

§ 5.24 How does HHS process my FOIA request?

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

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

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

(ii) The requested records are reasonably described; and

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

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

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

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

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

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

(g) *Aggregating requests.* For the purposes of satisfying unusual circumstances, we may aggregate requests in cases where it reasonably appears that multiple requests, submitted either by a requester or by a group of requesters acting in concert, constitute a single request, involving clearly related matters, that would otherwise involve unusual circumstances. In the event that requests are aggregated, they will be treated as one request for the purposes of calculating both response time and fees.