

Form G-639 Freedom of Information/Privacy Act Requests for Immigration Files: A Guide for Immigration Practitioners

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FINDINGS

FORM G-639 FREEDOM OF INFORMATION/PRIVACY ACT REQUESTS FOR IMMIGRATION FILES: A COMPREHENSIVE GUIDE FOR IMMIGRATION PRACTITIONERS

Executive Summary

[Form G-639, the Freedom of Information/Privacy Act (FOIA/PA) Request form, is an optional but widely recognized procedural vehicle for accessing immigration records maintained by Department of Homeland Security agencies, particularly the U.S. Citizenship and Immigration Services (USCIS)][1]. This comprehensive report examines the statutory authority, procedural requirements, agency-specific protocols, and strategic considerations for practitioners seeking to obtain immigration records on behalf of clients or for their own review. The research presented here reflects current USCIS policy as of early 2026, incorporating recent developments in online filing systems (the FIRST platform), processing track assignments, and expedited processing standards.

Key Findings:

Form G-639 is not legally required to submit a FOIA request; any written request that reasonably describes the records sought will satisfy statutory requirements[1][11]. However, using the standardized form or USCIS's online systems may facilitate faster processing by ensuring complete information submission. USCIS processes FOIA requests through a three-track system in which Track 1 applies to simple requests requiring only a few specific documents (approximate processing time: 39 business days), Track 2 applies to complex requests such as complete A-file requests (approximate processing time: 89 business days), and Track 3 provides accelerated processing for individuals appearing before an immigration judge (approximate processing time: 30 business days)[8][32]. Requests for A-files (Alien Files, also called immigration files) represent the most common FOIA submission to USCIS and constitute the highest volume of requests.

Critical Eligibility and Verification Requirements:

Any person, regardless of immigration status, may file a FOIA request under [5 U.S.C. § 552][19]. When requesting one's own records, the requester must verify identity by providing full name, current address, date and place of birth, and either a notarized signature or a signature executed under penalty of perjury[1][3]. When requesting another person's records, the subject of the record must provide written consent, either through the Form G-639 with required consent signatures or through an authorizing letter with appropriate verification of identity[2]. For requests to EOIR (Executive Office for Immigration Review, a component of the Department of Justice rather than DHS), Form G-639 cannot be used; instead, requests must be submitted directly to EOIR via email or mail[15][25].

Strategic Considerations for Practitioners:

This report is organized to serve immigration law practitioners in Northern California and nationwide, emphasizing the distinctions between USCIS, ICE, CBP, OBIM, and EOIR requests. The research incorporates consideration of San Francisco Immigration Court procedures, local ICE enforcement patterns, and the interplay between FOIA requests and removal proceedings. Practitioners should understand that FOIA requests filed by individuals facing imminent removal have access to Track 3 expedited processing, which can significantly accelerate record retrieval during critical procedural windows. Additionally, strategic

consideration of which specific documents to request-rather than requesting entire A-files-can reduce processing time and potential redactions. The availability of online submission through USCIS's FIRST platform has materially reduced processing times compared to mailed requests, and practitioners should recommend online filing where clients have the technical capacity and are willing to provide requested biographical information.

Legal Framework and Statutory Authority

The Freedom of Information Act: Foundational Statutory Provisions

The Freedom of Information Act, codified at [5 U.S.C. § 552][19], establishes the fundamental right of any person to request and obtain records held by federal agencies. The statute operates without regard to the requester's identity, citizenship status, or the purpose for which records are sought. [5 U.S.C. § 552(a)(3)(A) requires that "each agency, upon any request for records ... shall make the records promptly available to any person"][19]. The FOIA statute defines "agency" to include all departments and agencies of the federal government, with specific exclusions for Congress, the federal courts, and certain components of the Executive Office of the President that function solely in an advisory capacity to the President[44].

The statute imposes a mandatory 20-business-day response deadline for agencies to make an initial determination on FOIA requests, although this deadline may be extended by an additional 10 business days when the agency identifies "unusual circumstances" requiring additional time to search and collect records, examine voluminous materials, or consult with other agencies[19][27]. The FOIA statute makes clear that requesters do not bear the burden of establishing a need for records or any particular use; the statute contains no requirement that the requester justify the request or demonstrate that disclosure would serve the public interest[19]. However, federal agencies may charge reasonable fees for search, review, and duplication costs, and those fees may be waived when the requester demonstrates that disclosure of the requested records is in the public interest and is not primarily in the requester's commercial interest[19][22][58].

The statute also establishes nine specific exemptions from disclosure, which protect information in categories including classified national security information (Exemption 1), internal agency personnel rules and practices (Exemption 2), information prohibited from disclosure by other federal statute (Exemption 3), trade secrets and confidential commercial information (Exemption 4), privileged interagency communications (Exemption 5), personal privacy information (Exemption 6), law enforcement information (Exemption 7), financial institution supervision information (Exemption 8), and geological well information (Exemption 9)[19][22][58]. Importantly, federal law requires that agencies apply these exemptions narrowly and "shall furnish any reasonably segregable portion of a record ... after deletion of the portions which are exempt"[19]. This "segregability" principle means that even if portions of a document are exempt from disclosure, agencies must release nonexempt portions.

The Privacy Act of 1974: Heightened Protections for Identified Individuals

The Privacy Act, codified at [5 U.S.C. § 552a][41], provides enhanced protections for records maintained on individuals by federal agencies. Unlike the FOIA, which applies to all persons including noncitizens, the Privacy Act applies only to United States citizens and aliens lawfully admitted for permanent residence[38]. The Privacy Act permits individuals to request access to records pertaining to themselves that are maintained in agency systems of records[41]. When an individual requests their own records under the Privacy Act, requesters are entitled to amend or correct inaccurate information[38]. Additionally, the Privacy Act generally

prohibits disclosure of personal records without the individual's written consent, except in specific circumstances such as requests from Congress, law enforcement agencies, or when disclosure is necessary to carry out statutory agency functions[41].

For EOIR specifically, the Privacy Act applies only to records of U.S. citizens or lawful permanent residents, as most records maintained by immigration courts pertain to noncitizens[38]. EOIR cannot use Privacy Act amendment procedures as a correction mechanism for official records contained in the record of proceedings (ROP), which is the court's official case file[38].

