



**U.S. DEPARTMENT OF
ENERGY**

**Legacy
Management**

PROCEDURE: **243.5**

EFFECTIVE: **9-14-10**

**SUBJECT: PROCESSING REQUESTS FOR YUCCA MOUNTAIN PROJECT
SITE INFORMATION**

1. PURPOSE. To ensure Legacy Management (LM) personnel properly respond to requests for Yucca Mountain Project (YMP) Site information. Request types include Freedom of Information Act (FOIA), Privacy Act (PA), Energy Employees Occupational Illness Compensation Program Act (EEOICPA), Congressional inquiries, litigation, and other stakeholder requests.
2. CANCELLATION. None
3. REFERENCES.
 - a. 44 United States Code 29–35, Records Management
 - b. 10 Code of Federal Regulations (CFR) Part 1004, Freedom of Information, [U.S. Department of Energy] DOE Guidance
 - c. 10 CFR Part 1008, Records Maintained on Individuals (Privacy Act), DOE Guidance
 - d. 20 Code of Federal Regulations (CFR) Parts 1 and 30, Performance of Functions; Claims for Compensation Under the Energy Employees Occupational Illness Compensation Program Act of 2000
 - e. 36 CFR Chapter XII, Subpart B, Records Management
 - f. NQA-1a-1983, Supplement 17S-1, Supplementary Requirements for Quality Assurance Records
 - g. U.S. Department of Energy (DOE) Order 243.1, Records Management Program
 - h. LM Procedure 200.1, Processing Litigation Requests
 - i. LM Procedure 200.4, Records Management

INITIATED BY: Office of Legacy Management

NO. OF PAGES/ATTACHMENTS: 14 pages, 5 attachments

- j. LM Procedure 341.1, Energy Employees Occupational Illness Compensation Program Act (EEOICPA) Processing
- k. LM Procedure 513.1, Freedom of Information Act and Privacy Act Records

4. DEFINITIONS.

- a. Congressional Inquiry (CI) – A request for information from a member of the U.S. Congress regarding activities of the Department of Energy and related topics.
- b. Department of Labor (DOL) – Federal department of the United States government responsible for occupational safety, wage and hour standards, unemployment insurance benefits, re-employment services, and some economic statistics. DOL is responsible for processing claims filed under EEOICPA.
- c. Electronic Recordkeeping System (ERKS) – An electronic information system in which records are collected, organized, and categorized to facilitate their preservation, retrieval, use, and disposition. An ERKS is certified according to Department of Defense (DoD) Standard 5015.2-STD to ensure the records it maintains have sufficient authenticity and reliability to meet the agency's recordkeeping requirements.
- d. Energy Employees Occupational Illness Compensation Program Act (EEOICPA) of 2000 – Law enacted to provide compensation benefits for DOE nuclear weapons workers who developed certain work-related illnesses due to radiation, beryllium, and silica exposure. The law covers employees of DOE, its predecessor agencies, and certain contractors and subcontractors. It also covers, where applicable, survivors of such employees.
- e. Exemption – 5 U.S.C. 552 exempts from all of its publication and disclosure requirements nine categories of records described in that section. These categories include national defense and foreign policy information; investigatory records; internal procedures and communications; materials exempted from disclosure by other statutes; confidential, commercial, and financial information; and matters involving personal privacy.
- f. Freedom of Information Act (FOIA) – Law enacted in 1966 and codified as 5 U.S.C. 552. FOIA establishes the premise that any person has a right of access to Federal agency records and that those records must be made available to the public unless they are specifically exempt from public release. FOIA includes nine exemptions that allow certain information contained in a record or an entire record to be withheld from public release. The Electronic Freedom of Information Act Amendments of 1996 (E-FOIA) requires agencies to make records available both electronically and through public reading rooms.

- g. FOIAXpress – A tool to manage, control, and determine the status of Freedom of Information Act (FOIA) and Privacy Act (PA) requests; produce statistical reports; and use as a data source for management information. This information may include personal information in an "identifiable form" from members of the public.
- h. LM CI Point of Contact (POC) – Federal individual responsible for oversight of Congressional Inquiry processing.
- i. LM EEOICPA Point of Contact (POC) – Federal individual responsible for oversight of EEOICPA claim processing.
- j. LM Freedom of Information Officer – Federal individual responsible for oversight of FOIA/PA Request processing.
- k. LM Litigation Point of Contact (POC) – Federal individual responsible for oversight of litigation-related requests.
- l. LM YMP Site Request Point of Contact (POC) – Federal individual responsible for oversight of other stakeholder requests related to the Yucca Mountain Project (YMP) Site.
- m. National Institute for Occupational Safety and Health (NIOSH) – Department of Health and Human Services (HHS) organization that uses exposure information to help determine the probability that a covered employee's illness is the result of work-related exposure.
- n. Office of General Counsel (GC) – DOE organization responsible for providing legal advice, counsel, and support to the DOE Secretary, Deputy Secretary, and all Departmental elements, except the National Nuclear Security Administration and the Federal Energy Regulatory Commission, and for effectively representing the Department as counsel before Federal, state, and other governmental agencies and courts. GC assures that DOE operates in compliance with all pertinent laws and regulations.
- o. Office of Information Resources – DOE organization within the Office of Management responsible for receiving FOIA/PA requests and coordinating DOE response activities.
- p. Personally Identifiable Information (PII) – Any information about an individual maintained by an agency, including but not limited to, education, financial transactions, medical history; criminal or employment history and information that can be used to distinguish or trace an individual's identity, such as their name, social security number, date and place of birth, mother's maiden name, and biometric records; and any other personal information that is linked or linkable to an individual.

