

From: Holzerland, William (HHS/ASPA)
Sent: Fri, 9 May 2025 15:48:27 +0000
To: Aleshire, Noah (CDC/OD/OPPE)
Subject: RE: CDC FOIA attorney fees payt logistics

RGR. Much appreciated.

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Aleshire, Noah (CDC/OD/OPPE) <uwo2@cdc.gov>
Sent: Friday, May 9, 2025 11:46 AM
To: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>
Subject: RE: CDC FOIA attorney fees payt logistics

Thanks Bill. I'm consulting with our OGC to figure out the best process for this and will follow up shortly.

Thanks,

Noah

From: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>
Sent: Friday, May 9, 2025 11:32 AM
To: Aleshire, Noah (CDC/OD/OPPE) <uwo2@cdc.gov>
Subject: CDC FOIA attorney fees payt logistics

Hi, Noah:

Here's where we stand on one of the challenging issues we discussed. I met with ASFR yesterday to discuss the path forward on the budget front for FY25 and in future years. The FOIA enterprise is one of several services that will get redefined in terms of shared services and the like.

I posed the question of whether the Department would pay attorney fee tabs and ASFR would work out the particulars with the respective OpDiv(s) involved, but they said no for now. For the immediate future, ASFR gave guidance that for attorney fees awarded or settled in FOIA cases that must be paid immediately in FY25 must continue to be paid by the OpDiv that normally would have paid those bills.

The reason this is an immediate practical problem is that we're likely to have a series of cases where we settle fees arise in close succession. There's one on the docket (ICAN; 24-cv-00203) that just came to my attention where plaintiff apparently demanded \$15,605 to settle the case prior to the reorganization and has gotten impatient with the agency in the intervening timeframe.

In this matter, CDC originally released 685 pages of records, and after suit, re-released responsive material totaling 727 pages, including 42 additional pages released in full. It's likely the plaintiff prevailed at least in part, but we don't have a full picture of why we changed position during litigation. The odds we'd get out of this one without paying *any* fees are so low they're not worth quantifying.

(b)(5)

Bottom line, I have authority to approve settlements in FOIA matters for the Department, but here, it would involve committing CDC funds, so want to ensure alignment. There's risk plaintiff will immediately file a motion demanding the full amount, so time is of the essence for us here.

(b)(5)

Thanks and please let me know your thoughts.

Regards,
Bill

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From: Holzerland, William (HHS/ASPA)
Sent: Thu, 15 May 2025 17:21:34 +0000
To: Hilliard, Emily (HHS/ASPA)
Subject: RE: Washington Examiner Inquiry

The short answer is no, the RIFs in question have not been overturned, but I'd suggest pivoting to future improvements. Some points worth noting:

- In compliance with Executive Order 14210, on March 27, 2025, the Department announced that it would undergo a significant restructuring that would streamline the functions of the Department.
- In that announcement, the Department indicated that as of that time, the 28 divisions of the HHS contained many redundant units.
- As part of the reorganization efforts, the Department commenced streamlining inefficient operations, which will benefit the public by optimizing resources, enhancing transparency and accountability to the taxpayer.
- Streamlining FOIA operations will increase consistency by standardizing the Department's approach to radical transparency.
- The public will benefit when some FOIA units are consolidated because the Department's FOIA redactions, exemptions, legal reviews, and responses will be more consistent, timely, and accurate. A more centralized FOIA unit can provide a single point of contact for requesters, simplifying the customer service process for the public and in the long term, improving response times.
- Departmental leadership is implementing the reorganization of some FOIA units while it is at the same time, reviewing future plans to ensure that the Department maintains an efficient and effective FOIA program, consistent with Secretary Kennedy's vision for the Department to operate with radical transparency as a core value.

Regards,
Bill

William H. Holzerland
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From: Hilliard, Emily (HHS/ASPA) <Emily.Hilliard@hhs.gov>
Sent: Thursday, May 15, 2025 12:20 PM
To: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>
Subject: FW: Washington Examiner Inquiry

If you have language you would like me to use, let me know – or can ignore. Thanks!

Emily G. Hilliard
Press Secretary
U.S. Department of Health and Human Services
Email: emily.hilliard@hhs.gov
Cell: (b)(6)

Confidential and deliberative, pre-decisional communication

From: Samantha-Jo Roth <sroth@washingtonexaminer.com>
Sent: Thursday, May 15, 2025 11:57:09 AM (UTC-05:00) Eastern Time (US & Canada)
To: Media (CDC) <sohco@cdc.gov>
Subject: Washington Examiner Inquiry

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi there,

I'm working on a story about FOIA staff that have been let go across the federal government. I understand there were 22 staffers who handled and fulfilled public records requests at CDC who were placed on administrative leave until their jobs are eliminated on June 2.

I'm wondering if there are any updates about this and if any of these job eliminations have been overturned. I'm working on deadline for 2PM tomorrow ET.

Thank you!

--
Samantha-Jo Roth
Congressional Reporter
Washington Examiner
Cell: (b)(6)

From: Holzerland, William (HHS/ASPA)
Sent: Thu, 12 Jun 2025 14:39:34 +0000
To: Martha Murphy
Cc: Carrie McGuire
Subject: RE: FDA FPL and Requester Service Center?

I'm always delighted to be of service, Martha!

Meredith.Schlaifer@fda.hhs.gov

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
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From: Martha Murphy <martha.murphy@nara.gov>
Sent: Thursday, June 12, 2025 10:37 AM
To: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>
Cc: Carrie McGuire <carrie.mcguire@nara.gov>
Subject: Re: FDA FPL and Requester Service Center?

Thanks Bill. This information is very helpful.

Would you be willing to share Meredith's personal email address? **We will not share it with requesters**, but it would be helpful for our Mediation Team to have a POC they can email when we are reaching out to inquire about mediation inquiry.

Martha Wagner Murphy
Deputy Director, Office of Government Information Services
National Archives and Records Administration
Phone: (b)(6) 



Website: www.archives.gov/ogis

On Thu, Jun 12, 2025 at 10:28 AM Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov> wrote:

Hi, all:

Up-to-date FDA FOIA contact info can be found [here](#). Meredith Schlaifer is acting right now.

FDA underwent a large reorganization effective October 1, 2024 and their FOIA program was realigned to the FDA [Office of Operations](#), so Martina is no longer overseeing it.

However, there have been some developments since then. As part of the ongoing HHS reorganization, FDA FOIA offices that were previously embedded in the various Centers were notified yesterday that those previously-separate offices will be rolled up into a single, large FOIA office.

My understanding is that once this plan is implemented, FDA will update their website accordingly. They also deployed a new FOIA processing/tracking system about two weeks ago, so lots of updates there.

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
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From: Martha Murphy <martha.murphy@nara.gov>
Sent: Thursday, June 12, 2025 10:15 AM
To: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>; Carrie McGuire <carrie.mcguire@nara.gov>
Subject: FDA FPL and Requester Service Center?

Hi Bill,

As you know, OGIS often refers requesters to the public contact information for Requester Service Centers and FPLs. OGIS also has POC contact information that our staff use when a meatier mediation issue arises.

For FDA, the information on FOIA.gov lists Martina Vernado as the FPL, and the following phone number for the Requester Service Center: 301-796-3900 I'm not sure if Martina is still at FDA and/or still in this role and if this phone number is still accurate. (Please note: FOIA.gov also lists Sarah Kotler as the FOA Officer)

We understand the HHS is realigning their component FOIA programs. However, we would like to know the following, **as of today**.

- 1. To what email and/or phone number should we refer requesters who have filed FOIAs for FDA records and have a question.**
- 2. Who should OGIS staff contact when we need to discuss a FOIA for FDA records in the Mediation context.**

Thanks in advance for any clarification you can provide.
I am cc'ing Carrie McGuire the OGIS Mediation Team Lead.

Martha Wagner Murphy
Deputy Director, Office of Government Information Services
National Archives and Records Administration
Phone: (b)(6)



Website: www.archives.gov/ogis

From: Holzerland, William (HHS/ASPA)
Sent: Fri, 1 Aug 2025 17:58:42 +0000
To: Aleshire, Noah (CDC/OD/OPPE)
Subject: Revocation/reassignment of CDC/ATSDR FOIA authorities to OS-FOIA
Attachments: HHS Exemption 5 Memo.20240903.pdf, HHS Exemption 6 Memo.20240903.pdf, HHS FOIA Delegation of Authority to ASPA_Tab A.20240903.pdf, HHS FOIA DoA_Tab B ASPA to DACFO.20240903.pdf, HHS Significant FOIA Activity Reporting Memo.20240903.pdf, HHS FOIA_Tab C DACFO to CDC.20240903.pdf, HHS FOIA_Tab C DACFO to CDC.20250801.pdf



Good afternoon, Noah:

You may or may not be familiar with the history on this topic, and I apologize if I am repeating info you already have.

Last fall, to deconflict voluminous outdated and inconsistent artifacts outlining relationships between the Department and its FOIA offices - and to clarify responsibilities - on September 3, 2024, the Secretary delegated certain authority to the ASPA as Chief FOIA Officer. Authorities were redelegated to my position, and I, in turn, issued delegations to OpDiv FOIA officers the same day.

However, consistent with orders from the Secretary to streamline the FOIA program, and the Department's ongoing reorganization, the attached document supersedes and rescinds the September 3, 2024 FOIA delegation to CDC/ATSDR. It denotes the reassignment of those authorities to OS-FOIA. In other words, it formalizes the way we have been operating since the reorganization commenced in April.

This document and the revised delegation to the OS-FOIA program emphasize that as requests for CDC/ATSDR records are part of the OS-FOIA portfolio, our team must provide excellent customer service to our CDC colleagues as well as the people we serve. I intend for them to be read as memorializing our shared expectation that OS-FOIA executes these duties in a spirit of partnership and transparency, leveraging the assistance the CDC team has generously offered to help us navigate our way through the organization.

Thank you again and we look forward to continuing to strengthen our partnership in the days and weeks to come as we provide these services to the division. Please let me know if there are any questions.

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer

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U.S. Department of Health and Human Services (HHS)
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From: Holzerland, William (HHS/ASPA)
Sent: Tuesday, September 3, 2024 5:05 PM
To: Andoh, Roger (CDC/OCOO/OD) <mhu9@HHSGOV.onmicrosoft.com>
Subject: FW: Strengthening the HHS FOIA Enterprise



Roger:

Tab C for CDC/ATSDR is attached herein. Thanks again.

Regards,
Bill

William H. Holzerland
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U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Holzerland, William (HHS/ASPA)
Sent: Tuesday, September 3, 2024 5:02 PM
To: Smith, Celeste (ACF) <Celeste.Smith@acf.hhs.gov>; Andoh, Roger (CDC/OCOO/OD) <mhu9@HHSGOV.onmicrosoft.com>; Kotler, Sarah (FDA/OC) <Sarah.Kotler@fda.hhs.gov>; May, Brian (HRSA) <BMay@hrsa.gov>; Mitchell, Carl (IHS/HQ) <Carl.Mitchell@ihs.gov>; Garcia-Malene, Gorka (NIH/OD) [E] <gorka.garcia-malene@nih.gov>; Monroe-Cook, Farrah (SAMHSA/NMHSUPL/EXEC SEC) <Farrah.Monroe-cook@samhsa.hhs.gov>; Daley, Garfield (ACL) <Garfield.Daley@acl.hhs.gov>; Tripline, Joseph (CMS/OSORA) <joseph.tripline@cms.hhs.gov>; Perkins, Arianne (OS/ASPA) <Arianne.Perkins@hhs.gov>; Williams, Alesia (OS/ASPA) <Alesia.Williams@hhs.gov>
Cc: Sly, Elizabeth (FDA/CBER) <Elizabeth.Sly@fda.hhs.gov>; Udapi, Guruprasad (FDA/CDER) <Guruprasad.Udapi@fda.hhs.gov>; Davis, Candace (FDA/CDRH) <Candace.Davis@fda.hhs.gov>; Rennie, Chalmer (FDA/CFSAN) <Chalmer.Rennie@fda.hhs.gov>; Barnes, Marqui (FDA/CTP) <Marqui.Barnes@fda.hhs.gov>; Bigby, Dynna (FDA/OC) <Dynna.Bigby@fda.hhs.gov>; Pickworth, Melissa (FDA/ORA) <Melissa.Pickworth@fda.hhs.gov>; Schlaifer, Meredith (FDA/OC) <Meredith.Schlaifer@fda.hhs.gov>; Holohan, MK (NIH/NCI) [E] <mholoha@mail.nih.gov>;

Williams, Yireiza (NIH/NEI) [E] <ywilliams@mail.nih.gov>; Manheim, Marianne (NIH/NHLBI) [E] <marianne.manheim@nih.gov>; Williams, Paul (NIH/NICHD) [E] <Paul.Williams@nih.gov>; Jordan, Craig (NIH/NIDCD) [E] <jordanc@ms.nidcd.nih.gov>; Stabile, Regina (NIH/NIEHS) [E] <regina.stabile@nih.gov>; Chai, Mindy (NIH/NIMH) [E] <mindy.chai@nih.gov>; Standing-Ojo, Denean (NIH/OD) [E] <denean.standing-ojo@nih.gov>; Bordine, Roger (NIH/OD) [E] <roger.bordine@nih.gov>; Souther, James (IHS/HQ) <James.Souther@ihs.gov>; Lancey, Brandon (OS/ASPA) <Brandon.Lancey@hhs.gov>; Stephens, Lakita (ACF) <Lakita.Stephens@acf.hhs.gov>; Chancellor, Alexis (HRSA) <AChancellor@hrsa.gov>; Viana, Bruno A. (CDC/OCOO/OD) <cqy8@HHSGOV.onmicrosoft.com>; Klocinski, Jennifer (ACL) <Jennifer.Klocinski@acl.hhs.gov>; Edmondson-Parrott, Michele (CMS/OSORA) <michele.edmondsonparrott@cms.hhs.gov>; Oh, Kathy (CMS/OSORA) <kathy.oh3@cms.hhs.gov>; Gaynor, Desiree (CMS/OSORA) <Desiree.Gaynor@cms.hhs.gov>; Smith, Kathleen (CMS/OSORA) <kathleen.smith@cms.hhs.gov>; Nicholson, Emmett (CMS/OSORA) <emmett.nicholson@cms.hhs.gov>; Cavanaugh, Alicia (CMS/OSORA) <alicia.cavanaugh@cms.hhs.gov>

Subject: Strengthening the HHS FOIA Enterprise



Dear FOIA Colleagues:

As part of HHS's commitment to effective administration of the Freedom of Information Act (FOIA or the Act), with increased collaboration and coordination between the Office of the Secretary (OS)/ASPA FOIA Program and the talented professionals performing our FOIA work daily, I am pleased to announce several measures designed to improve the quality and consistency of FOIA products across the Department.

It's simply good government to maximize efforts to ensure FOIA offices across HHS administer the Act as evenly, effectively, and efficiently as possible while maintaining the highest standard of customer service. We know at times this feels easier said than done but we look forward to partnering with you on this important work.

The Secretary has issued a new Delegation of Authority to operate the HHS FOIA program, including its OpDiv and StaffDiv FOIA programs, in an effort to add structure to enterprise-wise program governance and needed clarity on Departmental disclosure policies. Enclosed is Tab A, the Delegation, along with Tab B, re-delegating authority from the Assistant Secretary for Public Affairs/Agency Chief FOIA Officer to the Deputy Agency Chief FOIA Officer. To this end, in the weeks and months ahead, I will be working with you to enhance the Department's FOIA program by:

- '3b Increasing collaboration and coordination across HHS FOIA and the agency FOIA offices;

- '3b Better leveraging available tools and resources – including technology – to strengthen and streamline processes;
- '3b Educating stakeholders inside and outside of the Department and its agencies on our responsibilities under the Act; and
- Ensuring visibility and transparency into the FOIA process itself.

While the Department has previously issued guidance on discrete matters that impact our day-to-day business, following requests for clarity, enclosed are Department-wide policies governing topics of vital importance. Attached you will find guidance on:

- '3b Reporting significant FOIA activities;
- '3b FOIA Exemption (b)(5); and
- FOIA Exemption (b)(6).

Additionally, if you haven't had a chance to review it yet, this office previously issued guidance on the application of the foreseeable harm standard, which is posted [here](#) for ease of reference.

An invitation will follow for a virtual event slated for 10:00a.m. E.S.T. this Thursday, September 5, 2024, to discuss implementation details and answer your questions directly. I'll send Tab C – OpDiv-specific Delegation artifacts – to each of the FOIA officers immediately following this message under separate cover.

I look forward to partnering with the dedicated FOIA professionals across the Department and engaging with your OpDiv FOIA Officers to enhance service delivery and identify additional ways to support your work and ensure transparency for the people we serve. Thank you, again, for all that you do.

Regards,
Bill

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DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

September 3, 2024

MEMORANDUM FOR: Departmental FOIA Personnel

FROM:

William H. Holzerland
Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)

William H.
Holzerland -S

Digitally signed by William H.
Holzerland -S
Date: 2024.09.03 08:48:44 -04'00'

SUBJECT:

Freedom of Information Act - Application of FOIA Exemption
(b)(5)

This memorandum provides guidance on how agency records should be processed throughout the Department of Health and Human Services (HHS or Department) under the Freedom of Information Act (FOIA or the Act) when Exemption 5 is potentially applicable.¹

FOIA Exemption 5 protects “inter-agency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency.”

To ensure that requests for this type of information are processed consistently across the Department, the following policy guidelines are provided. It should be noted, however, that the examples cited below are intended as *general guidelines only*. Records must be reviewed on a case-by-case basis as the information at issue and the individual circumstances will affect the Department's release determination.

In making determinations on FOIA requests, the Department's OpDiv/StaffDiv FOIA Officers must follow the analytical steps outlined below and consult with subject matter experts - including consulting with or referring records to OpDivs with primary equity in the records under review as necessary - on the contents of records responsive to FOIA requests early in the review process as well as prior to finalizing release or withholding determinations.

Analytical Steps:

Step 1: Does the record constitute an “inter- or intra-agency” communication for purposes of the Exemption 5 threshold?

Generally, **inter-agency** communication is understood to mean communication between at least one component of HHS and another Federal agency or component thereof whereas **intra-agency** communication is generally understood to mean communication between two or more agencies within HHS. However, there are additional factors to consider in determining whether the record constitutes an inter- or intra-agency communication.

¹ 5 U.S.C. § 552 (b)(5).



For example, factors relevant to determining whether a communication is an “**inter-agency**” communication include:

- Are the author(s) and recipient(s) within an HHS OpDiv/StaffDiv and another executive branch agency outside of HHS, or multiple executive branch agencies outside of HHS?
- If so, are individuals outside the executive branch included on the communication, or does the communication itself indicate that it was shared with third parties outside the executive branch?
- If the record has not been shared with individuals or entities outside the executive branch, it is an “inter-agency” communication for purposes of the Exemption 5 threshold, and you should proceed to Step 4 to determine whether a privilege applies.

Factors relevant to determining whether a communication is an “**intra-agency**” communication include:

- Are the author(s) and recipient(s) HHS employees?
- If the answer is yes, are individuals outside the executive branch included on the communication, or does the communication indicate that it was shared with third parties outside the executive branch?
- If the record has not been shared with individuals or entities outside the executive branch, it is an “intra-agency” communication for purposes of the Exemption 5 threshold, and you should proceed to Step 4 to determine whether a privilege applies.

There are limited circumstances in which communications with entities outside the government may nevertheless qualify as an “**intra-agency**” memorandum under Exemption 5. Factors to consider in such a situation include:²

- Is HHS the recipient of advice from a third party (e.g., an outside expert who is not an HHS employee) on a matter pending HHS decision?
- If no, HHS sends the advice to a third party, Exemption 5 does not apply.
- If yes, does the outside entity offering advice have an independent stake in the matter (e.g., Congress, when the topic is pending legislation)?
- If yes, Exemption 5 does not apply.

If have questions as to whether the threshold is met in the context of the communication at issue, please document the facts and circumstances which led to your initial conclusion and consult with the Department’s career FOIA officer for resolution prior to making a determination.

In the event the result of the threshold analysis is that the record does not constitute an “inter-agency or intra-agency” record, this exemption would be inapplicable, and the record must be

² *Dep't of the Interior v. Klamath Water Users Protective Ass'n*, 532 U.S. 1, 9 (2001).



DEPARTMENT OF HEALTH & HUMAN SERVICES

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Assistant Secretary for Public Affairs
Washington, D.C. 20201

disclosed, unless other exemption(s) apply.

Step 2: Privileges:

If the record does meet the threshold for purposes of Exemption 5, you must then determine whether a privilege applies. As a practical matter, this exemption incorporates both statutory privileges and those commonly recognized by case law.³

The three most frequently invoked privileges are:

- the deliberative process privilege;
- the attorney work-product doctrine; and
- the attorney-client privilege.

However, as this is not an exhaustive list of potentially applicable privileges, your analysis must include such other privileges as the circumstances warrant.

To determine the potential applicability of any privilege, you necessarily must understand the facts surrounding the communication(s) under review. Answering the question “what happened,” is a necessary component of making your release or withholding determination - who communicated with whom, what direction the communication traveled on the decisionmaking chain, what role the communication played in the Department’s decisionmaking process, when the communication occurred relative to any decision. In order to document these facts, you must consult with subject matter experts early in the process and again as necessary upon receipt of additional information that raises questions, and analyze the facts on a case-by-case basis.

Step 3(a): The deliberative process privilege:

- Were the records created within 25 years of the request submission? If the records are at least 25 years old, the deliberative process privilege does not apply, and you can proceed to Step 3(b).
- If the records were created less than 25 years ago, determine whether the communication was **both** predecisional and deliberative.

Predecisional is commonly understood to include records that pre-date a final agency decision, policy or opinion. While this exemption does not protect final agency decisions, a record is not “final” for purposes of this privilege simply “because nothing else follows it,”⁴ in the event the agency determines not to act subsequent to circulating a draft. In considering whether this privilege applies, we must consider the facts surrounding the communication, including the following:

³ See *United States v. Weber Aircraft Corp.*, 465 U.S. 792, 800 (1984); see also *Burka v. HHS*, 87 F.3d 508, 516 (D.C. Cir. 1996) (noting that FOIA “incorporates . . . generally recognized civil discovery protections”).

⁴ *United States Fish & Wildlife Service v. Sierra Club, Inc.*, 141 S. Ct. 777, 786 (2021).



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Washington, D.C. 20201

- The date(s) of the record(s) and/or other context obtained from subject-matter experts regarding when the communication(s) occurred relative to issuance of a final decision (if any);
- If after examining the above you determine that the record is not predecisional, proceed to Step 3(b).
- However, if after reviewing the facts, you determine that the record was predecisional, you must determine whether it is also deliberative.

In the event you determine the record is predecisional in nature, you must analyze whether the record is also deliberative in nature. A record may be deliberative for purposes of this exemption if it reflects the give-and-take of the consultative process either by articulating the process the agency used to formulate a decision, or by assessing the relative merits of a particular viewpoint in the communication itself. The key question in evaluating whether a record is deliberative for purposes of this privilege is “whether disclosure of the information would discourage candid discussion within the agency.”⁵

To assess what deliberative process is at issue and what role the communication under review may have played in it, consider relevant factors, including but not limited to the following:

- What were the identities of the speaker(s) and the specific language utilized in the record?
- What were the speakers’ titles? Where do the speakers reside in the organization relative to leadership or policy-makers?
- Does the record contain tracked changes, handwritten notes, comment bubbles, or other factors indicating it was generated or commented upon by stakeholders during the iterative policy process?
- Did the communication include language that might tend to indicate it contained an opinion or proposed direction pertaining to a pending policy decision? (e.g. “recommend,” “suggest,” “advise,” or similar words).
- Did the words used in the communication lead you to conclude that a subordinate official is offering advice or opinions to a decision-maker?
- What is the relative decision-making authority of the parties, and what direction did the communication flow along the decision-making chain? Was the communication from a subordinate to supervisor? Peer-to-peer as part of the process of advising or recommending agency action to the decision-maker or agency leadership?
- What role the communication played in the decision-making process and the degree to which it reflected the give-and-take of the consultative process.

While this privilege generally does not cover purely factual information,⁶ when factual information is so thoroughly intertwined with deliberative information that the release would

⁵ *Access Reports v. Dep’t of Justice*, 926 F. 2d 1192, 1195 (D.C. Cir. 1991).

⁶ *EPA v. Mink*, 410 U.S. 73, 91 (1973).



reveal the agency's decision-making process (e.g., by revealing selective facts to the exclusion of others) and release would cause harm to the agency's deliberative process itself, such as by stifling open and frank communications within the agency, this privilege may still apply.⁷

If after reviewing the criteria above relative to a communication you determine that the communication is either not predecisional or not deliberative, the deliberative process privilege is inapplicable, and you may proceed to Step 3(b).

However, if you determine the communication is **both** predecisional and deliberative, you must document the basis for concluding that the deliberative process privilege applies. You must also consider the potential applicability of other privileges and exemptions, and apply the foreseeable harm standard, as noted below, prior to making your release or withholding determination.

Step 3(b): Determine whether the record is covered by the attorney work-product privilege:

To determine whether the record is covered by the attorney-work product privilege, you must ascertain whether the record was prepared by or under the direction of an attorney in contemplation of litigation. Please consult with the author or subject matter expert and the Office of General Counsel to obtain facts necessary to making this determination.

This privilege may apply to records prepared for administrative, civil, and criminal proceedings, settlements, or recommendations to close a matter in litigation. Although this privilege may be applicable to records created in anticipation of litigation, this privilege generally does not cover records created after the threat of litigation has passed. However, even if litigation never actually commenced, this privilege may be applicable.

If after reviewing these factors, you determine that the record was not authored by an attorney, nor by a non-attorney acting under an attorney's direction, this privilege does not apply, and you must proceed to Step 3(c).

Step 3(c): The attorney-client privilege:

This privilege protects confidential communications between an attorney and client relating to a legal matter for which the client has sought professional advice. Unlike the attorney work-product privilege, however, this privilege is not limited to the context of litigation. In determining whether this privilege is applicable, you should consider the following⁷

- Is the communication between the Department, an OpDiv or StaffDiv within the Department, or an employee of the OpDiv/StaffDiv working in the employee's official capacity and an attorney providing advice in his/her professional capacity?
- Was the communication confidential? You should identify the parties to the

⁷ *Elec. Frontier Found. v. DOJ*, 739 F.3d 1, 13 (D.C. Cir. 2014) (finding that "context matters," and here entire document, including factual material, "reflects the full and frank exchange of ideas" so that factual portions "could not be released without harming the deliberative processes of the government").



communication to determine whether all are HHS employees and/or employees of the Office of the General Counsel and/or the Department of Justice to determine whether the communication is “confidential” for purposes of this privilege.

- If the answer to either or both of these questions is no, then this privilege does not apply.
- If the answer to both questions is yes, this privilege may apply.
- If the communication contains the attorney’s opinion or facts the client identified as pertinent to obtaining the attorney’s opinion, the attorney-client privilege applies and protects both the facts divulged by the client to the attorney and the opinion offered by the attorney based on those facts.

If a privilege applies, proceed to conduct the required foreseeable harm analysis, in accordance with the Act and [Departmental policy](#).

Step 4: Other Privileges:

The Supreme Court has indicated that if a record is immune from civil discovery, it is similarly protected from mandatory disclosure under FOIA.⁸ In your analysis, you must consider whether other privileges beyond the most common ones may apply when the facts and circumstances warrant it.

While it is not possible to provide an all-inclusive list of potentially applicable privileges herein, please consult the Department’s career FOIA Officer and the Office of General Counsel if the facts surrounding the communication under review point to the potential applicability of less frequently invoked privileges.

Conclusion

It is the policy of the Department to evaluate the release of records potentially subject to Exemption 5 privileges contained within HHS records on a case-by-case basis, and to implement this policy consistently across all OpDivs and StaffDivs. The Department may only withhold records under Exemption 5 when the threshold is met, a privilege applies, and foreseeable harm would result from release.

If you have any questions about the applicability of this memorandum or need assistance, please contact your Operating Division FOIA Officer via the contact information found at <https://www.hhs.gov/foia/contacts/index.html> and/or contact me via William.Holzerland@hhs.gov.

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⁸ *United States v. Weber Aircraft Corp.*, 465 U.S. 792, 799-800 (1984); *FTC v. Grolier Inc.*, 462 U.S. 19, 26-27 (1983).



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

September 3, 2024

MEMORANDUM FOR: Departmental FOIA Personnel

FROM:

William H. Holzerland
Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)

William H.
Holzerland -S

Digitally signed by William H.
Holzerland -S
Date: 2024.09.03 08:50:20 -04'00'

SUBJECT:

Freedom of Information Act - Application of FOIA Exemption
(b)(6)

This memorandum provides guidance on how Personally Identifiable Information (PII)¹ pertaining to Department of Health and Human Services (HHS or Department) employees and third parties should be processed throughout HHS, consistent with the Freedom of Information Act (FOIA or “the Act”).²

On March 15, 2022, the Attorney General directed agencies to apply the Act with a presumption of openness, and that in the face of doubt, openness should prevail.³ However, the Act’s disclosure requirements are not absolute.

Agencies may withhold records (or portions thereof) responsive to a FOIA request when the agency reasonably foresees that disclosure would harm an interest protected by one of the nine exemptions Congress established. Specifically, Exemption 6 protects PII when disclosure would constitute a clearly unwarranted invasion of personal privacy.⁴

Records must always be reviewed on a case-by-case basis as the information at issue and the individual circumstances will affect the Department’s release determination. When processing records for release under FOIA, the Department must carefully consider whether the disclosure of identifying information or PII about individuals contained within agency records would shed light on how HHS performs its statutory duties.

To ensure that requests for this type of information are processed consistently in accordance with the Act across the Department, the following policy guidelines are provided.

While federal employee names, titles, grades, salaries, bonuses, position descriptions, and duty stations are generally subject to disclosure, it is appropriate and necessary to take into account relevant case law and factual circumstances pertaining to recent public interactions with our

¹ Office of Management and Budget Circular A-130, “Managing Information as a Strategic Resource (July 28, 2016), https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A130/a130revised.pdf

² 5. U.S.C. § 552.

³ Office of the Attorney General, U.S. Department of Justice, Freedom of Information Act Guidelines (March 15, 2022), <https://www.justice.gov/ag/page/file/1483516/download>.

⁴ 5 U.S.C. § 552(b)(6).



employees and affiliates who support the Department where such disclosure would result in a clearly unwarranted invasion of personal privacy. In other words, federal employees do not relinquish all privacy rights upon entering the door of the federal workplace. Therefore, this policy's application to "individuals" is inclusive of federal employees as well as third parties.

Step 1: Do the records responsive to the request include PII?

- Do the records contain information that directly identifies an individual, such as an individual's full name, Social Security number (SSN), passport number, driver's license number, taxpayer identification number, patient identification number, financial account or credit card number, personal address, and phone number?
- Do the records contain information that can be used to distinguish or trace an individual's identity, **alone or when combined with other information**, which is linked or linkable to a specific individual (i.e., indirect identification). These data elements may include a combination of gender, race, birth date, geographic indicator, and other descriptors.
- If the answer to both questions above is no, then Exemption 6 is inapplicable and barring any other applicable exemption, the record(s) should be released.
- If the answer to either question is yes, then proceed to Step 2.

Step 2: If PII is implicated, what is the context of the disclosure?

- Do the records relate to a controversial matter that has been the subject of strong public disagreement, debate, or argument?
- Has the subject matter led to harassment, threats of harm or violence, or actual harm or violence to individuals in the past?
- Is it reasonable to foresee that individual(s) whose PII is implicated in the record(s) would be subject to similar threats of harassment, threats of harm or violence, or actual harm or violence? Factors to consider include:
 - Whether the individual(s) whose PII is/are implicated in the records were subjected to harassment, threats of harm or violence, or actual harm or violence in the past due to their involvement with the controversial matter;
 - Whether the individual(s) whose PII is/are implicated in the records are similarly situated to those who were subjected to harassment, threats of harm or violence, or actual harm or violence either due to their job titles or responsibilities.
 - Whether strong public disagreement, debate, or argument is ongoing.
- If the answer to all of the foregoing questions is no, then Exemption 6 is inapplicable, and barring any applicable exemption, the record(s) should be released.
- If the answer to any of the foregoing questions is yes, then proceed to Step 3.

Step 3: Determining the public interest served by disclosure of the PII:



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Washington, D.C. 20201

- What is the public interest that would be served by release of the PII?
- Would release of the PII significantly contribute to the public's understanding of the operations or activities of the Department, its Operating Divisions, and/or its Staff Divisions?

Step 4: Weighing public and private interests:

- If the answer to any of the questions under Step 2 is yes, and no public interest would be served by releasing the information (Step 3), it should be withheld as a clearly unwarranted invasion of personal privacy.
- If the answer to any of the questions under Step 2 is yes, and a public interest would be served by releasing the information (Step 3), then the FOIA Officer must weigh the competing interests and consider all relevant factors, including the impact of potential release on the subject of the record, as well as privacy interests of other parties when implicated, to determine if the record(s) should be withheld or released.