Regulatory Framework: DHS FOIA Regulations and USCIS Policy Manual

The Department of Homeland Security implements FOIA procedures through regulations codified at [6 CFR Part 5][16][18]. [6 CFR § 5.1 establishes general provisions for DHS FOIA processing][16], and [6 CFR § 5.5 addresses expedited processing procedures][6][11]. These regulations require that requesters provide sufficient information to allow the agency to conduct a focused and efficient search, including "specific information that may assist a component 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"[25].

USCIS maintains a comprehensive FOIA Request Guide that details the agency's procedures for processing Form G-639 requests and alternative submission methods[32]. The guide establishes the three-track system for processing and specifies that USCIS uses an automated database system called FIRST (Freedom of Information Act Records SysTem) to manage all FOIA/PA requests[32]. The USCIS policy manual addresses verification of identity requirements, consent procedures for third-party requests, description of records sought, response times by processing track, fee structures, appeals procedures, and definitions of terms used in FOIA processing[32].

8 CFR Part 103: Immigration Benefit Request Procedures

While [8 CFR Part 103][31] primarily addresses the mechanics of filing immigration benefit requests, it contains relevant provisions regarding submission of forms, execution of documents, and representation. [8 CFR § 103.2(a)(3)] addresses signature requirements and the use of representatives, which is relevant when Form G-28 (Notice of Entry of Appearance as Attorney or Accredited Representative) is submitted alongside a G-639 FOIA request to authorize release of records to a representative[39].

Immigration and Nationality Act (INA) Provisions on Records Access

While the INA itself does not specifically create a right to FOIA access, [8 U.S.C. § 1229(b)(1)] addresses the immigration court's obligation to provide notice and records access in removal proceedings, and various INA provisions address the creation and maintenance of immigration records by USCIS and other DHS components. The INA establishes the authority for DHS to create and maintain A-files (Alien Files) and other immigration records, which are the primary target of most FOIA requests submitted by practitioners.

The Purpose, Scope, and Practical Use of Form G-639

What Form G-639 Is and What It Is Not

Form G-639, "Freedom of Information/Privacy Act Request," is a standardized form created by USCIS to facilitate submission of FOIA and Privacy Act requests[1][6][8]. The form contains spaces for the requester to identify whether the request is submitted under the FOIA or Privacy Act, to describe the records sought, to

verify identity or provide consent, and to indicate whether expedited processing is requested[6][8]. However, the form is entirely optional; the statute requires only that requesters submit requests in writing that reasonably describe the records sought[11][25]. Any written request submitted by mail, fax, email, or online portal that provides sufficient detail regarding the records sought will constitute a valid FOIA request[1][11].

Form G-639 may be used to request records from USCIS, ICE, and OBIM, but not from CBP (Customs and Border Protection), which requires submission through its own online portal[11][21]. Form G-639 cannot be used to submit requests to EOIR; EOIR requires separate submission procedures and does not accept the DHS form[15][25]. Form G-639 is also not appropriate for requests related to Certificate of Non-Existence of a Record, which must be submitted as a separate letter request to the USCIS Certification of Non-Existence office[1][21].

Who May File a G-639 Request: Eligibility and Standing

Any person, regardless of immigration status, citizenship, or residency, may file a FOIA request under [5 U.S.C. § 552][19][11][45]. The statute imposes no citizenship requirement, no requirement to demonstrate need or justification, and no bar to those in the United States unlawfully. This means that undocumented immigrants, temporary visa holders, U.S. citizens, lawful permanent residents, and even individuals outside the United States may all submit FOIA requests for immigration records. The Privacy Act, by contrast, applies only to U.S. citizens and lawful permanent residents, but the FOIA applies broadly[41].

Practically speaking, practitioners note that individuals without legal status may be concerned about providing their current residential address to a federal agency through a FOIA request[1][5][21]. While there is no documented pattern of individuals being placed into immigration enforcement proceedings based solely on the filing of a FOIA request, practitioners commonly advise clients to provide a mailing address (such as a post office box or an attorney's office address) rather than a residential address when submitting FOIA requests[1][5][21]. This practice is particularly common for clients in removal proceedings or with pending immigration applications.

Scope of Records Accessible Through G-639 Requests

USCIS maintains several categories of records that may be requested through Form G-639 or other FOIA submission methods. [The primary records include A-files (Alien Files, also called immigration files), which contain all records of any active case of an alien not yet naturalized as they passed through the United States immigration and inspection process][2][53]. A-Files may include visa documents, photographs, affidavits, applications, correspondence, medical examination results (Form I-693), birth certificates and supporting evidence of family relationships, employment authorization documents, advance parole documents, and all agency determinations regarding the individual's case[53]. Other USCIS records accessible through FOIA include removal, detention, and deportation records; prior immigration petitions and supporting documents (such as Form I-130 immediate relative petitions, Form I-485 applications for adjustment of status, Form I-864 affidavits of support, and Form I-589 applications for asylum); USCIS decisions on applications and petitions; and Advance Parole records obtained through USCIS[11][25].

Practitioners should understand that the scope of records available differs among DHS components. ICE maintains records including A-file information, detention center records, bond requests, requests for ICE detainers or warrants, and medical records while in ICE detention[11][25]. CBP maintains records of border apprehension, expedited removal, commercial documents, contracts, entries and exits, fines and penalties, I-94 arrival-departure records, imports and exports, media records, and travel documents including advance parole documents obtained through CBP[11][21][25]. OBIM (Office of Biometric Identity Management) maintains

biometric identity information and records regarding interactions with border officials, including information related to removals or voluntary returns at the border[2][11][21][25].

Records NOT Available Through G-639:

Certain categories of records cannot be obtained through Form G-639 or are subject to special procedures. Form G-639 cannot be used to request EOIR immigration court records; those require separate submission to EOIR[15][25]. Form G-639 cannot be used for Certificate of Non-Existence of a Record requests; those must be submitted separately as a letter[1][21]. For unaccompanied alien children (UAC) whose cases are managed by the Department of Health and Human Services' Office of Refugee Resettlement, records cannot be obtained through FOIA but instead require submission of Form A-5 (Authorization for Release of Records) directly to HHS[37]. Certain immigration court proceedings may be accessible through direct request to the immigration court without using FOIA procedures, and EOIR has recently established a non-FOIA route for respondents and their representatives to request records of proceedings[37].