- q. Privacy Act (PA) – Law enacted in 1974 as 5 U.S.C. 552a. Provides safeguards against unwarranted invasions of privacy through the misuse of records by Federal agencies by restricting disclosure of personally identifiable records maintained by agencies; granting individuals increased rights of access to records maintained about them; granting individuals the right to seek amendment of records maintained about them upon a showing that the records are not accurate, relevant, timely or complete; and establishing a code of “fair information practices” that requires agencies to comply with statutory norms for record collection, maintenance, use, and dissemination.
- r. Quality Assurance (QA) Record – A completed document(s) (includes records packages as prescribed in applicable procedures, procurement documents, or other medium) that furnishes evidence of the quality of items and/or activities important to safety or important to waste isolation. QA records may be originals or copies.
- s. Records – All books, papers, maps, photographs, machine-readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them.
- t. Records Freeze – A formal notification issued by an agency’s central office instructing appropriate personnel to hold any temporary records relating to a litigation, investigation, or audit. Frozen records, even if they have reached their scheduled disposition period, cannot be destroyed until the freeze is lifted.
- u. Record Management (RM) Support Point of Contact (POC) – Contractor representative who directs searching and processing of information responsive to a request.
- v. Record Management (RM) Support Staff – Personnel who search for and collect information responsive to requests.
- w. Response Package – A collection of information responsive to a request, typically consisting of a transmittal or response letter, an enclosure list, and the responsive information.
- x. Subject Matter Expert (SME) – A Federal or contractor representative who has professional knowledge of a project, event, or other activities that are the subject of a request assigned to LM.

- y. Unclassified Controlled Information (UCI) – Unclassified information that may be exempt from public release under FOIA and for which disclosure, loss, misuse, alteration, or destruction may adversely affect national security, Governmental interests, or personal privacy. Examples include Unclassified Controlled Nuclear Information (UCNI), personally identifiable information (PII), and proprietary information.
- z. Vaughn Index – An itemization of responsive documents withheld along with an assertion of the privilege or privileges claimed for each document. A Vaughn index includes the following elements: (1) a listing of each document withheld; (2) the statutory exemption claimed for each; and (3) an explanation as to how disclosure would damage the interests protected by the claimed exemption. The information may be presented in one discrete document or in a combination of documents.
- aa. Yucca Mountain Project Site – A project undertaken by the DOE Office of Civilian Radioactive Waste Management (OCRWM) to determine the suitability of constructing and operating an underground nuclear waste repository for spent fuel and high-level radioactive waste storage. The proposed site is located in Nye County, 100 miles northwest of Las Vegas, Nevada.

5. QUALITY CONTROL.

- a. FOIA requires the Government to respond to requests for information within 20 working days after receipt. Extensions are requested, as required, to search for, collect, review, and duplicate the requested information.
- b. YMP Site QA records in the custody of LM shall be protected according to NQA-1a-1983, Supplement 17S-1. Temporary storage of QA records is required during their processing, review, or use. Temporary storage may either be provided in a container or facility that is certified by a person competent in fire protection or that bears an Underwriters Laboratories label (or the equivalent) certifying one-hour fire protection; or be accomplished by providing duplicate copies of records at locations sufficiently remote from one another to eliminate the chance of exposure to the same hazard.
- c. Metrics shall be maintained to track process flow and ensure accountability for request fulfillment in a timely manner.

6. RESPONSIBILITIES.

- a. GC:
 - (1) Provides guidance to LM concerning request response activities. The GC may advise LM personnel concerning the types of information needed to respond properly to a request and may provide a response deadline.

- (2) Notifies LM of requirements to preserve records potentially related to a litigation or investigation.
- b. The LM Freedom of Information Officer, serving as the LM Authorizing/Denying Official, is responsible for:
- (1) Coordinating FOIA/PA requests assigned to LM, responding with results to the DOE Office of Information Resources located at Headquarters, and authorizing release of information to the requester.
 - (2) Communicating with the FOIA/PA requester as necessary to narrow search scope, refine criteria, or otherwise communicate response-related information to the requester. The LM Freedom of Information Officer serves as LM's representative for all such communications.
- c. The LM EEOICPA POC is responsible for:
- (1) Providing oversight for all EEOICPA claims processing and appropriate guidance to the RM Support Staff.
 - (2) Receiving EEOICPA claims, setting a response schedule for each claim, and ensuring timely response to the requesting entity.
- d. The LM Litigation POC is responsible for:
- (1) Providing oversight for all litigation-related requests.
 - (2) Setting a response schedule for each request and ensuring timely response.
 - (3) Analyzing documentation to verify that information in each response package is complete.
- e. The LM YMP Site Requests POC is responsible for:
- (1) Providing oversight for all other stakeholder requests for YMP Site information not categorized as FOIA, PA, EEOICPA, litigation-related, or CI requests.
 - (2) Determining whether received stakeholder requests are in the jurisdiction of LM.
 - (3) Setting a response schedule for each request and ensuring timely response.
 - (4) Analyzing documentation to verify that information in each response package is complete.