This Department is entrusted with voluminous records that identify individuals we serve, employees, and others. Accordingly, FOIA officers should consider the facts and circumstances surrounding each record prior to release and must consult with the relevant Operating or Staff Division in determining the applicability of Exemption 6 under this policy. Any disagreements should be referred to the Department's career FOIA officer for resolution prior to release of any records.

If you have any questions about the applicability of this memorandum or need assistance, please contact your Operating Division FOIA Officer via the contact information found at <https://www.hhs.gov/foia/contacts/index.html> and/or contact me via William.Holzerland@hhs.gov.

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THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

TO: The Assistant Secretary for Public Affairs

FROM: The Secretary

SUBJECT: Delegation of Authority – 5 U.S.C. § 552 (Freedom of Information Act [FOIA]) Authority for the Department

AUTHORITY TO DELEGATE

This delegation is pursuant to Executive Order 13392 and the Freedom of Information Act 5 (U.S.C. § 552), including 5 U.S.C. § 552(j).

AUTHORITY DELEGATED

Consistent with 45 C.F.R. § 5.3, and subject to my oversight and guidance, I hereby delegate to the Assistant Secretary for Public Affairs (“the ASPA”) within the Office of the Secretary (OS) / Office of the Assistant Secretary for Public Affairs (ASPA) the authority vested in me as the Secretary of Health and Human Services under the Freedom of Information Act (5 U.S.C. § 552). As reflected in 45 C.F.R. § 5.3, the ASPA is designated as the Agency Chief FOIA Officer, U.S. Department of Health and Human Services, within the meaning of 5 U.S.C. § 552(j).

This authority includes, but is not limited to, the authority to oversee all policy of the Department’s FOIA program to ensure efficient and appropriate compliance with FOIA, including disposition of requests for records submitted in accordance with Department regulations, and appeals from initial determinations on such requests, except as otherwise delegated.

This delegation will be exercised in accordance with the Department’s applicable policies, procedures, guidelines, and regulations.

LIMITATIONS

This delegation may be redelegated to subordinate officials.

To the extent authority is redelegated to Operating Division (OpDiv) or Staff Division (StaffDiv) FOIA Officers, OpDiv and StaffDiv FOIA Officers must operate in a manner consistent with the authorities outlined in 45 C.F.R. § 5.3 and subject to such other limitations as may be specified in writing by the Chief FOIA Officer or designee.

IMPACT ON EXISTING DELEGATIONS OF AUTHORITY

This delegation of authority supersedes/rescinds any and all FOIA-related delegations and/or redelegations within ASPA or FOIA-related delegations from me to any ASPA official. This delegation of authority does not impact any delegations to or within any other U.S. Department of Health and Human Services Operating Division or Staff Division.

EFFECTIVE DATE

This delegation of authority is effective immediately upon signature. I hereby affirm and ratify any actions taken by you or your subordinates that involved the exercise of the authorities delegated herein prior to the effective date of the delegation.



Xavier Becerra

9/3/2024

Date



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

September 3, 2024

TO: Deputy Agency Chief FOIA Officer (DACFO)

FROM: The Assistant Secretary for Public Affairs

SUBJECT: Delegation of Authority – 5 U.S.C. § 552(j) (Freedom of Information Act [FOIA]) Authority for the Department

AUTHORITY TO DELEGATE

Pursuant to Executive Order 13392 and the Freedom of Information Act, the Assistant Secretary for Public Affairs (ASPA) has been designated as the Agency Chief FOIA Officer, U.S. Department of Health and Human Services, with the responsibilities set forth in 5 U.S.C. § 552(j), and been delegated the authority to implement and administer the Freedom of Information Act (see 45 C.F.R. § 5.3 and the delegation of authority memorandum dated August 30, 2024 in Tab A).

AUTHORITY DELEGATED

Consistent with 45 C.F.R. § 5.3, and subject to my oversight and guidance, I hereby delegate to the Deputy Agency Chief FOIA Officer within the Office of the Secretary (OS) / Office of the Assistant Secretary for Public Affairs (ASPA) the authorities vested in me to implement and administer the Freedom of Information Act, including the following authorities and responsibilities:

- Oversee departmental initiatives to ensure efficient and appropriate FOIA compliance;
- Monitor implementation of the FOIA throughout the department and keep the ACFO, the Secretary, the Deputy Secretary, the General Counsel, and the Attorney General appropriately informed of the department's performance in implementing FOIA requirements;
- Recommend to the ACFO and Secretary such adjustments to agency practices and policies as may be necessary to improve departmental implementation of FOIA;
- Review and report to the Attorney General, through the ACFO and Secretary, at such times and in such formats as the Attorney General may direct, on HHS' performance in implementing FOIA requirements;
- Facilitate public understanding of the purposes of the statutory exemptions of FOIA by including concise descriptions of the exemptions in guidelines issued pursuant to 5 U.S.C. § 552 (g) and the agency's annual ACFO report, and by providing an overview, where appropriate, of certain general categories of agency records to which those exemptions apply;
- Ensure the designation of one or more FOIA Public Liaisons;



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- Offer training to agency staff regarding their responsibilities under FOIA;
- Serve as the primary agency liaison with the Office of Government Information Services and the Office of Information Policy;
- Review, not less frequently than annually, all aspects of the administration of FOIA by the agency to ensure compliance with the requirements of FOIA, including—
 - agency regulations;
 - disclosure of records required under 5 U.S.C. § 552(a) paragraphs (2) and (8);
 - assessment of fees and determination of eligibility for fee waivers;
 - the timely processing of requests for information under FOIA;
 - the use of exemptions under 5 U.S.C. § 552(b); and
 - dispute resolution services with the assistance of the Office of Government Information Services or the FOIA Public Liaison.

This delegation will be exercised in accordance with the Department's applicable policies, procedures, guidelines, and regulations.

LIMITATIONS

This delegation may be redelegated.

IMPACT ON EXISTING DELEGATIONS OF AUTHORITY

This delegation of authority supersedes and replaces all prior delegations of authority within ASPA, to the extent Agency Chief FOIA Officer duties were previously delegated within ASPA. This delegation of authority does not impact any delegations within any other U.S. Department of Health and Human Services Operating Division or Staff Division.

EFFECTIVE DATE

This delegation of authority is effective immediately upon signature. I hereby affirm and ratify any actions taken by you or your subordinates that involved the exercise of the authorities delegated herein prior to the effective date of the delegation.

Jeff Nesbit
Assistant Secretary for Public Affairs
Office of the Assistant Secretary for Public Affairs
U.S. Department of Health and Human Services

9/3/2024

Date



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

September 3, 2024

MEMORANDUM FOR: Departmental FOIA Personnel

FROM:

William H. Holzerland
Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)

William H.
Holzerland -S

Digitally signed by William H.
Holzerland -S
Date: 2024.09.03 08:47:44 -04'00'

SUBJECT:

Departmental Freedom of Information Act (FOIA) Reporting
Requirements for Significant Requests

I. Purpose

This policy outlines the Department of Health and Human Services (HHS or the Department) procedures for weekly reporting on significant Freedom of Information Act (FOIA) requests and on volume of FOIA activity generally.

This revised reporting process ensures the OS FOIA Office can facilitate compliance with the FOIA, better promote transparency, and ensure coordination and consistency across all HHS FOIA offices.

This memorandum does not alter HHS FOIA Officer responsibilities as outlined in the Department's implementing regulations found at 45 C.F.R. Part 5. The public's right to request records from the federal government is paramount, and we are committed to following the law and regulations to ensure maximum disclosure, consistent with the Act.

II. Scope

This policy applies throughout HHS and its Operating Divisions (OpDivs) or Staff Divisions (StaffDivs), on behalf of, or in coordination with the Department.

III. References

- A. Title 5, United States Code (U.S.C.), § 552, "Public Information; Agency Rules, Opinions, Orders, Records, and Proceedings" [The Freedom of Information Act, as amended]
- B. 45 Code of Federal Regulations (C.F.R.) Subtitle A, Subchapter A, Part 5, Freedom of Information Act Regulations, October 28, 2016.
- C. HHS Delegation of Authority, "Delegation to the Assistant Secretary for Public Affairs," September 3, 2024.



HHS Delegation of Authority, “Delegation to the Deputy Agency Chief FOIA Officer,”
September 3, 2024.

IV. Definitions

- A. Chief FOIA Officer: HHS Assistant Secretary for Public Affairs (ASPA) serves concurrently as the Chief FOIA Officer, as delegated by the HHS Secretary.
- B. Deputy Agency Chief FOIA Officer (DACFO): Individual reporting to the Chief FOIA Officer who serves as the HHS principal point of contact and agency representative on FOIA-related matters.
- C. The ASPA FOIA Division provides FOIA services to and on behalf of the Office of the Secretary (OS), and hereinafter, is referred to as the OS FOIA Program.
- D. FOIA Officer: Designated HHS official appointed by OpDiv Staff Div Head to receive FOIA requests and delegated authority by the DACFO and Departmental regulations to provide assistance in administrative matters pertaining to FOIA request processing and issue determinations on FOIA requests.
- 1. The FOIA Officer compiles themselves or designates a responsible official to collect, review, consolidate, and submit required reports to the DACFO, ensures that all reporting requirements are followed accurately, and that required reports are submitted in a timely manner.
- F. Incoming FOIA requests and any associated releases and/or appeals are defined as “significant” when at least one of the following criteria is met.

The FOIA:

- 1. Request relates to a significant HHS priority;
- 2. Requester or requested records are likely to garner media
- 3. attention or are receiving media attention;
- 4. Request is for records associated with meetings with
- 5. prominent elected, business, and/or community leaders;
- 6. Request is for congressional correspondence;
- 7. Request is from a member of Congress;
- 8. Request is from a member of the media;
- 9. Request is from a member of an advocacy group, watchdog organization, etc.; or
- 10. Request is for records associated with a senior official of the OpDiv or StaffDiv.



V. Content and Procedures

A. Chief FOIA Officer's Weekly FOIA Report:

1. OpDiv or StaffDiv FOIA Officers report significant FOIA requests retrospectively, covering incoming FOIA requests, appeals, and litigation for the preceding workweek to the DACFO by close of business on the first business day of the succeeding workweek. This requirement includes reporting that there were no significant FOIA requests during the prior week, if applicable.
2. OpDiv or StaffDiv FOIA Officers report significant FOIA requests prospectively, covering planned FOIA request, appeal, or litigation releases scheduled to occur during the workweek in which the report is submitted to the DACFO by close of business on the first business day of each workweek. Nothing in this requirement prohibits a FOIA Officer from reporting known, planned releases scheduled to occur in future workweeks beyond that in which the report is submitted, where possible.
3. Reports pertaining to significant FOIA activity are submitted via email to HHS_Significant_FOIA_Requests@hhs.gov by FOIA Officers or their staff by the deadlines noted above.
4. OpDiv or StaffDiv FOIA Officer reports shall adhere to the submission requirements outlined in Appendix A.
5. The DACFO or designee compiles and distributes information pertaining to significant FOIA activity in the Chief FOIA Officer's Weekly FOIA Report.
6. The OS FOIA Program transmits the Chief FOIA Officer's Weekly FOIA Report to the HHS FOIA Officers, ASPA media affairs personnel, the Assistant Secretary for Legislation, Office of General Counsel, and the Office of the Secretary to ensure visibility on significant incoming FOIA requests and releases, proper communication, and coordination.

B. Significant FOIA Release 1-Day Notification Process:

1. HHS has a FOIA release notification process for FOIA responses related to requests qualifying as "significant" for purposes of the Chief FOIA Officer's Weekly Report.
2. Products submitted to the Department pursuant to this policy shall adhere to FOIA and all Departmental policies pertaining to implementation of the Act and shall be reviewed by the OS FOIA Program for compliance with same.
3. The FOIA release notification process applies to all requests qualifying as significant under the criteria in Section IV. F., whether the incoming request arrived during the current workweek or any prior workweek, including prospective significant releases pertaining to otherwise-qualifying requests when submission predicated this policy.
4. For significant FOIA releases, the FOIA Officers shall notify the OS FOIA Program of records being released as far in advance as practicable and through the weekly



reporting process.

5. For significant FOIA releases other than planned FOIA releases reported in advance via the weekly reporting process, the FOIA Officer shall at minimum, notify the OS FOIA Program via HHS_Significant_FOIA_Requests@hhs.gov, one (1) business day before the response is issued and records are released.
6. FOIA Officers shall adhere to the 1-Day Notification Process and ensure that OpDiv/StaffDiv FOIA staff submit all significant FOIA releases, appeals, FOIA litigation, and additions to the FOIA Library, prior to issuance of such records, to HHS_Significant_FOIA_Requests@hhs.gov.
7. Significant FOIA release notifications are used only for qualifying requests where records are being released or denied as a matter of first impression. “No records” or other procedural determinations, re-releases of records previously disclosed via authorized means, or requests closed for other reasons, are not reported through this process.
8. As a request may not qualify as significant under Section IV. E. upon submission, but may become significant during processing (e.g. because of new media attention, or developments in current events), nothing in this policy prohibits FOIA officers from coordinating with the OS FOIA Program, OpDiv or StaffDiv public affairs, legislative affairs, and legal personnel proactively when warranted, regardless of the content or context of the planned response. Please exercise prudent judgment and submit items that reflect the spirit and intent of this reporting requirement. If in doubt, please err on the side of inclusion.
9. The significant FOIA release 1-Day notification process is to notify HHS leadership of an impending FOIA release, regardless of the context in which the release will be issued.
10. FOIA professionals are responsible for making determinations on whether records are to be released or withheld under FOIA’s exemptions and should consult with the Office of the General Counsel and subject matter experts, as appropriate, during their decision-making process prior to an impending release and making a final determination on disclosure of agency records.
11. With respect to matters in litigation, FOIA professionals should coordinate with appropriate HHS personnel and the assigned U.S. Department of Justice Attorney to ensure consistency within the Department with respect to the disclosure of agency records.

VII. Questions

If you have any questions about the applicability of this memorandum or need assistance, please contact your Operating Division FOIA Officer via the contact information found at <https://www.hhs.gov/foia/contacts/index.html> and/or contact me via William.Holzerland@hhs.gov.



Appendix A: Significant Request 1-Day Notification Process and Chief FOIA Officer's Weekly FOIA Report

I. Criteria

- A. Pertains to Significant FOIA releases, appeal releases, FOIA litigation releases, and significant additions to the FOIA library, when the request qualifies as significant under Section IV. E.
- B. Items listed above in Section I.A. are not exclusive--exercise prudent judgment and submit items that reflect the spirit and intent of this reporting requirement. If in doubt, please err on the side of inclusion.
- C. Submissions that do not meet the above criteria will not be included in the final Chief FOIA Officer's Weekly FOIA Report.
- D. Do not report Privacy Act requests, even to the extent IV. E. criteria might otherwise be met.

II. Process

- A. Submit items by e-mail to HHS_Significant_FOIA_Requests@hhs.gov within the text of the e-mail, with a copy of the entire incoming request attached to the email.
- B. Identify the requester's name, city, and state (spell out name of state).
- C. Identify the requester by affiliation (individual, organization, company, membership, etc.).
- D. Identify your OpDiv or StaffDiv as the receiving FOIA Office.
- E. For referrals of misdirected requests within HHS, the initial OpDiv or Staff Div receiving the request will report the item.
- F. For referrals of otherwise-qualifying yet misdirected requests submitted to HHS pertaining to other agencies and immediately referred to those agencies, the OpDiv or Staff Div receiving the request shall not report the item.
- G. The first time an acronym is used it should follow its full title and be in parentheses.
- H. Provide a summary of the requested records not to exceed two sentences.
- I. Italicize large publications and news organizations. Use quotes for smaller units within publications. Do not abbreviate media names.
- J. Any reference to an elected official need to include party and state affiliation, if applicable: Senator John Smith (R-NY), Representative Jane Smith (D-IN).
- K. If the FOIA request has been assigned to subordinate FOIA Offices within your OpDiv or StaffDiv, identify the Subcomponent(s) to which it has been assigned.



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Washington, D.C. 20201

- L. If submitting FOIA items related to prospective FOIA releases, please indicate the scope of the submission (volume of released pages or size of file), consisting of what categories of records (e-mails, data, incident reports, etc.), identifying subject matter experts consulted in the review process within your OpDiv or StaffDiv, as well as any exemptions used.
- M. Anticipated or estimated release date.
- N. Additions to the FOIA Library – For Significant Release 1-Day Notification Process and Chief FOIA Officer’s Weekly FOIA Report:
 - 1. When submitting items for efficiency and transparency, please ensure the items posted to the OpDiv or StaffDiv library include the name of the item, URL or weblink to the page where the records will be posted and quantify the volume of pages or electronically stored information.
 - a. Format:
 - i. On [MONTH, DAY, YEAR] [FULL OPDIV OR STAFFDIV NAME (ABBR.)] [description of action taken, to include posting records to the electronic library, include page count and URL].

O. FOIA Requests and/or Appeals – For Chief FOIA Officer’s Weekly FOIA Report

1. Media Requesters – Representatives of the News Media

a. Format:

On [MONTH, DAY, YEAR], [REQUESTER NAME], a reporter/representative/editor/etc. with the [News Organization] in [CITY, FULL STATE NAME], requested from the [OPDIV OR STAFFDIV NAME (ABBR.)] [description of the records sought]. (Case Number)

2. Individuals – All Requesters Not Affiliated with a News or Other Organization

a. Format:

On [MONTH, DAY, YEAR], [REQUESTER NAME], an individual in [CITY, FULL STATE NAME], requested from the [OPDIV OR STAFFDIV NAME (ABBR.)] [description of the records sought]. (Case Number COMPONENT ABBR Number)



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Washington, D.C. 20201

3. Organizations – Requesters Using Company Letterhead and/or stating Their Association with an Organization
 - a. Format:

On [MONTH, DAY, YEAR], [REQUESTER NAME], a [ENTER JOB TITLE, IF UNKNOWN USE ‘representative’] with [Organization name] in [CITY, FULL STATE NAME], requested from the [OPDIV OR STAFFDIV NAME (ABBR.)] [description of the records sought]. (Case Number)
- P. FOIA Releases – For Significant FOIA Request 1-Day Notification Process and Chief FOIA Officer’s Weekly FOIA Report
 1. Format:
 - a. On [MONTH, DAY, YEAR], the [OPDIV OR STAFFDIV NAME (ABBR.)] will release to [REQUESTER NAME], [REQUESTER AFFILIATION, USING APPROPRIATE STYLE], in [CITY, FULL STATE NAME], [PAGE COUNT] of records consisting of [description of type of records] pertaining to [description of the records sought]. Portions of the release were withheld pursuant to FOIA Exemption(s) [LIST EXEMPTIONS USED]. (Case Number OPDIV/STAFFDIV Request Number)
 - b. On [MONTH, DAY, YEAR], the [OPDIV OR STAFFDIV NAME (ABBR.)] will release to [REQUESTER NAME], [REQUESTER AFFILIATION, USING APPROPRIATE STYLE], in [CITY, FULL STATE NAME], [PAGE COUNT] of records consisting of [description of type of records] pertaining to [description of the records sought]. These records were released in full. (Case Number OPDIV/STAFFDIV Request Number)
 - c. On [MONTH, DAY, YEAR], the [OPDIV OR STAFFDIV NAME (ABBR.)] will issue to [REQUESTER NAME], [REQUESTER AFFILIATION, USING APPROPRIATE STYLE] in [CITY, FULL STATE NAME], a full denial in response to his/her request pertaining to [description of the records sought]. These records were withheld pursuant to FOIA Exemption(s). [LIST EXEMPTIONS USED]. (Case Number OPDIV/STAFFDIV Request Number)
- Q. FOIA Appeals – For Chief FOIA Officer’s Weekly FOIA Report



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Washington, D.C. 20201

1. Format:

On [MONTH, DAY, YEAR], [REQUESTER NAME], [REQUESTER AFFILIATION, USING APPROPRIATE STYLE], in [CITY, FULL STATE NAME] appealed the [OPDIV/STAFFDIV NAME (ABBR.)] response to his or her request for [description of the records sought]. The requester is contesting [provide reason or if redactions, provide page count, and exemptions cited]. (Case Number OPDIV/STAFFDIV Request Number)

R. FOIA Appeals Releases – For Significant FOIA Request 1-Day Notification process and Chief FOIA Officer’s Weekly FOIA Report

1. Format:

On [MONTH, DAY, YEAR], the [OPDIV/STAFFDIV NAME (ABBR.)] will release to [REQUESTER NAME], [REQUESTER AFFILIATION, USING APPROPRIATE STYLE] in [CITY, FULL STATE NAME], [PAGE COUNT] of records consisting of [description of type of records] pertaining to [description of the records sought]. Portions of the release were withheld pursuant to FOIA Exemption(s) [LIST EXEMPTIONS USED]. (Case Number OPDIV/STAFFDIV Request Number)

S. FOIA Litigation releases - For Significant FOIA Request 1-Day Notification process and Chief FOIA Officer’s Weekly FOIA Report

1. Format:

In the matter of [FULL CASE NAME AND CITATION], [BRIEF DESCRIPTION OF COMPLAINT], [OPDIV/STAFFDIV PLANNED ACTION].

T. FOIA Activity Volume - For Chief FOIA Officer’s Weekly FOIA Report

1. Format:

- a. Requests Received:
- b. Requests Closed:
- c. Appeals Received (if applicable):
- d. Appeals Closed (if applicable):
- e. Consults Received:
- f. Consults Closed:
- g. Litigation Releases:



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

September 3, 2024

TO: Centers for Disease Control and Prevention (CDC) FOIA Personnel

THROUGH: Director, CDC

FROM: Deputy Agency Chief FOIA Officer (DACFO)

SUBJECT: Delegation of Authority – 5 U.S.C. § 552 (Freedom of Information Act [FOIA]) Authority for CDC and/or Agency for Toxic Substances and Disease Registry (ATSDR)

AUTHORITY TO DELEGATE

This delegation is authorized by the delegation of authority memorandum dated September 3, 2024 in Tab B.

AUTHORITY DELEGATED

Consistent with 45 C.F.R. § 5.3, and subject to my oversight and guidance, I hereby delegate to the OpDiv and StaffDiv FOIA Officers the authorities vested in me to implement and administer the Freedom of Information Act within their respective OpDiv or StaffDiv, including the following authorities and responsibilities:

- Execute the duties of a FOIA Officer as defined in 45 C.F.R. § 5.3;
- Develop and implement CDC initiatives to ensure efficient and appropriate compliance with FOIA and report to the Department on same;
- Recommend to the DACFO and the Director such adjustments to agency practices and policies, as may be necessary to improve CDC implementation of FOIA;
- Review and report to the Attorney General, through the DACFO and the Department, at such times and in such formats as the Attorney General may direct, on CDC performance in implementing FOIA requirements;
- Each OpDiv may have one or more FOIA Public Liaisons. Upon request, report to DACFO or designee on the activities of its FOIA Public Liaisons;
- Conduct annual training for CDC FOIA staff and submit FOIA training products to ASPA for advance approval by DACFO or designee, regarding their responsibilities under this section. HHS approval is not needed for routine trainings the agency may conduct on OpDiv standard operating procedures, or technology and automated systems the agency uses to carry out its responsibilities;
- Complete ASPA-approved FOIA training on an annual basis and ensure CDC FOIA personnel completion of same;



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

- Upon request, submit reports to the DACFO on programmatic FOIA activities, including but not limited to compiling such statistical or other related information on its implementation of FOIA;
- Communicate and consult with the DACFO or designee on novel or predefined significant disclosure policy matters prior to issuing determinations on same; DACFO will ensure sufficient Department staff and resources to ensure such consultation will not delay or alter CDC's customary procedures related to FOIA productions.
- In responding to FOIA requests that implicate high profile public health matters that have been identified as such by DAFCO, upon request an OpDiv shall provide a courtesy copy of the response prior to release to appropriate HHS staff (e.g., the DAFCO, the FOIA lead in another OpDiv).
- Submit reports on FOIA activities at such intervals that conform to such requirements as the DACFO may direct, and other matters as designated by the DACFO, such as reports on FOIA activities that may impact oversight or other legislative engagements; and
- Each OpDiv shall consult with the DACFO and the Department's Office of the Chief Information Officer on new information technology investments related to the administration of FOIA in advance of such investments occurring. Such consultation is not intended to delay CDC's investment in technology needed for processing cases and is not necessary for routine updates/upgrades to existing system. The DACFO and the Department's Office of the Chief Information Officer will provide input on ways the information technology investment may impact FOIA request processing or tracking, could impact information sharing or connectivity among HHS FOIA offices, or could be best coordinated with other information technology investments being made within the Department.

This delegation will be exercised in accordance with the Department's applicable policies, procedures, guidelines, and regulations.

LIMITATIONS

This delegation may be redelegated. In the event questions surrounding applicability or interpretation of Department policy in processing FOIA requests arise, the DAFCO shall arbitrate the issue to ensure consistency across the Department.

IMPACT ON EXISTING DELEGATIONS OF AUTHORITY

This delegation of authority does not impact any delegations within ASPA or within any other U.S. Department of Health and Human Services Operating Division or Staff Division, including any delegations for FOIA administrative appeals.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

EFFECTIVE DATE

This delegation of authority is effective immediately upon signature. I hereby affirm and ratify any actions taken by you or your subordinates that involved the exercise of the authorities delegated herein prior to the effective date of the delegation.

William H. Holzerland

9/3/2024

Date

William H. Holzerland
Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs
U.S. Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

August 1, 2025

TO: Centers for Disease Control and Prevention (CDC)

THROUGH: Noah Aleshire, Chief Regulatory Officer, Office of the Director

FROM: Deputy Agency Chief FOIA Officer (DACFO)

SUBJECT: Recission of Delegation of Authority – 5 U.S.C. § 552 (Freedom of Information Act [FOIA]) Authority for CDC and/or Agency for Toxic Substances and Disease Registry (ATSDR)

PURPOSE

This memorandum formally rescinds the delegation of authority dated September 3, 2024, pertaining to the implementation and administration of the Freedom of Information Act (FOIA) by the CDC and/or ATSDR.

AUTHORITY RESCINDED

Consistent with applicable authorities, including but not limited to 45 C.F.R. §§ 5.3 and 5.28, effective immediately upon signature of this memorandum, the September 3, 2024 delegation of FOIA authority issued to CDC/ATSDR personnel is hereby rescinded in full.

SUPERSESSION AND REASSIGNMENT OF AUTHORITY

All FOIA authorities previously delegated to CDC/ATSDR are reassigned to and will be executed by the Office of the Assistant Secretary for Public Affairs (ASPA), which administers the Office of the Secretary (OS) FOIA Program.

This includes, but is not limited to:

- Executing duties outlined under 45 C.F.R. § 5.3;
- Overseeing FOIA operations formerly managed by CDC/ATSDR personnel;
- Managing responsibility for reporting, training, consultation, programmatic investment, and procurement authorities as previously delegated;
- Issuing determinations on novel or significant disclosure policy matters;
- Addressing FOIA litigation and significant legal issues, in consultation with the Office of General Counsel;
- Approving FOIA litigation settlements, in consultation with CDC/ATSDR; and
- Issuing determinations, in consultation with the Office of the Chief Information Officer, on prospective information technology investments impacting disclosure matters prior to such investments occurring.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

Authorities pertaining to FOIA operations, policy, and programmatic investments, to the extent not otherwise listed herein, are vested in the OS FOIA Program, and will be executed by the DACFO or designee, subject to my guidance and oversight.

LIMITATIONS

This delegation will be exercised in accordance with applicable Departmental policies, procedures, guidelines, and regulations.

Nothing in this memorandum alters or otherwise limits CDC/ATSDR responsibilities that facilitate the OS FOIA Program's processing of FOIA requests, appeals, or litigation. Those responsibilities include but are not limited to: executing searches for responsive records, facilitating access to agency personnel and records, and providing subject matter expertise on prospective releases in collaboration with OS FOIA Program personnel.

Similarly, nothing in this memorandum restricts or otherwise erodes the OS FOIA Program's responsibility to coordinate with CDC/ATSDR on significant disclosure activities, including those involving high-profile public health matters, Departmental or CDC/ATSDR priorities, or activities with significant budgetary impacts.

In the event questions arise regarding the applicability or interpretation of Departmental policy in the FOIA process, the DACFO shall arbitrate the issue to ensure consistency across the Departmental FOIA enterprise.

IMPACT ON EXISTING DELEGATIONS OF AUTHORITY

This delegation and reassignment of authority does not impact delegations within ASPA or within any other U.S. Department of Health and Human Services Operating Division or Staff Division, except to the extent specified herein.

EFFECTIVE DATE

This delegation and reassignment of authority is effective immediately upon signature. I hereby affirm and ratify any actions taken by CDC/ATSDR staff that involved the exercise of authorities reassigned herein prior to the effective date of this delegation.

William H. Holzerland

William H. Holzerland
Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs
U.S. Department of Health and Human Services

From: Holzerland, William (HHS/ASPA)
Sent: Fri, 1 Aug 2025 20:22:06 +0000
To: Aleshire, Noah (CDC/OD/OPPE)
Cc: Hoffmann, Lauren (CDC/OD/OCS)
Subject: RE: Revocation/reassignment of CDC/ATSDR FOIA authorities to OS-FOIA

Thanks, Noah, and enjoy the weekend as well!

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Aleshire, Noah (CDC/OD/OPPE) <uwo2@cdc.gov>
Sent: Friday, August 1, 2025 4:21 PM
To: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>
Cc: Hoffmann, Lauren (CDC/OD/OCS) <cpf5@cdc.gov>
Subject: RE: Revocation/reassignment of CDC/ATSDR FOIA authorities to OS-FOIA

+ Lauren

Received, thank you Bill. I've shared with key folks here and will let you know if there are any questions.

Thanks for HHS's partnership on this, and look forward to continue working with you.

Have a good weekend,

Noah

From: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>
Sent: Friday, August 1, 2025 1:59 PM
To: Aleshire, Noah (CDC/OD/OPPE) <uwo2@cdc.gov>
Subject: Revocation/reassignment of CDC/ATSDR FOIA authorities to OS-FOIA

Good afternoon, Noah:

You may or may not be familiar with the history on this topic, and I apologize if I am repeating info you already have.

Last fall, to deconflict voluminous outdated and inconsistent artifacts outlining relationships between the Department and its FOIA offices - and to clarify

responsibilities - on September 3, 2024, the Secretary delegated certain authority to the ASPA as Chief FOIA Officer. Authorities were redelegated to my position, and I, in turn, issued delegations to OpDiv FOIA officers the same day.

However, consistent with orders from the Secretary to streamline the FOIA program, and the Department's ongoing reorganization, the attached document supersedes and rescinds the September 3, 2024 FOIA delegation to CDC/ATSDR. It denotes the reassignment of those authorities to OS-FOIA. In other words, it formalizes the way we have been operating since the reorganization commenced in April.

This document and the revised delegation to the OS-FOIA program emphasize that as requests for CDC/ATSDR records are part of the OS-FOIA portfolio, our team must provide excellent customer service to our CDC colleagues as well as the people we serve. I intend for them to be read as memorializing our shared expectation that OS-FOIA executes these duties in a spirit of partnership and transparency, leveraging the assistance the CDC team has generously offered to help us navigate our way through the organization.

Thank you again and we look forward to continuing to strengthen our partnership in the days and weeks to come as we provide these services to the division. Please let me know if there are any questions.

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Holzerland, William (HHS/ASPA)
Sent: Tuesday, September 3, 2024 5:05 PM
To: Andoh, Roger (CDC/OCOO/OD) <mhu9@HHSGOV.onmicrosoft.com>
Subject: FW: Strengthening the HHS FOIA Enterprise

Roger:

Tab C for CDC/ATSDR is attached herein. Thanks again.

