event the agency doesn't respond in a timely fashion.

Below are the FOIA websites and portals of some agencies that may be of interest, as well as the email addresses of the agency's FOIA liaison. If you have significant concerns about an agency's response to your request (e.g., delay, expected timeline of response, redactions, etc.), you can raise those concerns to the agency FOIA liaison. You may also raise them to the Office of Government Information Services (OGIS), which can support communication between you as the requester and the agency.

Agency FOIA request pages:

EPA: foiaproductaccessportal.epa.gov

Army Corps of Engineers: usace.army.mil/FOIA/Offices

Air Force: efoia.cce.af.mil/app/Home.aspx

Navy: secnav.navy.mil/foia/Pages/default.aspx

Bureau of Land Management: foiexpresspal.doi.gov/app/Home.aspx

US Coast Guard: securerelease.us/

Agency FOIA liaisons

EPA: hq.foia@epa.gov

Army Corp of Engineers: foia-liaison@usace.army.mil

Air Force: DAF.FOIA@us.af.mil

Navy: DONFOIAPublicLiaison@navy.mil

Bureau of Land Management: rwitt@blm.gov,
blm.gov/about/foia/foia-contacts

US Coast Guard: EFOIA@uscg.gov

OGIS: ogis@nara.gov

Here are our recommendations for writing an effective FOIA request:

1. The most important thing is to be specific about what you are seeking. Do as much research on the matter as you can through other available means (e.g. Google searching) in order to provide clear requests to agencies. Agency FOIA officers are career staff, and the more precise you can make the request, the better they'll be able to provide you with the relevant documents. Specificity will also help you get the records of interest without FOIA officers sending you a litany of documents that are useless to you or charging you thousands of dollars for the staff time to fulfill the request.
2. In your request, be sure to include the subject matter of interest (e.g., records pertaining to a given contaminated site or event), the types of records desired (e.g., email correspondence, site visit notes, and reports, etc.), and the date range of interest.
3. It can often be helpful to provide some context about why you're looking for these records, though that is not required.



Community-Led (Environmentally -Focused) FOIA State-by-State

Massachusetts

Massachusetts Public Records Law applies to records made or received by a Massachusetts agency or municipality. Public records requests (PRR) are similar to Freedom of Information Act requests, but on a state and local level. A full guide detailing the Massachusetts Public Records Law can be found [here](#). Any person can request a public record. A purpose of request is not required and there are no restrictions on the subsequent use of the records requested.

1. Call or visit the public body and ask for the information first .

A formal FOIA request may not be required, and this may help tailor the written request. Before making a FOIA request, you may wish to conduct a search of agencies' websites to see what is already publicly available online.

Some public information can be found through the following platforms:

- Search feature all government websites: <https://www.foia.gov/search.html>
- Search feature for the Massachusetts Public Records Request Database, a repository for information of public record requests received by Massachusetts agencies: <https://www.sec.state.ma.us/RequestSearchWeb/Webpages/Welcome.aspx..>

2. Find the correct agency and Records Access Officer (RAO).

To increase the likelihood of success, it's important to file your request with the right agency. The Law requires every agency and municipality to designate a Records Access Officer (RAO), who assists requesters in obtaining public records. Requestors should contact the agency or municipality RAO for public records access. For example, the Department of Natural Resources and the Environmental Protection Division are commonly custodians of environmental documents.

A list of agencies of state and local agencies can be found [here](#) on the mass.gov website. Environmental agencies are listed under “Executive Office of Energy and Environmental Affairs Public Records Requests”. Selected agencies and public records request portals are listed below in this document.

3. Write your request.

DO: Make your request as precise as possible to avoid paying more in fees.

DO: Be specific in your request. This may help you limit copying costs.

DO: Reference the FOIA law, keep a copy of your letter, and send it as certified mail with a return receipt requested.

DON'T: Give up on a document if part of it is exempt and cannot be released. The agency is required to redact that information and still provide the rest of the document

A sample template can be found [here](#) at the Secretary of the Commonwealth of Massachusetts website. The Student Press Law Center's letter generator linked [here](#) may also be helpful.

4. Submit your request.

Requests for Public Records from the Executive Office of Energy and Environmental Affairs can be filed [here](#) with the relevant department.

The public records law requires agencies to provide a response within

10 business days.

The RAO is required to provide a detailed, written, good-faith estimate for the cost of complying with a public record request. Absent a specifically identified statute or regulation, an RAO may charge no more than \$0.05 per page for single and double-sided black and white paper copies or computer printouts. There is no longer a separate charge for police or fire reports, or for computer printouts.

Executive Office of Energy and Environmental Affairs Public Records Request portals in Massachusetts include:

- [Executive Office of Energy and Environmental Affairs Public Records Request](#)
- [Department of Agricultural Resources Public Records Request](#)
- [Department of Conservation and Recreation's Public Records Request](#)
- [Department of Energy Resources Public Records Request](#)
- [Department of Environmental Protection's Public Records Request](#)
- [Department of Fish and Game Public Records Request](#)
- [Department of Public Utilities Public Records Request](#)

A full list can be found [here](#) on the [mass.gov](#) website.

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