- f. The RM Support POC is responsible for:
- (1) Directing searches and processing records responsive to requests.
 - (2) Logging and tracking activities related to production of responsive information.
 - (3) Preparing transmittals, memos, and letters.
 - (4) Updating FOIAXpress for FOIA/PA requests.
- g. The SME is responsible for:
- (1) Providing supplementary or historic information necessary to complete an LM FOIA response.
 - (2) Searching for and providing potentially responsive documents or information for a subject FOIA when notified by RM Support Staff. The FOIA SME also collects potentially responsive documents from Federal or contractor personnel with similar departmental responsibilities or subject knowledge.
 - (3) Communicating with other Federal or contractor personnel about received FOIA requests, informing them of any obligation to produce potentially responsive documents or information, and providing necessary consultation on FOIA matters.
- h. The RM Support Staff is responsible for:
- (1) Searching for and producing responsive information according to established procedures.
 - (2) Assisting the RM Support POC as needed.
 - (3) Reproducing responsive documents and creating a response package for recordkeeping, reference, and distribution purposes.

7. TRAINING REQUIREMENTS. Personnel responding to requests for YMP Site information shall be cognizant of applicable portions of this procedure.

8. DOCUMENT CONTROL.

- a. The Directives Manager shall maintain the official controlled version of this document in the LM ERKS.

- b. The Directives Manager shall place the most current version of this procedure on the LM Intranet for employee use.
- c. Printed hard copies of this document shall be considered information-only copies.

9. PROCEDURE.

a. FOIA/PA Request Processing

(1) The LM Freedom of Information Officer or the RM Support POC:

- (a) Receives a request notification and downloads the request information from FOIAXpress.

NOTE: All FOIA/PA requests must come through the Office of Information Resources at DOE Headquarters.

- (b) Logs the request and initiates tracking activities.
- (c) Notifies the RM Support Staff and other parties, as identified by the LM Freedom of Information Officer, to conduct diligent searches for documents responsive to the request. The notice includes instructions for searching and a deadline appropriate to ensure timely response (20 working days). Identified parties send any potentially responsive documents to the RM Support POC.
- (d) Works with RM Support Staff to identify an SME, if necessary, to facilitate thorough search and response activities.

(2) The RM Support Staff:

- (a) Searches for potentially responsive documents.
- (b) Retrieves responsive documents or determines that no responsive documents can be located.
- (c) Contacts the identified SME as necessary to obtain supplementary information needed to complete FOIA response activities and ensure thoroughness.
- (d) Reproduces responsive documents for recordkeeping, reference, and distribution purposes.
- (e) Transmits responsive documents (or a statement that no responsive documents were located) to the RM Support POC.

NOTE: Responsive documents may contain PII or other UCI. To ensure information is not disseminated to unauthorized personnel, electronically transmitted sensitive documents must be encrypted prior to transmission. If electronic transmissions cannot be encrypted, personnel are to use a courier service or other alternate transfer techniques to securely route responsive documents.

(3) The RM Support POC:

Note: If no responsive information is located, correspondence is prepared as a response to the requester.

- (a) Requests a classification review as warranted for potentially responsive documents or information.
- (b) Performs an exemption review (FOIA documents) or Privacy Act review (PA documents) of responsive information.
- (c) Prepares an enclosure list of responsive documents and identifies any responsive documents on the enclosure list that may be partially or entirely withheld and cites the relevant exemptions.
- (d) Assembles and performs a QA review of the response package.
- (e) Forwards the response package (for FOIA responses) to GC for review and concurrence.
- (f) Modifies the response package based on GC direction.
- (g) Creates a response letter (for FOIA responses) or a transmittal memo for (for PA responses) and obtains LM Freedom of Information Officer approval.
- (h) Reproduces responsive documents and creates a response package for recordkeeping, reference, and distribution purposes.
- (i) Transmits the FOIA response packages to the requester and PA response packages to the Office of Information Resources.
- (j) Logs completion of activities and closes the request in FOIAXpress.

b. EEOICPA Request Processing

(1) The LM EEOICPA POC or RM Support POC:

- (a) Receives forwarded requests from the Nevada Site Office, Las Vegas, NV, from DOL or NIOSH.

NOTE 1: Requests for information include – Employment Verification, Part B; Document Acquisition Request (DAR), Part E; and epidemiological-related information (dosimetry, x-ray, and incident/accident reports).

NOTE 2: Responsive information contains PII and should be handled as sensitive information and safeguarded at all times. Additionally, encryption technology, as specified by LM Cyber Security personnel, must be used when electronically transmitting PII. Information sent by courier must be double wrapped (one outside covering and one inside covering).