Procedural Requirements: Filing Methods, Verification, and Consent

Filing Methods: Traditional Mail, Fax, Email, and Online Portals

USCIS accepts FOIA requests through multiple submission methods, with processing times varying significantly based on the submission method employed[1][24][32]. Mail submission remains available; mail requests to USCIS should be addressed to the National Records Center (NRC) FOIA/PA Office, P.O. Box 648010, Lee's Summit, Missouri 64064-8010, with the envelope clearly marked "Freedom of Information Request"[4][24][32]. Fax submission is accepted at (816) 350-5785[4][32]. Email submission is available at uscis.foia@uscis.dhs.gov; however, USCIS does not accept original requests through email, so email is typically used for inquiries or supplemental submissions[1][21].

Online submission through FIRST (Freedom of Information Act Records SysTem) is the fastest submission method and is now the preferred option for both USCIS and practitioners[1][24][32][40]. The FIRST platform is accessed at <https://first.uscis.gov> (or through the myUSCIS account system), and allows requesters to create an account, submit FOIA requests online, track status in real time using a control number, and receive responses digitally[1][24][32]. The FIRST system is designed to streamline processing by eliminating delays from mail delivery and scanning that occur with paper-filed requests[1]. Practitioners report that online filing through FIRST typically results in faster initial acknowledgment (within days rather than weeks) and faster overall processing compared to mailed requests[1].

However, the FIRST system requires responses to specific questions including the purpose of the request, the requester's name and aliases, mailing address, country of birth, and information about family members[1][5][21]. Practitioners note that some clients may be reluctant to provide this information through an online federal system, particularly information about country of birth (which could concede alienage to the government) or family member information (which might reveal family members also in immigration proceedings)[1][5][21]. For such cases, practitioners may prefer to submit a letter request by mail or fax, or to use the optional DHS Online Request Form at <http://www.dhs.gov/dhs-foia-request-submission-form>, which allows selection of the DHS component to which the request should be directed[25][40].

Practitioners representing clients should note that Form G-28 (Notice of Entry of Appearance as Attorney or Accredited Representative) must be filed along with the Form G-639 when seeking to receive records on the client's behalf rather than having the client receive them directly[1][39][40]. When a representative files online

through FIRST without uploading Form G-28, the FIRST system will send verification questions via email or text to the client's contact information; the client must then answer those questions to verify consent for release of records to the representative[1].

Verification of Identity Requirements

For First-Party Requests (Requesting One's Own Records):

When an individual requests their own immigration records, the requester must verify identity by providing full name, current address, date of birth, and place of birth[1][2][3]. Additionally, the signature on the Form G-639 or accompanying document must either be notarized or executed under penalty of perjury[2][3][6][8]. Form DOJ-361 (Certification of Identity) is an alternative to Form G-639 and includes a standard declaration under penalty of perjury[2][56]. Some practitioners recommend using Form DOJ-361 rather than Form G-639 because it is simpler and asks for less biographical information[1][2].

The signature requirement is strict; a stamped or typewritten name is not acceptable[39]. The signature must be original and executed in black ink[39]. For individuals requesting their own records online through FIRST, verification occurs through the consent confirmation process[1].

For Third-Party Requests (Requesting Another Person's Records):

When a representative, family member, attorney, or other third party requests records of another person, the person who is the subject of the records (the "subject of record") must provide written authorization. This authorization may take the form of Form G-639 with required consent signatures from the subject, or it may take the form of an authorizing letter[2][6][21]. The subject of record's consent must include the subject's signature, which must be either notarized or executed under penalty of perjury[1][2][3][6][8]. Additionally, the subject of record must verify their identity through the same methods required for first-party requests: providing full name, current address, date of birth, and place of birth, along with the notarized or sworn signature[1][2][6].

When an attorney or accredited representative files the request on behalf of a client, Form G-28 (Notice of Entry of Appearance as Attorney or Accredited Representative) may be filed along with the Form G-639 to establish the representative's authority and to request that records be sent to the representative rather than the client[1][39][40]. Form G-28 must be signed by both the attorney or representative and the client[39]. Both the attorney and client must sign Form G-28, and the representative should indicate whether the client consents to having USCIS send original notices and documents to the representative, or whether copies only should be sent to the representative[39].

Special Verification Requirements for Parents, Guardians, and Minor Children:

When a parent or legal guardian requests records on behalf of a minor child, the parent or guardian must establish their own identity (with name, address, date and place of birth, and notarized or sworn signature) and must also provide proof of parentage, such as a birth certificate, adoption decree, or similar legal document[6][8]. Similarly, when a guardian requests records on behalf of a ward, the guardian must provide proof of legal guardianship, such as a court order[6].

Verification for Requests Regarding Deceased Individuals:

When requesting records of a deceased individual (for genealogical purposes, estate settlement, or other lawful reasons), the requester must provide proof of death, such as a death certificate, obituary, funeral program, or photograph[1][52]. USCIS operates a Genealogy Program that facilitates such requests[52][53].

The requester seeking access to deceased individuals' A-Files through the genealogy program must provide the individual's complete name, Alien Registration number, and National Archives Identifier (if known), along with optional information regarding date and place of birth, date of entry, and proof of death[53].

Description of Records Requested: Precision and Specificity

The FOIA statute requires only that requesters "reasonably describe" the records sought[11][25][45]. However, USCIS and other agencies strongly recommend that requesters provide specific information that will assist the agency in conducting a focused and efficient search[11][25]. Specificity reduces processing time, improves the likelihood of locating all responsive documents, and reduces the risk of inadequate searches that might support an appeal or lawsuit[43][46].

When describing records, practitioners should include details such as the specific form type (e.g., "Form I-485 application for adjustment of status"), the date or date range of the documents, the office or jurisdiction in which documents were created, names of officials or offices involved, document titles, subject matter, and file designation[1][11][25][32][40][45]. For example, rather than requesting "all documents," a more precise request would be "Form I-130 Petition for Immediate Relative filed on [date], Form I-864 Affidavit of Support filed on [date], and all birth certificates, marriage certificates, and medical examination reports (Form I-693) submitted in support of the I-485 application."

Practitioners should avoid phrasing requests as questions; FOIA does not require agencies to answer questions, but rather to provide photocopies of documents[32]. Additionally, practitioners should avoid overly broad requests such as "entire A-file" unless absolutely necessary, as such requests will likely be assigned to Track 2 (complex cases) with longer processing times[8][32].

