

MWI 1380.1

BASELINE

EFFECTIVE DATE: November 16, 1999

EXPIRATION DATE: November 16, 2004

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# **MARSHALL WORK INSTRUCTION**

## **CD01**

# **HANDLING OF FREEDOM OF INFORMATION ACT REQUESTS**

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**DOCUMENT HISTORY LOG**

Status (Baseline/ Revision/ Canceled)	Document Revision	Effective Date	Description
Baseline		11/16/99	Document is a complete rewrite of MMI 1382.1E to an MWI. Changed organizational code from C001 to CD01, added definitions, defined processes, and added flow chart.

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## **1. PURPOSE**

This document provides work instructions for applicable requirements established in the MSFC Management Manual (MMM). It describes the process for handling Freedom of Information Act (FOIA) requests received at the Marshall Space Flight Center (MSFC). It is the policy of MSFC to respond to FOIA requests in a thorough and timely manner with a strong emphasis on the release of agency records to the fullest extent practicable.

## **2. APPLICABILITY**

This Marshall Work Instruction (MWI) applies to all organizational elements involved in the receipt and processing of FOIA requests.

## **3. APPLICABLE DOCUMENTS**

- a. "Freedom of Information Act," Title 5, U.S.C. 552, as amended
- b. 14 Code of Federal Regulations, Part 1206
- c. MWI 2190.1, "MSFC Export Control Program"
- d. NPG 1441.1, "NASA Records Retention Schedule"

## **4. REFERENCES**

None

## **5. DEFINITIONS**

- a. Agency Records or Records. All books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by MSFC in pursuance of Federal law or in connection with the transaction of public business. NASA must preserve them as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities or because of the informational value of data contained therein. It does not include tangible objects or articles such as structures, furniture, paintings, sculptures, exhibits, models, vehicles or equipment; library or museum material made or acquired and preserved solely for reference or exhibition purposes; or records of another agency, a copy of which may be in NASA's possession.

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b. Final Determination. A decision by the NASA Administrator or his designee on an appeal.

c. FOIA. Freedom of Information Act.

d. FOIA Manager. A point of contact established within MSFC to coordinate the receipt, search for documents, legal review of documents, and initial determination of all FOIA requests.

e. FOIA Request. Any request for NASA records that has been addressed to the MSFC FOIA Office or otherwise clearly identified as a request for an agency record under the "Freedom of Information Act."

f. Initial Determination. A decision by the Manager, Government and Community Relations Department, on whether the record described in the request can be identified and located after a reasonable search, and, if so, whether the record (or portions thereof) will be made available or will be withheld from disclosure.

g. Statutorily Prescribed Time Limit. According to 5 USC 552, the time limit for answering all FOIA requests is 20 days from the time the request is received by the FOIA Manager.

## 6. INSTRUCTIONS

This MWI relates to the receipt, process, administration, and initial determination of all FOIA requests received at MSFC. Upon receipt all FOIA requests are to be forwarded to the Government and Community Relations Department, FOIA Manager/CD50.

a. Action by CD50:

(1) Receive all FOIA requests sent to MSFC. FOIA Manager logs request into the FOIA database and assigns a control number. Requests must be written and can be accepted in paper, fax, or electronic mail formats.

(2) Twenty-day suspense is annotated in the database. Only in unusual circumstances will an extension be requested. If an extension is required, the FOIA Manager will contact the requester and will come to an agreement of the new suspense date. The new suspense date will be noted in the FOIA file and notification sent to the record custodian and the Office of Chief Counsel.

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(3) Search database to verify if the agency record has been requested previously.

(4) If agency record has not been previously requested, a submitter notice is sent to the person or entity that is the source of commercial information contained in the document. They are notified that any comments they have regarding release of the agency record should be forwarded to the Office of Chief Counsel.

(5) All sources are searched to verify the agency record custodian. The request for the agency record is sent to the custodian with instructions to forward to the FOIA Manager. The custodian is given a five working day suspense for response to the FOIA Manager.

(6) Agency record is retrieved. FOIA Manager ensures the record custodian has identified any export control information in the record. The record is forwarded to the Office of Chief Counsel for interpretation of the requirements of the FOIA. They make a recommendation to the Manager, Government and Community Relations Office, on initial determination incorporating any comments received from the submitter notice.