- (b) Ensures the request is logged and tracking activities are initiated.
- (c) Sets an appropriate schedule to ensure timely response.
- (d) Transmits the request for information to the RM Support Staff.

(2) The RM Support Staff:

- (a) Generates a new request for information file. If a file already exists, the RM Support Staff contacts the LM EEOICPA POC for guidance.
- (b) Searches for applicable records as directed by the RM Support POC.
- (c) Retrieves responsive documents or determines that no responsive documents can be located.
- (d) Reproduces responsive documents and creates a response package for recordkeeping, reference, and distribution purposes.
- (e) Generates a transmittal letter and obtains LM EEOICPA POC approval.
- (f) Securely transmits the response package (if no responsive information was located, a transmittal letter is sent to the requesting entity).

- (g) Updates the log and closes the request.

c. Congressional Inquiry Processing

(1) The LM CI POC:

- (a) Receives an inquiry from the DOE Office of the Executive Secretariat, or other Department entity.

Note: The assigning Department entity will specify whether LM is responsible for responding to all or part of the inquiry.

- (b) Coordinates with GC as necessary, and all internal and external DOE departments, offices, or personnel having interests, and gathers information to respond to the inquiry.
- (c) Directs the RM Support Staff to search for and retrieve all records and information needed to support a response to the inquiry.

(2) The RM Support Staff:

- (a) Logs and initiates tracking activities to ensure a timely response.
- (b) Analyzes the inquiry and makes note of all allegations and/or concerns.
- (c) Retrieves records and information as directed by the LM CI POC. If additional information or clarification is required for retrieval, the RM Support Staff contacts the LM CI POC.
- (d) Reproduces and scans all records and information needed to support the inquiry.
- (e) Coordinates with LM CI POC to draft an appropriate response to the inquiry
- (f) Transmits the records, information, and draft response to the LM CI POC.

(3) The LM CI POC

- (a) Analyzes all response information gathered.
- (b) Forwards the draft response to GC for review and concurrence.

- (c) Coordinates with GC to finalize the response.
- (d) Routes the response to the appropriate Official for signature.
- (e) Routes the response to the assigning Department entity for distribution to the member of Congress originating the inquiry or sends the response to the member of Congress directly.

d. Litigation-Related Request Processing

(1) The LM Litigation POC:

- (a) Reviews the request for information received from GC.
- (b) Communicates record freeze requirements to appropriate personnel and completes a certification upon request as directed by GC.
- (c) Identifies the responsible organization(s) and forwards the request to the responsible organizations' RM Support Staff or other departmental personnel serving as custodian of potentially responsive documents.

(2) The RM Support Staff:

- (a) Searches for and retrieves responsive documents.
- (b) Notifies the Litigation POC in writing if responsive documents cannot be supplied within the period specified.
- (c) Coordinates any special reviews of the responsive documents as instructed by the LM Litigation POC.
- (d) Copies responsive documents, creates a Vaughn index (if specified), and assembles the response package.
- (e) Places a copy of responsive documents in a litigation file.
- (f) Transmits the response package to the LM Litigation POC and returns any original documents to the appropriate custodians.

(3) The LM Litigation POC:

- (a) Reviews the response package documentation for completeness.
- (b) Forwards the response package to the requester as directed by GC.

- (c) Completes a certification, as necessary, and forwards the document to GC.
- e. Other Stakeholder Request Processing
- (1) The Requester submits a request by e-mail to ymprecordsrequest@lm.doe.gov. The requester includes the following information:
- The specific information requested,
 - Keywords for searching, and
 - An e-mail address and phone number.
- (2) The RM Support Staff:
- (a) Monitors the request inbox (ymprecordsrequest@lm.doe.gov) for new requests.
- (b) Logs new requests after acknowledging receipt and initiates tracking activities to ensure a timely response.
- (c) Notifies the LM YMP Site Request POC of the receipt of a new request.
- (3) LM YMP Site Request POC
- (a) Contacts the requester for additional information, as necessary.
- (b) Forwards request to GC for guidance, as needed.
- (c) Coordinates with the RM Support Staff to determine whether the requested information or item is in LM's jurisdiction. For requests not in LM's jurisdiction, the YMP Site Request POC refers the request to the entity or identified POC with jurisdiction.
- NOTE: Some YMP Site QA software and Physical specimens (e.g., core samples, engineering coupons, and microscopic samples) were not transferred into LM's custody.
- (d) Directs the RM Support Staff to perform a search for potentially responsive information or items.

- (4) The RM Support Staff:
 - (a) Searches for and retrieves any potentially responsive information.
 - (b) Coordinates any special reviews of the responsive information as directed by the LM YMP Site Request POC.
 - (c) Copies the responsive information and assembles the information into a response package.
 - (d) Reviews the response package documentation for completeness.
 - (e) Creates an electronic response and forwards the response package to the requester.

