

§ 1148.5 When will the Arts Endowment respond to my request?

(a) *In general.* The Arts Endowment ordinarily will respond to requests according to their order of receipt.

(b) *Multitrack processing.* The Arts Endowment will designate a specific track for requests that are granted expedited processing, in accordance with the standards set forth in paragraph (e) of this section. The Arts Endowment may also designate additional processing tracks that distinguish between simple and more complex requests based on the estimated amount of work or time needed to process the request. Among the factors the Arts Endowment may consider are the number of records requested, the number of pages involved in processing the request and the need for consultations or referrals. The Arts Endowment will advise requesters of the track into which their request falls and, when appropriate, will offer the requesters an opportunity to narrow or modify their request so that it can be placed in a different processing track.

(c) *Unusual circumstances.* Whenever the Arts Endowment cannot meet the statutory time limit for processing a request because of “unusual circumstances,” as defined in the FOIA, and the Arts Endowment extends the time limit on that basis, the Arts Endowment will, before expiration of the 20 business day period to respond, notify the requester in writing of the unusual circumstances involved and of the date by which the Arts Endowment estimates processing of the request will be completed. Where the extension exceeds 10 working days, the Arts Endowment will, as described by the FOIA, provide the requester with an opportunity to modify the request or arrange an alternative time period for processing the original or modified request. The Arts Endowment will make available its designated FOIA contact or FOIA Public Liaison for this purpose. The Arts Endowment will also alert requesters to the availability of the Office of Government Information Services (OGIS) to provide dispute resolution services.

(d) *Aggregating requests.* To satisfy unusual circumstances under the FOIA, the Arts Endowment may aggregate requests in cases where it reasonably appears that multiple requests, submitted either by a requester or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances. The Arts Endowment will not aggregate multiple requests that involve unrelated matters.

(e) *Expedited processing.* Consistent with 5 U.S.C. 552(a)(6)(E)(i), the Arts Endowment may grant expedited processing under certain circumstances:

(1) The Arts Endowment will process requests and appeals on an expedited basis whenever it is determined that they involve:

(i) Circumstances in which the lack of expedited processing could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) An urgency to inform the public about an actual or alleged Federal Government activity, if made by a person who is primarily engaged in disseminating information.

(2) A request for expedited processing may be made at any time. Requests based on paragraphs (e)(1)(i) and (ii) of this section must be submitted to the Arts Endowment's Office of General

Counsel. When making a request for expedited processing of an administrative appeal, the request should be submitted to the Arts Endowment's FOIA Appeals Office per § 1148.8(a).

(3) A requester who seeks expedited processing must submit a statement, certified to be true and correct, explaining in detail the basis for making the request for expedited processing. For example, under paragraph (e)(1)(ii) of this section, a requester who is not a full-time member of the news media must establish that the requester is a person whose primary professional activity or occupation is information dissemination, though it need not be the requester's sole occupation. Such a requester also must establish a particular urgency to inform the public about the government activity involved in the request—one that extends beyond the public's right to know about government activity generally. The existence of numerous articles published on a given subject can be helpful in establishing the requirement that there be an “urgency to inform” the public on the topic. As a matter of administrative discretion, the Arts Endowment may waive the formal certification requirement.

(4) The Arts Endowment will notify the requester within 10 calendar days of the receipt of a request for expedited processing of its decision whether to grant or deny expedited processing. If expedited processing is granted, the request must be given priority, placed in the processing track for expedited requests, and must be processed as soon as practicable. If a request for expedited processing is denied, the Arts Endowment will act on any appeal of that decision expeditiously.