Agency-Specific Procedures and Submission Requirements

USCIS (U.S. Citizenship and Immigration Services)

USCIS is the most common recipient of FOIA requests regarding immigration records because it maintains A-Files and records of prior petitions and applications[11][21][25][32]. Submission methods for USCIS requests include:

- * Online submission through FIRST at <https://first.uscis.gov> (recommended)[1][24][32]
- * Online submission through DHS Online Request Form at <http://www.dhs.gov/dhs-foia-request-submission-form>[25][40]
- * Mail submission to National Records Center (NRC) FOIA/PA Office, P.O. Box 648010, Lee's Summit, Missouri 64064-8010[4][24][32]
- * Fax submission to (816) 350-5785[4][32]
- * Email submission to uscis.foia@uscis.dhs.gov (for supplemental inquiries only; original requests should not be submitted via email)[1][21][32]

Critical limitation: Requesters must submit requests to the National Records Center, not to local USCIS offices, service centers, or lockboxes[1][4][21][25][32]. Submitting to a local office will delay processing as the request will need to be forwarded to the National Records Center.

For Certificate of Non-Existence of a Record requests (requests to obtain a certification that USCIS has no

record of a particular individual's file), Form G-639 cannot be used[1][21][32]. Instead, requesters must submit a letter request directly to the USCIS Certification of Non-Existence office at U.S. Citizenship and Immigration Services, Attn: Certification of Non-Existence, 1200 1st St. NE, 2nd Floor, Washington, D.C. 20529-2204[21][32].

ICE (U.S. Immigration and Customs Enforcement)

ICE maintains records including A-file information (for cases involving ICE), detention center records, bond requests, detainer records, warrant records, and medical records while in ICE detention[11][25]. Submission methods for ICE requests include:

- * Online submission through ICE Online Form at <http://www.ice.gov/webform/foia-request-form>[11][25]
- * Online submission through DHS Online Request Form at <http://www.dhs.gov/dhs-foia-request-submission-form>[25][40]
- * Mail submission with Form G-639 by mail, fax, or email[11][25]
- * Letter request[11][25]

All ICE requests must include a daytime phone number where the requester may be reached[11][21][25]. If the request is submitted by means other than the online form, ICE requires that an "Affirmation/Declaration" form be included, containing the subject's name, date of birth, and, if the subject does not want the records sent to them personally, the name and address of a third party[11][21][25].

CBP (U.S. Customs and Border Protection)

CBP maintains records of border apprehension, expedited removal proceedings, commercial documents, entries and exits, I-94 arrival-departure records, and travel documents[2][11][21][37]. CBP no longer accepts mail or fax requests and does not accept Form G-639 as the primary submission method[11][21]. CBP requires online submission through its Secure Release portal at <https://www.securerelease.us/>[11][21][37]. CBP may accept Form G-639 as a supporting document attached to an online submission, but the primary submission must be through the online portal[11][21].

Practitioners should note that CBP has experienced significant processing delays due to backlog issues, and processing times are generally longer for CBP than for other DHS components[11][25]. If a requester submits an A-File request to CBP, CBP will refer the request to USCIS; to avoid delays, practitioners should submit A-File requests directly to USCIS[11][37].

OBIM (Office of Biometric Identity Management)

OBIM maintains biometric identity information and records regarding interactions with border officials, including information related to removals or voluntary returns at the border[2][11][21][25]. OBIM's database, called IDENT, includes millions of unique identities (including a person's right index fingerprint and photograph) along with the date and location the biometric information was collected[59]. Submission methods for OBIM requests include:

- * Online submission through Secure Release portal at <https://www.securerelease.us/>[11][14][21][25]
- * Form G-639 by mail, fax, or email[11][25]
- * Online submission through DHS Online Request Form at <http://www.dhs.gov/dhs-foia-request-submission-form>[25]

* Letter request[11][25]

OBIM requests require submission of an original FBI fingerprint card (FD-258) to assist with searching for records[11][21][25]. The fingerprint card may be uploaded to the Secure Release portal or submitted by mail or email[11][21][25].

Practitioners should note that OBIM's response rate is generally faster than CBP's response rate, and OBIM records may contain information about border encounters that CBP records do not[11][25]. As a strategic matter, practitioners often file FOIA requests with both OBIM and CBP to maximize access to border records, as the two components index their records differently and may have different information on file[11][25].

EOIR (Executive Office for Immigration Review)

EOIR, a component of the Department of Justice rather than DHS, maintains immigration court records, charging documents, court decisions, and orders[15][25]. Form G-639 cannot be used to submit requests to EOIR[15][25][59]. EOIR requests must be submitted:

- * Directly to EOIR via email at EOIR.FOIARequests@usdoj.gov[15][25][59]
- * Directly to EOIR via mail to the address specified on EOIR's website[15][25]
- * Through EOIR's Public Access Link (PAL) at <https://foia.eoir.justice.gov/app/Home.aspx>[15][25]

All EOIR requests should include the subject's A-number, name, immigration hearing location, and a description of the records sought[15][25][59]. Verification of identity is required, and EOIR recommends submitting Form DOJ-361 (Certification of Identity) or providing a notarized statement or sworn declaration[15][25][59].

Alternative to EOIR FOIA: EOIR has recently established a non-FOIA route for respondents and their representatives to request records of proceedings (ROP, the court's official case file). Respondents and their representatives with an active case before the immigration court or BIA may now make a direct records request to the immigration court or through the Case Portal, provided that the representative has an approved Form E-27 or E-28 in the Case Portal[37]. This non-FOIA route is generally much faster than the formal FOIA process and is preferable when available[37].

Processing Timelines and Track Assignments

The Three-Track Processing System

USCIS processes FOIA requests using a three-track, first-in/first-out (FIFO) system that determines the anticipated processing time based on the complexity and scope of the request[8][32][40].

Track 1: Simple Requests

Track 1 applies to less complex cases in which a requester needs only one or only a few specific documents from the file[8][32][40]. Examples of Track 1 requests include requests for a specific Form I-485 application, a particular approval notice, a Form I-693 medical examination, or a few specific supporting documents. Track 1 requests are typically assigned approximately 39 business days for processing, though this timeline reflects historical averages and actual processing times may vary based on workload[7][32].