10. ATTACHMENTS.

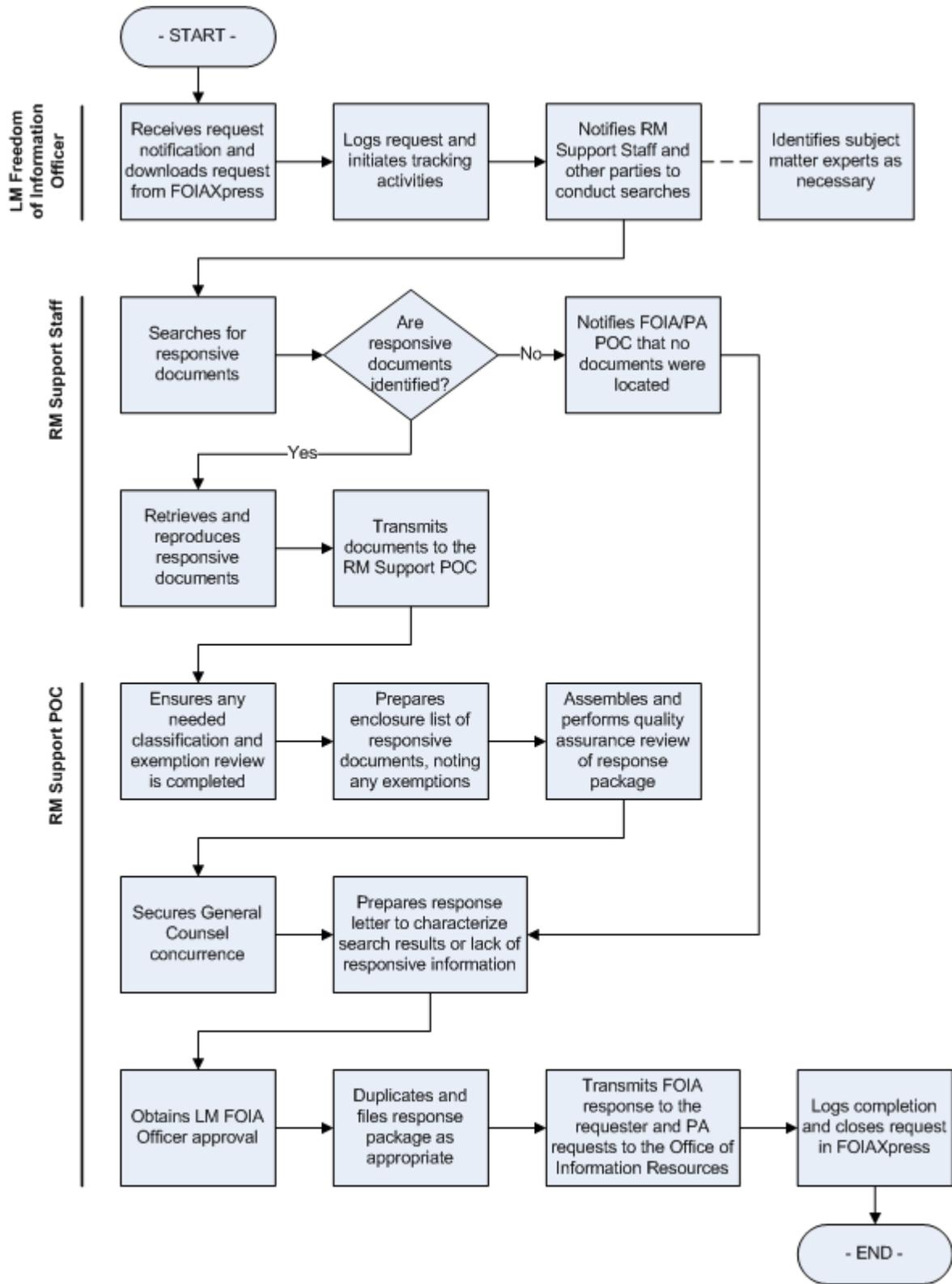
- a. Attachment A. – FOIA/PA Request Processing Flowchart
- b. Attachment B. – EEOICPA Request Processing Flowchart
- c. Attachment C. – Congressional Inquiry Processing Flowchart
- d. Attachment D. – Litigation-Related Request Processing Flowchart
- e. Attachment E. – Other Stakeholder Request Processing Flowchart

Approved: Original signed by
David W. Geiser 9/14/10
 Director
 Office of Legacy Management

