

## **Freedom of Information Act at National Institutes of Health (NIH) FACT Sheet**

**Overview.** The Freedom of Information Act (FOIA), 5 U.S.C. 552, provides individuals with a right to access records in the possession of the Federal Government. The Government may withhold information pursuant to the nine exemptions and three exclusions contained in the Act.

FOIA Officers and Coordinators at the NIH independently and/or collaboratively process three different categories of requests:

- Requests for information maintained at the Office of the Director, NIH
- Requests that will involve responses from more than one of the NIH Institutes or Centers (IC)
- Requests for information that will not be released because it is protected by one or more of the FOIA's nine exemptions or three exclusions.

**Exemptions.** Section 552(b) of the Freedom of Information Act contains nine exemptions to the mandatory disclosure of records:

- National defense and foreign policy
- Internal personnel rules and practices
- Records exempted by other statutes
- Trade secrets and confidential commercial or financial information
  - A trade secret is a secret, commercially valuable plan, formula, process, or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort. There must be a direct relationship between the trade sheet secret and the productive process.
  - Information is "commercial or financial" if it relates to businesses, commerce, trade, employment, profits, or finances (including personal finances). We interpret the category broadly.
- Internal memoranda include internal government communications, including an agency's communications with an outside consultant or other outside person, with a court, or with congress.
- Clearly unwarranted invasion of personal privacy
- Law enforcement
- Records on financial institutions; records on wells (geological and geophysical information and data, including maps, concerning wells).

**Request Submittal.** The policy of the NIH is to answer all requests, both oral and written, for records. In order to accomplish this most efficiently it is a requirement that all requests be submitted in writing, by postal service, facsimile, or messenger to a Freedom of Information Officer; requests must contain the requestor's postal address and the name of the person responsible for paying any fees that may be charged. To expedite requests, address requests to the Freedom of Information Officer, located at the following central office or individual IC(s) that are most likely to have the records you want. For the central NIH, the address is:

Freedom of Information Office  
National Institutes of Health  
Bldg 31, Room 5B35  
9000 Rockville Pike  
Bethesda, MD 20892

If you cannot determine which IC at the NIH or which Operating Division at the Department of Health and Human Services (DHHS), send the request to the central NIH FOIA Office noted above or to the DHHS at the following address:

HHS Freedom of Information Officer, 645-F  
Hubert H. Humphrey Building  
Department of Health and Human Services  
200 Independence Avenue  
SW, Washington, DC 20201.

Write the word “Freedom of Information Act Request” on the envelope and note within the body of your letter that your request is submitted pursuant to the “Freedom of Information Act”.

The requesting letter also should include all the details possible in order to help identify and locate the records you want. If there is insufficient information, a Freedom of Information Officer will request additional information. If you are not sure how to write your request or what detail to include, contact the agency’s Freedom of Information Officer. Include your telephone number(s) to help an Officer reach you if any questions arise.

Since there is a recovery cost associated with processing FOIA requests, individuals should ensure that the information they seek is not already available within the public domain; a search of the NIH Web site, <http://www.nih.gov> requesters in locating offices, programs and other pertinent information as well as lists of available publications, etc. Such a search can also help requesters identify the component (s) most likely to have responsive documents so FOIA requests can be sent to the appropriate component for response. A list of the FOIA Coordinators for each component as well as a schedule of FOIA fees is posted on the FOIA Web site at <http://www.nih.gov/icd/od/foia> . If the information and or data you request are already available to the public through an archive or other source, your request will not be processed under the FOIA. In that situation, FOIA Coordinators will direct you to the archive or other source.

**Appeals to Denial.** In occurrences where the request is denied, FOIA requesters may appeal the denial of information within 30 days of receipt of letters from the agency. Appeals should state the reasons why the requested information should be released under the Act, and why the denial may be in error. FOIA requesters shall attach copies of their original requests and response letters to all appeals, clearly mark the letters and the outside envelopes, “FOIA Appeal”, and mail appeals to the following address:

Deputy Assistant Secretary for Public Affairs (Media)  
U.S. Department of Health and Human Services  
Parklawn Building, Room 13C-24  
5600 Fishers Lane  
Rockville, MD 20857

For further information please visit the NIH FOIA Office Web site at <http://www.nih.gov/icd/od/foia> .