Track 2: Complex Requests

Track 2 applies to more complex cases, including requests for a complete copy of an A-file, requests from news media outlets, requests from special interest groups, or requests that would require assembly of most of the file even if the requester phrased the request as being for "specific documents"[8][32][40]. If USCIS receives a request for documents that implies most of the file (such as "the asylum application and all supporting documents"), the agency will assign the request to Track 2 even if the requester did not explicitly request the complete A-file[8][32][40]. Track 2 requests are typically assigned approximately 89 business days for processing[7][32].

Track 3: Accelerated Processing (Individuals in Removal Proceedings)

Track 3 provides accelerated processing for individuals who are to appear before an immigration judge, such as those in removal proceedings[8][32][40]. To qualify for Track 3 processing, the requester must include one of several documents with the FOIA request, including Form I-862 (Notice to Appear) documenting a future scheduled date of the hearing, Form I-122 (Order to Show Cause) documenting a future scheduled hearing date, Form I-863 (Notice of Referral to Immigration Judge), or a written notice of continuation of a future scheduled hearing before an Immigration Judge[8][32][40][45]. The cover letter and proof of the upcoming hearing must be included with the FOIA request to qualify for Track 3[45].

When a request qualifies for Track 3 accelerated processing, USCIS aims to respond within approximately 30 business days[7]. Track 3 processing may be critical for individuals whose removal hearings are approaching, as obtaining the complete A-file or specific documents may be necessary for presenting an effective legal defense in immigration court.

Initial Acknowledgment and Status Tracking

Upon receipt of a FOIA request (whether submitted online or by mail), USCIS will generally send an acknowledgment letter within 20 business days (approximately one month)[7][8][24]. The acknowledgment letter will confirm receipt of the request and provide a FOIA control number that the requester can use to track the status of the request online[1][7][8][24][32]. Requesters can check the status of their FOIA request by entering the control number at <https://first.uscis.gov/#/check-status>[9][32][40].

For requests submitted through FIRST online, the requester will receive notification of the control number through the online account immediately[1]. For mail or fax submissions, the control number will be included in the acknowledgment letter[1].

Statutory Deadlines and Extensions

The FOIA statute requires that agencies respond to requests within 20 business days, with a possible extension of 10 additional business days when "unusual circumstances" exist[19][27][32]. Unusual circumstances are defined to include the need to search field offices or other establishments separate from the office processing the request, the need to search, collect, and examine a voluminous amount of separate and distinct records, or the need to consult with other agencies[19][27].

USCIS regulations provide that A-file requests (even if the requester asks for only a few specific documents from the file) warrant the 10-business-day extension because they are considered "voluminous"[32]. Accordingly, requests for A-files currently take a minimum of 30 business days for USCIS to respond (20 business days plus 10 for the extension)[7][32][45].

However, federal courts and FOIA oversight bodies have long recognized that USCIS, like many federal agencies, routinely fails to meet even the extended statutory deadlines, particularly when faced with high request volumes and limited resources[11][46]. As of 2021, USCIS reported that it had significantly reduced

the A-file backlog to 244 requests that were especially complex and had achieved a timely completion rate of 99.14% for A-file requests filed since June 15, 2021[11][20]. However, advocates continue to report severe delays, particularly with FOIA requests for records outside of the A-file[11][20].

Current Processing Time Data and Variance

Current processing times reported by USCIS indicate that standard (non-expedited, non-Track 3) FOIA requests take an average of 20 business days for simple requests (Track 1) and over four months for materials other than A-files[7][20][24][32]. Some practitioners report waiting several months for FOIA responses, particularly when requesting materials that are not maintained in the main A-file but must be located in separate offices or systems[11][20][25].

The National Archives and other federal agencies process FOIA requests in tracks similar to USCIS, though with different naming conventions. The National Archives, for example, processes requests that require 21 to 60 workdays in a standard track, and requests requiring more than 60 workdays in an "exceptional/voluminous" track[10].

Expedited Processing Standards and Strategic Use in Removal Proceedings

Statutory Standards for Expedited Processing

FOIA authorizes expedited processing in two specific circumstances, both of which are relevant to immigration practitioners[19][27][58]. The first circumstance applies when the lack of expedited processing could reasonably be expected to pose an imminent threat to the life or physical safety of an individual[3][19][27][58]. The second circumstance applies when there is an urgency to inform the public about an actual or alleged Federal Government activity, made by a person who is primarily engaged in disseminating information[3][19][27][58]. The latter standard is intended primarily for journalists and media outlets, though it could potentially apply to immigration advocates engaged in public education.

Immigration practitioners frequently invoke the first standard (imminent threat to life or physical safety) in the context of removal proceedings, arguing that without expedited access to FOIA records, the individual faces imminent deportation to a country where they fear persecution or torture. However, the threshold for demonstrating an "imminent threat" to life or physical safety is significant, and agencies do not always grant expedited processing based on removal proceedings alone.

Expedited Processing in the Immigration Context: Compelling Need

[6 CFR § 5.5(e) provides that a requester seeking expedited processing must explain in detail the basis of the need and submit a separate statement certified to be true and correct][6]. The regulation echoes the statutory language regarding imminent threat to life or physical safety. USCIS guidance provides that to warrant expedited processing, the requester must establish compelling need-either the imminent threat to physical safety or the media/public interest standard[32].

Courts have interpreted "imminent threat" narrowly, generally requiring specific facts showing that without the records, an identifiable harm will occur in the immediate future[32]. Simply being in removal proceedings does not automatically qualify for expedited processing; rather, the requester must demonstrate that lack of access to the records would leave them unable to present a legal defense at an imminent hearing, thereby risking deportation to a country where they face persecution or harm.

Strategic use by immigration practitioners: Practitioners representing clients in removal proceedings with approaching hearing dates should consider including a request for expedited processing with the FOIA request, particularly if the hearing date is within 30 to 60 days and the client needs specific documents from their file to present an effective legal defense. The request for expedited processing should include a cover letter explaining that the client faces a hearing before an immigration judge on a specific date (which should be documented), that the client's legal defense depends on obtaining specific documents from their immigration file, and that without expedited access, the client will be unable to adequately prepare for the hearing, thereby facing potential wrongful deportation.

Alternatively, practitioners may use the simpler approach of requesting Track 3 processing by submitting the Notice to Appear (Form I-862) or other evidence of an upcoming hearing date with the FOIA request, which automatically qualifies the request for accelerated processing without requiring a separate expedited processing request.

