



The Ultimate Guide to Managing Public Records/FOIA Request Response

How to Benefit from eDiscovery Technology to
Accelerate Response to Public Records/FOIA Requests

Whether it is a political cycle, a journalist inquiry or normal course of business, governments are experiencing a significant uptick in Federal Freedom of Information Act (FOIA) requests and public record requests at the State and Local level. Not only is the volume of requests increasing, but the growing types of data and documents being requested further complicates these requests. These challenges are only going to continue to grow, and further, if there is a local disaster, scandal or any other event that piques the interest of the public on a mass scale, they can paralyze any organization.



That is why now more than ever it is important for Federal, State, and Local governments to reevaluate their response strategy and evaluate their technology, internal teams, and processes for handling these public requests.

In this article, you will learn how to find the right technology, strengthen your teams, and refine processes all around FOIA and public records requests. Delays may result in public dissatisfaction, damaged credibility, or legal action.

Foundationally, the (FOIA) requests, known by many other names varying by State*, follow a similar approach to collect, process, and deliver data to the general litigation legal discovery process. As such, the right-fit technology for public records request(s) can be found in the legal eDiscovery marketplace. Many of these software and service providers have enhanced their processes to not only handle the traditional investigation and eDiscovery processes, but also how public requests can be served through these automated processes.

First, some basic definitions for those who are new to the FOIA/public records request world.

FREEDOM OF INFORMATION ACT (FOIA) REQUESTS

Federal law provides the public with the right to request access to federal agency records. Each federal agency is required to disclose records requested in writing.

PUBLIC RECORDS REQUEST(S)

State and Local level public records requests which abide by local laws. Many states have their own name for this type of request, such as the California Public Records Act (CPRA.)

FOIA REQUEST (FREEDOM OF INFORMATION ACT)

In the United States, FOIA is a federal law that provides the public the right to request access to federal agency records. Each federal agency is required to disclose records requested in writing by any person, subject to specific exemptions that protect certain information from disclosure (such as classified information, personal privacy, trade secrets, etc.) Other names on a state level for a FOIA request vary, including California Public Records Act (CPRA) and the Sunshine Law in Florida.



What are Public Records Requests at the State and Local Level?

At the State and Local level in the United States, the terminology may vary for a FOIA-like data request. Instead of FOIA, states have their own public records laws. For example, in California, it's called the California Public Records Act (CPRA), and in Florida, it is the Florida Public Records Law. Both requests involve the process of requesting access to government records, but they are governed by different laws in each state and region and so are named differently to avoid any confusion. It's essential to be aware of the specific laws and terminology in the jurisdiction you are dealing with when seeking access to government records.

To help with the nomenclature, below is a breakdown of data request names that are used across the United States, with many applicable at a state level only.

Access to Government Data

Access to Public Records Act (APRA)

Data Practices Act

Freedom of Information Act (FOIA)

Freedom of Information Law (FOIL)

Freedom of Access Act

Freedom of Access Act

Government Records Access and Management Act (GRAMA)

Inspection of Public Records Act (IPRA)

Open Records Act, Open Public Records Act (OPRA)

Public Information Act (PIA)

Public Records Law

Right To Know Law

Sunshine Law

Public Records Act (PRA)

Uniform Information Practices Act (UIPA)

See <https://www.ncsl.org/cls/public-records-law-and-state-legislatures> for more detailed information:

In other countries, the equivalent concept might be referred to as a public records request or access to information request, depending on the local legal framework and is advised to be aware of how these requests are named and their nuances in that country or that counties local jurisdiction.

What are the general challenges State and Local governments face with these requests?

This type of work is growing in terms of the number of requests filed every year and there are many obstacles that teams face when responding. Timing is at the heart of many of these challenges. Since these requests are mandatory and are subject to their laws for timing and consequences for missed deadlines or data, the processes need to be augmented with people, processed and technology to manage the consumers data request, acquisition of that data, review and redaction of data and delivery.

