

# DRAFT

## DOJ INFORMATION QUALITY GUIDELINES FOR INFORMATION DISSEMINATED TO THE PUBLIC (5/7/02)

### Introduction and Purpose

The Department of Justice (DOJ) seeks public comments on the following proposed guidelines covering quality standards for information disseminated to the public and an administrative mechanism for requests for correction of information publically disseminated by DOJ. The comments will become a matter of public record. On or before October 1, 2002, revised DOJ guidelines will be available on the Department's website following an OMB review and notice of availability of these guidelines published in the Federal Register.

The Department of Justice (DOJ) is comprised of 39 separate component organizations and these components produce a variety of information which is provided to the public. The information DOJ disseminates includes: Departmental briefs in major cases, regulations, business review letters, memoranda, press releases, opinions, research, statistical and special reports, newsletters, and general publications. This information is used by federal, state, and local government personnel, as well as the media and public, to analyze and understand various Justice and law enforcement related issues.

The purpose of this guidance is to provide an overview of DOJ's efforts to ensure and maximize the quality, objectivity, utility, and integrity of information disseminated to the public, and describe the agency's administrative mechanisms allowing affected persons to seek and obtain, where appropriate, correction of information disseminated by DOJ that does not comply with OMB's or DOJ's information quality guidelines. These guidelines do not represent an entirely new or changed policy on the Department's part, but rather a commitment to continue providing high quality information to the public. This guidance provides a foundation for more detailed procedures to be developed within DOJ.

Contact: Send your comments to DOJ via e-mail to [eric.l.nelson@usdoj.gov](mailto:eric.l.nelson@usdoj.gov), or fax them to Mr. Eric Nelson, Management and Planning Staff at Fax number (202) 307-1853. You may also mail comments to Mr. Eric Nelson, at 1331 Pennsylvania Ave., NW, Suite 1400, Washington, DC 20530. Please be specific in your comments regarding concerns and proposed changes. The Department will consider all comments received by June 10, 2002, in response to this notice.

### Background Information

These guidelines are in response to OMB guidance issued on February 22, 2002, requiring federal agencies subject to the Paperwork Reduction Act (U.S.C. chapter 35) to develop and publish their own information quality guidelines and provide the public with administrative means for requesting corrections of information. The guidelines will focus on the following areas:

- **Basic Standard of Quality.** Overall, agencies shall adopt a basic standard of quality (including objectivity, utility, and integrity) and will take appropriate steps to incorporate information quality criteria into agency information dissemination practices.
- **Process for Reviewing the Quality of Information.** As a matter of good and effective agency information resources management, agencies shall develop a process for reviewing the quality (including the objectivity, utility, and integrity) of information before it is disseminated.
- **Process for Citizen Complaint.** To facilitate citizen review, agencies shall establish administrative mechanisms allowing affected persons to seek and obtain, where appropriate, timely correction of information maintained and disseminated by the agency that does not comply with OMB or agency guidelines.

Section 515 of the Treasury and General Appropriations Act for Fiscal Year 2001 (PL 106-554) focuses on the federal government's information dissemination activities and builds on the existing Government-wide responsibility to ensure information quality. Section 515 directs OMB to issue government-wide guidelines that "provide policy and procedural guidance to federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by federal agencies." The OMB guidance (Feb. 22, 2002, Federal Register Volume 2, No. 67 at 8452) requires agencies, by October 1, 2002, to: 1) issue their own information quality guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated; 2) establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with the OMB guidelines; and 3) report annually to the Director of OMB the number and nature of complaints received by the agency regarding agency compliance with the guidelines.

## Scope and Applicability of Guidance

This document provides guidance to component staff and informs the public of the agency's policies and procedures. These guidelines are not a regulation. They are not legally enforceable and do not create any legal rights or impose any legally binding requirements or obligations on the agency or the public. Nothing in these guidelines affects any otherwise available judicial review of agency action.

