

MANUAL GUIDE

GENERAL ADMINISTRATION CDC-78

REFERENCE POINTS: Office of Public Affairs

Center/Institute/Office FOIA Coordinator

TRANSMITTAL NOTICE 95.2, 7/14/95

## FREEDOM OF INFORMATION ACT

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Forms CDC 0.632 and CDC 0.632A

### I. PURPOSE

This Guide revises procedures for guidance of CDC\* staff in responding to Freedom of Information Act (FOIA) requests and procedures for maintaining related records.

### II. REFERENCES

DHHS FOIA regulations (45 CFR 5) which incorporates provisions of the following:

- Freedom of Information Reform Act of 1986
- Executive Order No. 12600, which requires notification to submitters of confidential business data prior to release
- Court rulings that required changes to earlier policies
- Guidelines from the Department of Justice and the Office of Management and Budget

### III. GENERAL RESPONSIBILITY

CDC FOIA Coordinators: The CDC FOIA staff, Office of Public Affairs, is the focal point for all CDC FOIA requests. If there are questions on any FOIA request or FOIA policies or procedures, program officials should contact the CDC FOIA office or the FOIA Coordinator for that Center/Institute/Office (CIO)\*. Also, the CIO may ask the CDC FOIA Coordinator to provide training.

\*References to CDC also apply to ATSDR; references to CIO include Centers, Institute, Program Offices, Staff Offices, and Staff Services and ATSDR.

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Delegation of authority to release or deny CDC records: The Director, Office of Public Affairs (OPA), CDC, as the CDC Freedom of Information Act Officer, is the sole official with delegated authority to release or deny CDC records.

#### IV. PROCEDURES

Initial Receipt of Request at CDC: Freedom of Information Act requests received by a CDC CIO should be sent immediately to the CDC Freedom of Information Coordinator, Office of Public Affairs (OPA), to be logged in and processed.

Logging in of Request and Referral for CIO Input: The CDC FOIA office will log in the request and refer it with the FOIA request form CDC 0.632 (copy attached) to the appropriate CIO(s) whose function relates to the subject of concern.

Time Schedule for Processing Requests: Time is crucial. Under the provisions of the FOIA, CDC must inform the requester of its decision within 10 working days of receipt of the request. The time begins on a FOIA request when it reaches the CDC FOIA Coordinator's desk. The date on the FOIA request form is the official receipt date for the timetable of 10 working days. To meet this time schedule, it is necessary for the CIO to return to the CDC FOIA Coordinator within 8 working days:

- Recommended response package for the requester.
- Completed form CDC 0.632, (Rev. 6/95) Freedom of Information Act Request, including time and cost information (copy attached).
- Completed form CDC 0.632A, (Rev. 5/95) Freedom of Information Act Response Documentation (copy attached).

CIO Processing of Request: Upon receiving the FOIA request with the forms, the action CIO staff should initiate the necessary file search and review for all records that fall within the scope of the request. A CIO official should review the records and recommend release or withholding of documents. One copy of the requested records will accompany the completed forms returned to the FOIA office.

Note: Generally, FOIA covers all records in CDC's possession, including those stored at the Federal Records Center. Contractor records are not subject to FOIA requests, and CDC employees shall not ask contractors to provide such records.

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CIO Recommending Denial of Request: When recommending withholding of documents, the CIO should so indicate on the response form by placing a check in the box that indicates concern with disclosure. Additionally, when recommending denial, the CIO official may need to provide the CDC FOIA Coordinator either a memorandum describing the nature of the records and sensitivity of the information or the memorandum with the records, as the CDC FOIA Office determines. The CIO is responsible for maintaining originals of documents which are denied. If a denial is appealed, the documents must be sent to the PHS FOIA Appeals Officer for review unless he/she determines such action is unnecessary.

CIO Recommending Release of Records: Except in unusual circumstances, records will be released if a CIO has no concerns with their release. The CDC FOIA office will review the documentation supplied by the CIO as to releasability of the records, but will not review the records themselves.

Final Processing of Request: Upon receipt of the recommended response to the request, the CDC FOIA Coordinator will review it to ensure that it is in keeping with the Act and related regulations. Then, the Director, Office of Public Affairs, as the CDC Freedom of Information Act Officer and as the sole official with delegated authority, will make the final CDC determination regarding the release or denial of the records and the fees. The CDC FOIA office must review all response packages before release.

#### V. MAINTENANCE OF RECORDS

CIO Maintenance of Records: The CIO must be able to identify documents released or withheld in case an appeal, a lawsuit, or a related FOIA request is later filed. Additionally, Federal records at CDC related to FOIA requests are to be maintained, retained, and disposed of in accordance with approved Records Control Schedules. The specific schedule applicable depends upon certain factors, including:

- Whether the record is the original official Federal record or a duplicate copy of that record.
- Whether an appeal or a lawsuit relating to the FOIA request is filed.
- Whether the record has an approved disposal schedule.

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Generally, the CIO is to maintain records used to respond to an FOIA request for at least 2 years. If an appeal or lawsuit is filed, the records must be retained for a minimum of 6 years. This includes the original request, a copy of the reply, and copies of the document(s), regardless of whether the records were withheld or released. The original documents of the records copied for the FOIA reply must be kept for the longest period of the following timeframes:

- As specified in an approved records schedule (for applicable schedule see CDC Records Management Manual: Appendix C--CDC Records Control Schedule, Appendix D--General Records Schedules, Appendix E--ATSDR Records Control Schedule).
- As long as the FOIA request must be kept (normally 2 years).

CIOs are responsible for retaining all Federal records at CDC in accordance with the related approved records schedule, but generally should not keep records beyond their approved retention periods. If records are kept longer than the approved eligible destruction schedule and those records are requested under the FOIA, they cannot then be destroyed to avoid responding to the request. Additionally, records that do not have an approved records schedule cannot be destroyed until CDC obtains the disposition authority from the National Archives and Records Administration.

INSTRUCTIONS FOR COMPLETING FORM CDC 0.632

Actual Costs of Responding to Request

1. Use actual grade and hourly wage of person performing task.
2. When a task involves employees at more than one grade, record the rate appropriate for each.
3. Use appropriate task in either Program Section or FOIA Section for recording costs.
4. Indicate the number of pages provided in response package. Also include costs for any microfilm/fiche, video tapes, photographs, slides, computer disks, etc., provided.

