

§ 5.24

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

45 CFR Subtitle A (10–1–23 Edition)

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

Dept. of Health and Human Services

§ 5.25

search for documents responsive to your request, unless you specify an earlier cut-off date, or a specific date range for the records search. We will use the date of the first search in those cases when you request records “through the present,” “through today,” or similar language. The FOIA allows you to request existing agency records. The FOIA cannot be used to request records which the agency may create in the future in the course of carrying out its mission.

(e) *Processing queues.* We place FOIA requests in simple or complex processing queues to be processed in the order received, on a first-in, first-out basis, absent approval for expedited processing based upon a compelling need, as further explained and defined in § 5.27. We will place your request in the simple or complex processing queue based on the estimated amount of work or time needed to process the request. Among the factors we may consider are the number of records requested, the number of pages involved in processing the request, and the need for consultations or referrals. We will advise requesters of potential complicating factors in our acknowledgement letter or email, or in subsequent communications regarding your request and, when appropriate, we will offer requesters an opportunity to narrow or modify their request so that it can be placed in the simple processing track.

(f) *Unusual Circumstances.* Whenever we cannot meet the statutory time limit for processing a request because of “unusual circumstances,” as defined in the FOIA, and we extend the time limit on that basis, we will notify you, before expiration of the 20-day period to respond and in writing of the unusual circumstances involved and of the date by which we estimate processing of the request will be completed. Where the extension exceeds 10 working days, we will provide you, as described by the FOIA, with an opportunity to modify the request or arrange an alternative time period for processing the original or modified request. We will make available a designated FOIA contact in the appropriate FOIA Requester Service Center or the appropriate FOIA Public Liaison for this purpose. In addition, we will

inform you of the right to seek dispute resolution services from the Office of Government Information Services (OGIS).

(g) *Aggregating requests.* For the purposes of satisfying unusual circumstances, we 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, involving clearly related matters, that would otherwise involve unusual circumstances. In the event that requests are aggregated, they will be treated as one request for the purposes of calculating both response time and fees.

§ 5.25 How does HHS handle requests that involve more than one OpDiv, StaffDiv, or Federal agency?

(a) *Re-routing of misdirected requests.* When a FOIA Requester Service Center determines that a request was misdirected within HHS, the receiving FOIA Requester Service Center must route the request to the FOIA Requester Service Center of the proper OpDiv or StaffDiv within HHS.

(b) *Consultation, referral, and coordination.* When reviewing records located by an OpDiv or StaffDiv in response to a request, the OpDiv or StaffDiv will determine whether another agency of the Federal Government is better able to determine whether the record is exempt from disclosure under the FOIA. As to any such record, the OpDiv or StaffDiv must proceed in one of the following ways:

(1) *Consultation.* When records originated with an OpDiv or StaffDiv processing the request, but contain within them information of interest to another OpDiv, StaffDiv, agency or other Federal Government office, the OpDiv or StaffDiv processing the request should typically consult with that other entity prior to making a release determination.

(2) *Referral.* (i) When the OpDiv or StaffDiv processing the request believes that a different OpDiv, StaffDiv, or agency is best able to determine whether to disclose the record, the OpDiv or StaffDiv typically should refer the responsibility for responding to the request regarding that record to