Distribution: As required

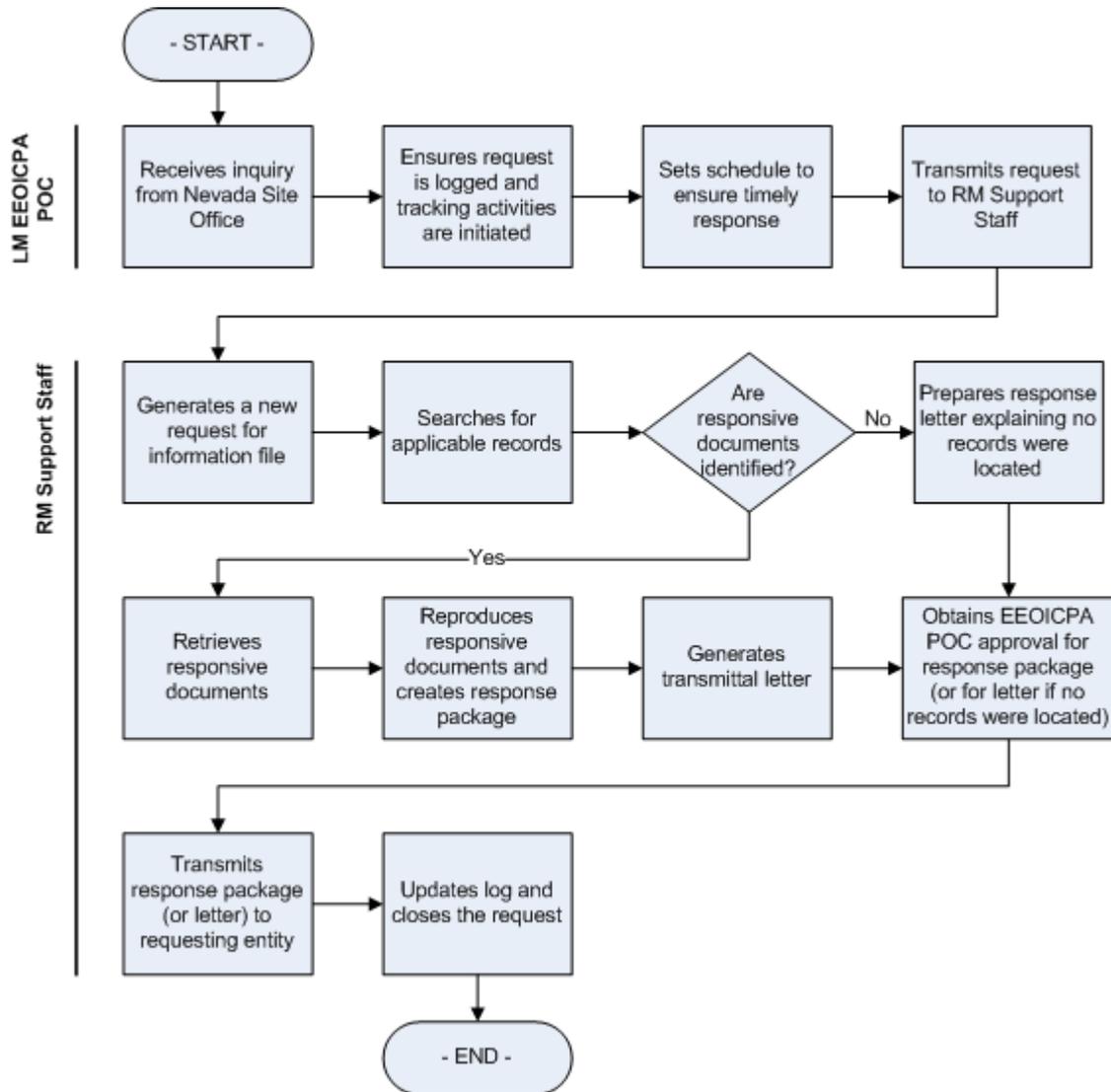
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 An electronic version of the controlled document has been placed on the LM Intranet for employee use. Printed
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Attachment A. – FOIA/PA Request Processing Flowchart