These common challenges of handling data requests from the public are discussed below:

<p>Volume of Requests 1</p> <p>High volume of requests can overwhelm government agencies with limited resources, staff, and technology.</p>	<p>Resource Constraints 2</p> <p>Limited budget, staffing, and technology can hinder the ability of government agencies to efficiently process and respond to public requests.</p>	<p>Complexity of Data 3</p> <p>Some requests may involve extensive research or the retrieval of many documents and review of a myriad of data types (including texts, chat, and social media app data, etc.), making request fulfillment time consuming.</p>
<p>Sensitive Information 4</p> <p>Balancing the need for transparency with the protection of sensitive information can be challenging. Agencies must redact or withhold certain information to comply with privacy laws or national security concerns.</p>	<p>Lack of Standardization 5</p> <p>Inconsistencies in record-keeping practices and lack of standardized procedures across different agencies may make locating and retrieving requested information difficult. Jurisdiction and team processes can vary even if requirements are the same, so no assumptions can be made from county to county or city to city.</p>	<p>Legal Compliance 6</p> <p>Ensuring compliance with various State and Federal public records laws requires agencies to navigate complex local jurisdiction requirements, and failure to comply can lead to legal consequences.</p>
<p>Timeliness 7</p> <p>Meeting deadlines for responding to public requests is crucial.</p>	<p>Public Relations and Accountability 2</p> <p>Agencies may face public scrutiny and negative perception if they are perceived as unresponsive or if information is perceived as being withheld.</p>	<p>Training and Awareness 9</p> <p>Insufficient training for staff involved in responding to the requests or a lack of awareness about the importance of transparency can contribute to inefficiencies. See our section below on how to create better awareness and train in best practices.</p>
<p>Technology Challenges 10</p> <p>Outdated or inadequate information management systems may impede the efficient retrieval and dissemination of records in response to requests.</p>	<p>Technology Adoption 11</p> <p>Some government agencies may struggle to adopt modern technologies for managing and responding to requests, which can hinder their ability to streamline the process.</p>	<p>Litigation Risks 12</p> <p>The possibility of litigation arising from disputes over the release or withholding of information adds another layer of complexity and risk for government agencies.</p>

Addressing these challenges requires a combination of improved technology for both data governance and public records request response, training for government staff, standardized procedures, and a commitment to transparency and accountability. Collaborative efforts between different levels of government and stakeholders can also contribute to more effective responses to FOIA and public records requests.

TECHNOLOGY

How can eDiscovery Technology and Workflows Help Teams with These Requests?

FOIA and public records requests share similarities with eDiscovery workflows, particularly in their focus on accessing, displaying, and delivering information. This all starts with data management at the corporate governance level and works through to data collection, processing, review, and export.

Here are some of the commonalities with requests and the discovery process:

Information Retrieval

Both FOIA requests and eDiscovery workflows involve the retrieval of specific information. FOIA and Public Records requests seek access to government records from their corporate data locations, and eDiscovery involves collecting and reviewing electronic information for legal proceedings and follow a similar path from collection and remediation. Since data collection with requests aren't as stringent as forensic requirements in eDiscovery, the data acquisition can be simpler if no data is altered.

Legal and Regulatory Compliance

FOIA and public records requests are often driven by legal requirements to disclose information to the public. Similarly, eDiscovery is governed by legal and regulatory frameworks that mandate the production of relevant electronic documents during legal proceedings and however these processes are undergone, the necessity for easy data organization for production should follow similar processes.

Search and Review

Both processes require a thorough search and review of documents to identify relevant information. FOIA respondents and legal teams in eDiscovery workflows use search tools and methodologies to sift through large volumes of data. Legal eDiscovery software providers have excelled in creating simple and inexpensive platforms that let reviewers quickly identify, tag and export out only relevant data based off the request.

Redaction

In both FOIA and eDiscovery, there may be a need to redact sensitive or confidential information before disclosure, especially regarding personal identifiable information (PII). Redaction tools and techniques are employed to protect sensitive details in documents and eDiscovery platforms are typically equipped to do so.

Modern Data

Today's applications for business communications have expanded above email. Microsoft Teams, Slack, Google chat, and other cloud communication platforms have made it more difficult to have a single source of communications. These newer communication channels can be subject to requests from the public and the platform needs to be able to manage the myriad of data types created.

Workflow Management

FOIA requests and eDiscovery processes often involve complex workflows. Efficient management of these workflows is crucial for meeting legal and regulatory deadlines and ensuring a thorough and accurate response. Further, the alignment of technology and processes needs to have been built specifically for eDiscovery, FOIA and public records requests.

Chain of Custody

Both FOIA/public records requests and eDiscovery workflows require a meticulous the chain of custody for the requested information. This ensures that the information has not been tampered with and can be relied upon in legal proceedings. It is important that the data handling follows traditional preservation procedures when collecting, processing, reviewing, and delivering/producing the relevant data and documents.

Collaboration

FOIA requests and eDiscovery often involve collaboration among different stakeholders. Legal teams, IT professionals, and subject matter experts may need to work together to ensure a comprehensive and accurate response, so building transparency into the workflow is important and many cloud eDiscovery platforms provide this level of access.