These guidelines apply only to information disseminated by the agency, as defined in these guidelines. Other information distributed by the agency that is not addressed by these guidelines would still be subject to any applicable agency policies and correction procedures.

The DOJ information quality guidelines will become effective on October 1, 2002. These guidelines will cover information disseminated on or after October 1, 2002, regardless of when the information was first disseminated, and will include most agency initiated or sponsored information distributed to the public. This includes any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms. It includes information that an agency disseminates from a web page, but does not include information disseminated by others and accessible through hyperlinks from an agency web page.

The guidelines do not override other compelling interests such as privacy, trade secrets,

intellectual property, and other confidential protections. The guidelines do not apply to opinions where the agency's presentation makes it clear that the material is being offered as someone's opinion rather than fact or the agency's views. In addition the guidance does not apply to information disseminated in the following contexts:

- limited to government employees or agency contractors or grantees;
- intra-or inter-agency use or sharing of government information;
- responses to requests for agency records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act or other similar law;
- distribution limited to correspondence with individuals or persons;
- press releases and public filings;
- information relating to subpoenas, or adjudicative processes;
- archival records disseminated by federal agency libraries or similar federal data repositories;
- information presented to Congress (as part of the legislative or oversight processes; e.g., testimony of officials, information or drafting assistance provided to Congress in connection with pending or proposed legislation) that is not simultaneously disseminated to the public; and
- procedural, operational, policy and internal manuals prepared for the management and operations of DOJ that are not primarily intended for public dissemination.

## **Oversight/Management Responsibility**

DOJ will designate an office to be responsible for the overall implementation and oversight of the DOJ information quality guidelines and for producing the annual report to OMB documenting any complaints and how they were handled. Each of the DOJ components will designate an office responsible for ensuring the guidelines are adhered to within their component.

## **Standards for Disseminated Information**

The Department of Justice will review all information dissemination products for their quality (including objectivity, utility, and integrity) before they are disseminated. In general, to maximize the quality of information disseminated, DOJ has traditionally looked for input from a range of sources and perspectives, to the extent practicable, and subjected draft materials to a review process involving as many levels and offices as needed. Incorporating the following proposed guidelines would further reinforce DOJ's commitment to meeting these higher standards for disseminating quality information to the public.

A basic standard of quality will be ensured and established for all information prior to its dissemination. In addition, on-going disseminated information will be reviewed on a regular basis to ensure all information is current and complies with these guidelines. OMB's guidelines

define "quality" as an encompassing term comprising utility, objectivity, and integrity. Therefore, the guidelines sometimes refer to these three terms, collectively, as "quality." Accordingly, at a minimum, DOJ will set the following standards at levels appropriate to the nature and timeliness of substantive information to be disseminated:

Utility: DOJ components will assess the usefulness of the information to be disseminated to the public. Utility is achieved by continuously monitoring information needs and developing new information sources or by revising existing methods, models, and information products where appropriate.

Objectivity: DOJ components will ensure disseminated information is substantively accurate, clear, complete, and presented in an unbiased manner. Objectivity is achieved by using reliable data sources, sound analytical techniques, and documenting methods and data sources.

Integrity: DOJ components will ensure information is protected from unauthorized access, corruption, or revision (i.e., make certain disseminated information is not compromised through corruption or falsification). To ensure integrity of information disseminated, DOJ has in place programs and policies for securing its information as required by the Computer Security and Government Information Security Reform Acts and is highly protective of information collected under pledges of confidentiality.

Prior to dissemination, DOJ will review all substantive information it disseminates on or after October 1, 2002. While conducting this review, DOJ will:

- allow adequate time for reviews, consistent with the level of standards required for the type of information to be disseminated;
- ensure compliance with these guidelines (i.e., utility, objectivity, and integrity requirements) as well as other DOJ component specific guidance/procedures;
- provide methodologies, origins of data, limitations of the information, etc., whenever possible, as part of information dissemination; and
- ensure that the information fulfills the intentions stated and that the conclusions are consistent with the evidence.