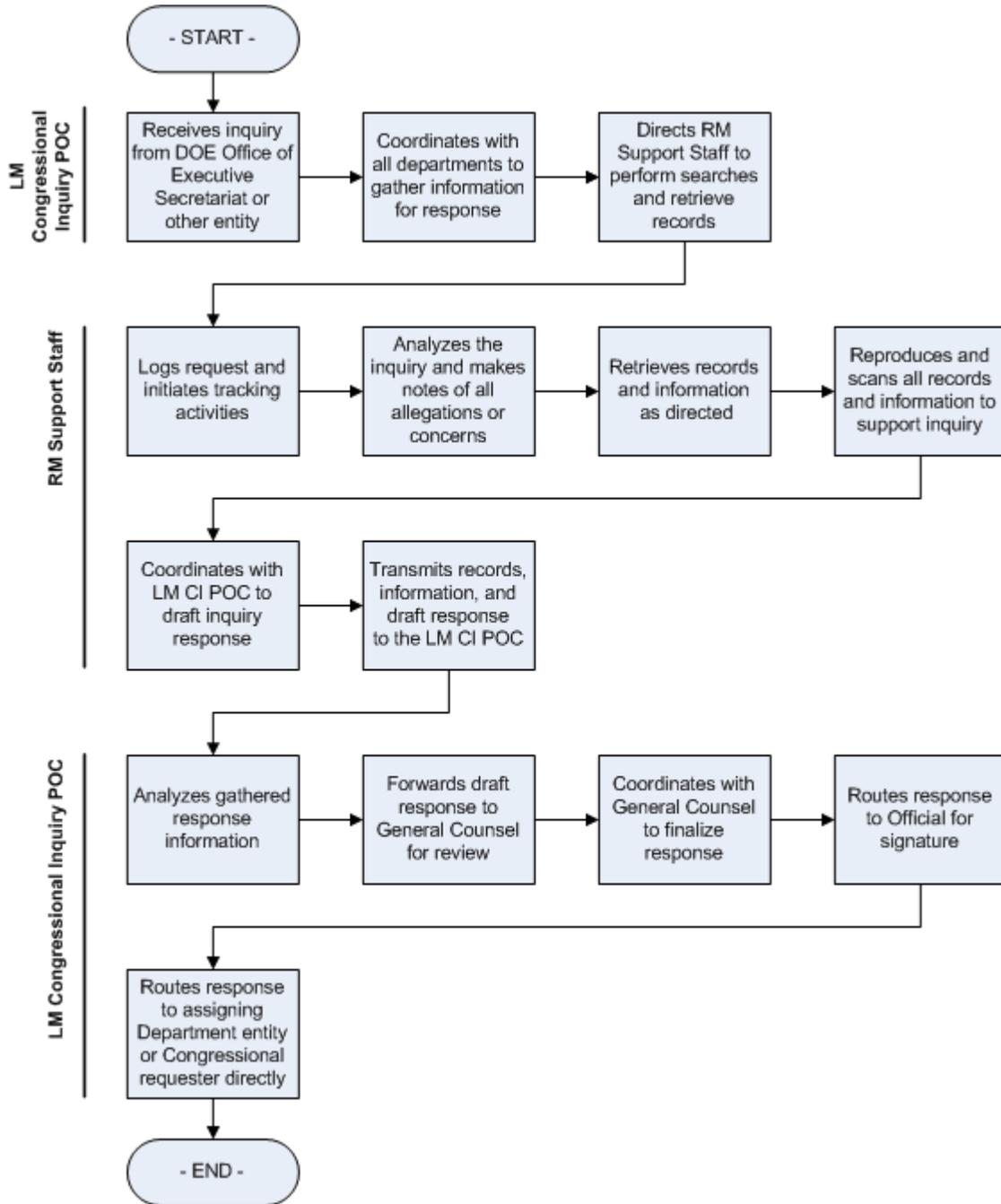
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Attachment B. – EEOICPA Request Processing Flowchart



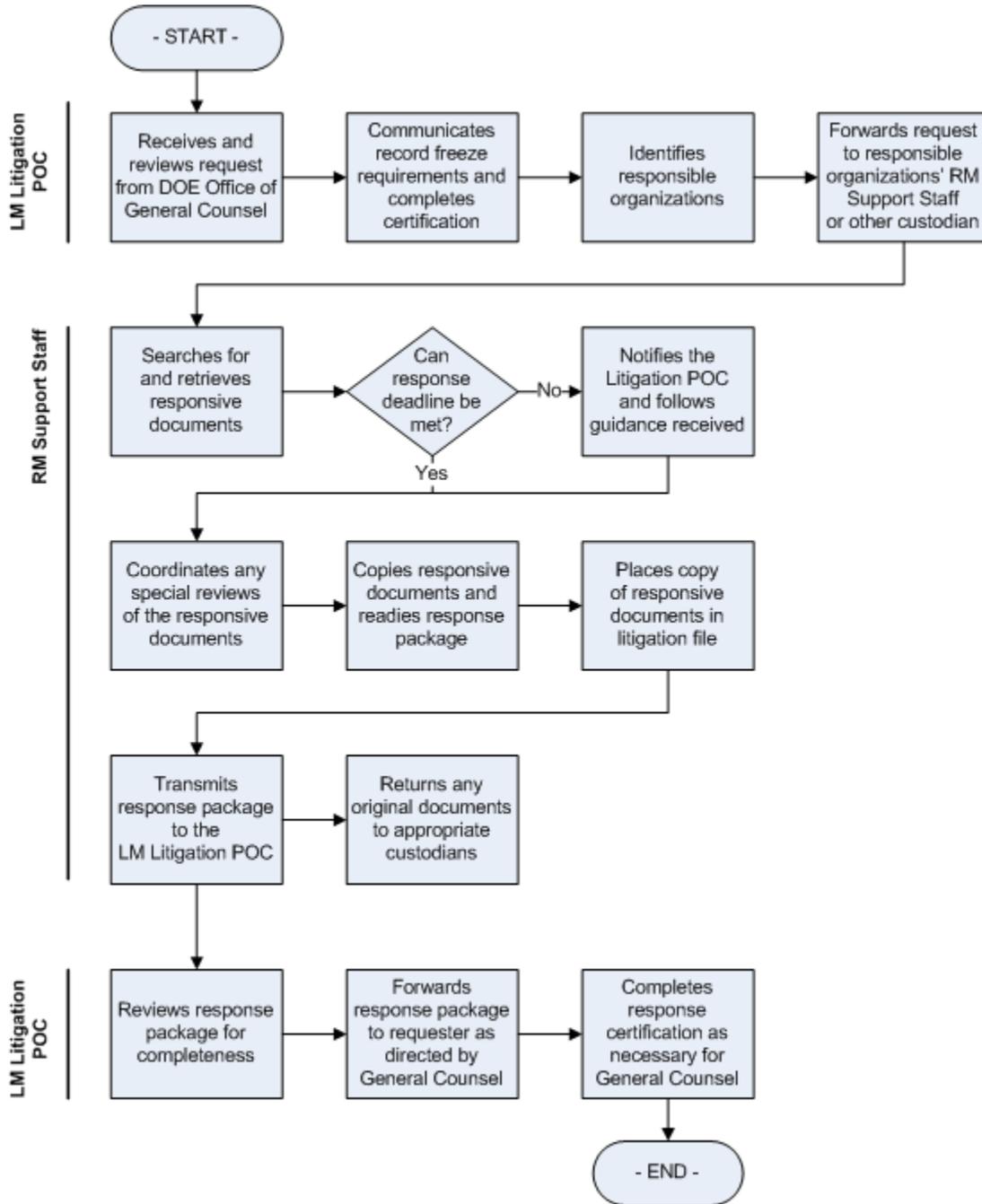
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Attachment C. – Congressional Inquiry Processing Flowchart