Denial of Expedited Processing and Administrative Appeal

If a FOIA requester's request for expedited processing is denied, the requester may administratively appeal the denial to the agency's FOIA Appeals Officer[27][46]. Under [6 CFR § 5.8(e)], regulations governing DHS specify that a denial of expedited processing may be administratively appealed, but the requester is not required to exhaust administrative appeal before seeking federal court review of the expedited processing denial[27][46]. By contrast, for other adverse FOIA determinations (such as redactions or denials based on exemptions), DHS regulations require exhaustion of administrative appeal before seeking court review.

FOIA Exemptions and Redactions: What Records May Be Withheld

Overview of the Nine FOIA Exemptions

Although the FOIA grants a broad right to federal records, Congress established nine exemptions that allow agencies to withhold certain categories of information[19][22][58]. The statute requires agencies to apply these exemptions narrowly, and the burden is on the agency to justify any withholding[19][22][55][58]. Additionally, when information is withheld under an exemption, the agency must indicate the specific exemption that covers the material[22][58]. The nine exemptions are:

Exemption 1: Information classified to protect national security[19][22][58]

Exemption 2: Information related solely to the internal personnel rules and practices of an agency[19][22][58]

Exemption 3: Information that is prohibited from disclosure by another federal statute[19][22][55][58]

Exemption 4: Trade secrets and commercial or financial information that is confidential or privileged[19][22][58]

Exemption 5: Privileged communications within or between agencies, including attorney-work-product privilege, attorney-client privilege, and deliberative process privilege (for records created less than 25 years before the request)[19][22][58]

Exemption 6: Information about individuals in "personnel and medical files and similar files" when disclosure "would constitute a clearly unwarranted invasion of personal privacy"[19][22][26][29][58]

Exemption 7: Information compiled for law enforcement purposes that could reasonably be expected to

interfere with enforcement proceedings, deprive a person of a fair trial, constitute an unwarranted invasion of personal privacy, or disclose a confidential source[19][22][58]

Exemption 8: Information that concerns the supervision of financial institutions[19][22][58]

Exemption 9: Geological information on wells[19][22][58]

Exemptions Most Commonly Applied to Immigration Records

In the context of FOIA requests for immigration records, certain exemptions are applied more frequently than others. Exemption 6 (personal privacy) is commonly invoked to withhold names, addresses, telephone numbers, dates of birth, and other personal information about third parties mentioned in immigration files, such as family members, witnesses, or other individuals not the subject of the request[2][26][29][55].

Exemption 7(C) (law enforcement privacy) is invoked to withhold information compiled for law enforcement purposes-including information about removal proceedings, criminal history, or enforcement actions-when disclosure would invade personal privacy[22][55].

Exemption 3 may be invoked to withhold information that is prohibited from disclosure by another federal statute, such as certain information protected by confidentiality statutes or regulations[19][22][55]. Exemption 5 may be invoked to withhold attorney work product or attorney-client communications, such as legal opinions or advice prepared by government counsel in connection with litigation[19][22][55].

The Segregability Principle: Right to Nonexempt Information

Importantly, [5 U.S.C. § 552(b)] requires agencies to disclose "any reasonably segregable portion of a record... after deletion of the portions which are exempt"[19]. This "segregability" principle means that even when portions of a document are protected by exemptions, agencies must release the nonexempt portions. If an agency withholds an entire document or a substantial portion, it must explain why no reasonably segregable portions can be released[19][22].

Courts have applied the segregability requirement rigorously in some contexts. For example, courts have held that when an asylum officer's assessment of an asylum case is exempt from disclosure (because it constitutes work product or deliberative process), the underlying facts on which the officer relied are not necessarily exempt and must be segregated and disclosed[46][55].

Administrative Appeals and Litigation

Administrative Appeal Procedures

When USCIS or another DHS component makes an adverse determination on a FOIA request-either by denying the request, providing incomplete records, withholding documents under exemptions, or denying expedited processing-the requester may file an administrative appeal[27][30][46]. The administrative appeal must be submitted within 90 days (or 90 calendar days depending on the agency) after the date of the agency's response[27][46]. The appeal should specifically state the basis for the appeal and cite relevant case law or policy guidance[27][46].

Common grounds for administrative appeals include:

- * Adequacy of the search: Arguing that the agency did not conduct a reasonable search, failed to search appropriate offices, or failed to request records from officials likely to have responsive records[27][46]

- * Improper redactions: Arguing that the agency improperly applied FOIA exemptions and should disclose withheld or redacted information[27][46]
- * Incomplete response: Arguing that the agency failed to produce documents that are known to exist[27][46]
- * Denial of expedited processing: Arguing that the request meets the standards for expedited processing and should be prioritized[27][46]
- * Denial of fee waivers: Arguing that the request qualifies for a fee waiver under applicable standards[27][46]

After the agency issues a response to the administrative appeal, the requester has exhausted administrative remedies and may proceed to federal court if the appeal is denied or produces inadequate results.

Judicial Remedies: FOIA Litigation

If an administrative appeal is unsuccessful or if the agency fails to issue a determination letter within the time limits set by FOIA, a requester may file a lawsuit in federal district court seeking judicial review of the agency's FOIA determination[27][46]. [5 U.S.C. § 552(a)(4)(B) places the burden on the agency to sustain its action in withholding records, and courts conduct "de novo" review (review starting from scratch without deference to the agency's determinations)][19][46].

The statute of limitations for FOIA lawsuits is six years from the date when the administrative process is concluded (i.e., when the agency has issued a final response to any administrative appeal, or when the agency has failed to issue a determination letter within the statutory or extended timelines)[27][46].

Courts may award attorney's fees and costs to the requester if the requester "substantially prevails" in the litigation-meaning that the requester obtains the records sought or that a court finds that the agency's withholding was not substantially justified[27][46]. This fee-shifting provision makes FOIA litigation economically feasible for individual requesters and small advocacy organizations, as successful plaintiffs can recover legal fees from the government[27][46].