While there are similarities, it's essential to note that there are also distinct differences between FOIA/public records requests and eDiscovery. FOIA primarily deals with requests for government-held information, whereas eDiscovery is more broadly focused on the discovery of electronic information for legal cases, which can involve private entities as well. Those differences, though, have been overcome with many enhancements made by some eDiscovery software providers who have also focused on these public requests.

It is important to ensure that your provider has taken the above commonalities and updated their technology stack to accommodate the full breadth of data requests, investigations, eDiscovery and many other uses for a data and document management system. For instance, data culling is always important to complete quickly. Explains one of CloudNine's government customers.

Our internal city process requires that prior to us giving any files, we need to do preliminary culling to remove anything that is attorney client privilege. We upload the data into CloudNine to run searches to cull and then export a PST that only contains the filtered emails.

- Department of Technology in a top 10 U.S. city

The most critical features and company structures to ensure the platforms and companies you are evaluating are in-line with this type of work are:

A Secure cloud solution that adheres to State and Local government requirements.



Easy Drag-and-drop of requested data and documents like PST's and electronic files for a fast and accurate upload.



Easy case setup and complete team access to the data being reviewed for the request with a simple login.



Hybrid cloud and on-premise workflows to save on cost and increase efficiency.



Search using filters, terms and dates for redactions, data culling and request fulfillment.



Reporting: Redaction reason log automation to clearly show why information is redacted.



Ease or automation of data export, delivery and/or exchange in the properly required format.



Partnerships with other peripheral services or software to ensure complete workflow.



PEOPLE

Resourcing Your FOIA Response Teams When Resources are Lean

When it comes to managing FOIA and similar public records requests, resourcing your team effectively is crucial. Even with a small team, you can achieve a lot by appointing an expert internally and implementing a few key strategies.

1

Identify key departments and assign leads

Begin by identifying which departments receive the most FOIA requests. Assign a lead within each department to work closely with the FOIA Clerk or the person responsible for managing FOIA requests within your organization. For example, in a city with 100,000 residents, your FOIA team might include a clerk, the administrative staff for the Public Works Department, the Building Department, and any other relevant departments. The clerk should be the central point of contact for FOIA requests, but the leads in each department should be responsible for ensuring their department meets deadlines and provides the necessary information to the clerk in a timely manner.

2

Develop a document sharing and retention plan

Collaborate as a team to create a plan for sharing and retaining documents. By proactively publishing information that the community is interested in, you can reduce the number of FOIA requests over time. This not only saves time but also increases transparency and engagement with the community.

3

Set goals for your FOIA team

Establishing clear goals can help drive improvements in your FOIA process. Consider goals such as reducing delivery times for responses, minimizing the internal time spent on each request, and increasing the overall efficiency of your team. Regularly review these goals and adjust your strategies as needed to achieve them.

4

Leverage technology

Make the most of available technology to streamline your FOIA process. Ensure your team is fully trained in using any software or tools that can help reduce the time spent fulfilling requests. This might include data/document management systems, request tracking software, or other tools designed to improve efficiency and organization.

By implementing these strategies and appointing an internal expert to lead your FOIA team, you can effectively manage public records requests even with limited resources. As data volumes and variety grow, it will be important to augment people and processes to accommodate the growing requests or press your software provider to enhance the platforms for more efficient data management.

PROCESS

How to Foundationally Manage FOIA Requests

Managing FOIA (Freedom of Information Act) or similar public document requests in a State or Local government agency involves several key internal processes to ensure compliance with transparency laws and provide timely responses to requests. You can have the best technology and people but having inefficient processes can significantly hinder proper request management.

Here is an overview of the typical internal processes involved:



Receipt of Request: The process begins when the agency receives a FOIA request. This request can be submitted by mail, email, or through an online portal, depending on the agency's procedures.



Review and Assignment: The request is reviewed to determine the scope and nature of the information being requested. It is then assigned to the appropriate department or individual within the agency for processing.



Search and Retrieval: The assigned department or individual conducts a search for the requested documents within the agency's records. This may involve reviewing physical files, electronic databases, emails, and other relevant sources of information.



Review for Exemptions: Before releasing the documents, they are reviewed to determine if any information is exempt from disclosure under FOIA. Exemptions may include classified information, personal privacy information, or other sensitive material.



Redaction: If any exempt information is found, it is redacted (i.e., blacked out or removed) from the documents before they are released to the requester.



