**Section 1127.405 Requests for Review of Denials − Public Access Counselor**

a) *A person whose request to inspect or copy a* *record is denied by* the Agency *may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later than 60 days after the date of the final denial.* (Section 9.5(a) of FOIA)

b) If the Agency *asserts that the records are exempt under* Section 1127.202(a)(4) or (a)(7) of this Part, *it shall, within the time periods provided for responding to a request, provide written notice to the requester and the Public Access Counselor of its intent to deny the request in whole or in part. The notice shall include:*

1) *A copy of the request for access to records;*

2) *The proposed response from the* Agency; and

3) *A detailed summary of the* Agency's *basis for asserting the exemption.* (Section 9.5(b) of FOIA)

c) *Upon receipt of a notice of intent to deny from* the Agency, *the Public Access Counselor shall determine whether further inquiry is warranted.* The Public Access Counselor shall process the notification of intent to deny as detailed in Section 9.5(b) of FOIA. *Times for response or compliance by the Agency* under Section 1127.401 of this Part *shall be tolled until the Public Access Counselor concludes his or her inquiry.* (Section 9.5(b) of FOIA)

d) *Within 7 working days after* the Agency receives *a request for review* from the Public Access Counselor, the Agency *shall provide copies of records requested and shall otherwise fully cooperate with the Public Access Counselor.* (Section 9.5(c) of FOIA)

e) *Within 7 working days after it receives a copy of a request for review and request for production of records from the Public Access Counselor,* the Agency *may, but is not required to, answer the allegations of the request for review. The answer may take the form of a letter, brief, or memorandum. The Public Access Counselor shall forward a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains* *redacted from the copy*. (Section 9.5(d) of FOIA)

f) *The requester may, but is not required to, respond in writing to the answer within 7 working days and shall provide a copy of the response to the* Agency. (Section 9.5(d) of FOIA)

g) *In addition to the request for review, and the answer and response thereto, if any, a requester or* the Agency *may furnish affidavits or records concerning any matter germane to the review.* (Section 9.5(e) of FOIA)

h) *A binding opinion from the Attorney General* *shall be binding upon both the requester and the* Agency*, subject to administrative review under* Section 1127.407 of this Part. (Section 9.5(f) of FOIA)

i) If the Attorney General decides *to exercise his or her discretion to resolve a request for review by mediation or by a means other than issuance of a binding opinion, the decision not to issue a binding opinion shall not be reviewable.* (Section 9.5(f) of FOIA)

j) *Upon receipt of a binding opinion concluding that a violation of* FOIA *has occurred,* the Agency *shall either take necessary action immediately to comply with the directive of the opinion or shall initiate administrative review under* Section 1127.407 of this Part*. If the opinion concludes that no violation of* FOIA *has occurred, the requester may initiate administrative review under* Section 1127.407 of this Part. (Section 9.5(f) of FOIA)

k) If the Agency *discloses records in accordance with an opinion of the Attorney General,* the Agency *is immune from all liabilities by reason thereof and shall not* *be liable for penalties under* FOIA. (Section 9.5(f) of FOIA)

l) *If the requester files suit under* Section 1127.406 of this Part *with respect to the same denial that is the subject of a pending request for review, the requester shall notify the Public Access Counselor, and the Public Access Counselor shall so* *notify the Agency.* (Section 9.5(g) of FOIA)

m) *The Attorney General may also issue advisory opinions to* the Agency *regarding* *compliance with* FOIA. *A review may be initiated upon receipt of a written request from the* Director of the Agency or the Agency's General Counsel, *which shall contain sufficient accurate facts from which a determination can be made.* *The Public Access Counselor may request additional information from the* *Agency in order to assist in the review.*  If the Agency *relies in good faith on an advisory* *opinion of the Attorney General in responding to a request*, the Agency *is* *not liable for penalties under* FOIA, *so long as the facts upon which the opinion is based have been fully and fairly disclosed to the Public Access Counselor.* (Section 9.5(h) of FOIA)