Alternatives to Form G-639 and Supplementary Record Access Methods

When to Use Letter Requests Instead of Form G-639

While Form G-639 is widely used and familiar to practitioners, several factors may make letter requests preferable in specific circumstances[1][11][21]. Letter requests may be preferable when:

- * The requester wishes to minimize disclosure of personal information to the government (the G-639 form asks many biographical questions that a letter request need not include)[1][11][21]
- * The requester is concerned about privacy and does not want to provide information about country of birth or family members through an online system[1][21]
- * The request involves special circumstances (such as requests regarding deceased individuals, genealogical research, or requests that do not fit standard categories)[1]

A letter request need only contain sufficient information for the agency to locate the records, including the individual's name, A-number (if available), date and place of birth, and a clear description of the records sought[11][25]. The letter should be addressed to the appropriate agency component and marked "Freedom of

Information Act Request" on the envelope[1][11][25][40].

Direct Requests to USCIS Service Centers and Local Offices

In some circumstances, practitioners may obtain documents more quickly by requesting them directly from the USCIS office where an application is pending, rather than submitting a formal FOIA request. For example, if a client has an approved I-130 petition pending at a specific USCIS service center and is awaiting notice of the approval, requesting the approval notice directly from that service center may be faster than submitting a FOIA request to the National Records Center. However, practitioners should be aware that USCIS field offices are not required to provide records outside of routine procedural communications, and the formal FOIA process is sometimes necessary to compel disclosure of complete files[1][21].

Non-FOIA Access to EOIR Records of Proceedings

As noted above, EOIR has established a non-FOIA route for respondents and their representatives to request records of proceedings (ROP, the official case file from immigration court). This non-FOIA process is generally faster than submitting a FOIA request to EOIR and should be used when available. Respondents and their representatives with an active case may submit a direct request to the immigration court or through the Case Portal, provided that the representative has an approved Form E-27 or E-28 on file[37].

USCIS Genealogy Program for Deceased Individuals

For individuals seeking to access A-Files of deceased relatives for genealogical or family history purposes, USCIS operates a specialized Genealogy Program[52][53]. This program, supported by the National Archives, facilitates access to historical immigration records for genealogical research. Requests through the Genealogy Program may have different procedures and timelines than standard FOIA requests, and the program may provide access to records that were archived with the National Archives rather than maintained by USCIS[52][53].

Direct Court Discovery in Removal Proceedings

In some cases, immigration practitioners may obtain records through discovery requests in the context of pending removal proceedings before the immigration court, rather than through FOIA. The immigration court's discovery rules and the government's discovery obligations in removal proceedings may provide a faster avenue to obtain documents that are necessary for defending the case. However, court discovery and FOIA requests serve different purposes and have different standards; FOIA applies to agency records generally, while discovery applies only to information relevant to pending litigation[13].

San Francisco-Specific Implementation and Northern California Practice Considerations

San Francisco Immigration Court and FOIA Timing in Removal Proceedings

The San Francisco Immigration Court, located at 100 Montgomery Street, Suite 800 (and additional locations in Concord), handles removal cases from Northern California including the Bay Area, inland counties, and parts of the Central Valley. For individuals in removal proceedings before the San Francisco Immigration Court, Track 3 FOIA processing (expedited processing for individuals appearing before an immigration judge) is particularly valuable. The San Francisco court's scheduling patterns may affect the timeline for obtaining FOIA records; practitioners should note the date of their client's master calendar hearing or individual hearing

and calculate backward to ensure that FOIA requests are submitted with sufficient time to obtain documents before the hearing date.

San Francisco Immigration Judge preferences regarding evidence submission vary; some judges are receptive to detailed A-file documentation as supporting evidence in asylum cases or other claims, while others focus primarily on testimony and live evidence. Practitioners should be familiar with the specific judge assigned to their case and understand that judge's preferences regarding documentary evidence. In any case, having access to one's complete A-file well before the hearing allows the attorney to identify inconsistencies, missing documents, or favorable evidence that should be supplemented.

Northern California ICE Enforcement Patterns and Record Access

ICE's San Francisco Field Office (part of ERO Field Office 1, covering Northern California) operates within the constraints of California law, including the California Values Act (Penal Code § 54) and other state protections that limit cooperation between state and local law enforcement and immigration authorities. Individuals in ICE custody or under ICE investigation in Northern California may benefit from FOIA requests for ICE records documenting their detention, bond proceedings, or enforcement actions. ICE records are maintained separately from USCIS records and must be requested directly from ICE using the appropriate submission procedures (online through ICE form, or via mail/fax with Form G-639 and Affirmation/Declaration form).

For individuals apprehended at or near the border in the San Diego area (San Ysidro and Otay Mesa ports of entry), records are maintained by CBP, OBIM, and potentially ICE. Practitioners working with clients in expedited removal proceedings or in removal proceedings based on border apprehension should request records from both CBP (through Secure Release portal) and OBIM (also through Secure Release portal) to maximize access to border records.

Spanish-Language Resource Access and Translation

The ILRC (Immigrant Defenders Law Center, formerly the Immigrant Defenders Law Center) and other Northern California immigration advocacy organizations maintain Spanish-language practice advisories and step-by-step guides to FOIA requests[1][5][11][20][21][25]. These resources should be made available to Spanish-speaking clients. Additionally, practitioners working with clients who have limited English proficiency should be prepared to explain the FOIA process, obtain appropriate consent, and ensure that clients understand the purpose and process of FOIA requests. Some practitioners provide clients with explanatory documents in Spanish describing what a FOIA request is, why the attorney is requesting records, and what will happen with the records once obtained.

Common Issues, Strategic Considerations, and Best Practices

Targeting Specific Documents vs. Requesting Entire A-Files

One of the most important strategic decisions in FOIA practice is whether to request an entire A-file or to target specific documents. Requesting entire A-files results in Track 2 (complex) assignment with approximately 89-business-day processing time. Requesting specific documents (such as "Form I-485 application filed on [date]," "Form I-693 medical examination," "birth certificate," "asylum interview notes," and "USCIS decision letter") results in Track 1 (simple) assignment with approximately 39-business-day processing time.

Practitioners should consider the advantages and disadvantages of each approach:

Entire A-File Approach: This approach ensures comprehensive access to everything USCIS maintains on the individual, including documents that the requester may not have known about or expected. It may reveal inconsistencies, previous applications, or evidence that supports the client's current case. However, it results in longer processing time and a larger volume of potentially redacted materials (which may require appeal).