Regards,
Bill

William H. Holzerland

Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Holzerland, William (HHS/ASPA)
Sent: Tuesday, September 3, 2024 5:02 PM
To: Smith, Celeste (ACF) <Celeste.Smith@acf.hhs.gov>; Andoh, Roger (CDC/OCOO/OD) <mhu9@HHSGOV.onmicrosoft.com>; Kotler, Sarah (FDA/OC) <Sarah.Kotler@fda.hhs.gov>; May, Brian (HRSA) <BMay@hrsa.gov>; Mitchell, Carl (IHS/HQ) <Carl.Mitchell@ihs.gov>; Garcia-Malene, Gorka (NIH/OD) [E] <gorka.garcia-malene@nih.gov>; Monroe-Cook, Farrah (SAMHSA/NMHSUPL/EXEC SEC) <Farrah.Monroe-cook@samhsa.hhs.gov>; Daley, Garfield (ACL) <Garfield.Daley@acl.hhs.gov>; Tripline, Joseph (CMS/OSORA) <joseph.tripline@cms.hhs.gov>; Perkins, Arianne (OS/ASPA) <Arianne.Perkins@hhs.gov>; Williams, Alesia (OS/ASPA) <Alesia.Williams@hhs.gov>
Cc: Sly, Elizabeth (FDA/CBER) <Elizabeth.Sly@fda.hhs.gov>; Udapi, Guruprasad (FDA/CDER) <Guruprasad.Udapi@fda.hhs.gov>; Davis, Candace (FDA/CDRH) <Candace.Davis@fda.hhs.gov>; Rennie, Chalmer (FDA/CFSAN) <Chalmer.Rennie@fda.hhs.gov>; Barnes, Marqui (FDA/CTP) <Marqui.Barnes@fda.hhs.gov>; Bigby, Dynna (FDA/OC) <Dynna.Bigby@fda.hhs.gov>; Pickworth, Melissa (FDA/ORA) <Melissa.Pickworth@fda.hhs.gov>; Schlaifer, Meredith (FDA/OC) <Meredith.Schlaifer@fda.hhs.gov>; Holohan, MK (NIH/NCI) [E] <mholoha@mail.nih.gov>; Williams, Yireiza (NIH/NEI) [E] <ywilliams@mail.nih.gov>; Manheim, Marianne (NIH/NHLBI) [E] <marianne.manheim@nih.gov>; Williams, Paul (NIH/NICHD) [E] <Paul.Williams@nih.gov>; Jordan, Craig (NIH/NIDCD) [E] <jordanc@ms.nidcd.nih.gov>; Stabile, Regina (NIH/NIEHS) [E] <regina.stabile@nih.gov>; Chai, Mindy (NIH/NIMH) [E] <mindy.chai@nih.gov>; Standing-Ojo, Denean (NIH/OD) [E] <denean.standing-ojo@nih.gov>; Bordine, Roger (NIH/OD) [E] <roger.bordine@nih.gov>; Souther, James (IHS/HQ) <James.Souther@ihs.gov>; Lancey, Brandon (OS/ASPA) <Brandon.Lancey@hhs.gov>; Stephens, Lakita (ACF) <Lakita.Stephens@acf.hhs.gov>; Chancellor, Alexis (HRSA) <AChancellor@hrsa.gov>; Viana, Bruno A. (CDC/OCOO/OD) <cqy8@HHSGOV.onmicrosoft.com>; Klocinski, Jennifer (ACL) <Jennifer.Klocinski@acl.hhs.gov>; Edmondson-Parrott, Michele (CMS/OSORA) <michele.edmondsonparrott@cms.hhs.gov>; Oh, Kathy (CMS/OSORA) <kathy.oh3@cms.hhs.gov>; Gaynor, Desiree (CMS/OSORA) <Desiree.Gaynor@cms.hhs.gov>; Smith, Kathleen (CMS/OSORA) <kathleen.smith@cms.hhs.gov>; Nicholson, Emmett (CMS/OSORA) <emmett.nicholson@cms.hhs.gov>; Cavanaugh, Alicia (CMS/OSORA) <alicia.cavanaugh@cms.hhs.gov>
Subject: Strengthening the HHS FOIA Enterprise

Dear FOIA Colleagues:

As part of HHS's commitment to effective administration of the Freedom of Information Act (FOIA or the Act), with increased collaboration and coordination between the Office of the Secretary (OS)/ASPA FOIA Program and the talented professionals performing our FOIA work daily, I am pleased to announce several measures designed to improve the quality and consistency of FOIA products across the Department.

It's simply good government to maximize efforts to ensure FOIA offices across HHS administer the Act as evenly, effectively, and efficiently as possible while maintaining the highest standard of customer service. We know at times this feels easier said than done but we look forward to partnering with you on this important work.

The Secretary has issued a new Delegation of Authority to operate the HHS FOIA program, including its OpDiv and StaffDiv FOIA programs, in an effort to add structure to enterprise-wise program governance and needed clarity on Departmental disclosure policies. Enclosed is Tab A, the Delegation, along with Tab B, re-delegating authority from the Assistant Secretary for Public Affairs/Agency Chief FOIA Officer to the Deputy Agency Chief FOIA Officer. To this end, in the weeks and months ahead, I will be working with you to enhance the Department's FOIA program by:

- Increasing collaboration and coordination across HHS FOIA and the agency FOIA offices;
- Better leveraging available tools and resources – including technology – to strengthen and streamline processes;
- Educating stakeholders inside and outside of the Department and its agencies on our responsibilities under the Act; and
- Ensuring visibility and transparency into the FOIA process itself.

While the Department has previously issued guidance on discrete matters that impact our day-to-day business, following requests for clarity, enclosed are Department-wide policies governing topics of vital importance. Attached you will find guidance on:

- Reporting significant FOIA activities;
- FOIA Exemption (b)(5); and
- FOIA Exemption (b)(6).

Additionally, if you haven't had a chance to review it yet, this office previously issued guidance on the application of the foreseeable harm standard, which is posted [here](#) for ease of reference.

An invitation will follow for a virtual event slated for 10:00a.m. E.S.T. this Thursday, September 5, 2024, to discuss implementation details and answer your questions directly. I'll send Tab C – OpDiv-specific Delegation artifacts – to each of the FOIA officers immediately following this message under separate cover.

I look forward to partnering with the dedicated FOIA professionals across the Department and engaging with your OpDiv FOIA Officers to enhance service delivery and identify additional ways to support your work and ensure transparency for the people we serve. Thank you, again, for all that you do.

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer

Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Holzerland, William (HHS/ASPA)
Sent: Fri, 1 Aug 2025 21:21:24 +0000
To: Nicholls, Richard (ACL)
Subject: RE: Revocation/reassignment of ACL FOIA authorities to OS-FOIA

I really appreciate this, Rick.

As an interim step, we could replicate the way we've handled it at ACF, where they posted the following on their FOIA page, which is already echoed [here](#):

ACF FOIA Contact Information

Department of Health and Human Services (HHS) ▾ Office of the Secretary (OS)
Freedom of Information Act Office
Hubert H. Humphrey Building, Room 729H
200 Independence Avenue, SW
Washington, D.C. 20201

Submit FOIA requests to: <https://requests.publiclink.hhs.gov/App/Index.aspx> ▾
Send general questions and referrals/consultations to: FOIARequest@hhs.gov

Phone: 202-690-7453
Fax: 202-690-8320
FOIA Officer: Arianne Perkins
FOIA Public Liaison: Paula Formoso; email: HHS_FOIA_Public_Liaison@hhs.gov

We've alerted DOJ and NARA-OGIS to immediate changes, but that is a great question about functionality relative to the national FOIA portal. I'll find out whether the requested change has been put into effect.

What we've learned to date is that gaining access to ACF email/tracking system has been relatively seamless, since we're on the same network. For CDC, it has been more complex, but we hope the ACF comparison is more apt here. As I understand it, it simply involved asking OCIO to ensure access, reassigning ownership of email boxes and migrating data so we can deliver service as promptly as possible.

We aim for this to go smoothly, but I am sure there will be learning opportunities along the way. I'll be right back to you on what we hear from DOJ.

Have a great weekend.

Regards,
Bill

William H. Holzerland

Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Nicholls, Richard (ACL) <Richard.Nicholls@acl.hhs.gov>
Sent: Friday, August 1, 2025 5:02 PM
To: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>
Subject: RE: Revocation/reassignment of ACL FOIA authorities to OS-FOIA

Hi Bill, thanks for reaching out. Garfield, Jen and I had wondered when an effective date might occur. With Garfield's and Jen's roles no longer available since mid-July I'll be your only contact on transition. Thanks to Jen and Garfield, I'm ready to take the needed steps.

Is there specific language you prefer we post on ACL.gov to ensure individuals know to send requests via email to the HHS email box or the DOJ FOIA Portal website?

I see the DOJ FOIA Portal website and the HHS website have been updated. Has the backend been updated though so that if request is submitted for ACL it goes to you and your team at HHS and note to the FOIA@acl.hhs.gov mailbox?

Aside from those immediate steps, I'm happy to work with you as needed over time to ensure you and your team have everything needed to fully integrate ACL's FOIA portfolio.

Thanks again,
Rick

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Rick Nicholls
Deputy Administrator and Chief of Staff
Phone: (b)(6)
ACL.gov | [Facebook](#) | [X](#) | [LinkedIn](#)
[Subscribe to ACL Updates](#)

ACL is an operating division of the U.S. Department of Health and Human Services.
Please note: All emails sent to or from this address will be permanently archived.

From: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>
Sent: Friday, August 1, 2025 4:10 PM
To: Nicholls, Richard (ACL) <Richard.Nicholls@acl.hhs.gov>
Subject: Revocation/reassignment of ACL FOIA authorities to OS-FOIA

<< File: HHS FOIA_Tab C DACFO to ACL.20250801.pdf >>

Good afternoon, Rick:

You may or may not be familiar with the history on this topic, and I apologize if I am repeating info Jennifer and Garfield may have shared prior to their departures.

Last fall, to deconflict voluminous outdated and inconsistent artifacts outlining relationships between the Department and its FOIA offices - and to clarify responsibilities - on September 3, 2024, the Secretary delegated certain authority to the ASPA as Chief FOIA Officer. Authorities were redelegated to my position, and I, in turn, issued delegations to OpDiv FOIA officers the same day.

However, consistent with orders from the Secretary to streamline the FOIA program, and the Department's ongoing reorganization, the attached document supersedes and rescinds the September 3, 2024 FOIA delegation to ACL. It denotes the reassignment of those authorities to OS-FOIA. In other words, it formalizes the way we have been operating since the reorganization commenced in April in many respects.

This document and the revised delegation to the OS-FOIA program emphasize that as requests for ACL records are part of the OS-FOIA portfolio, our team must provide excellent customer service to our ACL colleagues as well as the people we serve. I intend for them to be read as memorializing our shared expectation that OS-FOIA executes these duties in a spirit of partnership and transparency, leveraging the assistance the ACL team may provide to help us navigate our way through the organization.

We look forward to engaging your team to synthesize the ACL workload into the OS-FOIA program. Thank you and we look forward to continuing to strengthen our partnership in the days and weeks to come as we provide these services to the division.

Please let me know if there are any questions.

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Holzerland, William (HHS/ASPA)
Sent: Tuesday, September 3, 2024 5:08 PM

To: Daley, Garfield (ACL) <Garfield.Daley@acl.hhs.gov>
Subject: FW: Strengthening the HHS FOIA Enterprise

<< File: HHS FOIA_Tab C DACFO to ACL.20240903.pdf >>

Garfield:

Tab C for ACL is attached herein. Thanks again.

Regards,

Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Holzerland, William (HHS/ASPA)
Sent: Tuesday, September 3, 2024 5:02 PM
To: Smith, Celeste (ACF) <Celeste.Smith@acf.hhs.gov>; Andoh, Roger (CDC/OCOO/OD) <mhu9@HHSGOV.onmicrosoft.com>; Kotler, Sarah (FDA/OC) <Sarah.Kotler@fda.hhs.gov>; May, Brian (HRSA) <BMay@hrsa.gov>; Mitchell, Carl (IHS/HQ) <Carl.Mitchell@ihs.gov>; Garcia-Malene, Gorka (NIH/OD) [E] <gorka.garcia-malene@nih.gov>; Monroe-Cook, Farrah (SAMHSA/NMHSUPL/EXEC SEC) <Farrah.Monroe-cook@samhsa.hhs.gov>; Daley, Garfield (ACL) <Garfield.Daley@acl.hhs.gov>; Tripline, Joseph (CMS/OSORA) <joseph.tripline@cms.hhs.gov>; Perkins, Arianne (OS/ASPA) <Arianne.Perkins@hhs.gov>; Williams, Alesia (OS/ASPA) <Alesia.Williams@hhs.gov>
Cc: Sly, Elizabeth (FDA/CBER) <Elizabeth.Sly@fda.hhs.gov>; Udapi, Guruprasad (FDA/CDER) <Guruprasad.Udapi@fda.hhs.gov>; Davis, Candace (FDA/CDRH) <Candace.Davis@fda.hhs.gov>; Rennie, Chalmer (FDA/CFSAN) <Chalmer.Rennie@fda.hhs.gov>; Barnes, Marqui (FDA/CTP) <Marqui.Barnes@fda.hhs.gov>; Bigby, Dynna (FDA/OC) <Dynna.Bigby@fda.hhs.gov>; Pickworth, Melissa (FDA/ORA) <Melissa.Pickworth@fda.hhs.gov>; Schlaifer, Meredith (FDA/OC) <Meredith.Schlaifer@fda.hhs.gov>; Holohan, MK (NIH/NCI) [E] <mholoha@mail.nih.gov>; Williams, Yireiza (NIH/NEI) [E] <ywilliams@mail.nih.gov>; Manheim, Marianne (NIH/NHLBI) [E] <marianne.manheim@nih.gov>; Williams, Paul (NIH/NICHD) [E] <Paul.Williams@nih.gov>; Jordan, Craig (NIH/NIDCD) [E] <jordanc@ms.nidcd.nih.gov>; Stabile, Regina (NIH/NIEHS) [E] <regina.stabile@nih.gov>; Chai, Mindy (NIH/NIMH) [E] <mindy.chai@nih.gov>; Standing-Ojo, Denean (NIH/OD) [E] <denean.standing-ojo@nih.gov>; Bordine, Roger (NIH/OD) [E] <roger.bordine@nih.gov>; Souther, James (IHS/HQ) <James.Souther@ihs.gov>; Lancey, Brandon (OS/ASPA) <Brandon.Lancey@hhs.gov>; Stephens, Lakita (ACF) <Lakita.Stephens@acf.hhs.gov>; Chancellor, Alexis (HRSA) <AChancellor@hrsa.gov>; Viana, Bruno A. (CDC/OCOO/OD) <cqy8@HHSGOV.onmicrosoft.com>; Klocinski, Jennifer (ACL) <Jennifer.Klocinski@acl.hhs.gov>; Edmondson-Parrott, Michele (CMS/OSORA)

<michele.edmondsonparrott@cms.hhs.gov>; Oh, Kathy (CMS/OSORA)<kathy.oh3@cms.hhs.gov>; Gaynor, Desiree (CMS/OSORA) <Desiree.Gaynor@cms.hhs.gov>; Smith, Kathleen (CMS/OSORA) <kathleen.smith@cms.hhs.gov>; Nicholson, Emmett (CMS/OSORA) <emmett.nicholson@cms.hhs.gov>; Cavanaugh, Alicia (CMS/OSORA) <alicia.cavanaugh@cms.hhs.gov>

Subject: Strengthening the HHS FOIA Enterprise

<< File: HHS Exemption 5 Memo.20240903.pdf >> << File: HHS Exemption 6 Memo.20240903.pdf >> << File: HHS FOIA Delegation of Authority to ASPA_Tab A.20240903.pdf >> << File: HHS FOIA DoA_Tab B ASPA to DACFO.20240903.pdf >> << File: HHS Significant FOIA Activity Reporting Memo.20240903.pdf >>

Dear FOIA Colleagues:

As part of HHS's commitment to effective administration of the Freedom of Information Act (FOIA or the Act), with increased collaboration and coordination between the Office of the Secretary (OS)/ASPA FOIA Program and the talented professionals performing our FOIA work daily, I am pleased to announce several measures designed to improve the quality and consistency of FOIA products across the Department.

It's simply good government to maximize efforts to ensure FOIA offices across HHS administer the Act as evenly, effectively, and efficiently as possible while maintaining the highest standard of customer service. We know at times this feels easier said than done but we look forward to partnering with you on this important work.

The Secretary has issued a new Delegation of Authority to operate the HHS FOIA program, including its OpDiv and StaffDiv FOIA programs, in an effort to add structure to enterprise-wise program governance and needed clarity on Departmental disclosure policies. Enclosed is Tab A, the Delegation, along with Tab B, re-delegating authority from the Assistant Secretary for Public Affairs/Agency Chief FOIA Officer to the Deputy Agency Chief FOIA Officer. To this end, in the weeks and months ahead, I will be working with you to enhance the Department's FOIA program by:

- '3b Increasing collaboration and coordination across HHS FOIA and the agency FOIA offices;
- '3b Better leveraging available tools and resources – including technology – to strengthen and streamline processes;
- '3b Educating stakeholders inside and outside of the Department and its agencies on our responsibilities under the Act; and
- Ensuring visibility and transparency into the FOIA process itself.

While the Department has previously issued guidance on discrete matters that impact our day-to-day business, following requests for clarity, enclosed are Department-wide policies governing topics of vital importance. Attached you will find guidance on:

- '3b Reporting significant FOIA activities;
- '3b FOIA Exemption (b)(5); and
- FOIA Exemption (b)(6).

Additionally, if you haven't had a chance to review it yet, this office previously issued guidance on the application of the foreseeable harm standard, which is posted [here](#) for ease of reference.

An invitation will follow for a virtual event slated for 10:00a.m. E.S.T. this Thursday, September 5, 2024, to discuss implementation details and answer your questions directly. I'll send Tab C – OpDiv-specific Delegation artifacts – to each of the FOIA officers immediately following this message under separate cover.

I look forward to partnering with the dedicated FOIA professionals across the Department and engaging with your OpDiv FOIA Officers to enhance service delivery and identify additional ways to support your work and ensure transparency for the people we serve. Thank you, again, for all that you do.

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Holzerland, William (HHS/ASPA)
Sent: Fri, 1 Aug 2025 21:24:03 +0000
To: Perkins, Arianne (OS/ASPA)
Subject: FW: Revocation/reassignment of ACL FOIA authorities to OS-FOIA

FYSA re: ACL. Would you kindly ask Nusheen to follow up on changes to FOIA.gov and the portal?

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Holzerland, William (HHS/ASPA)
Sent: Friday, August 1, 2025 5:21 PM
To: Nicholls, Richard (ACL) <Richard.Nicholls@acl.hhs.gov>
Subject: RE: Revocation/reassignment of ACL FOIA authorities to OS-FOIA

I really appreciate this, Rick.

As an interim step, we could replicate the way we've handled it at ACF, where they posted the following on their FOIA page, which is already echoed [here](#):

ACF FOIA Contact Information

Department of Health and Human Services (HHS) □ Office of the Secretary (OS)
Freedom of Information Act Office
Hubert H. Humphrey Building, Room 729H
200 Independence Avenue, SW
Washington, D.C. 20201

Submit FOIA requests to: <https://requests.publiclink.hhs.gov/App/Index.aspx>
Send general questions and referrals/consultations to: FOIARequest@hhs.gov

Phone: 202-690-7453
Fax: 202-690-8320
FOIA Officer: Arianne Perkins
FOIA Public Liaison: Paula Formoso; email: HHS_FOIA_Public_Liaison@hhs.gov

We've alerted DOJ and NARA-OGIS to immediate changes, but that is a great question about functionality relative to the national FOIA portal. I'll find out whether the requested change has been put into effect.

What we've learned to date is that gaining access to ACF email/tracking system has been relatively seamless, since we're on the same network. For CDC, it has been more complex, but we hope the ACF comparison is more apt here. As I understand it, it simply involved asking OCIO to ensure access, reassigning ownership of email boxes and migrating data so we can deliver service as promptly as possible.

We aim for this to go smoothly, but I am sure there will be learning opportunities along the way. I'll be right back to you on what we hear from DOJ.

Have a great weekend.

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Nicholls, Richard (ACL) <Richard.Nicholls@acl.hhs.gov>
Sent: Friday, August 1, 2025 5:02 PM
To: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>
Subject: RE: Revocation/reassignment of ACL FOIA authorities to OS-FOIA

Hi Bill, thanks for reaching out. Garfield, Jen and I had wondered when an effective date might occur. With Garfield's and Jen's roles no longer available since mid-July I'll be your only contact on transition. Thanks to Jen and Garfield, I'm ready to take the needed steps.

Is there specific language you prefer we post on ACL.gov to ensure individuals know to send requests via email to the HHS email box or the DOJ FOIA Portal website?

I see the DOJ FOIA Portal website and the HHS website have been updated. Has the backend been updated though so that if request is submitted for ACL it goes to you and your team at HHS and note to the FOIA@acl.hhs.gov mailbox?

Aside from those immediate steps, I'm happy to work with you as needed over time to ensure you and your team have everything needed to fully integrate ACL's FOIA portfolio.

Thanks again,
Rick

<< OLE Object: Picture
(Device Independent
Bitmap) >>

Rick Nicholls
Deputy Administrator and Chief of Staff
Phone: (b)(6)
ACL.gov | [Facebook](#) | [Twitter](#) | [LinkedIn](#)
[Subscribe to ACL Updates](#)

ACL is an operating division of the U.S. Department of Health and Human Services.
Please note: All emails sent to or from this address will be permanently archived.

From: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>
Sent: Friday, August 1, 2025 4:10 PM
To: Nicholls, Richard (ACL) <Richard.Nicholls@acl.hhs.gov>
Subject: Revocation/reassignment of ACL FOIA authorities to OS-FOIA

<< File: HHS FOIA_Tab C DACFO to ACL.20250801.pdf >>
Good afternoon, Rick:

You may or may not be familiar with the history on this topic, and I apologize if I am repeating info Jennifer and Garfield may have shared prior to their departures.

Last fall, to deconflict voluminous outdated and inconsistent artifacts outlining relationships between the Department and its FOIA offices - and to clarify responsibilities - on September 3, 2024, the Secretary delegated certain authority to the ASPA as Chief FOIA Officer. Authorities were redelegated to my position, and I, in turn, issued delegations to OpDiv FOIA officers the same day.

However, consistent with orders from the Secretary to streamline the FOIA program, and the Department's ongoing reorganization, the attached document supersedes and rescinds the September 3, 2024 FOIA delegation to ACL. It denotes the reassignment of those authorities to OS-FOIA. In other words, it formalizes the way we have been operating since the reorganization commenced in April in many respects.

This document and the revised delegation to the OS-FOIA program emphasize that as requests for ACL records are part of the OS-FOIA portfolio, our team must provide excellent customer service to our ACL colleagues as well as the people we serve. I intend for them to be read as memorializing our shared expectation that OS-FOIA executes these duties in a spirit of partnership and transparency, leveraging the

assistance the ACL team may provide to help us navigate our way through the organization.

We look forward to engaging your team to synthesize the ACL workload into the OS-FOIA program. Thank you and we look forward to continuing to strengthen our partnership in the days and weeks to come as we provide these services to the division.

Please let me know if there are any questions.

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Holzerland, William (HHS/ASPA)
Sent: Tuesday, September 3, 2024 5:08 PM
To: Daley, Garfield (ACL) <Garfield.Daley@acl.hhs.gov>
Subject: FW: Strengthening the HHS FOIA Enterprise

<< File: HHS FOIA_Tab C DACFO to ACL.20240903.pdf >>
Garfield:

Tab C for ACL is attached herein. Thanks again.

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Holzerland, William (HHS/ASPA)
Sent: Tuesday, September 3, 2024 5:02 PM
To: Smith, Celeste (ACF) <Celeste.Smith@acf.hhs.gov>; Andoh, Roger (CDC/OCOO/OD) <mhu9@HHSGOV.onmicrosoft.com>; Kotler, Sarah (FDA/OC) <Sarah.Kotler@fda.hhs.gov>; May, Brian (HRSA) <BMay@hrsa.gov>; Mitchell, Carl (IHS/HQ) <Carl.Mitchell@ihs.gov>; Garcia-

Malene, Gorka (NIH/OD) [E] <gorka.garcia-malene@nih.gov>; Monroe-Cook, Farrah (SAMHSA/NMHSUPL/EXEC SEC) <Farrah.Monroe-cook@samhsa.hhs.gov>; Daley, Garfield (ACL) <Garfield.Daley@acl.hhs.gov>; Tripline, Joseph (CMS/OSORA) <joseph.tripline@cms.hhs.gov>; Perkins, Arianne (OS/ASPA) <Arianne.Perkins@hhs.gov>; Williams, Alesia (OS/ASPA) <Alesia.Williams@hhs.gov>
Cc: Sly, Elizabeth (FDA/CBER) <Elizabeth.Sly@fda.hhs.gov>; Udapi, Guruprasad (FDA/CDER) <Guruprasad.Udapi@fda.hhs.gov>; Davis, Candace (FDA/CDRH) <Candace.Davis@fda.hhs.gov>; Rennie, Chalmer (FDA/CFSAN) <Chalmer.Rennie@fda.hhs.gov>; Barnes, Marqui (FDA/CTP) <Marqui.Barnes@fda.hhs.gov>; Bigby, Dynna (FDA/OC) <Dynna.Bigby@fda.hhs.gov>; Pickworth, Melissa (FDA/ORA) <Melissa.Pickworth@fda.hhs.gov>; Schlaifer, Meredith (FDA/OC) <Meredith.Schlaifer@fda.hhs.gov>; Holohan, MK (NIH/NCI) [E] <mholoha@mail.nih.gov>; Williams, Yireiza (NIH/NEI) [E] <ywilliams@mail.nih.gov>; Manheim, Marianne (NIH/NHLBI) [E] <marianne.manheim@nih.gov>; Williams, Paul (NIH/NICHD) [E] <Paul.Williams@nih.gov>; Jordan, Craig (NIH/NIDCD) [E] <jordanc@ms.nidcd.nih.gov>; Stabile, Regina (NIH/NIEHS) [E] <regina.stabile@nih.gov>; Chai, Mindy (NIH/NIMH) [E] <mindy.chai@nih.gov>; Standing-Ojo, Denean (NIH/OD) [E] <denean.standing-ojo@nih.gov>; Bordine, Roger (NIH/OD) [E] <roger.bordine@nih.gov>; Souther, James (IHS/HQ) <James.Souther@ihs.gov>; Lancey, Brandon (OS/ASPA) <Brandon.Lancey@hhs.gov>; Stephens, Lakita (ACF) <Lakita.Stephens@acf.hhs.gov>; Chancellor, Alexis (HRSA) <AChancellor@hrsa.gov>; Viana, Bruno A. (CDC/OCOO/OD) <cqy8@HHSGOV.onmicrosoft.com>; Klocinski, Jennifer (ACL) <Jennifer.Klocinski@acl.hhs.gov>; Edmondson-Parrott, Michele (CMS/OSORA) <michele.edmondsonparrott@cms.hhs.gov>; Oh, Kathy (CMS/OSORA) <kathy.oh3@cms.hhs.gov>; Gaynor, Desiree (CMS/OSORA) <Desiree.Gaynor@cms.hhs.gov>; Smith, Kathleen (CMS/OSORA) <kathleen.smith@cms.hhs.gov>; Nicholson, Emmett (CMS/OSORA) <emmett.nicholson@cms.hhs.gov>; Cavanaugh, Alicia (CMS/OSORA) <alicia.cavanaugh@cms.hhs.gov>

Subject: Strengthening the HHS FOIA Enterprise

<< File: HHS Exemption 5 Memo.20240903.pdf >> << File: HHS Exemption 6 Memo.20240903.pdf >> << File: HHS FOIA Delegation of Authority to ASPA_Tab A.20240903.pdf >> << File: HHS FOIA DoA_Tab B ASPA to DACFO.20240903.pdf >> << File: HHS Significant FOIA Activity Reporting Memo.20240903.pdf >>

Dear FOIA Colleagues:

As part of HHS's commitment to effective administration of the Freedom of Information Act (FOIA or the Act), with increased collaboration and coordination between the Office of the Secretary (OS)/ASPA FOIA Program and the talented professionals performing our FOIA work daily, I am pleased to announce several measures designed to improve the quality and consistency of FOIA products across the Department.

It's simply good government to maximize efforts to ensure FOIA offices across HHS administer the Act as evenly, effectively, and efficiently as possible while maintaining the highest standard

of customer service. We know at times this feels easier said than done but we look forward to partnering with you on this important work.

The Secretary has issued a new Delegation of Authority to operate the HHS FOIA program, including its OpDiv and StaffDiv FOIA programs, in an effort to add structure to enterprise-wise program governance and needed clarity on Departmental disclosure policies. Enclosed is Tab A, the Delegation, along with Tab B, re-delegating authority from the Assistant Secretary for Public Affairs/Agency Chief FOIA Officer to the Deputy Agency Chief FOIA Officer. To this end, in the weeks and months ahead, I will be working with you to enhance the Department's FOIA program by:

- '3b Increasing collaboration and coordination across HHS FOIA and the agency FOIA offices;
- '3b Better leveraging available tools and resources – including technology – to strengthen and streamline processes;
- '3b Educating stakeholders inside and outside of the Department and its agencies on our responsibilities under the Act; and
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- '3b Reporting significant FOIA activities;
- '3b FOIA Exemption (b)(5); and
- FOIA Exemption (b)(6).

Additionally, if you haven't had a chance to review it yet, this office previously issued guidance on the application of the foreseeable harm standard, which is posted [here](#) for ease of reference.

An invitation will follow for a virtual event slated for 10:00a.m. E.S.T. this Thursday, September 5, 2024, to discuss implementation details and answer your questions directly. I'll send Tab C – OpDiv-specific Delegation artifacts – to each of the FOIA officers immediately following this message under separate cover.

I look forward to partnering with the dedicated FOIA professionals across the Department and engaging with your OpDiv FOIA Officers to enhance service delivery and identify additional ways to support your work and ensure transparency for the people we serve. Thank you, again, for all that you do.

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Holzerland, William (HHS/ASPA)
Sent: Thu, 21 Aug 2025 16:06:04 +0000
To: Tripline, Joseph (CMS/OSORA); Garcia-Malene, Gorka (NIH/OD) [E]; May, Brian (HRSA); Smith, Candrea (SAMHSA/NMHSUPL/EXEC SEC); Schlaifer, Meredith; FOIA@arpa-h.gov; Mitchell, Carl (IHS/HQ); Souther, James (IHS/HQ); Lampe, Karen (NIH/OD) [E]
Cc: Perkins, Arianne (OS/ASPA); Lancey, Brandon (OS/ASPA); Keck, Samantha (HHS/OGC)
Subject: Legal filings/settlements
Importance: High

All:

As discussed at length at the FOIA Officers' meeting on the 13th, the Department is taking certain steps to implement the Secretary's orders to streamline the FOIA program.

Consistent with those orders and the Department's ongoing reorganization, as an interim measure, if a declaration must be filed to support ongoing litigation defense, to the extent it necessitates discussion of the ongoing reorganization, Executive Orders, staffing, or workload projections, any such draft declaration requires written OS-FOIA concurrence in advance of filing. We do not need to review or concur draft declarations that recount the nuts and bolts of the facts surrounding case processing.

The reason for this is that the 300+ lawsuits the Department is defending concurrently do not exist in a vacuum and impact each other. The intent is to be fully transparent in discussing the ongoing centralization of the program and steps taken to effect it, and to ensure the Department's views are incorporated into legal documents memorializing these actions. To be clear, we want information out there about the direction the Department is headed in and the messaging on it to be consistent.

Likewise, we're going to treat litigation settlement discussions similarly, in that monetary settlements require OS-FOIA written concurrence. To be blunt, the Department has historically done a poor job of tracking programmatic costs and expenditures and accordingly, we require visibility into such matters to inform future projected budget requests and actual costs.

Please plan accordingly and spread the word to necessary parties in OGC and AUSAs as need be.

Thank you.

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer

Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Holzerland, William (HHS/ASPA)
Sent: Thu, 4 Sep 2025 21:53:34 +0000
To: Lampe, Karen (NIH/OD) [E]; May, Brian (HRSA); Smith, Candrea (SAMHSA/NMHSUPL/EXEC SEC); Davis, Candace; foia@arpa-h.hhs.gov; Souther, James (IHS/HQ); meredith.schlaifer@fda.hhs.gov; Tripline, Joseph (CMS/OSORA)
Cc: Perkins, Arianne (OS/ASPA); Lancey, Brandon (OS/ASPA)
Subject: Interim Delegation of Authority/Reassignment of Authority to OS-FOIA
Attachments: HHS Exemption 5 Memo.20240903.pdf, HHS Exemption 6 Memo.20240903.pdf, HHS FOIA Delegation of Authority to ASPA_Tab A.20240903.pdf, HHS FOIA DoA_Tab B ASPA to DACFO.20240903.pdf, HHS Significant FOIA Activity Reporting Memo.20240903.pdf, HHS FOIA_Tab C DACFO to CDC.20250801.pdf, HHS FOIA_Tab C DACFO to ACL.20250801.pdf, HHS FOIA_Tab C DACFO to ACF.20250801.pdf, HHS FOIA_Tab C DACFO to ASPA-OS.20250801.pdf, HHS FOIA_Tab C DACFO to OpDiv FOIA Officers.20250904.pdf



Good afternoon, all:

Most of you are familiar with the background on this topic, so I'll be brief. Please review the attached, "Interim Delegation and Reassignment of Authority – 5 U.S.C. § 552 (FOIA) Authority for Operating Divisions (OpDivs) and the Office of the Secretary FOIA Program (OS-FOIA)," dated today.

Last fall, to resolve outdated and inconsistent guidance on FOIA roles and responsibilities, the Secretary delegated certain authority to ASPA as Chief FOIA Officer. That authority was redelegated to my position, and on September 3, 2024, I issued delegations to individual OpDiv FOIA officers. Those delegations are rescinded and superseded by the above, effective today.