Approval and Release: Once the documents have been reviewed and any necessary redactions have been made, they are approved for release by the designated authority within the agency.



Appeals Process: If a requester is dissatisfied with the agency's response to their FOIA request, they may appeal the decision. The agency must have an appeals process in place to review such appeals and make a final determination.



Record Keeping: The agency must maintain records of all FOIA requests received, including the request itself, any correspondence with the requester, and copies of the documents provided in response to the request.



Response Time: FOIA requires agencies to respond to requests within a certain time limit, typically 10 to 20 days. If more time is needed to process the request, the agency must notify the requester and provide an estimated completion date.



Notification to Requester: The agency notifies the requester of the decision on their FOIA request and provides them with a copy of the requested documents, if applicable. If the request is denied in whole or in part, the agency must provide a reason for the denial.

The organization's FOIA lead should keep a record of all FOIA request responses and take note of response time performance by matter. "Lessons learned" and best practices created by one team to fulfill requests efficiently can be shared with others, to boost the organization's performance and improve the day-to-day work experience for employees.

By following these internal processes in concert with having the right team and investing in the proper technology, State and Local government agencies can effectively manage FOIA and similar public document requests, ensuring transparency and accountability in government operations.

THE EVALUATION OF A PLATFORM AND COMPANY

When starting the journey in modernizing your processes around managing these requests, it can be like a hiker staring up a mountain from the base, but it does not have to be that difficult. As stated throughout this article, eDiscovery platforms have standardized processes in data management and review for decades and there are eDiscovery providers, like CloudNine, who have created an easy path to success with not only the technology, but advice is streamlining processes with public requests.



Here are some questions to ask the company you are looking to work with to help solve FOIA and request management issues.

- How can this product help me solve workload issues when fulfilling Public Records Requests?
- How does the system help with the public requestors' experience?
- How does the platform offer customizable workflows to adapt to our agency's specific needs and processes?
- Can the system create a centralized repository of all requests, and track and report on metrics such as response times, request volumes, and outcomes?
- Does the platform offer features for securely redacting sensitive information from documents?
- What measures does the platform have in place to ensure data security and protect against unauthorized access?
- Does the company offer any additional services or resources to help agencies improve their FOIA and request management processes?
- How does the platform handle large volumes of data or complex requests?
- Can the system generate audit trails or logs to track changes and ensure accountability in the request management process?
- How does the pricing structure work, and what are the costs associated with implementing and maintaining the platform?
- What kind of training and support does the company provide to help our team effectively use the platform?

These questions can help you evaluate the suitability of a platform for your agency's needs and ensure that it can help you achieve your goals in managing FOIA and request management processes as a baseline. Expand on some of the questions during a demonstration and be sure to understand your backend systems and how data is governed.

WHY CLOUDNINE FOR FOIA/PUBLIC RECORDS REQUESTS?

There are reasons why government, law firm and corporate legal teams rely on CloudNine to simplify their eDiscovery, investigation, and records request needs. In the dynamic world of legal technology, we stand apart as an industry pioneer with longevity, an experienced team, and proven cloud-based and on-premise solutions that can handle even the hard-to-manage modern data. We also approach our work with accountability in mind, with a focus on helping our customers get the results they want on budget and on time. Teams can be up and running in hours not days with our easy-to-use solutions, which make fulfilling FOIAs and public records request(s) more efficient. Our fast set up and technology that speeds work means that we can help you to take weeks off your standard FOIA/public records request implementation time.

When working with records requests of any kind, the workflow needs to be as easy as possible. The platform's ease of use impacts training costs, potential user error and can complicate the process.

We looked at several products and most are too robust for what we need. We want a solution that takes work off the review team but is easy to use.

- General Counsel of large state agency

Our solutions include our cloud-based solution, **CloudNine Review**, which reduces the cost and streamlines public records request(s) work through providing self-service data loading, review and document production backed by professional services when needed. It also offers automated processing of 4500+ file types with OCR, near duplicate detection, email threading, and language detection. CloudNine Review is named "Easiest Set up" and "High Performer" by **G2**.

CloudNine is relied on by states, cities, and counties' teams to deliver public records requests on time and within budget. Learn more at cloudnine.com, and **schedule time meet with us** to find out how we can help.

This white paper is authored by Rick Clark, VP, Strategic Partnerships at CloudNine.

About the author:

Rick Clark has 20+ years of experience in forensics, eDiscovery and government technology solutions. Focused on innovation and education, he co-founded ESI Analyst, now CloudNine Analyst, as well as the Master's Conference.

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