(7) Agency record is returned to FOIA Manager and any deletions are made.

(8) If full release of the agency record is recommended by Office of Chief Counsel, FOIA Manager prepares and signs the memorandum, along with the requested agency record, to be sent back to the requester.

(9) If deletions are made, the FOIA Manager prepares the memorandum and the Manager, Government and Community Relations Department, signs. The signed memorandum and requested agency record with deletions made are sent back to the requester.

(10) A copy of the signed Memorandum is forwarded to Office of Chief Financial Officer for collection of any fees. Fees are assessed according to guidelines set forth in 14 CFR, Part 1206.

(11) Request is completed and noted in the FOIA database. Quality record is maintained according to file retention plan set forth in NPG 1441.1.

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b. Action by Centerwide Organizations:

(1) All MSFC organizations are responsible for immediate referral of any requests received from members of the public for release of records under the provisions of the FOIA to the Government and Community Relations Department/FOIA Manager for necessary response. In no event will any organization other than CD50 or individual attempt to reply to a request under the FOIA.

(2) All MSFC organizational elements shall cooperate fully with the FOIA Manager to assure that the Center meets the statutorily prescribed time limit of responding to FOIA request.

c. Action by Custodians of Agency Records: (1) Custodians of agency records are responsible for providing a copy of the requested documents to the FOIA Manager in a timely fashion. The custodian will ordinarily meet the suspense date given by the FOIA Manager. Only in unusual circumstances will an extension be requested. If an extension is required, the custodian should notify the FOIA Manager and a new suspense date will be established.

(2) If the request is for large volumes of records, the record custodian should notify the FOIA Manager to ensure the requester is aware of the costs of obtaining such records. Search of the records will cease until the FOIA Manager verifies with the requester the costs involved with this request. The FOIA Manager will notify the record custodian of any changes to the request or to proceed with the search as originally requested. A new suspense date will be established.

(3) The record custodian is responsible for identifying any export control information contained in the record as defined in MWI 2190.1. They shall inform the FOIA Manager whether any of these records are subject to the export control restrictions.

**7. NOTES**

a. The FOIA establishes a positive and continuing obligation for NASA to make available to the fullest extent practicable all agency records under its jurisdiction upon request of the public. CFR 1206 provides guidelines as to the extent that records may be exempt from disclosure.

b. NASA has established a Headquarters Information Center in Washington, DC. FOIA Manager's office at MSFC is established as the MSFC Field Information Center. Field information centers are an augmenting information resource to receive and fill public

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requests not normally and routinely handled by other established information resources (as stated below in 7.c). The Field Information Center at MSFC will be open to the public during all regular workdays from 8:30 a.m. to 4:00 p.m.

c. Government and Community Relations Department, Technology Transfer Department, Procurement Office, Education Programs Department, and others will continue to furnish information and handout material in accordance with the established NASA education, public inquiries, technology transfer, and similar programs. However, in the event that a request is received for information not available from one of these sources or the request is for the type of information not routinely released by one of these sources, the request will be immediately forwarded to the FOIA Manager.

**8. SAFETY PRECAUTIONS AND WARNING NOTES**

None

**9. RECORDS**

A file is maintained for each FOIA request. All contents of this file will be considered the quality record for this process. The file may contain the following: original request from requester, memo to custodian of agency record with suspense noted and amount of time spent searching for the record, background information on the record being requested (if applicable), Office of Chief Counsel's memorandum stating review and recommendation of initial determination, copies of deletions made from agency record prior to release, memorandum to requester with determination to release, or giving the rationale for totally or partially withholding the record requested. This file will be maintained according to file retention plan set forth in NPG 1441.1.

**10. PERSONNEL TRAINING AND CERTIFICATION**

None

**11. FLOW DIAGRAM**

See Appendix A

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## 12. CANCELLATION

MMI 1382.1E dated May 1, 1997

Original Signed by

A. G. Stephenson  
Director

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## Appendix A Handling of Freedom of Information (FOIA) Requests Flow Diagram