Consistent with the Secretary's direction to streamline the FOIA program and with the Department's ongoing reorganization, the attached memorandum supersedes and rescinds prior delegations. It serves as an interim delegation, reassigning certain authorities to OS-FOIA, formalizing the way we have already been operating in many respects since the reorganization began in April, and in any case, is consistent with the clear messaging you have heard from me on this topic in many settings. The intent is to update this document again as we iron out details surrounding our shared future.

As today's interim delegation references August 1, 2025 transmissions to ASPA/OS-FOIA, ACF, ACL, and CDC, they're included below in the interest of transparency.



Thank you for your continued partnership as we move forward. Please don't hesitate to reach out with any questions.

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Holzerland, William (HHS/ASPA)
Sent: Tuesday, September 3, 2024 5:02 PM
To: Smith, Celeste (ACF) <Celeste.Smith@acf.hhs.gov>; Andoh, Roger (CDC/OCOO/OD) <mhu9@HHSGOV.onmicrosoft.com>; Kotler, Sarah (FDA/OC) <Sarah.Kotler@fda.hhs.gov>; May, Brian (HRSA) <BMay@hrsa.gov>; Mitchell, Carl (IHS/HQ) <Carl.Mitchell@ihs.gov>; Garcia-Malene, Gorka (NIH/OD) [E] <gorka.garcia-malene@nih.gov>; Monroe-Cook, Farrah (SAMHSA/NMHSUPL/EXEC SEC) <Farrah.Monroe-cook@samhsa.hhs.gov>; Daley, Garfield (ACL) <Garfield.Daley@acl.hhs.gov>; Tripline, Joseph (CMS/OSORA) <joseph.tripline@cms.hhs.gov>; Perkins, Arianne (OS/ASPA) <Arianne.Perkins@hhs.gov>; Williams, Alesia (OS/ASPA) <Alesia.Williams@hhs.gov>
Cc: Sly, Elizabeth (FDA/CBER) <Elizabeth.Sly@fda.hhs.gov>; Udapi, Guruprasad (FDA/CDER) <Guruprasad.Udapi@fda.hhs.gov>; Davis, Candace (FDA/CDRH) <Candace.Davis@fda.hhs.gov>; Rennie, Chalmer (FDA/CFSAN) <Chalmer.Rennie@fda.hhs.gov>; Barnes, Marqui (FDA/CTP) <Marqui.Barnes@fda.hhs.gov>; Bigby, Dynna (FDA/OC) <Dynna.Bigby@fda.hhs.gov>; Pickworth, Melissa (FDA/ORA) <Melissa.Pickworth@fda.hhs.gov>; Schlaifer, Meredith (FDA/OC) <Meredith.Schlaifer@fda.hhs.gov>; Holohan, MK (NIH/NCI) [E] <mholoha@mail.nih.gov>; Williams, Yireiza (NIH/NEI) [E] <ywilliams@mail.nih.gov>; Manheim, Marianne (NIH/NHLBI) [E] <marianne.manheim@nih.gov>; Williams, Paul (NIH/NICHD) [E] <Paul.Williams@nih.gov>; Jordan, Craig (NIH/NIDCD) [E] <jordanc@ms.nidcd.nih.gov>; Stabile, Regina (NIH/NIEHS) [E] <regina.stabile@nih.gov>; Chai, Mindy (NIH/NIMH) [E] <mindy.chai@nih.gov>; Standing-Ojo, Denean (NIH/OD) [E] <denean.standing-ojo@nih.gov>; Bordine, Roger (NIH/OD) [E] <roger.bordine@nih.gov>; Souther, James (IHS/HQ) <James.Souther@ihs.gov>; Lancey, Brandon (OS/ASPA) <Brandon.Lancey@hhs.gov>; Stephens, Lakita (ACF) <Lakita.Stephens@acf.hhs.gov>; Chancellor, Alexis (HRSA) <AChancellor@hrsa.gov>; Viana, Bruno A. (CDC/OCOO/OD) <cqy8@HHSGOV.onmicrosoft.com>; Klocinski, Jennifer (ACL) <Jennifer.Klocinski@acl.hhs.gov>; Edmondson-Parrott, Michele (CMS/OSORA) <michele.edmondsonparrott@cms.hhs.gov>; Oh, Kathy (CMS/OSORA) <kathy.oh3@cms.hhs.gov>; Gaynor, Desiree (CMS/OSORA) <Desiree.Gaynor@cms.hhs.gov>; Smith, Kathleen (CMS/OSORA) <kathleen.smith@cms.hhs.gov>; Nicholson, Emmett (CMS/OSORA) <emmett.nicholson@cms.hhs.gov>; Cavanaugh, Alicia (CMS/OSORA) <alicia.cavanaugh@cms.hhs.gov>
Subject: Strengthening the HHS FOIA Enterprise



Dear FOIA Colleagues:

As part of HHS's commitment to effective administration of the Freedom of Information Act (FOIA or the Act), with increased collaboration and coordination between the Office of the Secretary (OS)/ASPA FOIA Program and the talented professionals performing our FOIA work daily, I am pleased to announce several measures designed to improve the quality and consistency of FOIA products across the Department.

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- FOIA Exemption (b)(6).

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Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

September 3, 2024

MEMORANDUM FOR: Departmental FOIA Personnel

FROM:

William H. Holzerland
Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)

William H.
Holzerland -S

Digitally signed by William H.
Holzerland -S
Date: 2024.09.03 08:48:44 -04'00'

SUBJECT:

Freedom of Information Act - Application of FOIA Exemption
(b)(5)

This memorandum provides guidance on how agency records should be processed throughout the Department of Health and Human Services (HHS or Department) under the Freedom of Information Act (FOIA or the Act) when Exemption 5 is potentially applicable.¹

FOIA Exemption 5 protects “inter-agency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency.”

To ensure that requests for this type of information are processed consistently across the Department, the following policy guidelines are provided. It should be noted, however, that the examples cited below are intended as *general guidelines only*. Records must be reviewed on a case-by-case basis as the information at issue and the individual circumstances will affect the Department's release determination.

In making determinations on FOIA requests, the Department's OpDiv/StaffDiv FOIA Officers must follow the analytical steps outlined below and consult with subject matter experts - including consulting with or referring records to OpDivs with primary equity in the records under review as necessary - on the contents of records responsive to FOIA requests early in the review process as well as prior to finalizing release or withholding determinations.

Analytical Steps:

Step 1: Does the record constitute an “inter- or intra-agency” communication for purposes of the Exemption 5 threshold?

Generally, **inter-agency** communication is understood to mean communication between at least one component of HHS and another Federal agency or component thereof whereas **intra-agency** communication is generally understood to mean communication between two or more agencies within HHS. However, there are additional factors to consider in determining whether the record constitutes an inter- or intra-agency communication.

¹ 5 U.S.C. § 552 (b)(5).



For example, factors relevant to determining whether a communication is an “**inter-agency**” communication include:

- Are the author(s) and recipient(s) within an HHS OpDiv/StaffDiv and another executive branch agency outside of HHS, or multiple executive branch agencies outside of HHS?
- If so, are individuals outside the executive branch included on the communication, or does the communication itself indicate that it was shared with third parties outside the executive branch?
- If the record has not been shared with individuals or entities outside the executive branch, it is an “inter-agency” communication for purposes of the Exemption 5 threshold, and you should proceed to Step 4 to determine whether a privilege applies.

Factors relevant to determining whether a communication is an “**intra-agency**” communication include:

- Are the author(s) and recipient(s) HHS employees?
- If the answer is yes, are individuals outside the executive branch included on the communication, or does the communication indicate that it was shared with third parties outside the executive branch?
- If the record has not been shared with individuals or entities outside the executive branch, it is an “intra-agency” communication for purposes of the Exemption 5 threshold, and you should proceed to Step 4 to determine whether a privilege applies.

There are limited circumstances in which communications with entities outside the government may nevertheless qualify as an “**intra-agency**” memorandum under Exemption 5. Factors to consider in such a situation include:²

- Is HHS the recipient of advice from a third party (e.g., an outside expert who is not an HHS employee) on a matter pending HHS decision?
- If no, HHS sends the advice to a third party, Exemption 5 does not apply.
- If yes, does the outside entity offering advice have an independent stake in the matter (e.g., Congress, when the topic is pending legislation)?
- If yes, Exemption 5 does not apply.

If have questions as to whether the threshold is met in the context of the communication at issue, please document the facts and circumstances which led to your initial conclusion and consult with the Department’s career FOIA officer for resolution prior to making a determination.

In the event the result of the threshold analysis is that the record does not constitute an “inter-agency or intra-agency” record, this exemption would be inapplicable, and the record must be

² *Dep't of the Interior v. Klamath Water Users Protective Ass'n*, 532 U.S. 1, 9 (2001).



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Washington, D.C. 20201

disclosed, unless other exemption(s) apply.

Step 2: Privileges:

If the record does meet the threshold for purposes of Exemption 5, you must then determine whether a privilege applies. As a practical matter, this exemption incorporates both statutory privileges and those commonly recognized by case law.³

The three most frequently invoked privileges are:

- the deliberative process privilege;
- the attorney work-product doctrine; and
- the attorney-client privilege.

However, as this is not an exhaustive list of potentially applicable privileges, your analysis must include such other privileges as the circumstances warrant.

To determine the potential applicability of any privilege, you necessarily must understand the facts surrounding the communication(s) under review. Answering the question “what happened,” is a necessary component of making your release or withholding determination - who communicated with whom, what direction the communication traveled on the decisionmaking chain, what role the communication played in the Department’s decisionmaking process, when the communication occurred relative to any decision. In order to document these facts, you must consult with subject matter experts early in the process and again as necessary upon receipt of additional information that raises questions, and analyze the facts on a case-by-case basis.

Step 3(a): The deliberative process privilege:

- Were the records created within 25 years of the request submission? If the records are at least 25 years old, the deliberative process privilege does not apply, and you can proceed to Step 3(b).
- If the records were created less than 25 years ago, determine whether the communication was **both** predecisional and deliberative.

Predecisional is commonly understood to include records that pre-date a final agency decision, policy or opinion. While this exemption does not protect final agency decisions, a record is not “final” for purposes of this privilege simply “because nothing else follows it,”⁴ in the event the agency determines not to act subsequent to circulating a draft. In considering whether this privilege applies, we must consider the facts surrounding the communication, including the following:

³ See *United States v. Weber Aircraft Corp.*, 465 U.S. 792, 800 (1984); see also *Burka v. HHS*, 87 F.3d 508, 516 (D.C. Cir. 1996) (noting that FOIA “incorporates . . . generally recognized civil discovery protections”).

⁴ *United States Fish & Wildlife Service v. Sierra Club, Inc.*, 141 S. Ct. 777, 786 (2021).



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- The date(s) of the record(s) and/or other context obtained from subject-matter experts regarding when the communication(s) occurred relative to issuance of a final decision (if any);
- If after examining the above you determine that the record is not predecisional, proceed to Step 3(b).
- However, if after reviewing the facts, you determine that the record was predecisional, you must determine whether it is also deliberative.

In the event you determine the record is predecisional in nature, you must analyze whether the record is also deliberative in nature. A record may be deliberative for purposes of this exemption if it reflects the give-and-take of the consultative process either by articulating the process the agency used to formulate a decision, or by assessing the relative merits of a particular viewpoint in the communication itself. The key question in evaluating whether a record is deliberative for purposes of this privilege is “whether disclosure of the information would discourage candid discussion within the agency.”⁵

To assess what deliberative process is at issue and what role the communication under review may have played in it, consider relevant factors, including but not limited to the following:

- What were the identities of the speaker(s) and the specific language utilized in the record?
- What were the speakers’ titles? Where do the speakers reside in the organization relative to leadership or policy-makers?
- Does the record contain tracked changes, handwritten notes, comment bubbles, or other factors indicating it was generated or commented upon by stakeholders during the iterative policy process?
- Did the communication include language that might tend to indicate it contained an opinion or proposed direction pertaining to a pending policy decision? (e.g. “recommend,” “suggest,” “advise,” or similar words).
- Did the words used in the communication lead you to conclude that a subordinate official is offering advice or opinions to a decision-maker?
- What is the relative decision-making authority of the parties, and what direction did the communication flow along the decision-making chain? Was the communication from a subordinate to supervisor? Peer-to-peer as part of the process of advising or recommending agency action to the decision-maker or agency leadership?
- What role the communication played in the decision-making process and the degree to which it reflected the give-and-take of the consultative process.

While this privilege generally does not cover purely factual information,⁶ when factual information is so thoroughly intertwined with deliberative information that the release would

⁵ *Access Reports v. Dep’t of Justice*, 926 F. 2d 1192, 1195 (D.C. Cir. 1991).

⁶ *EPA v. Mink*, 410 U.S. 73, 91 (1973).



reveal the agency's decision-making process (e.g., by revealing selective facts to the exclusion of others) and release would cause harm to the agency's deliberative process itself, such as by stifling open and frank communications within the agency, this privilege may still apply.⁷

If after reviewing the criteria above relative to a communication you determine that the communication is either not predecisional or not deliberative, the deliberative process privilege is inapplicable, and you may proceed to Step 3(b).

However, if you determine the communication is **both** predecisional and deliberative, you must document the basis for concluding that the deliberative process privilege applies. You must also consider the potential applicability of other privileges and exemptions, and apply the foreseeable harm standard, as noted below, prior to making your release or withholding determination.

Step 3(b): Determine whether the record is covered by the attorney work-product privilege:

To determine whether the record is covered by the attorney-work product privilege, you must ascertain whether the record was prepared by or under the direction of an attorney in contemplation of litigation. Please consult with the author or subject matter expert and the Office of General Counsel to obtain facts necessary to making this determination.

This privilege may apply to records prepared for administrative, civil, and criminal proceedings, settlements, or recommendations to close a matter in litigation. Although this privilege may be applicable to records created in anticipation of litigation, this privilege generally does not cover records created after the threat of litigation has passed. However, even if litigation never actually commenced, this privilege may be applicable.

If after reviewing these factors, you determine that the record was not authored by an attorney, nor by a non-attorney acting under an attorney's direction, this privilege does not apply, and you must proceed to Step 3(c).

Step 3(c): The attorney-client privilege:

This privilege protects confidential communications between an attorney and client relating to a legal matter for which the client has sought professional advice. Unlike the attorney work-product privilege, however, this privilege is not limited to the context of litigation. In determining whether this privilege is applicable, you should consider the following⁷

- Is the communication between the Department, an OpDiv or StaffDiv within the Department, or an employee of the OpDiv/StaffDiv working in the employee's official capacity and an attorney providing advice in his/her professional capacity?
- Was the communication confidential? You should identify the parties to the

⁷ *Elec. Frontier Found. v. DOJ*, 739 F.3d 1, 13 (D.C. Cir. 2014) (finding that "context matters," and here entire document, including factual material, "reflects the full and frank exchange of ideas" so that factual portions "could not be released without harming the deliberative processes of the government").



communication to determine whether all are HHS employees and/or employees of the Office of the General Counsel and/or the Department of Justice to determine whether the communication is “confidential” for purposes of this privilege.

- If the answer to either or both of these questions is no, then this privilege does not apply.
- If the answer to both questions is yes, this privilege may apply.
- If the communication contains the attorney’s opinion or facts the client identified as pertinent to obtaining the attorney’s opinion, the attorney-client privilege applies and protects both the facts divulged by the client to the attorney and the opinion offered by the attorney based on those facts.

If a privilege applies, proceed to conduct the required foreseeable harm analysis, in accordance with the Act and [Departmental policy](#).

Step 4: Other Privileges:

The Supreme Court has indicated that if a record is immune from civil discovery, it is similarly protected from mandatory disclosure under FOIA.⁸ In your analysis, you must consider whether other privileges beyond the most common ones may apply when the facts and circumstances warrant it.

While it is not possible to provide an all-inclusive list of potentially applicable privileges herein, please consult the Department’s career FOIA Officer and the Office of General Counsel if the facts surrounding the communication under review point to the potential applicability of less frequently invoked privileges.

Conclusion

It is the policy of the Department to evaluate the release of records potentially subject to Exemption 5 privileges contained within HHS records on a case-by-case basis, and to implement this policy consistently across all OpDivs and StaffDivs. The Department may only withhold records under Exemption 5 when the threshold is met, a privilege applies, and foreseeable harm would result from release.

If you have any questions about the applicability of this memorandum or need assistance, please contact your Operating Division FOIA Officer via the contact information found at <https://www.hhs.gov/foia/contacts/index.html> and/or contact me via William.Holzerland@hhs.gov.

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⁸ *United States v. Weber Aircraft Corp.*, 465 U.S. 792, 799-800 (1984); *FTC v. Grolier Inc.*, 462 U.S. 19, 26-27 (1983).



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

September 3, 2024

MEMORANDUM FOR: Departmental FOIA Personnel

FROM:

William H. Holzerland
Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)

William H.
Holzerland -S

Digitally signed by William H.
Holzerland -S
Date: 2024.09.03 08:50:20 -04'00'

SUBJECT:

Freedom of Information Act - Application of FOIA Exemption
(b)(6)

This memorandum provides guidance on how Personally Identifiable Information (PII)¹ pertaining to Department of Health and Human Services (HHS or Department) employees and third parties should be processed throughout HHS, consistent with the Freedom of Information Act (FOIA or “the Act”).²

On March 15, 2022, the Attorney General directed agencies to apply the Act with a presumption of openness, and that in the face of doubt, openness should prevail.³ However, the Act’s disclosure requirements are not absolute.

Agencies may withhold records (or portions thereof) responsive to a FOIA request when the agency reasonably foresees that disclosure would harm an interest protected by one of the nine exemptions Congress established. Specifically, Exemption 6 protects PII when disclosure would constitute a clearly unwarranted invasion of personal privacy.⁴

Records must always be reviewed on a case-by-case basis as the information at issue and the individual circumstances will affect the Department’s release determination. When processing records for release under FOIA, the Department must carefully consider whether the disclosure of identifying information or PII about individuals contained within agency records would shed light on how HHS performs its statutory duties.

To ensure that requests for this type of information are processed consistently in accordance with the Act across the Department, the following policy guidelines are provided.

While federal employee names, titles, grades, salaries, bonuses, position descriptions, and duty stations are generally subject to disclosure, it is appropriate and necessary to take into account relevant case law and factual circumstances pertaining to recent public interactions with our

¹ Office of Management and Budget Circular A-130, “Managing Information as a Strategic Resource (July 28, 2016), https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A130/a130revised.pdf

² 5. U.S.C. § 552.

³ Office of the Attorney General, U.S. Department of Justice, Freedom of Information Act Guidelines (March 15, 2022), <https://www.justice.gov/ag/page/file/1483516/download>.

⁴ 5 U.S.C. § 552(b)(6).



employees and affiliates who support the Department where such disclosure would result in a clearly unwarranted invasion of personal privacy. In other words, federal employees do not relinquish all privacy rights upon entering the door of the federal workplace. Therefore, this policy's application to "individuals" is inclusive of federal employees as well as third parties.

Step 1: Do the records responsive to the request include PII?

- Do the records contain information that directly identifies an individual, such as an individual's full name, Social Security number (SSN), passport number, driver's license number, taxpayer identification number, patient identification number, financial account or credit card number, personal address, and phone number?
- Do the records contain information that can be used to distinguish or trace an individual's identity, **alone or when combined with other information**, which is linked or linkable to a specific individual (i.e., indirect identification). These data elements may include a combination of gender, race, birth date, geographic indicator, and other descriptors.
- If the answer to both questions above is no, then Exemption 6 is inapplicable and barring any other applicable exemption, the record(s) should be released.
- If the answer to either question is yes, then proceed to Step 2.

Step 2: If PII is implicated, what is the context of the disclosure?

- Do the records relate to a controversial matter that has been the subject of strong public disagreement, debate, or argument?
- Has the subject matter led to harassment, threats of harm or violence, or actual harm or violence to individuals in the past?
- Is it reasonable to foresee that individual(s) whose PII is implicated in the record(s) would be subject to similar threats of harassment, threats of harm or violence, or actual harm or violence? Factors to consider include:
 - Whether the individual(s) whose PII is/are implicated in the records were subjected to harassment, threats of harm or violence, or actual harm or violence in the past due to their involvement with the controversial matter;
 - Whether the individual(s) whose PII is/are implicated in the records are similarly situated to those who were subjected to harassment, threats of harm or violence, or actual harm or violence either due to their job titles or responsibilities.
 - Whether strong public disagreement, debate, or argument is ongoing.
- If the answer to all of the foregoing questions is no, then Exemption 6 is inapplicable, and barring any applicable exemption, the record(s) should be released.
- If the answer to any of the foregoing questions is yes, then proceed to Step 3.

Step 3: Determining the public interest served by disclosure of the PII:



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- What is the public interest that would be served by release of the PII?
- Would release of the PII significantly contribute to the public's understanding of the operations or activities of the Department, its Operating Divisions, and/or its Staff Divisions?

Step 4: Weighing public and private interests:

- If the answer to any of the questions under Step 2 is yes, and no public interest would be served by releasing the information (Step 3), it should be withheld as a clearly unwarranted invasion of personal privacy.
- If the answer to any of the questions under Step 2 is yes, and a public interest would be served by releasing the information (Step 3), then the FOIA Officer must weigh the competing interests and consider all relevant factors, including the impact of potential release on the subject of the record, as well as privacy interests of other parties when implicated, to determine if the record(s) should be withheld or released.

This Department is entrusted with voluminous records that identify individuals we serve, employees, and others. Accordingly, FOIA officers should consider the facts and circumstances surrounding each record prior to release and must consult with the relevant Operating or Staff Division in determining the applicability of Exemption 6 under this policy. Any disagreements should be referred to the Department's career FOIA officer for resolution prior to release of any records.

If you have any questions about the applicability of this memorandum or need assistance, please contact your Operating Division FOIA Officer via the contact information found at <https://www.hhs.gov/foia/contacts/index.html> and/or contact me via William.Holzerland@hhs.gov.

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THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

TO: The Assistant Secretary for Public Affairs

FROM: The Secretary

SUBJECT: Delegation of Authority – 5 U.S.C. § 552 (Freedom of Information Act [FOIA]) Authority for the Department

AUTHORITY TO DELEGATE

This delegation is pursuant to Executive Order 13392 and the Freedom of Information Act 5 (U.S.C. § 552), including 5 U.S.C. § 552(j).

AUTHORITY DELEGATED

Consistent with 45 C.F.R. § 5.3, and subject to my oversight and guidance, I hereby delegate to the Assistant Secretary for Public Affairs (“the ASPA”) within the Office of the Secretary (OS) / Office of the Assistant Secretary for Public Affairs (ASPA) the authority vested in me as the Secretary of Health and Human Services under the Freedom of Information Act (5 U.S.C. § 552). As reflected in 45 C.F.R. § 5.3, the ASPA is designated as the Agency Chief FOIA Officer, U.S. Department of Health and Human Services, within the meaning of 5 U.S.C. § 552(j).

This authority includes, but is not limited to, the authority to oversee all policy of the Department’s FOIA program to ensure efficient and appropriate compliance with FOIA, including disposition of requests for records submitted in accordance with Department regulations, and appeals from initial determinations on such requests, except as otherwise delegated.

This delegation will be exercised in accordance with the Department’s applicable policies, procedures, guidelines, and regulations.

LIMITATIONS

This delegation may be redelegated to subordinate officials.

To the extent authority is redelegated to Operating Division (OpDiv) or Staff Division (StaffDiv) FOIA Officers, OpDiv and StaffDiv FOIA Officers must operate in a manner consistent with the authorities outlined in 45 C.F.R. § 5.3 and subject to such other limitations as may be specified in writing by the Chief FOIA Officer or designee.

IMPACT ON EXISTING DELEGATIONS OF AUTHORITY

This delegation of authority supersedes/rescinds any and all FOIA-related delegations and/or redelegations within ASPA or FOIA-related delegations from me to any ASPA official. This delegation of authority does not impact any delegations to or within any other U.S. Department of Health and Human Services Operating Division or Staff Division.

EFFECTIVE DATE

This delegation of authority is effective immediately upon signature. I hereby affirm and ratify any actions taken by you or your subordinates that involved the exercise of the authorities delegated herein prior to the effective date of the delegation.



Xavier Becerra

9/3/2024

Date



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

September 3, 2024

TO: Deputy Agency Chief FOIA Officer (DACFO)

FROM: The Assistant Secretary for Public Affairs

SUBJECT: Delegation of Authority – 5 U.S.C. § 552(j) (Freedom of Information Act [FOIA]) Authority for the Department

AUTHORITY TO DELEGATE

Pursuant to Executive Order 13392 and the Freedom of Information Act, the Assistant Secretary for Public Affairs (ASPA) has been designated as the Agency Chief FOIA Officer, U.S. Department of Health and Human Services, with the responsibilities set forth in 5 U.S.C. § 552(j), and been delegated the authority to implement and administer the Freedom of Information Act (see 45 C.F.R. § 5.3 and the delegation of authority memorandum dated August 30, 2024 in Tab A).

AUTHORITY DELEGATED

Consistent with 45 C.F.R. § 5.3, and subject to my oversight and guidance, I hereby delegate to the Deputy Agency Chief FOIA Officer within the Office of the Secretary (OS) / Office of the Assistant Secretary for Public Affairs (ASPA) the authorities vested in me to implement and administer the Freedom of Information Act, including the following authorities and responsibilities:

- Oversee departmental initiatives to ensure efficient and appropriate FOIA compliance;
- Monitor implementation of the FOIA throughout the department and keep the ACFO, the Secretary, the Deputy Secretary, the General Counsel, and the Attorney General appropriately informed of the department's performance in implementing FOIA requirements;
- Recommend to the ACFO and Secretary such adjustments to agency practices and policies as may be necessary to improve departmental implementation of FOIA;
- Review and report to the Attorney General, through the ACFO and Secretary, at such times and in such formats as the Attorney General may direct, on HHS' performance in implementing FOIA requirements;
- Facilitate public understanding of the purposes of the statutory exemptions of FOIA by including concise descriptions of the exemptions in guidelines issued pursuant to 5 U.S.C. § 552 (g) and the agency's annual ACFO report, and by providing an overview, where appropriate, of certain general categories of agency records to which those exemptions apply;
- Ensure the designation of one or more FOIA Public Liaisons;



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- Offer training to agency staff regarding their responsibilities under FOIA;
- Serve as the primary agency liaison with the Office of Government Information Services and the Office of Information Policy;
- Review, not less frequently than annually, all aspects of the administration of FOIA by the agency to ensure compliance with the requirements of FOIA, including—
 - agency regulations;
 - disclosure of records required under 5 U.S.C. § 552(a) paragraphs (2) and (8);
 - assessment of fees and determination of eligibility for fee waivers;
 - the timely processing of requests for information under FOIA;
 - the use of exemptions under 5 U.S.C. § 552(b); and
 - dispute resolution services with the assistance of the Office of Government Information Services or the FOIA Public Liaison.

This delegation will be exercised in accordance with the Department's applicable policies, procedures, guidelines, and regulations.

LIMITATIONS

This delegation may be redelegated.

IMPACT ON EXISTING DELEGATIONS OF AUTHORITY

This delegation of authority supersedes and replaces all prior delegations of authority within ASPA, to the extent Agency Chief FOIA Officer duties were previously delegated within ASPA. This delegation of authority does not impact any delegations within any other U.S. Department of Health and Human Services Operating Division or Staff Division.

EFFECTIVE DATE

This delegation of authority is effective immediately upon signature. I hereby affirm and ratify any actions taken by you or your subordinates that involved the exercise of the authorities delegated herein prior to the effective date of the delegation.

Jeff Nesbit
Assistant Secretary for Public Affairs
Office of the Assistant Secretary for Public Affairs
U.S. Department of Health and Human Services

9/3/2024

Date



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

September 3, 2024

MEMORANDUM FOR: Departmental FOIA Personnel

FROM:

William H. Holzerland
Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)

William H.
Holzerland -S

Digitally signed by William H.
Holzerland -S
Date: 2024.09.03 08:47:44 -04'00'

SUBJECT:

Departmental Freedom of Information Act (FOIA) Reporting
Requirements for Significant Requests

I. Purpose

This policy outlines the Department of Health and Human Services (HHS or the Department) procedures for weekly reporting on significant Freedom of Information Act (FOIA) requests and on volume of FOIA activity generally.

This revised reporting process ensures the OS FOIA Office can facilitate compliance with the FOIA, better promote transparency, and ensure coordination and consistency across all HHS FOIA offices.

This memorandum does not alter HHS FOIA Officer responsibilities as outlined in the Department's implementing regulations found at 45 C.F.R. Part 5. The public's right to request records from the federal government is paramount, and we are committed to following the law and regulations to ensure maximum disclosure, consistent with the Act.

II. Scope

This policy applies throughout HHS and its Operating Divisions (OpDivs) or Staff Divisions (StaffDivs), on behalf of, or in coordination with the Department.

III. References

- A. Title 5, United States Code (U.S.C.), § 552, "Public Information; Agency Rules, Opinions, Orders, Records, and Proceedings" [The Freedom of Information Act, as amended]
- B. 45 Code of Federal Regulations (C.F.R.) Subtitle A, Subchapter A, Part 5, Freedom of Information Act Regulations, October 28, 2016.
- C. HHS Delegation of Authority, "Delegation to the Assistant Secretary for Public Affairs," September 3, 2024.



HHS Delegation of Authority, “Delegation to the Deputy Agency Chief FOIA Officer,”
September 3, 2024.

IV. Definitions

- A. Chief FOIA Officer: HHS Assistant Secretary for Public Affairs (ASPA) serves concurrently as the Chief FOIA Officer, as delegated by the HHS Secretary.
- B. Deputy Agency Chief FOIA Officer (DACFO): Individual reporting to the Chief FOIA Officer who serves as the HHS principal point of contact and agency representative on FOIA-related matters.
- C. The ASPA FOIA Division provides FOIA services to and on behalf of the Office of the Secretary (OS), and hereinafter, is referred to as the OS FOIA Program.
- D. FOIA Officer: Designated HHS official appointed by OpDiv Staff Div Head to receive FOIA requests and delegated authority by the DACFO and Departmental regulations to provide assistance in administrative matters pertaining to FOIA request processing and issue determinations on FOIA requests.
- 1. The FOIA Officer compiles themselves or designates a responsible official to collect, review, consolidate, and submit required reports to the DACFO, ensures that all reporting requirements are followed accurately, and that required reports are submitted in a timely manner.
- F. Incoming FOIA requests and any associated releases and/or appeals are defined as “significant” when at least one of the following criteria is met.

The FOIA:

- 1. Request relates to a significant HHS priority;
- 2. Requester or requested records are likely to garner media
- 3. attention or are receiving media attention;
- 4. Request is for records associated with meetings with
- 5. prominent elected, business, and/or community leaders;
- 6. Request is for congressional correspondence;
- 7. Request is from a member of Congress;
- 8. Request is from a member of the media;
- 9. Request is from a member of an advocacy group, watchdog organization, etc.; or
- 10. Request is for records associated with a senior official of the OpDiv or StaffDiv.



V. Content and Procedures

A. Chief FOIA Officer's Weekly FOIA Report:

1. OpDiv or StaffDiv FOIA Officers report significant FOIA requests retrospectively, covering incoming FOIA requests, appeals, and litigation for the preceding workweek to the DACFO by close of business on the first business day of the succeeding workweek. This requirement includes reporting that there were no significant FOIA requests during the prior week, if applicable.
2. OpDiv or StaffDiv FOIA Officers report significant FOIA requests prospectively, covering planned FOIA request, appeal, or litigation releases scheduled to occur during the workweek in which the report is submitted to the DACFO by close of business on the first business day of each workweek. Nothing in this requirement prohibits a FOIA Officer from reporting known, planned releases scheduled to occur in future workweeks beyond that in which the report is submitted, where possible.
3. Reports pertaining to significant FOIA activity are submitted via email to HHS_Significant_FOIA_Requests@hhs.gov by FOIA Officers or their staff by the deadlines noted above.
4. OpDiv or StaffDiv FOIA Officer reports shall adhere to the submission requirements outlined in Appendix A.
5. The DACFO or designee compiles and distributes information pertaining to significant FOIA activity in the Chief FOIA Officer's Weekly FOIA Report.
6. The OS FOIA Program transmits the Chief FOIA Officer's Weekly FOIA Report to the HHS FOIA Officers, ASPA media affairs personnel, the Assistant Secretary for Legislation, Office of General Counsel, and the Office of the Secretary to ensure visibility on significant incoming FOIA requests and releases, proper communication, and coordination.

B. Significant FOIA Release 1-Day Notification Process:

1. HHS has a FOIA release notification process for FOIA responses related to requests qualifying as "significant" for purposes of the Chief FOIA Officer's Weekly Report.
2. Products submitted to the Department pursuant to this policy shall adhere to FOIA and all Departmental policies pertaining to implementation of the Act and shall be reviewed by the OS FOIA Program for compliance with same.
3. The FOIA release notification process applies to all requests qualifying as significant under the criteria in Section IV. F., whether the incoming request arrived during the current workweek or any prior workweek, including prospective significant releases pertaining to otherwise-qualifying requests when submission predated this policy.
4. For significant FOIA releases, the FOIA Officers shall notify the OS FOIA Program of records being released as far in advance as practicable and through the weekly



reporting process.

