

§ 1148.4 How will the Arts Endowment respond to my request?

(a) *In general.* In determining which records are responsive to a request, the Arts Endowment ordinarily will include only records in its possession as of the date that it begins its search. If any other date is used, the Arts Endowment will inform the requester of that date. A record that is excluded from the requirements of the FOIA pursuant to 5 U.S.C. 552(c), is not considered responsive to a request.

(b) *Authority to grant or deny requests.* The Arts Endowment Chairperson or his/her designee is authorized to grant or to deny any requests for records that are maintained by the Arts Endowment.

(c) *Consultation and referral.* When reviewing records located by the Arts Endowment in response to a request, the Arts Endowment will determine whether another agency of the Federal Government is better able to determine whether the record is exempt from disclosure under the FOIA. As to any such record, the Arts Endowment will proceed in one of the following ways:

(1) *Consultation.* When records originated with the Arts Endowment, but contain within them information of interest to another agency or other Federal Government office, the Arts Endowment will typically consult with that other entity prior to making a release determination.

(2) *Referral.* (i) When the Arts Endowment believes that a different agency is best able to determine whether to disclose the record, the Arts Endowment typically should refer the responsibility for responding to the request regarding that record to that agency. Ordinarily, the agency that originated the record is presumed to be the best agency to make the disclosure determination. However, if the Arts Endowment and the originating agency jointly agree that the Arts Endowment is in the best position to respond regarding the record, then the record may be handled as a consultation.

(ii) Whenever the Arts Endowment refers any part of the responsibility for responding to a request to another agency, it will document the referral, maintain a copy of the record that it refers, and notify the requester of the referral, informing the requester of the name(s) of the agency to which the record was referred, including that agency's FOIA contact information.

(d) *Timing of responses to consultations and referrals.* The Arts Endowment will consider a FOIA request to be a perfected FOIA request if it complies with this section. All consultations and referrals received by the Arts Endowment will be handled in the order of the date that the first agency received the perfected FOIA request.

(e) *Agreements regarding consultations and referrals.* The Arts Endowment may establish agreements with other agencies to eliminate the need for consultations or referrals with respect to particular types of records.