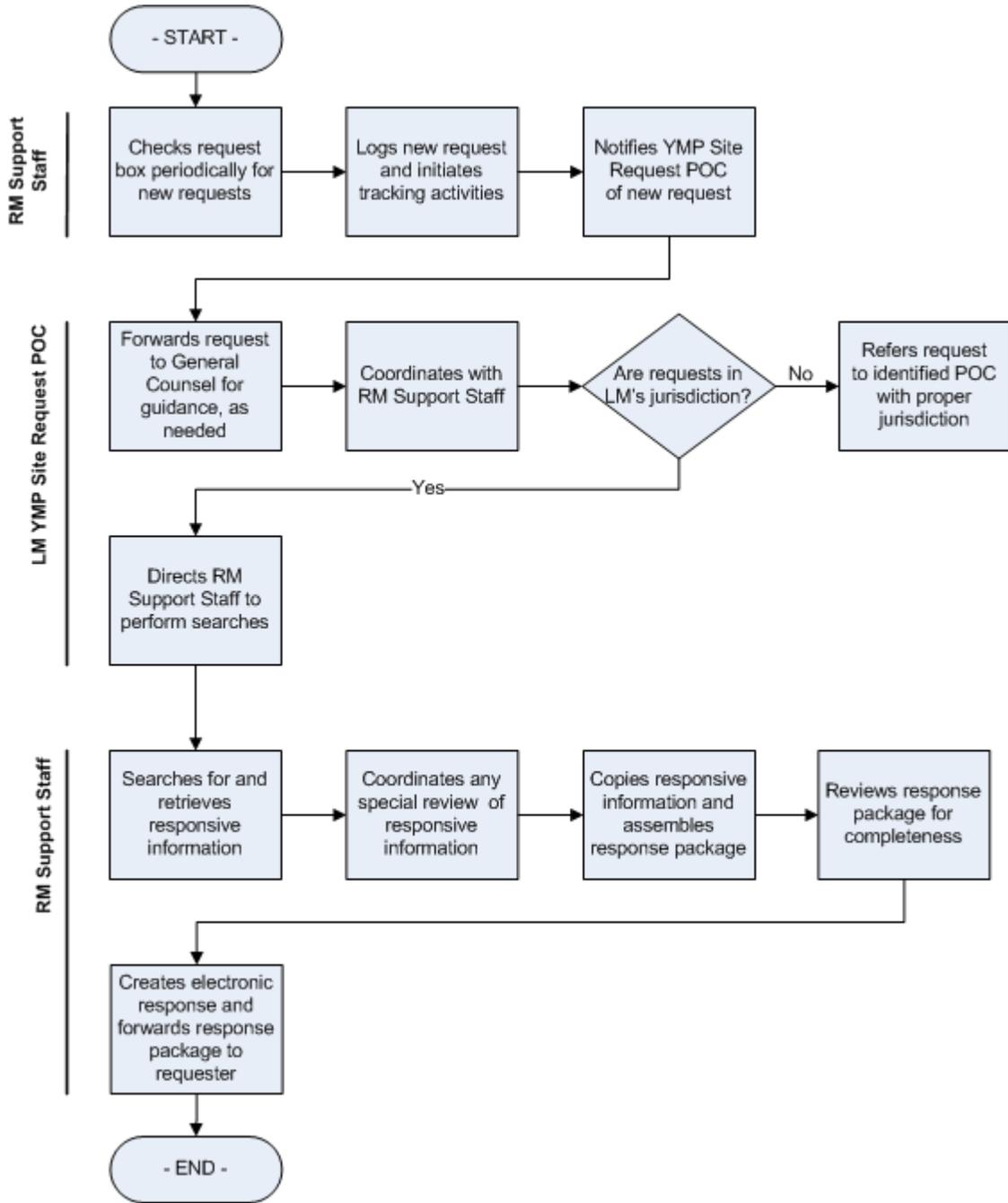
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Attachment D. – Litigation-Related Request Processing Flowchart



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Attachment E. – Other Stakeholder Request Processing Flowchart



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