5. For significant FOIA releases other than planned FOIA releases reported in advance via the weekly reporting process, the FOIA Officer shall at minimum, notify the OS FOIA Program via HHS_Significant_FOIA_Requests@hhs.gov, one (1) business day before the response is issued and records are released.
6. FOIA Officers shall adhere to the 1-Day Notification Process and ensure that OpDiv/StaffDiv FOIA staff submit all significant FOIA releases, appeals, FOIA litigation, and additions to the FOIA Library, prior to issuance of such records, to HHS_Significant_FOIA_Requests@hhs.gov.
7. Significant FOIA release notifications are used only for qualifying requests where records are being released or denied as a matter of first impression. “No records” or other procedural determinations, re-releases of records previously disclosed via authorized means, or requests closed for other reasons, are not reported through this process.
8. As a request may not qualify as significant under Section IV. E. upon submission, but may become significant during processing (e.g. because of new media attention, or developments in current events), nothing in this policy prohibits FOIA officers from coordinating with the OS FOIA Program, OpDiv or StaffDiv public affairs, legislative affairs, and legal personnel proactively when warranted, regardless of the content or context of the planned response. Please exercise prudent judgment and submit items that reflect the spirit and intent of this reporting requirement. If in doubt, please err on the side of inclusion.
9. The significant FOIA release 1-Day notification process is to notify HHS leadership of an impending FOIA release, regardless of the context in which the release will be issued.
10. FOIA professionals are responsible for making determinations on whether records are to be released or withheld under FOIA’s exemptions and should consult with the Office of the General Counsel and subject matter experts, as appropriate, during their decision-making process prior to an impending release and making a final determination on disclosure of agency records.
11. With respect to matters in litigation, FOIA professionals should coordinate with appropriate HHS personnel and the assigned U.S. Department of Justice Attorney to ensure consistency within the Department with respect to the disclosure of agency records.

VII. Questions

If you have any questions about the applicability of this memorandum or need assistance, please contact your Operating Division FOIA Officer via the contact information found at <https://www.hhs.gov/foia/contacts/index.html> and/or contact me via William.Holzerland@hhs.gov.



Appendix A: Significant Request 1-Day Notification Process and Chief FOIA Officer's Weekly FOIA Report

I. Criteria

- A. Pertains to Significant FOIA releases, appeal releases, FOIA litigation releases, and significant additions to the FOIA library, when the request qualifies as significant under Section IV. E.
- B. Items listed above in Section I.A. are not exclusive--exercise prudent judgment and submit items that reflect the spirit and intent of this reporting requirement. If in doubt, please err on the side of inclusion.
- C. Submissions that do not meet the above criteria will not be included in the final Chief FOIA Officer's Weekly FOIA Report.
- D. Do not report Privacy Act requests, even to the extent IV. E. criteria might otherwise be met.

II. Process

- A. Submit items by e-mail to HHS_Significant_FOIA_Requests@hhs.gov within the text of the e-mail, with a copy of the entire incoming request attached to the email.
- B. Identify the requester's name, city, and state (spell out name of state).
- C. Identify the requester by affiliation (individual, organization, company, membership, etc.).
- D. Identify your OpDiv or StaffDiv as the receiving FOIA Office.
- E. For referrals of misdirected requests within HHS, the initial OpDiv or Staff Div receiving the request will report the item.
- F. For referrals of otherwise-qualifying yet misdirected requests submitted to HHS pertaining to other agencies and immediately referred to those agencies, the OpDiv or Staff Div receiving the request shall not report the item.
- G. The first time an acronym is used it should follow its full title and be in parentheses.
- H. Provide a summary of the requested records not to exceed two sentences.
- I. Italicize large publications and news organizations. Use quotes for smaller units within publications. Do not abbreviate media names.
- J. Any reference to an elected official need to include party and state affiliation, if applicable: Senator John Smith (R-NY), Representative Jane Smith (D-IN).
- K. If the FOIA request has been assigned to subordinate FOIA Offices within your OpDiv or StaffDiv, identify the Subcomponent(s) to which it has been assigned.



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- L. If submitting FOIA items related to prospective FOIA releases, please indicate the scope of the submission (volume of released pages or size of file), consisting of what categories of records (e-mails, data, incident reports, etc.), identifying subject matter experts consulted in the review process within your OpDiv or StaffDiv, as well as any exemptions used.
- M. Anticipated or estimated release date.
- N. Additions to the FOIA Library – For Significant Release 1-Day Notification Process and Chief FOIA Officer’s Weekly FOIA Report:
 - 1. When submitting items for efficiency and transparency, please ensure the items posted to the OpDiv or StaffDiv library include the name of the item, URL or weblink to the page where the records will be posted and quantify the volume of pages or electronically stored information.
 - a. Format:
 - i. On [MONTH, DAY, YEAR] [FULL OPDIV OR STAFFDIV NAME (ABBR.)] [description of action taken, to include posting records to the electronic library, include page count and URL].

O. FOIA Requests and/or Appeals – For Chief FOIA Officer’s Weekly FOIA Report

1. Media Requesters – Representatives of the News Media

a. Format:

On [MONTH, DAY, YEAR], [REQUESTER NAME], a reporter/representative/editor/etc. with the [News Organization] in [CITY, FULL STATE NAME], requested from the [OPDIV OR STAFFDIV NAME (ABBR.)] [description of the records sought]. (Case Number)

2. Individuals – All Requesters Not Affiliated with a News or Other Organization

a. Format:

On [MONTH, DAY, YEAR], [REQUESTER NAME], an individual in [CITY, FULL STATE NAME], requested from the [OPDIV OR STAFFDIV NAME (ABBR.)] [description of the records sought]. (Case Number COMPONENT ABBR Number)



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3. Organizations – Requesters Using Company Letterhead and/or stating Their Association with an Organization
 - a. Format:

On [MONTH, DAY, YEAR], [REQUESTER NAME], a [ENTER JOB TITLE, IF UNKNOWN USE ‘representative’] with [Organization name] in [CITY, FULL STATE NAME], requested from the [OPDIV OR STAFFDIV NAME (ABBR.)] [description of the records sought]. (Case Number)
- P. FOIA Releases – For Significant FOIA Request 1-Day Notification Process and Chief FOIA Officer’s Weekly FOIA Report
 1. Format:
 - a. On [MONTH, DAY, YEAR], the [OPDIV OR STAFFDIV NAME (ABBR.)] will release to [REQUESTER NAME], [REQUESTER AFFILIATION, USING APPROPRIATE STYLE], in [CITY, FULL STATE NAME], [PAGE COUNT] of records consisting of [description of type of records] pertaining to [description of the records sought]. Portions of the release were withheld pursuant to FOIA Exemption(s) [LIST EXEMPTIONS USED]. (Case Number OPDIV/STAFFDIV Request Number)
 - b. On [MONTH, DAY, YEAR], the [OPDIV OR STAFFDIV NAME (ABBR.)] will release to [REQUESTER NAME], [REQUESTER AFFILIATION, USING APPROPRIATE STYLE], in [CITY, FULL STATE NAME], [PAGE COUNT] of records consisting of [description of type of records] pertaining to [description of the records sought]. These records were released in full. (Case Number OPDIV/STAFFDIV Request Number)
 - c. On [MONTH, DAY, YEAR], the [OPDIV OR STAFFDIV NAME (ABBR.)] will issue to [REQUESTER NAME], [REQUESTER AFFILIATION, USING APPROPRIATE STYLE] in [CITY, FULL STATE NAME], a full denial in response to his/her request pertaining to [description of the records sought]. These records were withheld pursuant to FOIA Exemption(s). [LIST EXEMPTIONS USED]. (Case Number OPDIV/STAFFDIV Request Number)
- Q. FOIA Appeals – For Chief FOIA Officer’s Weekly FOIA Report



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1. Format:

On [MONTH, DAY, YEAR], [REQUESTER NAME], [REQUESTER AFFILIATION, USING APPROPRIATE STYLE], in [CITY, FULL STATE NAME] appealed the [OPDIV/STAFFDIV NAME (ABBR.)] response to his or her request for [description of the records sought]. The requester is contesting [provide reason or if redactions, provide page count, and exemptions cited]. (Case Number OPDIV/STAFFDIV Request Number)

R. FOIA Appeals Releases – For Significant FOIA Request 1-Day Notification process and Chief FOIA Officer’s Weekly FOIA Report

1. Format:

On [MONTH, DAY, YEAR], the [OPDIV/STAFFDIV NAME (ABBR.)] will release to [REQUESTER NAME], [REQUESTER AFFILIATION, USING APPROPRIATE STYLE] in [CITY, FULL STATE NAME], [PAGE COUNT] of records consisting of [description of type of records] pertaining to [description of the records sought]. Portions of the release were withheld pursuant to FOIA Exemption(s) [LIST EXEMPTIONS USED]. (Case Number OPDIV/STAFFDIV Request Number)

S. FOIA Litigation releases - For Significant FOIA Request 1-Day Notification process and Chief FOIA Officer’s Weekly FOIA Report

1. Format:

In the matter of [FULL CASE NAME AND CITATION], [BRIEF DESCRIPTION OF COMPLAINT], [OPDIV/STAFFDIV PLANNED ACTION].

T. FOIA Activity Volume - For Chief FOIA Officer’s Weekly FOIA Report

1. Format:

- a. Requests Received:
- b. Requests Closed:
- c. Appeals Received (if applicable):
- d. Appeals Closed (if applicable):
- e. Consults Received:
- f. Consults Closed:
- g. Litigation Releases:



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

August 1, 2025

TO: Centers for Disease Control and Prevention (CDC)

THROUGH: Noah Aleshire, Chief Regulatory Officer, Office of the Director

FROM: Deputy Agency Chief FOIA Officer (DACFO)

SUBJECT: Recission of Delegation of Authority – 5 U.S.C. § 552 (Freedom of Information Act [FOIA]) Authority for CDC and/or Agency for Toxic Substances and Disease Registry (ATSDR)

PURPOSE

This memorandum formally rescinds the delegation of authority dated September 3, 2024, pertaining to the implementation and administration of the Freedom of Information Act (FOIA) by the CDC and/or ATSDR.

AUTHORITY RESCINDED

Consistent with applicable authorities, including but not limited to 45 C.F.R. §§ 5.3 and 5.28, effective immediately upon signature of this memorandum, the September 3, 2024 delegation of FOIA authority issued to CDC/ATSDR personnel is hereby rescinded in full.

SUPERSESSION AND REASSIGNMENT OF AUTHORITY

All FOIA authorities previously delegated to CDC/ATSDR are reassigned to and will be executed by the Office of the Assistant Secretary for Public Affairs (ASPA), which administers the Office of the Secretary (OS) FOIA Program.

This includes, but is not limited to:

- Executing duties outlined under 45 C.F.R. § 5.3;
- Overseeing FOIA operations formerly managed by CDC/ATSDR personnel;
- Managing responsibility for reporting, training, consultation, programmatic investment, and procurement authorities as previously delegated;
- Issuing determinations on novel or significant disclosure policy matters;
- Addressing FOIA litigation and significant legal issues, in consultation with the Office of General Counsel;
- Approving FOIA litigation settlements, in consultation with CDC/ATSDR; and
- Issuing determinations, in consultation with the Office of the Chief Information Officer, on prospective information technology investments impacting disclosure matters prior to such investments occurring.



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Authorities pertaining to FOIA operations, policy, and programmatic investments, to the extent not otherwise listed herein, are vested in the OS FOIA Program, and will be executed by the DACFO or designee, subject to my guidance and oversight.

LIMITATIONS

This delegation will be exercised in accordance with applicable Departmental policies, procedures, guidelines, and regulations.

Nothing in this memorandum alters or otherwise limits CDC/ATSDR responsibilities that facilitate the OS FOIA Program's processing of FOIA requests, appeals, or litigation. Those responsibilities include but are not limited to: executing searches for responsive records, facilitating access to agency personnel and records, and providing subject matter expertise on prospective releases in collaboration with OS FOIA Program personnel.

Similarly, nothing in this memorandum restricts or otherwise erodes the OS FOIA Program's responsibility to coordinate with CDC/ATSDR on significant disclosure activities, including those involving high-profile public health matters, Departmental or CDC/ATSDR priorities, or activities with significant budgetary impacts.

In the event questions arise regarding the applicability or interpretation of Departmental policy in the FOIA process, the DACFO shall arbitrate the issue to ensure consistency across the Departmental FOIA enterprise.

IMPACT ON EXISTING DELEGATIONS OF AUTHORITY

This delegation and reassignment of authority does not impact delegations within ASPA or within any other U.S. Department of Health and Human Services Operating Division or Staff Division, except to the extent specified herein.

EFFECTIVE DATE

This delegation and reassignment of authority is effective immediately upon signature. I hereby affirm and ratify any actions taken by CDC/ATSDR staff that involved the exercise of authorities reassigned herein prior to the effective date of this delegation.

William H. Holzerland

William H. Holzerland
Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs
U.S. Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

September 4, 2025

TO: Freedom of Information Act (FOIA) Officers –
Advanced Research Projects Agency for Health (ARPA-H);
Centers for Medicare & Medicaid Services (CMS);
Food & Drug Administration (FDA);
Health Resources and Services Administration (HRSA);
Indian Health Service (IHS);
National Institutes of Health (NIH); and
Substance Abuse and Mental Health Services Administration (SAMHSA).

FROM: Deputy Agency Chief FOIA Officer (DACFO)

SUBJECT: Interim Delegation and Reassignment of Authority – 5 U.S.C. § 552 (FOIA) Authority for Operating Divisions (OpDivs) and the Office of the Secretary FOIA Program (OS-FOIA).

PURPOSE

This memorandum formally rescinds and supersedes the delegations of authority dated September 3, 2024, regarding administration of the U.S. Department of Health & Human Services (HHS) FOIA Program within affected OpDivs.

AUTHORITY TO DELEGATE

This delegation is issued pursuant to authority granted in the September 3, 2024 memorandum in Tab B.

AUTHORITY DELEGATED AND REASSIGNED

Pursuant to applicable authorities, including but not limited to 45 C.F.R. §§ 5.3 and 5.28, and subject to my oversight and guidance, I hereby delegate to the HHS FOIA Officer in OS-FOIA (currently, the “ASPA Director, Initial FOIA Requests”) certain specified authorities outlined below, in addition to and concurrent with authorities delegated and reassigned via the August 1, 2025 “Delegation and Reassignment of Authority” for OS-FOIA.

This memorandum incorporates by reference August 1, 2025 memoranda formally rescinding authorities previously delegated to the Administration for Children and Families (ACF), Administration for Community Living (ACL), and the Centers for Disease Control and Prevention (CDC) and/or the Agency for Toxic Substances and Disease Registry (ATSDR), respectively.



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To the extent authorities listed below were previously delegated to OpDiv FOIA Offices to engage in these activities, such authorities are hereby rescinded.

- Serving as the principal resource to HHS FOIA personnel for novel or significant disclosure policy matters and recommending determinations to DACFO;
- Reviewing and approving proposed OpDiv information technology or other programmatic investments that may impact FOIA request processing or tracking, in consultation with relevant Departmental leadership offices, and obtaining written DACFO concurrence in advance of such OpDiv investments occurring;
- Reviewing and approving proposed litigation settlements, after review and recommendation from OpDiv FOIA officers and advice from the Office of General Counsel (OGC), and providing written DACFO concurrence in advance of such settlements occurring; and
- Serving as the approving official on the hiring panel for OpDiv FOIA officers or senior program personnel.

Authorities previously delegated to OpDiv FOIA Officers via the September 3, 2024 Delegations remain in place, except to the extent modified below:

- Executing the duties of a “FOIA Officer” as defined in 45 C.F.R. § 5.3;
- Developing and implementing OpDiv FOIA Program initiatives consistent with HHS disclosure policies to ensure efficient and appropriate compliance with FOIA and reporting to DACFO and OS-FOIA on same;
- Recommending such adjustments to agency practices and policies as may be necessary to improve OpDiv FOIA operations;
- Compiling and reporting to the Attorney General, through the DACFO and OS-FOIA, at such times and in such formats as the DACFO may direct, on HHS FOIA performance;
- Submitting reports to the DACFO and OS-FOIA on OpDiv program activities, including statistical or other implementation data;
- Designating one or more FOIA Public Liaisons and reporting to the DACFO and OS-FOIA on the activities of its FOIA Public Liaison(s);
- Conducting OS-FOIA-approved annual and on-demand training for OpDiv personnel;
- Providing courtesy copies of FOIA responses, concurrent with release, to OS-FOIA and appropriate HHS staff for matters involving high-profile public health issues and Departmental priorities (e.g., for OS-FOIA distribution to the DACFO, public affairs staff, and/or OpDiv designees);
- Submitting periodic reports and other required updates on FOIA activities relevant to oversight or other legislative engagements;
- Recommending FOIA-related information technology, personnel, or other programmatic investments to DACFO and OS-FOIA to improve administration of FOIA for review and approval in advance of such investments occurring;
- Recommending FOIA litigation settlement amounts after receiving advice from OGC and obtaining written DACFO concurrence in advance of such investments occurring; and



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- Consulting with the DACFO and OS-FOIA on the policy impacts of FOIA litigation filings in advance, in consultation with OGC, keeping OS-FOIA informed of significant legal issues.

LIMITATIONS

This delegation will be exercised in accordance with the Department's applicable policies, procedures, guidelines, and regulations.

In the event questions arise regarding the applicability or interpretation of Departmental policy in the FOIA process, the DACFO shall arbitrate the issue to ensure consistency across the Departmental FOIA enterprise.

IMPACT ON EXISTING DELEGATIONS OF AUTHORITY

This delegation and reassignment of authority does not impact other delegations within OS-FOIA or within any other HHS Operating Division or Staff Division, except to the extent specified herein.

EFFECTIVE DATE

This delegation and reassignment of authority is effective immediately upon signature. I hereby affirm and ratify any actions taken by you or your subordinates that involved the exercise of the authorities delegated herein prior to the effective date of the delegation.

William H. Holzerland

William H. Holzerland
Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs
U.S. Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

August 1, 2025

TO: Centers for Disease Control and Prevention (CDC)

THROUGH: Noah Aleshire, Chief Regulatory Officer, Office of the Director

FROM: Deputy Agency Chief FOIA Officer (DACFO)

SUBJECT: Recission of Delegation of Authority – 5 U.S.C. § 552 (Freedom of Information Act [FOIA]) Authority for CDC and/or Agency for Toxic Substances and Disease Registry (ATSDR)

PURPOSE

This memorandum formally rescinds the delegation of authority dated September 3, 2024, pertaining to the implementation and administration of the Freedom of Information Act (FOIA) by the CDC and/or ATSDR.

AUTHORITY RESCINDED

Consistent with applicable authorities, including but not limited to 45 C.F.R. §§ 5.3 and 5.28, effective immediately upon signature of this memorandum, the September 3, 2024 delegation of FOIA authority issued to CDC/ATSDR personnel is hereby rescinded in full.

SUPERSESSION AND REASSIGNMENT OF AUTHORITY

All FOIA authorities previously delegated to CDC/ATSDR are reassigned to and will be executed by the Office of the Assistant Secretary for Public Affairs (ASPA), which administers the Office of the Secretary (OS) FOIA Program.

This includes, but is not limited to:

- Executing duties outlined under 45 C.F.R. § 5.3;
- Overseeing FOIA operations formerly managed by CDC/ATSDR personnel;
- Managing responsibility for reporting, training, consultation, programmatic investment, and procurement authorities as previously delegated;
- Issuing determinations on novel or significant disclosure policy matters;
- Addressing FOIA litigation and significant legal issues, in consultation with the Office of General Counsel;
- Approving FOIA litigation settlements, in consultation with CDC/ATSDR; and
- Issuing determinations, in consultation with the Office of the Chief Information Officer, on prospective information technology investments impacting disclosure matters prior to such investments occurring.



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Authorities pertaining to FOIA operations, policy, and programmatic investments, to the extent not otherwise listed herein, are vested in the OS FOIA Program, and will be executed by the DACFO or designee, subject to my guidance and oversight.

LIMITATIONS

This delegation will be exercised in accordance with applicable Departmental policies, procedures, guidelines, and regulations.

Nothing in this memorandum alters or otherwise limits CDC/ATSDR responsibilities that facilitate the OS FOIA Program's processing of FOIA requests, appeals, or litigation. Those responsibilities include but are not limited to: executing searches for responsive records, facilitating access to agency personnel and records, and providing subject matter expertise on prospective releases in collaboration with OS FOIA Program personnel.

Similarly, nothing in this memorandum restricts or otherwise erodes the OS FOIA Program's responsibility to coordinate with CDC/ATSDR on significant disclosure activities, including those involving high-profile public health matters, Departmental or CDC/ATSDR priorities, or activities with significant budgetary impacts.

In the event questions arise regarding the applicability or interpretation of Departmental policy in the FOIA process, the DACFO shall arbitrate the issue to ensure consistency across the Departmental FOIA enterprise.

IMPACT ON EXISTING DELEGATIONS OF AUTHORITY

This delegation and reassignment of authority does not impact delegations within ASPA or within any other U.S. Department of Health and Human Services Operating Division or Staff Division, except to the extent specified herein.

EFFECTIVE DATE

This delegation and reassignment of authority is effective immediately upon signature. I hereby affirm and ratify any actions taken by CDC/ATSDR staff that involved the exercise of authorities reassigned herein prior to the effective date of this delegation.

William H. Holzerland

William H. Holzerland
Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs
U.S. Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

August 1, 2025

TO: Administration for Community Living (ACL)

THROUGH: Rick Nicholls, Deputy Administrator and Chief of Staff

FROM: Deputy Agency Chief FOIA Officer (DACFO)

SUBJECT: Recission of Delegation of Authority – 5 U.S.C. § 552 (Freedom of Information Act [FOIA]) Authority for ACF

PURPOSE

This memorandum formally rescinds the delegation of authority dated September 3, 2024, pertaining to the implementation and administration of the Freedom of Information Act (FOIA) by the ACL.

AUTHORITY RESCINDED

Consistent with applicable authorities, including but not limited to 45 C.F.R. §§ 5.3 and 5.28, effective immediately upon signature of this memorandum, the September 3, 2024 delegation of FOIA authority issued to ACL personnel is hereby rescinded in full.

SUPERSESSION AND REASSIGNMENT OF AUTHORITY

All FOIA authorities previously delegated to ACL are reassigned to and will be executed by the Office of the Assistant Secretary for Public Affairs (ASPA), which administers the Office of the Secretary (OS) FOIA Program.

This includes, but is not limited to:

- Executing duties outlined under 45 C.F.R. § 5.3;
- Overseeing FOIA operations formerly managed by ACL personnel;
- Managing responsibility for reporting, training, consultation, programmatic investment, and procurement authorities as previously delegated;
- Issuing determinations on novel or significant disclosure policy matters;
- Addressing FOIA litigation and significant legal issues, in consultation with the Office of General Counsel;
- Approving FOIA litigation settlements, in consultation with ACL; and
- Issuing determinations, in consultation with the Office of the Chief Information Officer, on prospective information technology investments impacting disclosure matters prior to such investments occurring.



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Authorities pertaining to FOIA operations, policy, and programmatic investments, to the extent not otherwise listed herein, are vested in the OS FOIA Program, and will be executed by the DACFO or designee, subject to my guidance and oversight.

LIMITATIONS

This delegation will be exercised in accordance with applicable Departmental policies, procedures, guidelines, and regulations.

Nothing in this memorandum alters or otherwise limits ACL responsibilities that facilitate the OS FOIA Program's processing of FOIA requests, appeals, or litigation. Those responsibilities include but are not limited to: executing searches for responsive records, facilitating access to agency personnel and records, and providing subject matter expertise on prospective releases in collaboration with OS FOIA Program personnel.

Similarly, nothing in this memorandum restricts or otherwise erodes the OS FOIA Program's responsibility to coordinate with ACL on significant disclosure activities, including those involving high-profile public health matters, Departmental or ACL priorities, or activities with significant budgetary impacts.

In the event questions arise regarding the applicability or interpretation of Departmental policy in the FOIA process, the DACFO shall arbitrate the issue to ensure consistency across the Departmental FOIA enterprise.

IMPACT ON EXISTING DELEGATIONS OF AUTHORITY

This delegation and reassignment of authority does not impact delegations within ASPA or within any other U.S. Department of Health and Human Services Operating Division or Staff Division, except to the extent specified herein.

EFFECTIVE DATE

This delegation and reassignment of authority is effective immediately upon signature. I hereby affirm and ratify any actions taken by ACL personnel that involved the exercise of authorities reassigned herein prior to the effective date of this delegation.

William H. Holzerland

William H. Holzerland
Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs
U.S. Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

August 1, 2025

TO: Administration for Children and Families (ACF)

THROUGH: Ben Goldhaber, Deputy Assistant Secretary, Office of Administration

FROM: Deputy Agency Chief FOIA Officer (DACFO)

SUBJECT: Recission of Delegation of Authority – 5 U.S.C. § 552 (Freedom of Information Act [FOIA]) Authority for ACF

PURPOSE

This memorandum formally rescinds the delegation of authority dated September 3, 2024, pertaining to the implementation and administration of the Freedom of Information Act (FOIA) by the ACF.

AUTHORITY RESCINDED

Consistent with applicable authorities, including but not limited to 45 C.F.R. §§ 5.3 and 5.28, effective immediately upon signature of this memorandum, the September 3, 2024 delegation of FOIA authority issued to ACF personnel is hereby rescinded in full.

SUPERSESSION AND REASSIGNMENT OF AUTHORITY

All FOIA authorities previously delegated to ACF are reassigned to and will be executed by the Office of the Assistant Secretary for Public Affairs (ASPA), which administers the Office of the Secretary (OS) FOIA Program.

This includes, but is not limited to:

- Executing duties outlined under 45 C.F.R. § 5.3;
- Overseeing FOIA operations formerly managed by ACF personnel;
- Managing responsibility for reporting, training, consultation, programmatic investment, and procurement authorities as previously delegated;
- Issuing determinations on novel or significant disclosure policy matters;
- Addressing FOIA litigation and significant legal issues, in consultation with the Office of General Counsel;
- Approving FOIA litigation settlements, in consultation with ACF; and
- Issuing determinations, in consultation with the Office of the Chief Information Officer, on prospective information technology investments impacting disclosure matters prior to such investments occurring.



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Assistant Secretary for Public Affairs
Washington, D.C. 20201

Authorities pertaining to FOIA operations, policy, and programmatic investments, to the extent not otherwise listed herein, are vested in the OS FOIA Program, and will be executed by the DACFO or designee, subject to my guidance and oversight.

LIMITATIONS

This delegation will be exercised in accordance with applicable Departmental policies, procedures, guidelines, and regulations.

Nothing in this memorandum alters or otherwise limits ACF responsibilities that facilitate the OS FOIA Program's processing of FOIA requests, appeals, or litigation. Those responsibilities include but are not limited to: executing searches for responsive records, facilitating access to agency personnel and records, and providing subject matter expertise on prospective releases in collaboration with OS FOIA Program personnel.

Similarly, nothing in this memorandum restricts or otherwise erodes the OS FOIA Program's responsibility to coordinate with ACF on significant disclosure activities, including those involving high-profile public health matters, Departmental or ACF priorities, or activities with significant budgetary impacts.

In the event questions arise regarding the applicability or interpretation of Departmental policy in the FOIA process, the DACFO shall arbitrate the issue to ensure consistency across the Departmental FOIA enterprise.

IMPACT ON EXISTING DELEGATIONS OF AUTHORITY

This delegation and reassignment of authority does not impact delegations within ASPA or within any other U.S. Department of Health and Human Services Operating Division or Staff Division, except to the extent specified herein.

EFFECTIVE DATE

This delegation and reassignment of authority is effective immediately upon signature. I hereby affirm and ratify any actions taken by ACF personnel that involved the exercise of authorities reassigned herein prior to the effective date of this delegation.

William H. Holzerland

William H. Holzerland
Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs
U.S. Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

August 1, 2025

TO: Arianne Perkins, Director, Initial FOIA Requests, Office of the Assistant Secretary for Public Affairs (ASPA)

FROM: Deputy Agency Chief FOIA Officer (DACFO)

SUBJECT: Delegation and Reassignment of Authority – 5 U.S.C. § 552 (Freedom of Information Act [FOIA]) Authority for the Office of the Secretary (OS)

PURPOSE

This memorandum formally rescinds and supersedes the delegation of authority dated September 3, 2024, regarding administration of the U.S. Department of Health & Human Services (HHS) OS FOIA Program within ASPA.

AUTHORITY TO DELEGATE

This delegation is issued pursuant to authority granted in the September 3, 2024 memorandum in Tab B.

AUTHORITY DELEGATED AND REASSIGNED

Pursuant to applicable authorities, including but not limited to 45 C.F.R. §§ 5.3 and 5.28, and subject to my oversight and guidance, I hereby delegate to the HHS FOIA Officer in the Office of the Secretary (currently, the “ASPA Director, Initial FOIA Requests”) the authority for Department-wide administration and coordination of FOIA activities, efficient and effective compliance with FOIA, and the Department’s implementing regulations.

This memorandum reassigns to the OS FOIA Program authority to manage FOIA operations on behalf of the Administration for Children & Families (ACF), Administration for Community Living (ACL), the Agency for Toxic Substances and Disease Registry (ATSDR), the Centers for Disease Control and Prevention (CDC), and such other Operating Divisions and Staff Divisions as may be designated by the Secretary, and listed on [HHS.gov](https://www.hhs.gov). Authorities previously delegated to listed entities to engage in FOIA operations have been rescinded.

The authorities delegated include the following authorities and responsibilities:

- Executing the duties of a “FOIA Officer” and “HHS FOIA Officer in the Office of the Secretary” as defined in 45 C.F.R. § 5.3;
- Developing and implementing OS FOIA Program initiatives to ensure efficient and appropriate compliance with FOIA and reporting to DACFO and ASPA;
- Recommending such adjustments to agency practices and policies as may be



necessary to improve OS FOIA Program operations;

- Compiling and reporting to the Attorney General, through the DACFO and the Department, at such times and in such formats as the Attorney General may direct, on HHS FOIA performance;
- Designating one or more FOIA Public Liaisons and reporting to the DACFO on the activities of its FOIA Public Liaison(s);
- Conducting and approving annual and on-demand training for OS FOIA Program and Department personnel;
- Submitting reports to the DACFO on OS FOIA program activities, including statistical or other implementation data;
- Serving as the principal resource for novel significant disclosure policy matters and recommending determinations to DACFO;
- Providing courtesy copies of FOIA responses, concurrent with release, to appropriate HHS staff for matters involving high-profile public health issues and Departmental priorities (e.g., the DAFCO, public affairs staff, and/or OpDiv designees);
- Submitting periodic reports and other required updates on FOIA activities that may impact oversight or other legislative engagements; and
- Recommending FOIA-related information technology, personnel, or other programmatic investments to DACFO to improve administration of FOIA.

LIMITATIONS

This delegation will be exercised in accordance with the Department's applicable policies, procedures, guidelines, and regulations.

Nothing in this memorandum alters or otherwise limits Operating Division responsibilities that facilitate the OS FOIA Program's processing of FOIA requests, appeals, or litigation. Those responsibilities include but are not limited to: executing searches for responsive records, facilitating access to agency personnel and records, and providing subject matter expertise on prospective releases in collaboration with OS FOIA Program personnel.

Similarly, nothing in this memorandum relieves the OS FOIA Program's responsibility to coordinate with affected Operating Divisions on significant disclosure activities, including those involving high-profile public health matters, Departmental or Operating Division priorities, or activities with significant budgetary impacts.

In the event questions arise regarding the applicability or interpretation of Departmental policy in the FOIA process, the DAFCO shall arbitrate the issue to ensure consistency across the Departmental FOIA enterprise.

IMPACT ON EXISTING DELEGATIONS OF AUTHORITY

This delegation and reassignment of authority does not impact other delegations within ASPA or within any other HHS Operating Division or Staff Division, except to the extent specified herein.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

EFFECTIVE DATE

This delegation and reassignment of authority is effective immediately upon signature. I hereby affirm and ratify any actions taken by you or your subordinates that involved the exercise of the authorities delegated herein prior to the effective date of the delegation.

William H. Holzerland

William H. Holzerland
Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs
U.S. Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

September 4, 2025

TO: Freedom of Information Act (FOIA) Officers –
Advanced Research Projects Agency for Health (ARPA-H);
Centers for Medicare & Medicaid Services (CMS);
Food & Drug Administration (FDA);
Health Resources and Services Administration (HRSA);
Indian Health Service (IHS);
National Institutes of Health (NIH); and
Substance Abuse and Mental Health Services Administration (SAMHSA).

FROM: Deputy Agency Chief FOIA Officer (DACFO)

SUBJECT: Interim Delegation and Reassignment of Authority – 5 U.S.C. § 552 (FOIA) Authority for Operating Divisions (OpDivs) and the Office of the Secretary FOIA Program (OS-FOIA).