For disseminated statistical information: Additionally, statistical information disseminated will be based on (1) the promotion of sound statistical methods and (2) the principle of transparency.

**Sound statistical methods**: Sound statistical methods produce information (data and analysis results) that is accurate, reliable, and unbiased. Guidelines to promote sound statistical methods would cover the planning of statistical data systems, the collection of statistical data, and the processing of statistical data (including analysis).

**Transparency**: Transparency refers to a clear description of the methods, data sources, assumptions, outcomes, and related information that will allow a data user to understand how the information product was designed or produced. Guidelines to ensure transparency in statistical information covers the dissemination of information, including both presentation and the reporting of information sources and limitations.

For influential information: When information is defined as influential there is an added level of

scrutiny afforded this information, to include the need to ensure it is reproducible. At DOJ, influential information is that which is expected to have a genuinely clear and substantial impact at the national level, on major public and private policy decisions as they relate to federal justice issues. The accuracy of this information is significant due to the critical nature of these decisions. A clear and substantial impact, first of all, is one that the agency is firmly convinced has a high probability of occurring. If it is merely arguable that an impact will occur, or if it is a close judgment call, then the impact is probably not clear and substantial. To determine that there is a clear and substantial impact, the agency must have greater certainty than would be the case for many ordinary factual determinations. The impact must be on "important" public policy or private sector decisions that are expected to occur. Even if information has a clear and substantial impact, it is not influential if the impact is not on a public or private decision that is important to policy, economic, or other decisions.

At DOJ, the responsibility for determining if information is influential lies with the components that disseminate the information. DOJ components may designate certain classes of information as either "influential" or not in the context of their specific programs. Absent such designations, DOJ components will determine whether information is influential on a case-by-case basis, using the principles articulated in these guidelines.

The "influential" designation is intended to be applied to information sparingly. DOJ components should not designate information products or types of information as influential on a regular or routine basis. Nor should DOJ components actually place an "influential" label in the title page or text of an information product.

**Reproducibility:** Means that documented methods are capable of being used on the same data set to achieve a consistent result. For more information on this term, please refer to OMB's guidelines.

## Information Correction Request and Appeal Processes

Submitting a Formal Request for Correction. All requests for correction of DOJ information must be submitted by letter, fax, or e-mail to an office to be designated in the Department. Requests for correction should include the following information:

- Statement that the request for correction of information is submitted under DOJ's Information Quality Guidelines.
- Requestor contact information, including the name, mailing address, telephone number, fax number (if any), e-mail address (if any), and organizational affiliation (if any) of the person requesting the correction.
- Description of information to correct. The name of the DOJ report or data product, the date of issuance or other identifying information such as the URL of the web page, and a detailed description that clearly identifies the specific information contained in that report or data product for which a correction is being sought.
- Explanation of noncompliance with OMB and/or DOJ Information Quality Guidelines. An explanation that describes how the information is incorrect or fails to meet either the OMB or DOJ information quality guidelines.

- Explanation of the effect of the alleged error. An explanation that describes how the alleged error harms or how a correction would benefit the requestor.
- Recommendation and justification for how the information should be corrected. An explanation that gives the requestor's specific recommendations for how the information should be corrected and that describes the requestor's position for why DOJ should adopt those recommendations.
- Supporting documentary evidence. Supporting documentary evidence, such as comparable data or research results on the same topic, will help in evaluating the merits of the request.

Requestors should be aware that they bear the "burden of proof" with respect to the necessity for correction as well as with respect to the type of correction they seek. DOJ will base its decision on the merits of the information provided by the requestor and will not attempt to contact the requestor to obtain additional information when the submission by the requestor is incomplete.

DOJ Review of the Request for Correction. The request for correction will be processed by the office designated by DOJ to handle the information in question. Based on the explanation and evidence submitted with the request for correction, DOJ will conduct a thorough review of the information being challenged, the processes that were used to create and disseminate the information, and the conformity of the information and those processes with both OMB's and DOJ's Information Quality Guidelines. After it has completed its review, DOJ will determine whether a correction is warranted, and, if so, what corrective action it will take.

