

## Subpart B—How to Request Records under FOIA

### § 5.21 Who can file a FOIA request?

Any individual, partnership, corporation, association, or public or private organization other than a Federal agency, regardless of nationality, may submit a FOIA request to us. This includes state and local governments.

### § 5.22 What do I include in my FOIA request?

In your FOIA request:

(a) Provide a written description of the records you seek in sufficient detail to enable our staff to locate them with a reasonable amount of effort. The more information you provide, the better possibility we have of finding the records you are seeking. Information that will help us find the records would include:

- (1) The agencies, offices, or individuals involved;
- (2) The approximate date(s) when the records were created;
- (3) The subject, title, or description of the records sought; and
- (4) Author, recipient, case number, file designation, or other reference number, if available.

(b) Include your name, full mailing address, and phone number and if available, your email address. This information allows us to reach you faster if we have any questions about your request. It is your responsibility to keep your current mailing address up to date with the office where you have filed the FOIA request.

(c) State your willingness to pay all fees, or the maximum amount of fees you are willing to pay, and/or include a request for a fee waiver/reduction.

(d) Mark both your letter and envelope, or the subject line of your email, with the words “FOIA Request.”

(e) If you are unable to submit a written request to us due to circumstances such as disability or literacy, you may make a request orally to a FOIA Officer. FOIA Officers will put in writing an oral request made directly to them.

(f) If you are making a first-party request, you must comply with the verification of identity procedures set forth in 45 CFR part 5b.

(g) Where your request for records pertains to another individual, you may receive greater access by submitting either a notarized authorization signed by that individual or a declaration made in compliance with the requirements set forth in 28 U.S.C. 1746 by that individual authorizing disclosure of the records to the requester, or by submitting proof that the individual is deceased (e.g., a copy of a death certificate or an obituary). At our discretion, we may require you to supply additional information if necessary to verify that a particular individual has consented to disclosure of records about them.

(h) If you are requesting the medical records of an individual other than yourself from a government program that pays or provides for health care (e.g. Medicare, Indian Health Service) and you are not that individual's legally authorized representative, you should submit a Health Insurance Portability and Accountability Act (HIPAA) compliant release authorization form signed by the subject of records or the individual's legally authorized representative. The HIPAA Privacy Rule requires that an authorization form contain certain core elements and statements which are described in the Privacy Rule's requirements at 45 CFR 164.508. If you are submitting a request for Medicare records to CMS, CMS has a release authorization form at the following link: <https://www.cms.gov/Medicare/CMS-Forms/CMS-Forms/Downloads/CMS10106.pdf>.

(i) Before filing your request, you may find it helpful to consult the HHS FOIA Requester Service Centers online at <http://www.hhs.gov/foia/contacts/index.html>, which provides additional guidance to assist in submitting a FOIA request to a specific OpDiv or StaffDiv or to regional offices or divisions within an OpDiv or StaffDiv. You may also wish to check in the agency's electronic FOIA libraries available online at <http://www.hhs.gov/foia/reading/index.html>, to see if the information you wish to obtain is already available.

### § 5.23 Where do I send my FOIA request?

We have several FOIA Requester Service Centers (FOIA offices) that

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process FOIA requests. You should send your FOIA request to the appropriate FOIA Requester Service Center that you believe would have the records you seek. An up-to-date listing is maintained online at <http://www.hhs.gov/foia/contacts/index.html>.

You also may submit your request electronically by emailing it to the appropriate FOIA Requester Service Center or by submitting it to the Department's web portal located at <https://requests.publiclink.hhs.gov/palMain.aspx>.

(a) If you are requesting research data made available under the provisions of 45 CFR 75.322(e), requests for such data should be addressed to the OpDiv that made the award under which the data were first produced. That OpDiv will process your request in accordance with established procedures consistent with the FOIA and 45 CFR 75.322(e).

(b) We officially receive your request when it reaches the FOIA Requester Service Center with responsibility for the OpDiv or StaffDiv where requested records are likely to be located, but no later than 10 working days after the request first arrives at any of our FOIA Requester Service Centers.

(c) If you have questions concerning the processing of your FOIA request, you may contact the FOIA Requester Service Center processing your request. If that initial contact does not resolve your concerns, you may wish to contact the designated FOIA Public Liaison for the OpDiv or StaffDiv processing your request. You can find a list of our FOIA Requester Service Centers and Public Liaisons at <http://www.hhs.gov/foia/contacts/index.html>.

### § 5.24 How does HHS process my FOIA request?

(a) *Acknowledgement.* We acknowledge all FOIA requests in writing within 10 working days after receipt by the appropriate office. The acknowledgement letter or email informs you of your request tracking number, provides contact information, and informs you of any complexity we are aware of in processing that may lengthen the time required to reach a final decision on the release of the records. In addition, the acknowledgement letter or email or a subsequent communication may

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also seek additional information to clarify your request.

(b) *Perfected requests.* (1) A request is considered to be perfected (*i.e.*, the 20 working day statutory response time begins to run) when—

(i) The request either has been received by the responsible FOIA office, or, in any event, not later than 10 working days after the request has been received by any HHS FOIA office;

(ii) The requested records are reasonably described; and

(iii) The request contains sufficient information to enable the FOIA office to contact you and transmit records to you.

(2) We provide at least 20 working days for you to respond to a request to perfect your request, after notification. Requests must reasonably describe the records sought and contain sufficient information to enable the FOIA office to contact you and transmit records to you. If we determine that a request does not meet these requirements, we will attempt to contact you if possible. Should you not answer any correspondence, or should the correspondence be returned as undeliverable, we reserve the right to administratively close the FOIA request.

(c) *Stops in processing time (tolling).* We may stop the processing of your request one time if we require additional information regarding the specifics of the request. The processing time resumes upon our receipt of your response. We also may stop the processing of your request if we require clarification regarding fee assessments. If additional information or clarification is required, we will attempt to contact you using the contact information you have provided. The processing time will resume upon our receipt of your response. We will provide at least 20 working days after notification for you to respond to a request for additional information or clarification regarding the specifics of your request or fee assessment. Should you not answer any correspondence, or should the correspondence be returned as undeliverable, we may administratively close the FOIA request.

(d) *Search cut-off date.* As the end or cut-off date for a records search, we use the date on which we first begin our