PURPOSE

This memorandum formally rescinds and supersedes the delegations of authority dated September 3, 2024, regarding administration of the U.S. Department of Health & Human Services (HHS) FOIA Program within affected OpDivs.

AUTHORITY TO DELEGATE

This delegation is issued pursuant to authority granted in the September 3, 2024 memorandum in Tab B.

AUTHORITY DELEGATED AND REASSIGNED

Pursuant to applicable authorities, including but not limited to 45 C.F.R. §§ 5.3 and 5.28, and subject to my oversight and guidance, I hereby delegate to the HHS FOIA Officer in OS-FOIA (currently, the “ASPA Director, Initial FOIA Requests”) certain specified authorities outlined below, in addition to and concurrent with authorities delegated and reassigned via the August 1, 2025 “Delegation and Reassignment of Authority” for OS-FOIA.

This memorandum incorporates by reference August 1, 2025 memoranda formally rescinding authorities previously delegated to the Administration for Children and Families (ACF), Administration for Community Living (ACL), and the Centers for Disease Control and Prevention (CDC) and/or the Agency for Toxic Substances and Disease Registry (ATSDR), respectively.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

To the extent authorities listed below were previously delegated to OpDiv FOIA Offices to engage in these activities, such authorities are hereby rescinded.

- Serving as the principal resource to HHS FOIA personnel for novel or significant disclosure policy matters and recommending determinations to DACFO;
- Reviewing and approving proposed OpDiv information technology or other programmatic investments that may impact FOIA request processing or tracking, in consultation with relevant Departmental leadership offices, and obtaining written DACFO concurrence in advance of such OpDiv investments occurring;
- Reviewing and approving proposed litigation settlements, after review and recommendation from OpDiv FOIA officers and advice from the Office of General Counsel (OGC), and providing written DACFO concurrence in advance of such settlements occurring; and
- Serving as the approving official on the hiring panel for OpDiv FOIA officers or senior program personnel.

Authorities previously delegated to OpDiv FOIA Officers via the September 3, 2024 Delegations remain in place, except to the extent modified below:

- Executing the duties of a “FOIA Officer” as defined in 45 C.F.R. § 5.3;
- Developing and implementing OpDiv FOIA Program initiatives consistent with HHS disclosure policies to ensure efficient and appropriate compliance with FOIA and reporting to DACFO and OS-FOIA on same;
- Recommending such adjustments to agency practices and policies as may be necessary to improve OpDiv FOIA operations;
- Compiling and reporting to the Attorney General, through the DACFO and OS-FOIA, at such times and in such formats as the DACFO may direct, on HHS FOIA performance;
- Submitting reports to the DACFO and OS-FOIA on OpDiv program activities, including statistical or other implementation data;
- Designating one or more FOIA Public Liaisons and reporting to the DACFO and OS-FOIA on the activities of its FOIA Public Liaison(s);
- Conducting OS-FOIA-approved annual and on-demand training for OpDiv personnel;
- Providing courtesy copies of FOIA responses, concurrent with release, to OS-FOIA and appropriate HHS staff for matters involving high-profile public health issues and Departmental priorities (e.g., for OS-FOIA distribution to the DACFO, public affairs staff, and/or OpDiv designees);
- Submitting periodic reports and other required updates on FOIA activities relevant to oversight or other legislative engagements;
- Recommending FOIA-related information technology, personnel, or other programmatic investments to DACFO and OS-FOIA to improve administration of FOIA for review and approval in advance of such investments occurring;
- Recommending FOIA litigation settlement amounts after receiving advice from OGC and obtaining written DACFO concurrence in advance of such investments occurring; and



DEPARTMENT OF HEALTH & HUMAN SERVICES

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Assistant Secretary for Public Affairs
Washington, D.C. 20201

- Consulting with the DACFO and OS-FOIA on the policy impacts of FOIA litigation filings in advance, in consultation with OGC, keeping OS-FOIA informed of significant legal issues.

LIMITATIONS

This delegation will be exercised in accordance with the Department's applicable policies, procedures, guidelines, and regulations.

In the event questions arise regarding the applicability or interpretation of Departmental policy in the FOIA process, the DACFO shall arbitrate the issue to ensure consistency across the Departmental FOIA enterprise.

IMPACT ON EXISTING DELEGATIONS OF AUTHORITY

This delegation and reassignment of authority does not impact other delegations within OS-FOIA or within any other HHS Operating Division or Staff Division, except to the extent specified herein.

EFFECTIVE DATE

This delegation and reassignment of authority is effective immediately upon signature. I hereby affirm and ratify any actions taken by you or your subordinates that involved the exercise of the authorities delegated herein prior to the effective date of the delegation.

William H. Holzerland

William H. Holzerland
Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs
U.S. Department of Health and Human Services

From: Holzerland, William (HHS/ASPA)
Sent: Thu, 21 Aug 2025 16:06:04 +0000
To: Tripline, Joseph (CMS/OSORA); Garcia-Malene, Gorka (NIH/OD) [E]; May, Brian (HRSA); Smith, Candrea (SAMHSA/NMHSUPL/EXEC SEC); Schlaifer, Meredith; FOIA@arpa-h.gov; Mitchell, Carl (IHS/HQ); Souther, James (IHS/HQ); Lampe, Karen (NIH/OD) [E]
Cc: Perkins, Arianne (OS/ASPA); Lancey, Brandon (OS/ASPA); Keck, Samantha (HHS/OGC)
Subject: Legal filings/settlements
Importance: High

All:

As discussed at length at the FOIA Officers' meeting on the 13th, the Department is taking certain steps to implement the Secretary's orders to streamline the FOIA program.

Consistent with those orders and the Department's ongoing reorganization, as an interim measure, if a declaration must be filed to support ongoing litigation defense, to the extent it necessitates discussion of the ongoing reorganization, Executive Orders, staffing, or workload projections, any such draft declaration requires written OS-FOIA concurrence in advance of filing. We do not need to review or concur draft declarations that recount the nuts and bolts of the facts surrounding case processing.

The reason for this is that the 300+ lawsuits the Department is defending concurrently do not exist in a vacuum and impact each other. The intent is to be fully transparent in discussing the ongoing centralization of the program and steps taken to effect it, and to ensure the Department's views are incorporated into legal documents memorializing these actions. To be clear, we want information out there about the direction the Department is headed in and the messaging on it to be consistent.

Likewise, we're going to treat litigation settlement discussions similarly, in that monetary settlements require OS-FOIA written concurrence. To be blunt, the Department has historically done a poor job of tracking programmatic costs and expenditures and accordingly, we require visibility into such matters to inform future projected budget requests and actual costs.

Please plan accordingly and spread the word to necessary parties in OGC and AUSAs as need be.

Thank you.

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer

Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Holzerland, William (HHS/ASPA)
Sent: Thu, 17 Apr 2025 14:00:25 +0000
To: Steel, Lindsay (OIP)
Cc: Perkins, Arianne (OS/ASPA); Lancey, Brandon (OS/ASPA)
Subject: National FOIA portal updates

Good morning, Lindsay:

In light of the ongoing HHS reorganization, we must request certain updates to routing from the national FOIA portal. For now, requests for Administration for Children & Families (ACF) and Centers for Disease Control and Prevention (CDC) and/or the Agency for Toxic Substances and Disease Registry (ATSDR) will need rerouting to the Department. Please let us know what you need from us to effect that change.

I expect routing changes relative to requests submitted to the Administration for Community Living (ACL), Food & Drug Administration (FDA), National Institutes of Health (NIH), and Substance Abuse and Mental Health Services Administration (SAMHSA), and likely, other HHS entities, will prove necessary by the first week of June, but more information on those issues will follow as plans for the reorganization unfold.

Thank you and have a good morning.

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: [Holzerland, William \(HHS/ASPA\)](#)
To: [Kotler, Sarah \(FDA/OC\)](#); [May, Brian \(HRSA\)](#); [Daley, Garfield \(ACL\)](#); [Mitchell, Carl \(IHS/HQ\)](#); [Smith, Celeste \(ACF\)](#); [Garcia-Malene, Gorka \(NIH/OD\) \[E\]](#); [Tripline, Joseph \(CMS/OSORA\)](#); [Lampasone, Kara \(SAMHSA/NMHSUPL/EXEC SEC\)](#); [ARPA-H FOIA](#); [Souther, James \(IHS/HQ\)](#); [Smith, Candrea \(SAMHSA/NMHSUPL/EXEC SEC\)](#); [Manheim, Marianne \(NIH/NHLBI\) \[E\]](#); [ACF FOIA \(ACF\)](#); [ACL FOIA \(ACL\)](#); [foiarequests@cdc.gov](#); [HRSA FOIA](#); [SAMHSA FOIA](#); [Klocinski, Jennifer \(ACL\)](#); [Davis, Candace \(FDA/CDRH\)](#); [Philips, Howard \(FDA/CDER\)](#); [Schlaifer, Meredith \(FDA/OC\)](#); [Bordine, Roger \(NIH/OD\) \[E\]](#); [Gaynor, Desiree \(CMS/OSORA\)](#)
Cc: [Perkins, Arianne \(OS/ASPA\)](#); [Sikandar, Nusheen \(OS/ASPA\)](#); [Lancey, Brandon \(OS/ASPA\)](#); [Formoso, Paula \(HHS/ASPA\)](#); [Carter, Kerey \(CDC/OCOO/OCIO/CSPO\)](#); [Gomes, Dominic \(OS/OCIO/OIS\)](#); [Rollins, Dwayne \(OS/OCIO/Ops\)](#); [Keck, Samantha \(HHS/OGC\)](#); [Ford, Kenya S. \(CDC/OGC\)](#)
Subject: Ongoing HHS FOIA operations
Date: Monday, April 7, 2025 11:59:00 AM

All:

I know we're all adjusting to sweeping personnel changes that occurred last week and that we face a challenging road ahead as the Department reorganizes.

This is a particularly difficult moment as we navigate the immediate path forward without so many respected colleagues and friends and we will be sensitive to that. I am here for you and am available to talk as we chart the path forward on business and other needs to the extent it will be helpful to lend an ear.

I've been asked to stitch the team together as we move forward with executing our FOIA mission and ensuring transparency. While I do not have a comprehensive list of the personnel changes across OpDivs and StaffDivs - whether we're talking those that impacted FOIA personnel, or those that impacted reporting chains - I want to get the conversation started surrounding how we move forward.

I apologize if I omitted parties necessary to the discussion, but please add them to the chain where necessary. I've included several colleagues from OGC and OCIO who need viz into the legal and IT aspects of the road ahead, but again, don't have a comprehensive list of necessary parties. Please make connections where necessary and we'll sort out questions as quickly as we can.

There are going to be numerous discrete issues to navigate – including those impacting day-to-day customer service, data access, ongoing litigation, and others. We're going to triage and address the most emergent items first. With respect to existing backlogs, the immediate focus must remain on logging incoming work, continuing to process on a first-in/first-out basis, starting with your 10 oldest cases, and capturing the status of ongoing litigation productions.

We're working on consistent messaging to be posted on HHS.gov and mirrored on FOIA websites enterprise-wide to acknowledge that we're adjusting business operations and to capture ongoing issues for orderly resolution. To the extent you receive press inquiries, requests for comment, and the like, please refer media outlets here:

<https://hhscewp.my.site.com/ASPApublic/s/request-for-comment>.

I'd like to talk to senior FOIA personnel that remain tomorrow to begin gathering the facts on what's happening in each existing FOIA office. I'll send a meeting invite, but please feel free to add to it as necessary; to manage expectations, I expect there will be more questions than answers at this point.

Please hang in there – we are in this together.

Regards,

Bill

William H. Holzerland

Deputy Chief FOIA Officer

Office of the Assistant Secretary for Public Affairs (ASPA)

U.S. Department of Health and Human Services (HHS)

Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Holzerland, William (HHS/ASPA)
Sent: Tue, 22 Apr 2025 14:22:54 +0000
To: Bentley, Chandra J. (CDC/OCOO/OD); Perkins, Arianne (OS/ASPA); Formoso, Paula (HHS/ASPA)
Cc: Bentley, Chandra J. (CDC/OCOO/OD)
Subject: RE: CDC FOIA Requests- Inquiry

Absolutely; we'll be glad to execute that quickly. Thanks again, Chandra.

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Bentley, Chandra J. (CDC/OCOO/OD) <cje2@cdc.gov>
Sent: Tuesday, April 22, 2025 7:55 AM
To: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>; Perkins, Arianne (OS/ASPA) <Arianne.Perkins@hhs.gov>; Formoso, Paula (HHS/ASPA) <Paula.Formoso@hhs.gov>
Cc: Bentley, Chandra J. (CDC/OCOO/OD) <cje2@cdc.gov>
Subject: RE: CDC FOIA Requests- Inquiry

Good morning,

CDC will be working on your request.

Additionally, can you all assist with the removal of the CDC/ATSDR contact info (below) that points to the CDC site from the HHS site?

<https://www.hhs.gov/foia/contacts/index.html>

Centers for Disease Control and Prevention (CDC), opens in a new tab
and/or*

[Agency for Toxic Substances and Disease Registry \(ATSDR\)](#), opens in a new tab

Freedom of Information Act Office

1600 Clifton Rd NE MS T-01

Atlanta, Georgia 30333

Email: FOIARequests@cdc.gov, opens in a new window

Phone: 770-488-6399

FOIA Officer: Roger Andoh

FOIA Public Liaison: Bruno Viana; email: cqy8@cdc.gov, opens in a new window; phone: 770-488-6246



Chandra Joy Bentley
Senior Operations Officer, CDC

Centers for Disease Control & Prevention (CDC)
Department of Health and Human Services (HHS)
404-718-1467 (office) | (b)(6)

From: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>

Sent: Monday, April 21, 2025 3:21 PM

To: Perkins, Arianne (OS/ASPA) <Arianne.Perkins@hhs.gov>; Bentley, Chandra J. (CDC/OCOO/OD) <cje2@cdc.gov>; Formoso, Paula (HHS/ASPA) <Paula.Formoso@hhs.gov>

Cc: Bentley, Chandra J. (CDC/OCOO/OD) <cje2@cdc.gov>; Carter, Kerey (CDC/OCOO/OCIO/CSPO) <kvc2@cdc.gov>

Subject: RE: CDC FOIA Requests- Inquiry

As we're undergoing the reorganization, it likely also makes sense to identify the party/parties that can update <https://www.cdc.gov/foia/> to ensure it mirrors the Departmental FOIA contact info found here: <https://www.hhs.gov/foia/contacts/index.html>.

Regards,

Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Perkins, Arianne (OS/ASPA) <Arianne.Perkins@hhs.gov>

Sent: Monday, April 21, 2025 3:10 PM

To: Bentley, Chandra J. (CDC/OCOO/OD) <cje2@cdc.gov>; OS FOIA Request (HHS/ASPA) <FOIARequest@hhs.gov>; HHS FOIA Public Liaison (OS/ASPA) <HHS_FOIA_Public_Liaison@hhs.gov>; Formoso, Paula (HHS/ASPA) <Paula.Formoso@hhs.gov>

Cc: Bentley, Chandra J. (CDC/OCOO/OD) <cje2@cdc.gov>; Carter, Kerey (CDC/OCOO/OCIO/CSPO) <kvc2@cdc.gov>; Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>

Subject: RE: CDC FOIA Requests- Inquiry

Good afternoon Chandra,

Our Deputy Chief FOIA Officer, Bill Holzerland, has been working with Kerey Carter in CDC OCIO to gain access to CDC mailboxes and FOIA tracking system. Until we have a solution, you can direct FOIA requests to our office. We have staff monitoring our mailbox (FOIARequest@hhs.gov) to ensure requests are properly routed.

Best regards,

Arianne M. Perkins

Director, Initial FOIA Requests

FOI/PA Division

Assistant Secretary for Public Affairs (ASPA)

Office of the Secretary (OS)

U.S. Department of Health and Human Services (HHS)

(202) 841-2789

From: Bentley, Chandra J. (CDC/OCOO/OD) <cje2@cdc.gov>

Sent: Monday, April 21, 2025 2:16 PM

To: Perkins, Arianne (OS/ASPA) <Arianne.Perkins@hhs.gov>; OS FOIA Request (HHS/ASPA)

<FOIARequest@hhs.gov>; HHS FOIA Public Liaison (OS/ASPA) <HHS_FOIA_Public_Liaison@hhs.gov>;

Formoso, Paula (HHS/ASPA) <Paula.Formoso@hhs.gov>

Cc: Bentley, Chandra J. (CDC/OCOO/OD) <cje2@cdc.gov>

Subject: CDC FOIA Requests- Inquiry

Good afternoon,

Following the recent RIF terminations, CDC no longer has staff handling FOIA requests. Can someone please confirm that we should be directing requests to FOIARequest@hhs.gov? If not, is there a specific email address that we should use? CDC's entire FOIA office was eliminated, and we need to ensure that we are responsive to any requests received and be able to provide accurate contact information to those who inquire. May we also have a named POC?

I look forward to your response.

Regards,

Chandra Joy Bentley

Senior Operations Officer, CDC

Centers for Disease Control & Prevention (CDC)

Department of Health and Human Services (HHS)

404-718-1467 (office) | (b)(6)



From: Holzerland, William (HHS/ASPA)
Sent: Fri, 25 Apr 2025 20:59:18 +0000
To: Haynes, Benjamin (CDC/OD/OC)
Cc: Nixon, Andrew (HHS/ASPA); Nahill, Liam (HHS/ASPA); Witkofsky, Nina (CDC/IOD)
Subject: Re: CDC Web Access

Thanks, Ben. I know there are many things happening concurrently. The call with DOJ went well, but if we cannot update the website, we are going to have to explain to a judge what the barriers are to doing so, which would not be an ideal scenario. If I can help, please don't hesitate to call. We appreciate the efforts on this front.

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: [\(202\) 260-6635](tel:(202)260-6635) Mobile: [\(202\) 809-7774](tel:(202)809-7774)
From: Haynes, Benjamin (CDC/OD/OC) <fxq2@cdc.gov>
Sent: Friday, April 25, 2025 1:13:51 PM
To: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>
Cc: Nixon, Andrew (HHS/ASPA) <Andrew.Nixon@hhs.gov>; Nahill, Liam (HHS/ASPA) <Liam.Nahill@hhs.gov>; Witkofsky, Nina (CDC/IOD) <qlq0@cdc.gov>
Subject: Re: CDC Web Access

Understand your frustration here, but our entire web team was RIF'd. We've been trying to find somebody with access. Will keep you updated.

Benjamin N. Haynes
(A) Deputy Director | Communications
Centers for Disease Control and Prevention
Department of Health and Human Services
(b)(6) [redacted]

From: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>
Sent: Friday, April 25, 2025 12:47 PM
To: Haynes, Benjamin (CDC/OD/OC) <fxq2@cdc.gov>
Cc: Nixon, Andrew (HHS/ASPA) <Andrew.Nixon@hhs.gov>; Nahill, Liam (HHS/ASPA) <Liam.Nahill@hhs.gov>
Subject: RE: CDC Web Access

Hi, Ben:

I just checked the pages and see we've not yet executed these updates. I have a call with DOJ in 20 minutes on the matter in litigation; with apologies for the pressure, I do not expect telling the AUSA that CDC is still trying to figure out how to update its own website will satisfy them.

When will this be completed?

Thanks again.

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Haynes, Benjamin (CDC/OD/OC) <fxq2@cdc.gov>
Sent: Thursday, April 24, 2025 11:31 AM
To: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>
Cc: Nixon, Andrew (HHS/ASPA) <Andrew.Nixon@hhs.gov>; Nahill, Liam (HHS/ASPA) <Liam.Nahill@hhs.gov>
Subject: Re: CDC Web Access

Got it

Benjamin N. Haynes
(A) Deputy Director | Communications
Centers for Disease Control and Prevention
Department of Health and Human Services

(b)(6)

From: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>
Sent: Thursday, April 24, 2025 10:42 AM
To: Haynes, Benjamin (CDC/OD/OC) <fxq2@cdc.gov>
Cc: Nixon, Andrew (HHS/ASPA) <Andrew.Nixon@hhs.gov>; Nahill, Liam (HHS/ASPA) <Liam.Nahill@hhs.gov>
Subject: RE: CDC Web Access

Thanks, Liam. Ben, the ask is straightforward and I'm hoping it can be executed with alacrity.

While we expect in the long term there will be a need to revamp the FOIA pages generally as we implement the Secretary's vision for radical transparency, in the interim, it would be immensely helpful if we could update these pages now to point to the Department's FOIA office: <https://www.cdc.gov/foia/faq/index.html> and <https://www.cdc.gov/foia/about/index.html>.

We seek to ensure the contact info mirrors the Departmental FOIA contact info found here: <https://www.hhs.gov/foia/contacts/index.html>.

In short, we've been working with other parties in CDC to gain access to ongoing and new CDC FOIA requests and litigation for several weeks. However, we were sued by an organization two

weeks ago that also filed a demand on Monday for immediate relief from the court in the form of an injunction, since they're apparently under the misguided impression we do not intend to respond to FOIA requests for CDC records.

It will be helpful in defending this matter if we demonstrate that we're funneling requesters to the proper office for prompt customer service while the reorganization takes effect. I'm happy to discuss if that's easiest.

Thanks, all, and have a good morning.

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Nahill, Liam (HHS/ASPA) <Liam.Nahill@hhs.gov>
Sent: Thursday, April 24, 2025 10:24 AM
To: Haynes, Benjamin (CDC/OD/OC) <fxq2@cdc.gov>
Cc: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>; Nixon, Andrew (HHS/ASPA) <Andrew.Nixon@hhs.gov>
Subject: CDC Web Access

Hi Ben!

Does your team have any handle on the CDC website to make updates to pages, specifically for FOIA? We need to redirect a page ASAP and I'm hoping to know if CDC can help with this project - could you direct me to the right contact?

Adding William with more info on the matter.

Liam Nahill
Online Communications Director | HHS, ASPA
Liam.Nahill@hhs.gov (b)(6)

Confidential and deliberative, pre-decisional communication

From: Holzerland, William (HHS/ASPA)
Sent: Mon, 12 May 2025 13:32:46 +0000
To: Henneman, Jeffrey (OS/ASPA); Stacy, Jennifer (OS/ASFR/DOSB); Smolin, Jennifer (HHS/ASFR)
Cc: Johnson, Danielle (OS/ASPA); Perkins, Arianne (OS/ASPA); Lancey, Brandon (OS/ASPA)
Subject: RE: FOIA attorney fees/budget question

Correct... (b)(5)
(b)(5)

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Henneman, Jeffrey (OS/ASPA) <Jeffrey.Henneman@hhs.gov>
Sent: Monday, May 12, 2025 8:16 AM
To: Stacy, Jennifer (OS/ASFR/DOSB) <Jennifer.Stacy@hhs.gov>; Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>; Smolin, Jennifer (HHS/ASFR) <Jennifer.Smolin@hhs.gov>
Cc: Johnson, Danielle (OS/ASPA) <Danielle.Johnson@hhs.gov>; Perkins, Arianne (OS/ASPA) <Arianne.Perkins@hhs.gov>; Lancey, Brandon (OS/ASPA) <Brandon.Lancey@hhs.gov>
Subject: Re: FOIA attorney fees/budget question

(b)(5)

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From: Stacy, Jennifer (OS/ASFR/DOSB) <Jennifer.Stacy@hhs.gov>
Sent: Friday, May 9, 2025 4:17:24 PM
To: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>; Smolin, Jennifer (HHS/ASFR) <Jennifer.Smolin@hhs.gov>
Cc: Johnson, Danielle (OS/ASPA) <Danielle.Johnson@hhs.gov>; Henneman, Jeffrey (OS/ASPA) <Jeffrey.Henneman@hhs.gov>; Perkins, Arianne (OS/ASPA) <Arianne.Perkins@hhs.gov>; Lancey, Brandon (OS/ASPA) <Brandon.Lancey@hhs.gov>
Subject: RE: FOIA attorney fees/budget question

(b)(5)

Jennifer Stacy

Senior Budget Analyst, Office of the Secretary Budget Formulation, Funds Control, & Oversight
Office of the Assistant Secretary for Financial Resources
U.S. Department of Health and Human Services

From: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>
Sent: Friday, May 9, 2025 8:54 AM
To: Stacy, Jennifer (OS/ASFR/DOSB) <Jennifer.Stacy@hhs.gov>; Smolin, Jennifer (HHS/ASFR) <Jennifer.Smolin@hhs.gov>
Cc: Johnson, Danielle (OS/ASPA) <Danielle.Johnson@hhs.gov>; Henneman, Jeffrey (OS/ASPA) <Jeffrey.Henneman@hhs.gov>; Perkins, Arianne (OS/ASPA) <Arianne.Perkins@hhs.gov>; Lancey, Brandon (OS/ASPA) <Brandon.Lancey@hhs.gov>
Subject: RE: FOIA attorney fees/budget question

Yes and we have another interesting question here in terms of how we define SSF services. Since leadership determined that the FOIA program is being streamlined and the CDC FOIA office was absorbed into the OS FOIA office, wouldn't it *all* be OS work now?

And if so, how does that impact the FY26 and out year budgets?

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Stacy, Jennifer (OS/ASFR/DOSB) <Jennifer.Stacy@hhs.gov>
Sent: Friday, May 9, 2025 8:35 AM
To: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>; Smolin, Jennifer (HHS/ASFR) <Jennifer.Smolin@hhs.gov>
Cc: Johnson, Danielle (OS/ASPA) <Danielle.Johnson@hhs.gov>; Henneman, Jeffrey (OS/ASPA) <Jeffrey.Henneman@hhs.gov>; Perkins, Arianne (OS/ASPA) <Arianne.Perkins@hhs.gov>; Lancey, Brandon (OS/ASPA) <Brandon.Lancey@hhs.gov>
Subject: RE: FOIA attorney fees/budget question

Was this a policy decision?

Also, if you are doing OS work and not work on behalf of CDC and others, it should be via IDDA. Also, this is definitely one the SSF should incorporate into your FY 2026 budget.

From: OS - SSF Team Mailbox (OS/ASFR) <SSFTeam@hhs.gov>
Sent: Friday, April 11, 2025 2:30 PM
To: Jones, Christine (OS/ASPA) <Christine.Jones@hhs.gov>; Johnson, Danielle (OS/ASPA) <Danielle.Johnson@hhs.gov>; Ross, Lindsey (OS/ASPA) <Lindsey.Ross@hhs.gov>; Wilker, Michael (HHS/ASPA) <Michael.Wilker@hhs.gov>; Nix, Samuel (HHS/ASPA) <Samuel.Nix@hhs.gov>; Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>; Henneman, Jeffrey (OS/ASPA) <Jeffrey.Henneman@hhs.gov>
Cc: OS - SSF Team Mailbox (OS/ASFR) <SSFTeam@hhs.gov>; OS - SSF Management <OS.SSFManagement@ees.hhs.gov>
Subject: For completion: SSF FY25 MYR questionnaire (ASFR) – Due Friday, April 18, 3pm

Good afternoon,

Given the HHS restructure, and prior to initiating an FY 2025 mid-year process, the Fund Manager would like to get a sense of the status of each FY25 funded SSF activity.

Please review and complete the attached questionnaire. The intent of the questions is to gain a quick snapshot and status update of each cost center and whether they you anticipate a mid-year request, and the type of request.

For ease of completion and as this is a status update request, the questionnaire does not include any requests for narratives or explanations of more than a sentence or two. The Fund Manager's Office will schedule follow-up meetings with each individual office to have more in-depth discussion about your responses and the impacts. Please anticipate receiving a meeting invite for a meeting around the last week of April or first week of May.

Your response within the attached Excel workbook is due to SSFTeam@hhs.gov no later than **3pm on Friday, April 18**.

All cost centers with a FY25 SSF Board approved budget have been included in the workbook. Please provide a response for all cost centers.

Melanie A. Turner
Budget Analyst
ASFR/OB/DOSB/SSF
Melanie.Turner@hhs.gov

To: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>

Subject: Re: OGIS requesting updated contacts

Bill: Thanks for both of your responses earlier today.

First, I want to let you know that the PAL link on the ACF and HHS FOIA pages does not appear to be working - we tried it ourselves - <https://requests.publiclink.hhs.gov/App/Index.aspx>.

This could be a function of all of the transitions you are undergoing.

Second, seeking clarification: The main HHS FOIA page - <https://www.hhs.gov/foia/index.html> - still lists HHS.ACFO@hhs.gov email address. However, in your latest update email to me, you directed me to the [ACF FOIA page](#) which you explained was updated today to reflect the Department's contact information (copied below with my questions). We generally refer requesters to the FPL. Can you confirm that HH_FOIA_Public_Liaison@hhs.gov is the appropriate email to reach the FPL for all HHS components?

Submit FOIA requests to: <https://requests.publiclink.hhs.gov/App/Index.aspx> **[As noted above - that link is not working]**

Send general questions and referrals/consultations to: FOIARequest@hhs.gov

[So should we stop telling folks to use the HHS.ACFO@hhs.gov email listed on the main HHS FOIA webpage - and use FOIARequest@hhs.gov email instead?]

Phone: 202-690-7453

Fax: 202-690-8320

FOIA Officer: Arianne Perkins

FOIA Public Liaison: Paula Formoso; email: HHS_FOIA_Public_Liaison@hhs.gov

[Should we be referring requesters to FPL Formoso for questions regarding either main HHS or component HHS departments?]

Finally, while I realize lots of balls are still up in the air, when the dust does eventually settle, it would be very helpful to update all of the relevant contact information on FOIA.gov. OIP has told us that it's up to each agency to update its information on FOIA.gov - OIP will not do it.

Thank you again, Alina

Alina M. Semo

Director, Office of Government Information Services

National Archives and Records Administration

Phone: (202) 741-5771; Cell: (b)(6)

From: Holzerland, William (HHS/ASPA)
Sent: Wed, 9 Apr 2025 19:53:29 +0000
To: Kramer, Beth (OS/ASPA)
Cc: Lancey, Brandon (OS/ASPA)
Subject: Re: where should CDC FOIA matters be sent, now that it's FOIA office is gone?

Please refer them to the ASPA FOIA division's main contact info listed on HHS.gov for general matters.

If there is an internal, specific question about pending FOIA litigation, the query can be directed to OGC with a copy to Brandon.

If there is a specific policy question on a pending or new FOIA request, Arianne is going to be the starting point.

I ask that we manage internal stakeholders' expectations/pardon our dust as we implement the reorganization.

Regards,

Bill

William H. Holzerland

Deputy Chief FOIA Officer

Office of the Assistant Secretary for Public Affairs (ASPA)

U.S. Department of Health and Human Services (HHS)

Desk: [\(202\) 260-6635](tel:(202)260-6635) Mobile: [\(202\) 809-7774](tel:(202)809-7774)

From: Kramer, Beth (OS/ASPA) <Beth.Kramer@hhs.gov>

Sent: Wednesday, April 9, 2025 3:31:36 PM

To: Holzerland, William (HHS/ASPA) <William.Holzerland@hhs.gov>

Cc: Lancey, Brandon (OS/ASPA) <Brandon.Lancey@hhs.gov>

Subject: where should CDC FOIA matters be sent, now that it's FOIA office is gone?

Bill, see **below question**. How should I answer?

BK

From: Lancey, Brandon (OS/ASPA) <Brandon.Lancey@hhs.gov>

Sent: Wednesday, April 9, 2025 3:22 PM

To: Kramer, Beth (OS/ASPA) <Beth.Kramer@hhs.gov>; Taylor, Natasha (OS/ASPA) <Natasha.Taylor@hhs.gov>

Subject: RE: Privacy Act contact list updates - as of April 2025

Hi, Beth.

We are working with Kerey Carter to gain access to CDC FOIA data. He is the Systems Security and Privacy Officer for CDC. That's the extent of my knowledge on who to contact for CDC-related FOIA matters. You may want to forward the email to Bill.

Brandon

Brandon L. Lancey
Government Information Specialist

Freedom of Information/Privacy Acts Division
Office of the Assistant Secretary for Public Affairs (ASPA)
Office of the Secretary (OS)
Department of Health and Human Services (HHS)
Phone: (b)(6)

From: Kramer, Beth (OS/ASPA) <Beth.Kramer@hhs.gov>
Sent: Wednesday, April 9, 2025 3:11 PM
To: Taylor, Natasha (OS/ASPA) <Natasha.Taylor@hhs.gov>; Lancey, Brandon (OS/ASPA) <Brandon.Lancey@hhs.gov>
Subject: FW: Privacy Act contact list updates - as of April 2025

Natasha/Brandon,
Do you know where CDC should now be forwarding FOIA matters ?

BK

From: Oshodi, Jarell (CDC/OCOO/OCIO/CSPO) <ouq2@cdc.gov>
Sent: Wednesday, April 9, 2025 2:49 PM
To: Kramer, Beth (OS/ASPA) <Beth.Kramer@hhs.gov>
Subject: RE: Privacy Act contact list updates - as of April 2025

Hi Beth,

As you may know the CDC FOIA Office was RIF'd. Is there an HHS contact in which CDC is now forwarding FOIA matters?