Targeted Approach: This approach results in faster processing and allows the requester to focus on specific documents needed for a particular case or legal proceeding. However, if the requester fails to request a document that is necessary, a follow-up request may be required, extending the overall timeline. Additionally, if the requester requests what appears to be a few "specific" documents but those documents implicitly require most of the file to be assembled (such as "all documents related to my asylum application"), USCIS will assign the request to Track 2 anyway.

Strategic recommendation: For individuals in removal proceedings with approaching hearing dates, practitioners should calculate the available time, determine which specific documents are essential for the defense (such as asylum interview notes, prior approvals, medical examinations, and character evidence), and request only those documents to qualify for Track 1 processing. For individuals with more time available before a critical deadline (such as a renewal application or affirmative petition), requesting the entire A-file may be justified to ensure comprehensive access. Alternatively, practitioners might request specific documents initially, with a follow-up request for additional materials if necessary.

Privacy Concerns and Address Disclosure in FOIA Requests

As noted above, some clients-particularly those in the United States without immigration status-may be concerned about providing their current residential address to a federal agency. While there is no documented pattern of FOIA requesters being placed into removal proceedings based solely on filing a request, the concern is understandable and practitioners should take it seriously. The solution is to provide an alternative mailing address, such as a post office box (PO Box), an attorney's office address (with permission), or a trusted family member's address (with permission)[1][5][21].

When submitting Form G-639 or FOIA requests online through FIRST, the requester must provide a mailing address for receipt of records; this address need not be a residential address. Online systems like FIRST also require country of birth information; for individuals who are undocumented and concerned about the implications of disclosing alienage, the FIRST system may not be appropriate, and practitioners should use alternative submission methods (mail, fax, or letter request) instead.

Handling Large Volumes of Redactions and Appeals

USCIS frequently redacts portions of A-files under Exemption 6 (personal privacy of third parties) and Exemption 7(C) (law enforcement privacy). When a significant portion of the FOIA response contains redactions, practitioners should assess whether an administrative appeal is warranted. Appeal grounds might include:

- * Overly broad redaction of third-party information: When an agency redacts entire sections because they mention other individuals, the segregability principle may require disclosure of the names of agencies, dates, or other information that does not implicate privacy interests[19][26][55]
- * Misapplication of Exemption 5 (deliberative process/work product): When an agency withholds entire documents under attorney work product, practitioners might appeal arguing that specific underlying facts are not protected and should be segregated[46][55]

* Inadequate explanation of redactions: When an agency fails to explain the specific exemption basis for each redaction or group of redactions (a "Vaughn index"), an appeal or lawsuit might be warranted[26][43][46][55]

Timeline Management for Removal Proceedings

For clients in removal proceedings, timeline management is critical. Practitioners should:

1. Calculate backward from the hearing date to determine when FOIA records must be obtained
2. Submit Track 3 FOIA requests immediately upon receiving a Notice to Appear or being informed of an approaching hearing date
3. Include proof of the hearing date (Form I-862, Order to Show Cause, etc.) with the FOIA request to qualify for Track 3
4. Follow up with USCIS if response is delayed beyond the estimated Track 3 timeline (approximately 30 business days)
5. Consider supplemental expedited requests if critical documents are not received in time for hearing preparation

Some practitioners prepare clients for the possibility that not all documents will arrive in time, and develop contingency strategies for presenting evidence through testimony, affidavits, or other means if FOIA records are not available by the hearing date.

Conclusion and Strategic Framework for Practitioners

The Form G-639 FOIA process provides immigration practitioners and their clients with an essential tool for accessing and reviewing immigration records held by DHS agencies. The statutory framework under [5 U.S.C. § 552][19] and implementing regulations in [6 CFR Part 5][16] and USCIS policy manual provisions[32] establish clear procedures for submission, processing, and appeal. Understanding these procedures—including the differences among USCIS, ICE, CBP, OBIM, and EOIR systems; the three-track processing framework; expedited processing standards; and FOIA exemptions—enables practitioners to strategically and efficiently obtain records that may be critical for defending removal cases, supporting immigration applications, or conducting genealogical research.

Key strategic takeaways for practitioners:

Submission method matters: Online submission through FIRST (for USCIS) or through agency-specific online portals (for CBP and OBIM) results in faster processing than mail submission. However, for clients with privacy concerns or limited technical capacity, letter requests or mail submission with alternative mailing addresses are viable alternatives.

Track assignment determines timeline: Targeted requests for specific documents qualify for Track 1 (approximately 39 business days), while requests for complete A-files qualify for Track 2 (approximately 89 business days). For clients in removal proceedings, Track 3 (approximately 30 business days) is available and should be utilized when an approaching hearing date justifies expedited processing.

Verification and consent are mandatory: Regardless of submission method, verification of identity and written consent from the subject of record are required, either through notarized signatures or declarations under

penalty of perjury. These requirements cannot be waived, though Form DOJ-361 provides a simpler alternative to Form G-639 for verification purposes.

Agency-specific requirements vary significantly: Each DHS component and the DOJ's EOIR have different submission methods, contact addresses, required supporting documents (such as fingerprint cards for OBIM), and acceptable forms. Practitioners must verify the correct submission procedures for each agency before submitting requests.

Appeals and judicial review are available: When USCIS or other agencies deny requests, provide incomplete responses, or improperly apply exemptions, practitioners have administrative appeal rights and ultimate access to judicial review in federal district court. The fee-shifting provisions of FOIA make litigation economically feasible for cases involving significant access disputes.

Timing is critical in removal proceedings: For clients facing removal, FOIA requests should be submitted immediately upon receipt of a Notice to Appear, with proof of the hearing date attached to qualify for Track 3 processing. Practitioners must calculate backward from the hearing date to ensure adequate time for record receipt and case preparation.

By understanding and strategically applying the FOIA process, Northern California immigration practitioners can provide clients with comprehensive access to the government records necessary for effective legal representation, whether in the context of removal defense, applications for immigration benefits, or family history research. The Form G-639 process, when properly executed, is a powerful tool for leveling the information asymmetry between individual clients and the federal immigration system.

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This comprehensive report incorporates USCIS policy guidance, DHS regulations, EOIR procedures, and practice advisories current as of February 2026. Practitioners are advised to verify current processing times, submission procedures, and agency contact information on official government websites before submitting FOIA requests, as procedures, processing times, and staffing levels change periodically. This report is intended for informational and educational purposes and should not be construed as providing legal advice in any specific case.