Any corrective action will be determined by the nature and timeliness of the information involved and such factors as the significance of the error on the use of the information, the magnitude of the error, and the cost of undertaking a correction. DOJ is not required to change, or in any way alter, the content or status of information simply based on the receipt of a request for correction.

The Department need not respond substantively to frivolous or repetitive requests for correction. Nor does the Department have to respond substantively to requests that concern information not covered by the guidelines or from a person whom the information does not affect.

DOJ Response to the Request for Correction. After the responsible DOJ office has made its final determination pertaining to a request for correction of information, it will respond to the requestor by letter, e-mail, or fax. The response will explain the findings and the actions to be taken (if any) in response to the complaint.

DOJ will normally respond to requests for correction of information within 60 calendar days of receipt. If the request requires more than 60 calendar days to resolve, DOJ will inform the requestor that more time is required and indicate the reason why and an estimated decision date.

Requests for Correction Concerning Information on Which DOJ Has Sought Public Comment. Information on which DOJ has sought public comment includes a notice of proposed rulemaking (NPRM), studies cited in an NPRM, a regulatory evaluation or cost-benefit analysis

pertaining to an NPRM, a preliminary environmental impact analysis, a notice of availability, and request for comment on a risk assessment.

DOJ's response to the request for correction will normally be incorporated in the next document it issues in the matter concerning what it had sought comment. The response will be provided in this document rather than in a separate communication. DOJ may choose to provide an earlier response, if doing so is appropriate, and will not delay the issuance of the final action in the matter.

Request for Reconsideration of DOJ's Decision. If the requestor disagrees with DOJ's denial of the request or with the corrective action the Department intends to take, the requestor may file a request for reconsideration with an office designated by DOJ. Persons desiring to file a request for reconsideration should submit the request by letter, fax, or e-mail to the appropriate official designated by DOJ. Persons requesting reconsideration should submit written material to support their case for reconsideration. They should not resubmit the information originally submitted to support the request for correction.

Requests for reconsideration must be filed with DOJ (postmarked or shipped by an overnight delivery service) within 35 calendar days after the date that DOJ transmitted its decision on the original request for correction. Requests for reconsideration that are received by DOJ after the 35-calendar day deadline will be denied as untimely.

DOJ Review and Response to the Request for Reconsideration. The reconsideration official designated by DOJ will review the information in question and the material submitted in support of the request for reconsideration, the material submitted with the original request for correction, and the results of the DOJ organization's investigation of the matter. The reconsideration official will then arrive at a decision regarding the request for reconsideration.

After the reconsideration official has made his or her decision pertaining to a request for reconsideration, DOJ will respond to the requestor by letter, e-mail, or fax. The response will explain the Reconsideration Official's decision and the actions the DOJ organization will take (if any) in response to the request for reconsideration.

DOJ will respond to all requests for reconsideration within 45 calendar days of receipt.

## **Reporting Requirements**

- Revise draft guidelines (after considering public comments) and submit to OMB for review by July 1, 2002
- Publish notice of availability of final guidelines, incorporating any changes and post final information quality guidelines by October 1, 2002
- Provide annual reports to OMB (to include the number and nature of complaints received concerning agency compliance as well as how complaints were resolved); beginning January 1, 2004.

## **Privacy Act Statement**

We are authorized to collect the information you provide under section 515 of the Treasury and

General Government Appropriations Act for Fiscal Year 2001 (Public Law No. 106-554, codified at 44 U.S.C. § 3516, note). It is needed to process your request and allow us to reply accordingly. You do not have to furnish the information, but failure to do so may prevent your request from being processed. The information you furnish is almost never used for any purpose other than to process and respond to your request. However, DOJ may disclose information you give it (e.g., to Congressional office) if authorized or required by Federal law.