Jarell Oshodi Esq, CIPM, CIPP-US
Associate Privacy Officer
Centers for Disease Control and Prevention (CDC)
Department of Health and Human Services (HHS)
404-498-0936 (office) (b)(6)

Report 24x7 Cybersecurity/Privacy Incidents: [866-655-2245](tel:866-655-2245) | nosc@cdc.gov

From: Kramer, Beth (OS/ASPA) <Beth.Kramer@hhs.gov>
Sent: Monday, April 7, 2025 12:06 PM
To: OS - HHS Privacy Contacts <privacycontacts@hhs.gov>
Cc: ACF Tech Data Call (ACF/OA) <ACFTech.Data.Call@acf.hhs.gov>; ACF OCIO Privacy (ACF) <OCIO.Privacy@acf.hhs.gov>; Tran, David (CMS/OIT) <david.tran4@cms.hhs.gov>; HRSA Privacy Act <PrivacyAct@rsa.hhs.gov>; INFOPRIVACY (SAMHSA) <Info.Privacy@samhsa.hhs.gov>; Jones, Ashley (ARPA-H) [CTR] <ashley.jones@arpa-h.gov>
Subject: Privacy Act contact list updates - as of April 2025

Thank you to everyone who sent me updated Privacy Act Contact information for the attached hard-copy list, Internet-posted list, and this list serv. Attached is the hard-copy list updated for April 2025, to the extent that I can tell who is still here. It will take some time to confirm everyone we've lost.

In particular, I'm sad to report that our dear colleague Maya Bernstein is now gone. That is a huge loss for our privacy community, of not just deep privacy knowledge but institutional knowledge of HHS programs. No one could answer a privacy question as thoroughly and quickly as Maya. She was especially good at spotting issues no one else spotted, and asking, first, is this even needed/why is it needed. It will be tough not having her as a resource to call on for assistance anymore.

As a precaution, in case I'm RIF'd, I have been authorizing additional OpDiv Privacy Act Contacts to have ROCIS Privacy module "submission" privileges. If you would like someone in your Op Div to have submission privileges, please let me know. I will still do all the submitting while I'm here.

Please continue sending me updates for these lists, as they occur.
Thank you.

Beth

Beth Kramer
HHS Privacy Act Officer
FOIA/Privacy Act Division (OS/ASPA)
HHH 739G.1

(b)(6)

From: Kramer, Beth (OS/ASPA) <Beth.Kramer@hhs.gov>
Sent: Thursday, March 20, 2025 12:39 PM
To: OS - HHS Privacy Contacts <privacycontacts@hhs.gov>
Cc: ACF Tech Data Call (ACF/OA) <ACFTech.Data.Call@acf.hhs.gov>; ACF OCIO Privacy (ACF) <OCIO.Privacy@acf.hhs.gov>; HRSA Privacy Act <PrivacyAct@hrsa.gov>; INFOPRIVACY (SAMHSA) <Info.Privacy@samhsa.hhs.gov>; CDC OCOO-CSPO Privacy <privacy@cdc.gov>
Subject: BY APR 4: Privacy Act contact list updates

Happy first day of Spring!

Please let me know **by Fri Apr 4** of any updates needed to these lists:

- the "OS – HHS Privacy Contacts" list serv (members are shown on the attached hard copy list);
- the attached hard copy list (which includes more than just list serv members); and
- the Internet-posted "HHS Privacy Act Contacts" list:
<https://www.hhs.gov/foia/contacts/index.html#privacy>.

Thank you!

Beth

Beth Kramer
HHS Privacy Act Officer
FOIA/Privacy Act Division (OS/ASPA)
HHH 739G.1

(b)(6)

From: Holzerland, William (HHS/ASPA)
Sent: Fri, 1 Aug 2025 20:25:01 +0000
To: Perkins, Arianne (OS/ASPA)
Cc: Lancey, Brandon (OS/ASPA)
Subject: Revocation/reassignment of ACF, ACL, & CDC/ATSDR FOIA authorities to OS-FOIA
Attachments: HHS Exemption 5 Memo.20240903.pdf, HHS Exemption 6 Memo.20240903.pdf, HHS FOIA Delegation of Authority to ASPA_Tab A.20240903.pdf, HHS FOIA DoA_Tab B ASPA to DACFO.20240903.pdf, HHS Significant FOIA Activity Reporting Memo.20240903.pdf, HHS FOIA_Tab C DACFO to ASPA-OS.20240903.pdf, HHS FOIA_Tab C DACFO to ASPA-OS.20250801.pdf



Hi, Arianne:

I know you're quite familiar with the history on this topic, so I won't belabor it herein.

Consistent with orders from the Secretary to streamline the FOIA program, and the Department's ongoing reorganization, the attached document supersedes and rescinds the September 3, 2024 FOIA delegation to ASPA. It denotes the reassignment of authorities previously delegated to ACF, ACL, and CDC/ATSDR to OS-FOIA. In other words, it formalizes the way we have been operating since the reorganization commenced in April and clarifies certain responsibilities.

This document and the documents transmitted to the OpDivs to notify them of this action each emphasize that requests for records of the impacted OpDivs (and any additional ones the Secretary may direct us to address in the future) are a part of the burgeoning OS-FOIA portfolio. I know our team will provide excellent customer service to our colleagues across OpDivs as well as the people we serve. I intend for them to be read as memorializing our shared expectation that OS-FOIA will execute these duties in a spirit of partnership and transparency, leveraging the assistance the OpDiv teams may provide to help us navigate our way through the organizations.

I know we're handling the shifting landscape with great flexibility and I'm grateful for that. Please let me know if there are any questions.

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Holzerland, William (HHS/ASPA)
Sent: Tuesday, September 3, 2024 5:03 PM
To: Perkins, Arianne (OS/ASPA) <Arianne.Perkins@hhs.gov>; Williams, Alesia (OS/ASPA) <Alesia.Williams@hhs.gov>
Subject: FW: Strengthening the HHS FOIA Enterprise



Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774

From: Holzerland, William (HHS/ASPA)
Sent: Tuesday, September 3, 2024 5:02 PM
To: Smith, Celeste (ACF) <Celeste.Smith@acf.hhs.gov>; Andoh, Roger (CDC/OCOO/OD) <mhu9@HHSGOV.onmicrosoft.com>; Kotler, Sarah (FDA/OC) <Sarah.Kotler@fda.hhs.gov>; May, Brian (HRSA) <BMay@hrsa.gov>; Mitchell, Carl (IHS/HQ) <Carl.Mitchell@ihs.gov>; Garcia-Malene, Gorka (NIH/OD) [E] <gorka.garcia-malene@nih.gov>; Monroe-Cook, Farrah (SAMHSA/NMHSUPL/EXEC SEC) <Farrah.Monroe-cook@samhsa.hhs.gov>; Daley, Garfield (ACL) <Garfield.Daley@acl.hhs.gov>; Tripline, Joseph (CMS/OSORA) <joseph.tripline@cms.hhs.gov>; Perkins, Arianne (OS/ASPA) <Arianne.Perkins@hhs.gov>; Williams, Alesia (OS/ASPA) <Alesia.Williams@hhs.gov>
Cc: Sly, Elizabeth (FDA/CBER) <Elizabeth.Sly@fda.hhs.gov>; Udapi, Guruprasad (FDA/CDER) <Guruprasad.Udapi@fda.hhs.gov>; Davis, Candace (FDA/CDRH) <Candace.Davis@fda.hhs.gov>; Rennie, Chalmer (FDA/CFSAN) <Chalmer.Rennie@fda.hhs.gov>; Barnes, Marqui (FDA/CTP) <Marqui.Barnes@fda.hhs.gov>; Bigby, Dynna (FDA/OC) <Dynna.Bigby@fda.hhs.gov>; Pickworth, Melissa (FDA/ORA) <Melissa.Pickworth@fda.hhs.gov>; Schlaifer, Meredith (FDA/OC) <Meredith.Schlaifer@fda.hhs.gov>; Holohan, MK (NIH/NCI) [E] <mholoha@mail.nih.gov>; Williams, Yireiza (NIH/NEI) [E] <ywilliams@mail.nih.gov>; Manheim, Marianne (NIH/NHLBI) [E] <marianne.manheim@nih.gov>; Williams, Paul (NIH/NICHD) [E] <Paul.Williams@nih.gov>; Jordan, Craig (NIH/NIDCD) [E] <jordanc@ms.nidcd.nih.gov>; Stabile, Regina (NIH/NIEHS) [E] <regina.stabile@nih.gov>; Chai, Mindy (NIH/NIMH) [E] <mindy.chai@nih.gov>; Standing-Ojo, Denean (NIH/OD) [E] <denean.standing-ojo@nih.gov>; Bordine, Roger (NIH/OD) [E] <roger.bordine@nih.gov>; Souther, James (IHS/HQ) <James.Souther@ihs.gov>; Lancey,

Brandon (OS/ASPA) <Brandon.Lancey@hhs.gov>; Stephens, Lakita (ACF) <Lakita.Stephens@acf.hhs.gov>; Chancellor, Alexis (HRSA) <AChancellor@hrsa.gov>; Viana, Bruno A. (CDC/OCOO/OD) <cqy8@HHSGOV.onmicrosoft.com>; Klocinski, Jennifer (ACL) <Jennifer.Klocinski@acl.hhs.gov>; Edmondson-Parrott, Michele (CMS/OSORA) <michele.edmondsonparrott@cms.hhs.gov>; Oh, Kathy (CMS/OSORA) <kathy.oh3@cms.hhs.gov>; Gaynor, Desiree (CMS/OSORA) <Desiree.Gaynor@cms.hhs.gov>; Smith, Kathleen (CMS/OSORA) <kathleen.smith@cms.hhs.gov>; Nicholson, Emmett (CMS/OSORA) <emmett.nicholson@cms.hhs.gov>; Cavanaugh, Alicia (CMS/OSORA) <alicia.cavanaugh@cms.hhs.gov>

Subject: Strengthening the HHS FOIA Enterprise



Dear FOIA Colleagues:

As part of HHS's commitment to effective administration of the Freedom of Information Act (FOIA or the Act), with increased collaboration and coordination between the Office of the Secretary (OS)/ASPA FOIA Program and the talented professionals performing our FOIA work daily, I am pleased to announce several measures designed to improve the quality and consistency of FOIA products across the Department.

It's simply good government to maximize efforts to ensure FOIA offices across HHS administer the Act as evenly, effectively, and efficiently as possible while maintaining the highest standard of customer service. We know at times this feels easier said than done but we look forward to partnering with you on this important work.

The Secretary has issued a new Delegation of Authority to operate the HHS FOIA program, including its OpDiv and StaffDiv FOIA programs, in an effort to add structure to enterprise-wise program governance and needed clarity on Departmental disclosure policies. Enclosed is Tab A, the Delegation, along with Tab B, re-delegating authority from the Assistant Secretary for Public Affairs/Agency Chief FOIA Officer to the Deputy Agency Chief FOIA Officer. To this end, in the weeks and months ahead, I will be working with you to enhance the Department's FOIA program by:

- '3b Increasing collaboration and coordination across HHS FOIA and the agency FOIA offices;
- '3b Better leveraging available tools and resources – including technology – to strengthen and streamline processes;
- '3b Educating stakeholders inside and outside of the Department and its agencies on our responsibilities under the Act; and
- Ensuring visibility and transparency into the FOIA process itself.

While the Department has previously issued guidance on discrete matters that impact our day-to-day business, following requests for clarity, enclosed are Department-wide policies governing topics of vital importance. Attached you will find guidance on:

- '3b Reporting significant FOIA activities;
- '3b FOIA Exemption (b)(5); and
- FOIA Exemption (b)(6).

Additionally, if you haven't had a chance to review it yet, this office previously issued guidance on the application of the foreseeable harm standard, which is posted [here](#) for ease of reference.

An invitation will follow for a virtual event slated for 10:00a.m. E.S.T. this Thursday, September 5, 2024, to discuss implementation details and answer your questions directly. I'll send Tab C – OpDiv-specific Delegation artifacts – to each of the FOIA officers immediately following this message under separate cover.

I look forward to partnering with the dedicated FOIA professionals across the Department and engaging with your OpDiv FOIA Officers to enhance service delivery and identify additional ways to support your work and ensure transparency for the people we serve. Thank you, again, for all that you do.

Regards,
Bill

William H. Holzerland
Deputy Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)
U.S. Department of Health and Human Services (HHS)
Desk: (202) 260-6635 Mobile: (202) 809-7774



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

September 3, 2024

MEMORANDUM FOR: Departmental FOIA Personnel

FROM:

William H. Holzerland
Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)

William H.
Holzerland -S

Digitally signed by William H.
Holzerland -S
Date: 2024.09.03 08:48:44 -04'00'

SUBJECT:

Freedom of Information Act - Application of FOIA Exemption
(b)(5)

This memorandum provides guidance on how agency records should be processed throughout the Department of Health and Human Services (HHS or Department) under the Freedom of Information Act (FOIA or the Act) when Exemption 5 is potentially applicable.¹

FOIA Exemption 5 protects “inter-agency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency.”

To ensure that requests for this type of information are processed consistently across the Department, the following policy guidelines are provided. It should be noted, however, that the examples cited below are intended as *general guidelines only*. Records must be reviewed on a case-by-case basis as the information at issue and the individual circumstances will affect the Department's release determination.

In making determinations on FOIA requests, the Department's OpDiv/StaffDiv FOIA Officers must follow the analytical steps outlined below and consult with subject matter experts - including consulting with or referring records to OpDivs with primary equity in the records under review as necessary - on the contents of records responsive to FOIA requests early in the review process as well as prior to finalizing release or withholding determinations.

Analytical Steps:

Step 1: Does the record constitute an “inter- or intra-agency” communication for purposes of the Exemption 5 threshold?

Generally, **inter-agency** communication is understood to mean communication between at least one component of HHS and another Federal agency or component thereof whereas **intra-agency** communication is generally understood to mean communication between two or more agencies within HHS. However, there are additional factors to consider in determining whether the record constitutes an inter- or intra-agency communication.

¹ 5 U.S.C. § 552 (b)(5).



For example, factors relevant to determining whether a communication is an “**inter-agency**” communication include:

- Are the author(s) and recipient(s) within an HHS OpDiv/StaffDiv and another executive branch agency outside of HHS, or multiple executive branch agencies outside of HHS?
- If so, are individuals outside the executive branch included on the communication, or does the communication itself indicate that it was shared with third parties outside the executive branch?
- If the record has not been shared with individuals or entities outside the executive branch, it is an “inter-agency” communication for purposes of the Exemption 5 threshold, and you should proceed to Step 4 to determine whether a privilege applies.

Factors relevant to determining whether a communication is an “**intra-agency**” communication include:

- Are the author(s) and recipient(s) HHS employees?
- If the answer is yes, are individuals outside the executive branch included on the communication, or does the communication indicate that it was shared with third parties outside the executive branch?
- If the record has not been shared with individuals or entities outside the executive branch, it is an “intra-agency” communication for purposes of the Exemption 5 threshold, and you should proceed to Step 4 to determine whether a privilege applies.

There are limited circumstances in which communications with entities outside the government may nevertheless qualify as an “**intra-agency**” memorandum under Exemption 5. Factors to consider in such a situation include:²

- Is HHS the recipient of advice from a third party (e.g., an outside expert who is not an HHS employee) on a matter pending HHS decision?
- If no, HHS sends the advice to a third party, Exemption 5 does not apply.
- If yes, does the outside entity offering advice have an independent stake in the matter (e.g., Congress, when the topic is pending legislation)?
- If yes, Exemption 5 does not apply.

If have questions as to whether the threshold is met in the context of the communication at issue, please document the facts and circumstances which led to your initial conclusion and consult with the Department’s career FOIA officer for resolution prior to making a determination.

In the event the result of the threshold analysis is that the record does not constitute an “inter-agency or intra-agency” record, this exemption would be inapplicable, and the record must be

² *Dep't of the Interior v. Klamath Water Users Protective Ass'n*, 532 U.S. 1, 9 (2001).



DEPARTMENT OF HEALTH & HUMAN SERVICES

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Assistant Secretary for Public Affairs
Washington, D.C. 20201

disclosed, unless other exemption(s) apply.

Step 2: Privileges:

If the record does meet the threshold for purposes of Exemption 5, you must then determine whether a privilege applies. As a practical matter, this exemption incorporates both statutory privileges and those commonly recognized by case law.³

The three most frequently invoked privileges are:

- the deliberative process privilege;
- the attorney work-product doctrine; and
- the attorney-client privilege.

However, as this is not an exhaustive list of potentially applicable privileges, your analysis must include such other privileges as the circumstances warrant.

To determine the potential applicability of any privilege, you necessarily must understand the facts surrounding the communication(s) under review. Answering the question “what happened,” is a necessary component of making your release or withholding determination - who communicated with whom, what direction the communication traveled on the decisionmaking chain, what role the communication played in the Department’s decisionmaking process, when the communication occurred relative to any decision. In order to document these facts, you must consult with subject matter experts early in the process and again as necessary upon receipt of additional information that raises questions, and analyze the facts on a case-by-case basis.

Step 3(a): The deliberative process privilege:

- Were the records created within 25 years of the request submission? If the records are at least 25 years old, the deliberative process privilege does not apply, and you can proceed to Step 3(b).
- If the records were created less than 25 years ago, determine whether the communication was **both** predecisional and deliberative.

Predecisional is commonly understood to include records that pre-date a final agency decision, policy or opinion. While this exemption does not protect final agency decisions, a record is not “final” for purposes of this privilege simply “because nothing else follows it,”⁴ in the event the agency determines not to act subsequent to circulating a draft. In considering whether this privilege applies, we must consider the facts surrounding the communication, including the following:

³ See *United States v. Weber Aircraft Corp.*, 465 U.S. 792, 800 (1984); see also *Burka v. HHS*, 87 F.3d 508, 516 (D.C. Cir. 1996) (noting that FOIA “incorporates . . . generally recognized civil discovery protections”).

⁴ *United States Fish & Wildlife Service v. Sierra Club, Inc.*, 141 S. Ct. 777, 786 (2021).



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Washington, D.C. 20201

- The date(s) of the record(s) and/or other context obtained from subject-matter experts regarding when the communication(s) occurred relative to issuance of a final decision (if any);
- If after examining the above you determine that the record is not predecisional, proceed to Step 3(b).
- However, if after reviewing the facts, you determine that the record was predecisional, you must determine whether it is also deliberative.

In the event you determine the record is predecisional in nature, you must analyze whether the record is also deliberative in nature. A record may be deliberative for purposes of this exemption if it reflects the give-and-take of the consultative process either by articulating the process the agency used to formulate a decision, or by assessing the relative merits of a particular viewpoint in the communication itself. The key question in evaluating whether a record is deliberative for purposes of this privilege is “whether disclosure of the information would discourage candid discussion within the agency.”⁵

To assess what deliberative process is at issue and what role the communication under review may have played in it, consider relevant factors, including but not limited to the following:

- What were the identities of the speaker(s) and the specific language utilized in the record?
- What were the speakers’ titles? Where do the speakers reside in the organization relative to leadership or policy-makers?
- Does the record contain tracked changes, handwritten notes, comment bubbles, or other factors indicating it was generated or commented upon by stakeholders during the iterative policy process?
- Did the communication include language that might tend to indicate it contained an opinion or proposed direction pertaining to a pending policy decision? (e.g. “recommend,” “suggest,” “advise,” or similar words).
- Did the words used in the communication lead you to conclude that a subordinate official is offering advice or opinions to a decision-maker?
- What is the relative decision-making authority of the parties, and what direction did the communication flow along the decision-making chain? Was the communication from a subordinate to supervisor? Peer-to-peer as part of the process of advising or recommending agency action to the decision-maker or agency leadership?
- What role the communication played in the decision-making process and the degree to which it reflected the give-and-take of the consultative process.

While this privilege generally does not cover purely factual information,⁶ when factual information is so thoroughly intertwined with deliberative information that the release would

⁵ *Access Reports v. Dep’t of Justice*, 926 F. 2d 1192, 1195 (D.C. Cir. 1991).

⁶ *EPA v. Mink*, 410 U.S. 73, 91 (1973).



reveal the agency's decision-making process (e.g., by revealing selective facts to the exclusion of others) and release would cause harm to the agency's deliberative process itself, such as by stifling open and frank communications within the agency, this privilege may still apply.⁷

If after reviewing the criteria above relative to a communication you determine that the communication is either not predecisional or not deliberative, the deliberative process privilege is inapplicable, and you may proceed to Step 3(b).

However, if you determine the communication is **both** predecisional and deliberative, you must document the basis for concluding that the deliberative process privilege applies. You must also consider the potential applicability of other privileges and exemptions, and apply the foreseeable harm standard, as noted below, prior to making your release or withholding determination.

Step 3(b): Determine whether the record is covered by the attorney work-product privilege:

To determine whether the record is covered by the attorney-work product privilege, you must ascertain whether the record was prepared by or under the direction of an attorney in contemplation of litigation. Please consult with the author or subject matter expert and the Office of General Counsel to obtain facts necessary to making this determination.

This privilege may apply to records prepared for administrative, civil, and criminal proceedings, settlements, or recommendations to close a matter in litigation. Although this privilege may be applicable to records created in anticipation of litigation, this privilege generally does not cover records created after the threat of litigation has passed. However, even if litigation never actually commenced, this privilege may be applicable.

If after reviewing these factors, you determine that the record was not authored by an attorney, nor by a non-attorney acting under an attorney's direction, this privilege does not apply, and you must proceed to Step 3(c).

Step 3(c): The attorney-client privilege:

This privilege protects confidential communications between an attorney and client relating to a legal matter for which the client has sought professional advice. Unlike the attorney work-product privilege, however, this privilege is not limited to the context of litigation. In determining whether this privilege is applicable, you should consider the following⁷

- Is the communication between the Department, an OpDiv or StaffDiv within the Department, or an employee of the OpDiv/StaffDiv working in the employee's official capacity and an attorney providing advice in his/her professional capacity?
- Was the communication confidential? You should identify the parties to the

⁷ *Elec. Frontier Found. v. DOJ*, 739 F.3d 1, 13 (D.C. Cir. 2014) (finding that "context matters," and here entire document, including factual material, "reflects the full and frank exchange of ideas" so that factual portions "could not be released without harming the deliberative processes of the government").



communication to determine whether all are HHS employees and/or employees of the Office of the General Counsel and/or the Department of Justice to determine whether the communication is “confidential” for purposes of this privilege.

- If the answer to either or both of these questions is no, then this privilege does not apply.
- If the answer to both questions is yes, this privilege may apply.
- If the communication contains the attorney’s opinion or facts the client identified as pertinent to obtaining the attorney’s opinion, the attorney-client privilege applies and protects both the facts divulged by the client to the attorney and the opinion offered by the attorney based on those facts.

If a privilege applies, proceed to conduct the required foreseeable harm analysis, in accordance with the Act and [Departmental policy](#).

Step 4: Other Privileges:

The Supreme Court has indicated that if a record is immune from civil discovery, it is similarly protected from mandatory disclosure under FOIA.⁸ In your analysis, you must consider whether other privileges beyond the most common ones may apply when the facts and circumstances warrant it.

While it is not possible to provide an all-inclusive list of potentially applicable privileges herein, please consult the Department’s career FOIA Officer and the Office of General Counsel if the facts surrounding the communication under review point to the potential applicability of less frequently invoked privileges.

Conclusion

It is the policy of the Department to evaluate the release of records potentially subject to Exemption 5 privileges contained within HHS records on a case-by-case basis, and to implement this policy consistently across all OpDivs and StaffDivs. The Department may only withhold records under Exemption 5 when the threshold is met, a privilege applies, and foreseeable harm would result from release.

If you have any questions about the applicability of this memorandum or need assistance, please contact your Operating Division FOIA Officer via the contact information found at <https://www.hhs.gov/foia/contacts/index.html> and/or contact me via William.Holzerland@hhs.gov.

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⁸ *United States v. Weber Aircraft Corp.*, 465 U.S. 792, 799-800 (1984); *FTC v. Grolier Inc.*, 462 U.S. 19, 26-27 (1983).



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

September 3, 2024

MEMORANDUM FOR: Departmental FOIA Personnel

FROM:

William H. Holzerland
Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)

William H.
Holzerland -S

Digitally signed by William H.
Holzerland -S
Date: 2024.09.03 08:50:20 -04'00'

SUBJECT:

Freedom of Information Act - Application of FOIA Exemption
(b)(6)

This memorandum provides guidance on how Personally Identifiable Information (PII)¹ pertaining to Department of Health and Human Services (HHS or Department) employees and third parties should be processed throughout HHS, consistent with the Freedom of Information Act (FOIA or “the Act”).²

On March 15, 2022, the Attorney General directed agencies to apply the Act with a presumption of openness, and that in the face of doubt, openness should prevail.³ However, the Act’s disclosure requirements are not absolute.

Agencies may withhold records (or portions thereof) responsive to a FOIA request when the agency reasonably foresees that disclosure would harm an interest protected by one of the nine exemptions Congress established. Specifically, Exemption 6 protects PII when disclosure would constitute a clearly unwarranted invasion of personal privacy.⁴

Records must always be reviewed on a case-by-case basis as the information at issue and the individual circumstances will affect the Department’s release determination. When processing records for release under FOIA, the Department must carefully consider whether the disclosure of identifying information or PII about individuals contained within agency records would shed light on how HHS performs its statutory duties.

To ensure that requests for this type of information are processed consistently in accordance with the Act across the Department, the following policy guidelines are provided.

While federal employee names, titles, grades, salaries, bonuses, position descriptions, and duty stations are generally subject to disclosure, it is appropriate and necessary to take into account relevant case law and factual circumstances pertaining to recent public interactions with our

¹ Office of Management and Budget Circular A-130, “Managing Information as a Strategic Resource (July 28, 2016), https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A130/a130revised.pdf

² 5. U.S.C. § 552.

³ Office of the Attorney General, U.S. Department of Justice, Freedom of Information Act Guidelines (March 15, 2022), <https://www.justice.gov/ag/page/file/1483516/download>.

⁴ 5 U.S.C. § 552(b)(6).



employees and affiliates who support the Department where such disclosure would result in a clearly unwarranted invasion of personal privacy. In other words, federal employees do not relinquish all privacy rights upon entering the door of the federal workplace. Therefore, this policy's application to "individuals" is inclusive of federal employees as well as third parties.

Step 1: Do the records responsive to the request include PII?

- Do the records contain information that directly identifies an individual, such as an individual's full name, Social Security number (SSN), passport number, driver's license number, taxpayer identification number, patient identification number, financial account or credit card number, personal address, and phone number?
- Do the records contain information that can be used to distinguish or trace an individual's identity, **alone or when combined with other information**, which is linked or linkable to a specific individual (i.e., indirect identification). These data elements may include a combination of gender, race, birth date, geographic indicator, and other descriptors.
- If the answer to both questions above is no, then Exemption 6 is inapplicable and barring any other applicable exemption, the record(s) should be released.
- If the answer to either question is yes, then proceed to Step 2.

Step 2: If PII is implicated, what is the context of the disclosure?

- Do the records relate to a controversial matter that has been the subject of strong public disagreement, debate, or argument?
- Has the subject matter led to harassment, threats of harm or violence, or actual harm or violence to individuals in the past?
- Is it reasonable to foresee that individual(s) whose PII is implicated in the record(s) would be subject to similar threats of harassment, threats of harm or violence, or actual harm or violence? Factors to consider include:
 - Whether the individual(s) whose PII is/are implicated in the records were subjected to harassment, threats of harm or violence, or actual harm or violence in the past due to their involvement with the controversial matter;
 - Whether the individual(s) whose PII is/are implicated in the records are similarly situated to those who were subjected to harassment, threats of harm or violence, or actual harm or violence either due to their job titles or responsibilities.
 - Whether strong public disagreement, debate, or argument is ongoing.
- If the answer to all of the foregoing questions is no, then Exemption 6 is inapplicable, and barring any applicable exemption, the record(s) should be released.
- If the answer to any of the foregoing questions is yes, then proceed to Step 3.

Step 3: Determining the public interest served by disclosure of the PII:



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Washington, D.C. 20201

- What is the public interest that would be served by release of the PII?
- Would release of the PII significantly contribute to the public's understanding of the operations or activities of the Department, its Operating Divisions, and/or its Staff Divisions?

Step 4: Weighing public and private interests:

- If the answer to any of the questions under Step 2 is yes, and no public interest would be served by releasing the information (Step 3), it should be withheld as a clearly unwarranted invasion of personal privacy.
- If the answer to any of the questions under Step 2 is yes, and a public interest would be served by releasing the information (Step 3), then the FOIA Officer must weigh the competing interests and consider all relevant factors, including the impact of potential release on the subject of the record, as well as privacy interests of other parties when implicated, to determine if the record(s) should be withheld or released.

This Department is entrusted with voluminous records that identify individuals we serve, employees, and others. Accordingly, FOIA officers should consider the facts and circumstances surrounding each record prior to release and must consult with the relevant Operating or Staff Division in determining the applicability of Exemption 6 under this policy. Any disagreements should be referred to the Department's career FOIA officer for resolution prior to release of any records.

If you have any questions about the applicability of this memorandum or need assistance, please contact your Operating Division FOIA Officer via the contact information found at <https://www.hhs.gov/foia/contacts/index.html> and/or contact me via William.Holzerland@hhs.gov.

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THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

TO: The Assistant Secretary for Public Affairs

FROM: The Secretary

SUBJECT: Delegation of Authority – 5 U.S.C. § 552 (Freedom of Information Act [FOIA]) Authority for the Department

AUTHORITY TO DELEGATE

This delegation is pursuant to Executive Order 13392 and the Freedom of Information Act 5 (U.S.C. § 552), including 5 U.S.C. § 552(j).

AUTHORITY DELEGATED

Consistent with 45 C.F.R. § 5.3, and subject to my oversight and guidance, I hereby delegate to the Assistant Secretary for Public Affairs (“the ASPA”) within the Office of the Secretary (OS) / Office of the Assistant Secretary for Public Affairs (ASPA) the authority vested in me as the Secretary of Health and Human Services under the Freedom of Information Act (5 U.S.C. § 552). As reflected in 45 C.F.R. § 5.3, the ASPA is designated as the Agency Chief FOIA Officer, U.S. Department of Health and Human Services, within the meaning of 5 U.S.C. § 552(j).

This authority includes, but is not limited to, the authority to oversee all policy of the Department’s FOIA program to ensure efficient and appropriate compliance with FOIA, including disposition of requests for records submitted in accordance with Department regulations, and appeals from initial determinations on such requests, except as otherwise delegated.

This delegation will be exercised in accordance with the Department’s applicable policies, procedures, guidelines, and regulations.

LIMITATIONS

This delegation may be redelegated to subordinate officials.

To the extent authority is redelegated to Operating Division (OpDiv) or Staff Division (StaffDiv) FOIA Officers, OpDiv and StaffDiv FOIA Officers must operate in a manner consistent with the authorities outlined in 45 C.F.R. § 5.3 and subject to such other limitations as may be specified in writing by the Chief FOIA Officer or designee.

IMPACT ON EXISTING DELEGATIONS OF AUTHORITY

This delegation of authority supersedes/rescinds any and all FOIA-related delegations and/or redelegations within ASPA or FOIA-related delegations from me to any ASPA official. This delegation of authority does not impact any delegations to or within any other U.S. Department of Health and Human Services Operating Division or Staff Division.

EFFECTIVE DATE

This delegation of authority is effective immediately upon signature. I hereby affirm and ratify any actions taken by you or your subordinates that involved the exercise of the authorities delegated herein prior to the effective date of the delegation.



Xavier Becerra

9/3/2024

Date



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

September 3, 2024

TO: Deputy Agency Chief FOIA Officer (DACFO)

FROM: The Assistant Secretary for Public Affairs

SUBJECT: Delegation of Authority – 5 U.S.C. § 552(j) (Freedom of Information Act [FOIA]) Authority for the Department

AUTHORITY TO DELEGATE

Pursuant to Executive Order 13392 and the Freedom of Information Act, the Assistant Secretary for Public Affairs (ASPA) has been designated as the Agency Chief FOIA Officer, U.S. Department of Health and Human Services, with the responsibilities set forth in 5 U.S.C. § 552(j), and been delegated the authority to implement and administer the Freedom of Information Act (see 45 C.F.R. § 5.3 and the delegation of authority memorandum dated August 30, 2024 in Tab A).

AUTHORITY DELEGATED

Consistent with 45 C.F.R. § 5.3, and subject to my oversight and guidance, I hereby delegate to the Deputy Agency Chief FOIA Officer within the Office of the Secretary (OS) / Office of the Assistant Secretary for Public Affairs (ASPA) the authorities vested in me to implement and administer the Freedom of Information Act, including the following authorities and responsibilities:

- Oversee departmental initiatives to ensure efficient and appropriate FOIA compliance;
- Monitor implementation of the FOIA throughout the department and keep the ACFO, the Secretary, the Deputy Secretary, the General Counsel, and the Attorney General appropriately informed of the department's performance in implementing FOIA requirements;
- Recommend to the ACFO and Secretary such adjustments to agency practices and policies as may be necessary to improve departmental implementation of FOIA;
- Review and report to the Attorney General, through the ACFO and Secretary, at such times and in such formats as the Attorney General may direct, on HHS' performance in implementing FOIA requirements;
- Facilitate public understanding of the purposes of the statutory exemptions of FOIA by including concise descriptions of the exemptions in guidelines issued pursuant to 5 U.S.C. § 552 (g) and the agency's annual ACFO report, and by providing an overview, where appropriate, of certain general categories of agency records to which those exemptions apply;
- Ensure the designation of one or more FOIA Public Liaisons;



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Washington, D.C. 20201

- Offer training to agency staff regarding their responsibilities under FOIA;
- Serve as the primary agency liaison with the Office of Government Information Services and the Office of Information Policy;
- Review, not less frequently than annually, all aspects of the administration of FOIA by the agency to ensure compliance with the requirements of FOIA, including—
 - agency regulations;
 - disclosure of records required under 5 U.S.C. § 552(a) paragraphs (2) and (8);
 - assessment of fees and determination of eligibility for fee waivers;
 - the timely processing of requests for information under FOIA;
 - the use of exemptions under 5 U.S.C. § 552(b); and
 - dispute resolution services with the assistance of the Office of Government Information Services or the FOIA Public Liaison.

This delegation will be exercised in accordance with the Department's applicable policies, procedures, guidelines, and regulations.

LIMITATIONS

This delegation may be redelegated.

IMPACT ON EXISTING DELEGATIONS OF AUTHORITY

This delegation of authority supersedes and replaces all prior delegations of authority within ASPA, to the extent Agency Chief FOIA Officer duties were previously delegated within ASPA. This delegation of authority does not impact any delegations within any other U.S. Department of Health and Human Services Operating Division or Staff Division.

EFFECTIVE DATE

This delegation of authority is effective immediately upon signature. I hereby affirm and ratify any actions taken by you or your subordinates that involved the exercise of the authorities delegated herein prior to the effective date of the delegation.

Jeff Nesbit
Assistant Secretary for Public Affairs
Office of the Assistant Secretary for Public Affairs
U.S. Department of Health and Human Services

9/3/2024

Date



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

September 3, 2024

MEMORANDUM FOR: Departmental FOIA Personnel

FROM:

William H. Holzerland
Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs (ASPA)

William H.
Holzerland -S

Digitally signed by William H.
Holzerland -S
Date: 2024.09.03 08:47:44 -04'00'

SUBJECT: Departmental Freedom of Information Act (FOIA) Reporting Requirements for Significant Requests

I. Purpose

This policy outlines the Department of Health and Human Services (HHS or the Department) procedures for weekly reporting on significant Freedom of Information Act (FOIA) requests and on volume of FOIA activity generally.

This revised reporting process ensures the OS FOIA Office can facilitate compliance with the FOIA, better promote transparency, and ensure coordination and consistency across all HHS FOIA offices.

This memorandum does not alter HHS FOIA Officer responsibilities as outlined in the Department's implementing regulations found at 45 C.F.R. Part 5. The public's right to request records from the federal government is paramount, and we are committed to following the law and regulations to ensure maximum disclosure, consistent with the Act.

II. Scope

This policy applies throughout HHS and its Operating Divisions (OpDivs) or Staff Divisions (StaffDivs), on behalf of, or in coordination with the Department.

III. References

- A. Title 5, United States Code (U.S.C.), § 552, "Public Information; Agency Rules, Opinions, Orders, Records, and Proceedings" [The Freedom of Information Act, as amended]
- B. 45 Code of Federal Regulations (C.F.R.) Subtitle A, Subchapter A, Part 5, Freedom of Information Act Regulations, October 28, 2016.
- C. HHS Delegation of Authority, "Delegation to the Assistant Secretary for Public Affairs," September 3, 2024.



HHS Delegation of Authority, “Delegation to the Deputy Agency Chief FOIA Officer,”
September 3, 2024.

IV. Definitions

- A. Chief FOIA Officer: HHS Assistant Secretary for Public Affairs (ASPA) serves concurrently as the Chief FOIA Officer, as delegated by the HHS Secretary.
- B. Deputy Agency Chief FOIA Officer (DACFO): Individual reporting to the Chief FOIA Officer who serves as the HHS principal point of contact and agency representative on FOIA-related matters.
- C. The ASPA FOIA Division provides FOIA services to and on behalf of the Office of the Secretary (OS), and hereinafter, is referred to as the OS FOIA Program.
- D. FOIA Officer: Designated HHS official appointed by OpDiv Staff Div Head to receive FOIA requests and delegated authority by the DACFO and Departmental regulations to provide assistance in administrative matters pertaining to FOIA request processing and issue determinations on FOIA requests.
- 1. The FOIA Officer compiles themselves or designates a responsible official to collect, review, consolidate, and submit required reports to the DACFO, ensures that all reporting requirements are followed accurately, and that required reports are submitted in a timely manner.
- F. Incoming FOIA requests and any associated releases and/or appeals are defined as “significant” when at least one of the following criteria is met.

The FOIA:

- 1. Request relates to a significant HHS priority;
- 2. Requester or requested records are likely to garner media
- 3. attention or are receiving media attention;
- 4. Request is for records associated with meetings with
- 5. prominent elected, business, and/or community leaders;
- 6. Request is for congressional correspondence;
- 7. Request is from a member of Congress;
- 8. Request is from a member of the media;
- 9. Request is from a member of an advocacy group, watchdog organization, etc.; or
- 10. Request is for records associated with a senior official of the OpDiv or StaffDiv.



V. Content and Procedures

A. Chief FOIA Officer's Weekly FOIA Report:

1. OpDiv or StaffDiv FOIA Officers report significant FOIA requests retrospectively, covering incoming FOIA requests, appeals, and litigation for the preceding workweek to the DACFO by close of business on the first business day of the succeeding workweek. This requirement includes reporting that there were no significant FOIA requests during the prior week, if applicable.
2. OpDiv or StaffDiv FOIA Officers report significant FOIA requests prospectively, covering planned FOIA request, appeal, or litigation releases scheduled to occur during the workweek in which the report is submitted to the DACFO by close of business on the first business day of each workweek. Nothing in this requirement prohibits a FOIA Officer from reporting known, planned releases scheduled to occur in future workweeks beyond that in which the report is submitted, where possible.
3. Reports pertaining to significant FOIA activity are submitted via email to HHS_Significant_FOIA_Requests@hhs.gov by FOIA Officers or their staff by the deadlines noted above.
4. OpDiv or StaffDiv FOIA Officer reports shall adhere to the submission requirements outlined in Appendix A.
5. The DACFO or designee compiles and distributes information pertaining to significant FOIA activity in the Chief FOIA Officer's Weekly FOIA Report.
6. The OS FOIA Program transmits the Chief FOIA Officer's Weekly FOIA Report to the HHS FOIA Officers, ASPA media affairs personnel, the Assistant Secretary for Legislation, Office of General Counsel, and the Office of the Secretary to ensure visibility on significant incoming FOIA requests and releases, proper communication, and coordination.

B. Significant FOIA Release 1-Day Notification Process:

1. HHS has a FOIA release notification process for FOIA responses related to requests qualifying as "significant" for purposes of the Chief FOIA Officer's Weekly Report.
2. Products submitted to the Department pursuant to this policy shall adhere to FOIA and all Departmental policies pertaining to implementation of the Act and shall be reviewed by the OS FOIA Program for compliance with same.
3. The FOIA release notification process applies to all requests qualifying as significant under the criteria in Section IV. F., whether the incoming request arrived during the current workweek or any prior workweek, including prospective significant releases pertaining to otherwise-qualifying requests when submission predicated this policy.
4. For significant FOIA releases, the FOIA Officers shall notify the OS FOIA Program of records being released as far in advance as practicable and through the weekly



reporting process.

5. For significant FOIA releases other than planned FOIA releases reported in advance via the weekly reporting process, the FOIA Officer shall at minimum, notify the OS FOIA Program via HHS_Significant_FOIA_Requests@hhs.gov, one (1) business day before the response is issued and records are released.
6. FOIA Officers shall adhere to the 1-Day Notification Process and ensure that OpDiv/StaffDiv FOIA staff submit all significant FOIA releases, appeals, FOIA litigation, and additions to the FOIA Library, prior to issuance of such records, to HHS_Significant_FOIA_Requests@hhs.gov.
7. Significant FOIA release notifications are used only for qualifying requests where records are being released or denied as a matter of first impression. “No records” or other procedural determinations, re-releases of records previously disclosed via authorized means, or requests closed for other reasons, are not reported through this process.
8. As a request may not qualify as significant under Section IV. E. upon submission, but may become significant during processing (e.g. because of new media attention, or developments in current events), nothing in this policy prohibits FOIA officers from coordinating with the OS FOIA Program, OpDiv or StaffDiv public affairs, legislative affairs, and legal personnel proactively when warranted, regardless of the content or context of the planned response. Please exercise prudent judgment and submit items that reflect the spirit and intent of this reporting requirement. If in doubt, please err on the side of inclusion.
9. The significant FOIA release 1-Day notification process is to notify HHS leadership of an impending FOIA release, regardless of the context in which the release will be issued.
10. FOIA professionals are responsible for making determinations on whether records are to be released or withheld under FOIA’s exemptions and should consult with the Office of the General Counsel and subject matter experts, as appropriate, during their decision-making process prior to an impending release and making a final determination on disclosure of agency records.
11. With respect to matters in litigation, FOIA professionals should coordinate with appropriate HHS personnel and the assigned U.S. Department of Justice Attorney to ensure consistency within the Department with respect to the disclosure of agency records.

VII. Questions

If you have any questions about the applicability of this memorandum or need assistance, please contact your Operating Division FOIA Officer via the contact information found at <https://www.hhs.gov/foia/contacts/index.html> and/or contact me via William.Holzerland@hhs.gov.



Appendix A: Significant Request 1-Day Notification Process and Chief FOIA Officer's Weekly FOIA Report

I. Criteria

- A. Pertains to Significant FOIA releases, appeal releases, FOIA litigation releases, and significant additions to the FOIA library, when the request qualifies as significant under Section IV. E.
- B. Items listed above in Section I.A. are not exclusive--exercise prudent judgment and submit items that reflect the spirit and intent of this reporting requirement. If in doubt, please err on the side of inclusion.
- C. Submissions that do not meet the above criteria will not be included in the final Chief FOIA Officer's Weekly FOIA Report.
- D. Do not report Privacy Act requests, even to the extent IV. E. criteria might otherwise be met.

II. Process

- A. Submit items by e-mail to HHS_Significant_FOIA_Requests@hhs.gov within the text of the e-mail, with a copy of the entire incoming request attached to the email.
- B. Identify the requester's name, city, and state (spell out name of state).
- C. Identify the requester by affiliation (individual, organization, company, membership, etc.).
- D. Identify your OpDiv or StaffDiv as the receiving FOIA Office.
- E. For referrals of misdirected requests within HHS, the initial OpDiv or Staff Div receiving the request will report the item.
- F. For referrals of otherwise-qualifying yet misdirected requests submitted to HHS pertaining to other agencies and immediately referred to those agencies, the OpDiv or Staff Div receiving the request shall not report the item.
- G. The first time an acronym is used it should follow its full title and be in parentheses.
- H. Provide a summary of the requested records not to exceed two sentences.
- I. Italicize large publications and news organizations. Use quotes for smaller units within publications. Do not abbreviate media names.
- J. Any reference to an elected official need to include party and state affiliation, if applicable: Senator John Smith (R-NY), Representative Jane Smith (D-IN).
- K. If the FOIA request has been assigned to subordinate FOIA Offices within your OpDiv or StaffDiv, identify the Subcomponent(s) to which it has been assigned.



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- L. If submitting FOIA items related to prospective FOIA releases, please indicate the scope of the submission (volume of released pages or size of file), consisting of what categories of records (e-mails, data, incident reports, etc.), identifying subject matter experts consulted in the review process within your OpDiv or StaffDiv, as well as any exemptions used.
- M. Anticipated or estimated release date.
- N. Additions to the FOIA Library – For Significant Release 1-Day Notification Process and Chief FOIA Officer’s Weekly FOIA Report:
 - 1. When submitting items for efficiency and transparency, please ensure the items posted to the OpDiv or StaffDiv library include the name of the item, URL or weblink to the page where the records will be posted and quantify the volume of pages or electronically stored information.
 - a. Format:
 - i. On [MONTH, DAY, YEAR] [FULL OPDIV OR STAFFDIV NAME (ABBR.)] [description of action taken, to include posting records to the electronic library, include page count and URL].

O. FOIA Requests and/or Appeals – For Chief FOIA Officer’s Weekly FOIA Report

1. Media Requesters – Representatives of the News Media

a. Format:

On [MONTH, DAY, YEAR], [REQUESTER NAME], a reporter/representative/editor/etc. with the [News Organization] in [CITY, FULL STATE NAME], requested from the [OPDIV OR STAFFDIV NAME (ABBR.)] [description of the records sought]. (Case Number)

2. Individuals – All Requesters Not Affiliated with a News or Other Organization

a. Format:

On [MONTH, DAY, YEAR], [REQUESTER NAME], an individual in [CITY, FULL STATE NAME], requested from the [OPDIV OR STAFFDIV NAME (ABBR.)] [description of the records sought]. (Case Number COMPONENT ABBR Number)



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3. Organizations – Requesters Using Company Letterhead and/or stating Their Association with an Organization
 - a. Format:

On [MONTH, DAY, YEAR], [REQUESTER NAME], a [ENTER JOB TITLE, IF UNKNOWN USE ‘representative’] with [Organization name] in [CITY, FULL STATE NAME], requested from the [OPDIV OR STAFFDIV NAME (ABBR.)] [description of the records sought]. (Case Number)
- P. FOIA Releases – For Significant FOIA Request 1-Day Notification Process and Chief FOIA Officer’s Weekly FOIA Report
 1. Format:
 - a. On [MONTH, DAY, YEAR], the [OPDIV OR STAFFDIV NAME (ABBR.)] will release to [REQUESTER NAME], [REQUESTER AFFILIATION, USING APPROPRIATE STYLE], in [CITY, FULL STATE NAME], [PAGE COUNT] of records consisting of [description of type of records] pertaining to [description of the records sought]. Portions of the release were withheld pursuant to FOIA Exemption(s) [LIST EXEMPTIONS USED]. (Case Number OPDIV/STAFFDIV Request Number)
 - b. On [MONTH, DAY, YEAR], the [OPDIV OR STAFFDIV NAME (ABBR.)] will release to [REQUESTER NAME], [REQUESTER AFFILIATION, USING APPROPRIATE STYLE], in [CITY, FULL STATE NAME], [PAGE COUNT] of records consisting of [description of type of records] pertaining to [description of the records sought]. These records were released in full. (Case Number OPDIV/STAFFDIV Request Number)
 - c. On [MONTH, DAY, YEAR], the [OPDIV OR STAFFDIV NAME (ABBR.)] will issue to [REQUESTER NAME], [REQUESTER AFFILIATION, USING APPROPRIATE STYLE] in [CITY, FULL STATE NAME], a full denial in response to his/her request pertaining to [description of the records sought]. These records were withheld pursuant to FOIA Exemption(s). [LIST EXEMPTIONS USED]. (Case Number OPDIV/STAFFDIV Request Number)
- Q. FOIA Appeals – For Chief FOIA Officer’s Weekly FOIA Report



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1. Format:

On [MONTH, DAY, YEAR], [REQUESTER NAME], [REQUESTER AFFILIATION, USING APPROPRIATE STYLE], in [CITY, FULL STATE NAME] appealed the [OPDIV/STAFFDIV NAME (ABBR.)] response to his or her request for [description of the records sought]. The requester is contesting [provide reason or if redactions, provide page count, and exemptions cited]. (Case Number OPDIV/STAFFDIV Request Number)

R. FOIA Appeals Releases – For Significant FOIA Request 1-Day Notification process and Chief FOIA Officer’s Weekly FOIA Report

1. Format:

On [MONTH, DAY, YEAR], the [OPDIV/STAFFDIV NAME (ABBR.)] will release to [REQUESTER NAME], [REQUESTER AFFILIATION, USING APPROPRIATE STYLE] in [CITY, FULL STATE NAME], [PAGE COUNT] of records consisting of [description of type of records] pertaining to [description of the records sought]. Portions of the release were withheld pursuant to FOIA Exemption(s) [LIST EXEMPTIONS USED]. (Case Number OPDIV/STAFFDIV Request Number)

S. FOIA Litigation releases - For Significant FOIA Request 1-Day Notification process and Chief FOIA Officer’s Weekly FOIA Report

1. Format:

In the matter of [FULL CASE NAME AND CITATION], [BRIEF DESCRIPTION OF COMPLAINT], [OPDIV/STAFFDIV PLANNED ACTION].

T. FOIA Activity Volume - For Chief FOIA Officer’s Weekly FOIA Report

1. Format:

- a. Requests Received:
- b. Requests Closed:
- c. Appeals Received (if applicable):
- d. Appeals Closed (if applicable):
- e. Consults Received:
- f. Consults Closed:
- g. Litigation Releases:



September 3, 2024

TO: Assistant Secretary for Public Affairs (ASPA) FOIA Personnel

THROUGH: Assistant Secretary, ASPA

FROM: Deputy Agency Chief FOIA Officer (DACFO)

SUBJECT: Delegation of Authority – 5 U.S.C. § 552 (Freedom of Information Act [FOIA])
Authority for the Office of the Secretary (OS), and/or Administration for Strategic
Preparedness and Response (ASPR), and/or Agency for Healthcare Research and
Quality (AHRQ)

AUTHORITY TO DELEGATE

This delegation is authorized by the delegation of authority memorandum dated September 3, 2024 in Tab B.

AUTHORITY DELEGATED

Consistent with 45 C.F.R. § 5.3, and subject to my oversight and guidance, I hereby delegate to the OpDiv and StaffDiv FOIA Officers the authorities vested in me to implement and administer the Freedom of Information Act within their respective OpDiv or StaffDiv, including the following authorities and responsibilities:

- Execute the duties of a FOIA Officer as defined in 45 C.F.R. § 5.3;
- Develop and implement OS initiatives to ensure efficient and appropriate compliance with FOIA and report to the Department on same;
- Recommend to the DACFO and the ASPA such adjustments to agency practices and policies, as may be necessary to improve OS implementation of FOIA;
- Review and report to the Attorney General, through the DACFO and the Department, at such times and in such formats as the Attorney General may direct, on OS performance in implementing FOIA requirements;
- Each OpDiv may have one or more FOIA Public Liaisons. Upon request, report to DACFO or designee on the activities of its FOIA Public Liaisons;
- Conduct annual training for OS FOIA staff and submit FOIA training products for advance approval by DACFO or designee, regarding their responsibilities under this section. HHS approval is not needed for routine trainings the agency may conduct on OpDiv standard operating procedures, or technology and automated systems the agency uses to carry out its responsibilities;
- Complete ASPA-approved FOIA training on an annual basis and ensure OS FOIA personnel completion of same;



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- Upon request, submit reports to the DACFO on programmatic FOIA activities, including but not limited to compiling such statistical or other related information on its implementation of FOIA;
- Communicate and consult with the DACFO or designee on novel or predefined significant disclosure policy matters prior to issuing determinations on same; DACFO will ensure sufficient Department staff and resources to ensure such consultation will not delay or alter OS's customary procedures related to FOIA productions.
- In responding to FOIA requests that implicate high profile public health matters that have been identified as such by DAFCO, upon request an OpDiv shall provide a courtesy copy of the response prior to release to appropriate HHS staff (e.g., the DAFCO, the FOIA lead in another OpDiv).
- Submit reports on FOIA activities at such intervals that conform to such requirements as the DACFO may direct, and other matters as designated by the DACFO, such as reports on FOIA activities that may impact oversight or other legislative engagements; and
- Each OpDiv shall consult with the DACFO and the Department's Office of the Chief Information Officer on new information technology investments related to the administration of FOIA in advance of such investments occurring. Such consultation is not intended to delay OS's investment in technology needed for processing cases and is not necessary for routine updates/upgrades to existing system. The DACFO and the Department's Office of the Chief Information Officer will provide input on ways the information technology investment may impact FOIA request processing or tracking, could impact information sharing or connectivity among HHS FOIA offices, or could be best coordinated with other information technology investments being made within the Department.

This delegation will be exercised in accordance with the Department's applicable policies, procedures, guidelines, and regulations.

LIMITATIONS

This delegation may be redelegated. In the event questions surrounding applicability or interpretation of Department policy in processing FOIA requests arise, the DAFCO shall arbitrate the issue to ensure consistency across the Department.

IMPACT ON EXISTING DELEGATIONS OF AUTHORITY

This delegation of authority does not impact other delegations within ASPA or within any other U.S. Department of Health and Human Services Operating Division or Staff Division, including any delegations for FOIA administrative appeals.



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EFFECTIVE DATE

This delegation of authority is effective immediately upon signature. I hereby affirm and ratify any actions taken by you or your subordinates that involved the exercise of the authorities delegated herein prior to the effective date of the delegation.

William H. Holzerland

9/3/2024

Date

William H. Holzerland
Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs
U.S. Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

August 1, 2025

TO: Arianne Perkins, Director, Initial FOIA Requests, Office of the Assistant Secretary for Public Affairs (ASPA)

FROM: Deputy Agency Chief FOIA Officer (DACFO)

SUBJECT: Delegation and Reassignment of Authority – 5 U.S.C. § 552 (Freedom of Information Act [FOIA]) Authority for the Office of the Secretary (OS)

PURPOSE

This memorandum formally rescinds and supersedes the delegation of authority dated September 3, 2024, regarding administration of the U.S. Department of Health & Human Services (HHS) OS FOIA Program within ASPA.

AUTHORITY TO DELEGATE

This delegation is issued pursuant to authority granted in the September 3, 2024 memorandum in Tab B.

AUTHORITY DELEGATED AND REASSIGNED

Pursuant to applicable authorities, including but not limited to 45 C.F.R. §§ 5.3 and 5.28, and subject to my oversight and guidance, I hereby delegate to the HHS FOIA Officer in the Office of the Secretary (currently, the “ASPA Director, Initial FOIA Requests”) the authority for Department-wide administration and coordination of FOIA activities, efficient and effective compliance with FOIA, and the Department’s implementing regulations.

This memorandum reassigns to the OS FOIA Program authority to manage FOIA operations on behalf of the Administration for Children & Families (ACF), Administration for Community Living (ACL), the Agency for Toxic Substances and Disease Registry (ATSDR), the Centers for Disease Control and Prevention (CDC), and such other Operating Divisions and Staff Divisions as may be designated by the Secretary, and listed on [HHS.gov](https://www.hhs.gov). Authorities previously delegated to listed entities to engage in FOIA operations have been rescinded.

The authorities delegated include the following authorities and responsibilities:

- Executing the duties of a “FOIA Officer” and “HHS FOIA Officer in the Office of the Secretary” as defined in 45 C.F.R. § 5.3;
- Developing and implementing OS FOIA Program initiatives to ensure efficient and appropriate compliance with FOIA and reporting to DACFO and ASPA;
- Recommending such adjustments to agency practices and policies as may be



necessary to improve OS FOIA Program operations;

- Compiling and reporting to the Attorney General, through the DACFO and the Department, at such times and in such formats as the Attorney General may direct, on HHS FOIA performance;
- Designating one or more FOIA Public Liaisons and reporting to the DACFO on the activities of its FOIA Public Liaison(s);
- Conducting and approving annual and on-demand training for OS FOIA Program and Department personnel;
- Submitting reports to the DACFO on OS FOIA program activities, including statistical or other implementation data;
- Serving as the principal resource for novel significant disclosure policy matters and recommending determinations to DACFO;
- Providing courtesy copies of FOIA responses, concurrent with release, to appropriate HHS staff for matters involving high-profile public health issues and Departmental priorities (e.g., the DAFCO, public affairs staff, and/or OpDiv designees);
- Submitting periodic reports and other required updates on FOIA activities that may impact oversight or other legislative engagements; and
- Recommending FOIA-related information technology, personnel, or other programmatic investments to DACFO to improve administration of FOIA.

LIMITATIONS

This delegation will be exercised in accordance with the Department's applicable policies, procedures, guidelines, and regulations.

Nothing in this memorandum alters or otherwise limits Operating Division responsibilities that facilitate the OS FOIA Program's processing of FOIA requests, appeals, or litigation. Those responsibilities include but are not limited to: executing searches for responsive records, facilitating access to agency personnel and records, and providing subject matter expertise on prospective releases in collaboration with OS FOIA Program personnel.

Similarly, nothing in this memorandum relieves the OS FOIA Program's responsibility to coordinate with affected Operating Divisions on significant disclosure activities, including those involving high-profile public health matters, Departmental or Operating Division priorities, or activities with significant budgetary impacts.

In the event questions arise regarding the applicability or interpretation of Departmental policy in the FOIA process, the DAFCO shall arbitrate the issue to ensure consistency across the Departmental FOIA enterprise.

IMPACT ON EXISTING DELEGATIONS OF AUTHORITY

This delegation and reassignment of authority does not impact other delegations within ASPA or within any other HHS Operating Division or Staff Division, except to the extent specified herein.



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EFFECTIVE DATE

This delegation and reassignment of authority is effective immediately upon signature. I hereby affirm and ratify any actions taken by you or your subordinates that involved the exercise of the authorities delegated herein prior to the effective date of the delegation.

William H. Holzerland

William H. Holzerland
Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs
U.S. Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

September 3, 2024

TO: Centers for Disease Control and Prevention (CDC) FOIA Personnel

THROUGH: Director, CDC

FROM: Deputy Agency Chief FOIA Officer (DACFO)

SUBJECT: Delegation of Authority – 5 U.S.C. § 552 (Freedom of Information Act [FOIA]) Authority for CDC and/or Agency for Toxic Substances and Disease Registry (ATSDR)

AUTHORITY TO DELEGATE

This delegation is authorized by the delegation of authority memorandum dated September 3, 2024 in Tab B.

AUTHORITY DELEGATED

Consistent with 45 C.F.R. § 5.3, and subject to my oversight and guidance, I hereby delegate to the OpDiv and StaffDiv FOIA Officers the authorities vested in me to implement and administer the Freedom of Information Act within their respective OpDiv or StaffDiv, including the following authorities and responsibilities:

- Execute the duties of a FOIA Officer as defined in 45 C.F.R. § 5.3;
- Develop and implement CDC initiatives to ensure efficient and appropriate compliance with FOIA and report to the Department on same;
- Recommend to the DACFO and the Director such adjustments to agency practices and policies, as may be necessary to improve CDC implementation of FOIA;
- Review and report to the Attorney General, through the DACFO and the Department, at such times and in such formats as the Attorney General may direct, on CDC performance in implementing FOIA requirements;
- Each OpDiv may have one or more FOIA Public Liaisons. Upon request, report to DACFO or designee on the activities of its FOIA Public Liaisons;
- Conduct annual training for CDC FOIA staff and submit FOIA training products to ASPA for advance approval by DACFO or designee, regarding their responsibilities under this section. HHS approval is not needed for routine trainings the agency may conduct on OpDiv standard operating procedures, or technology and automated systems the agency uses to carry out its responsibilities;
- Complete ASPA-approved FOIA training on an annual basis and ensure CDC FOIA personnel completion of same;



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- Upon request, submit reports to the DACFO on programmatic FOIA activities, including but not limited to compiling such statistical or other related information on its implementation of FOIA;
- Communicate and consult with the DACFO or designee on novel or predefined significant disclosure policy matters prior to issuing determinations on same; DACFO will ensure sufficient Department staff and resources to ensure such consultation will not delay or alter CDC's customary procedures related to FOIA productions.
- In responding to FOIA requests that implicate high profile public health matters that have been identified as such by DAFCO, upon request an OpDiv shall provide a courtesy copy of the response prior to release to appropriate HHS staff (e.g., the DAFCO, the FOIA lead in another OpDiv).
- Submit reports on FOIA activities at such intervals that conform to such requirements as the DACFO may direct, and other matters as designated by the DACFO, such as reports on FOIA activities that may impact oversight or other legislative engagements; and
- Each OpDiv shall consult with the DACFO and the Department's Office of the Chief Information Officer on new information technology investments related to the administration of FOIA in advance of such investments occurring. Such consultation is not intended to delay CDC's investment in technology needed for processing cases and is not necessary for routine updates/upgrades to existing system. The DACFO and the Department's Office of the Chief Information Officer will provide input on ways the information technology investment may impact FOIA request processing or tracking, could impact information sharing or connectivity among HHS FOIA offices, or could be best coordinated with other information technology investments being made within the Department.

This delegation will be exercised in accordance with the Department's applicable policies, procedures, guidelines, and regulations.

LIMITATIONS

This delegation may be redelegated. In the event questions surrounding applicability or interpretation of Department policy in processing FOIA requests arise, the DAFCO shall arbitrate the issue to ensure consistency across the Department.

IMPACT ON EXISTING DELEGATIONS OF AUTHORITY

This delegation of authority does not impact any delegations within ASPA or within any other U.S. Department of Health and Human Services Operating Division or Staff Division, including any delegations for FOIA administrative appeals.



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Assistant Secretary for Public Affairs
Washington, D.C. 20201

EFFECTIVE DATE

This delegation of authority is effective immediately upon signature. I hereby affirm and ratify any actions taken by you or your subordinates that involved the exercise of the authorities delegated herein prior to the effective date of the delegation.

William H. Holzerland

9/3/2024

Date

William H. Holzerland
Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs
U.S. Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

August 1, 2025

TO: Centers for Disease Control and Prevention (CDC)

THROUGH: Noah Aleshire, Chief Regulatory Officer, Office of the Director

FROM: Deputy Agency Chief FOIA Officer (DACFO)

SUBJECT: Recission of Delegation of Authority – 5 U.S.C. § 552 (Freedom of Information Act [FOIA]) Authority for CDC and/or Agency for Toxic Substances and Disease Registry (ATSDR)

PURPOSE

This memorandum formally rescinds the delegation of authority dated September 3, 2024, pertaining to the implementation and administration of the Freedom of Information Act (FOIA) by the CDC and/or ATSDR.

AUTHORITY RESCINDED

Consistent with applicable authorities, including but not limited to 45 C.F.R. §§ 5.3 and 5.28, effective immediately upon signature of this memorandum, the September 3, 2024 delegation of FOIA authority issued to CDC/ATSDR personnel is hereby rescinded in full.

SUPERSESSION AND REASSIGNMENT OF AUTHORITY

All FOIA authorities previously delegated to CDC/ATSDR are reassigned to and will be executed by the Office of the Assistant Secretary for Public Affairs (ASPA), which administers the Office of the Secretary (OS) FOIA Program.

This includes, but is not limited to:

- Executing duties outlined under 45 C.F.R. § 5.3;
- Overseeing FOIA operations formerly managed by CDC/ATSDR personnel;
- Managing responsibility for reporting, training, consultation, programmatic investment, and procurement authorities as previously delegated;
- Issuing determinations on novel or significant disclosure policy matters;
- Addressing FOIA litigation and significant legal issues, in consultation with the Office of General Counsel;
- Approving FOIA litigation settlements, in consultation with CDC/ATSDR; and
- Issuing determinations, in consultation with the Office of the Chief Information Officer, on prospective information technology investments impacting disclosure matters prior to such investments occurring.



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Authorities pertaining to FOIA operations, policy, and programmatic investments, to the extent not otherwise listed herein, are vested in the OS FOIA Program, and will be executed by the DACFO or designee, subject to my guidance and oversight.

LIMITATIONS

This delegation will be exercised in accordance with applicable Departmental policies, procedures, guidelines, and regulations.

Nothing in this memorandum alters or otherwise limits CDC/ATSDR responsibilities that facilitate the OS FOIA Program's processing of FOIA requests, appeals, or litigation. Those responsibilities include but are not limited to: executing searches for responsive records, facilitating access to agency personnel and records, and providing subject matter expertise on prospective releases in collaboration with OS FOIA Program personnel.

Similarly, nothing in this memorandum restricts or otherwise erodes the OS FOIA Program's responsibility to coordinate with CDC/ATSDR on significant disclosure activities, including those involving high-profile public health matters, Departmental or CDC/ATSDR priorities, or activities with significant budgetary impacts.

In the event questions arise regarding the applicability or interpretation of Departmental policy in the FOIA process, the DACFO shall arbitrate the issue to ensure consistency across the Departmental FOIA enterprise.

IMPACT ON EXISTING DELEGATIONS OF AUTHORITY

This delegation and reassignment of authority does not impact delegations within ASPA or within any other U.S. Department of Health and Human Services Operating Division or Staff Division, except to the extent specified herein.

EFFECTIVE DATE

This delegation and reassignment of authority is effective immediately upon signature. I hereby affirm and ratify any actions taken by CDC/ATSDR staff that involved the exercise of authorities reassigned herein prior to the effective date of this delegation.

William H. Holzerland

William H. Holzerland
Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs
U.S. Department of Health and Human Services