

6.9.4 Government vehicles.

6.9.4.1 GOVs are "passenger carriers" which include, but are not limited to: passenger motor vehicles, aircraft, boats, ships, or other similar means of transportation that are owned or leased by the United States. Employees will not use, or authorize the use of, a GOV except for official purposes, i.e., those deemed essential to the successful completion of the official mission. The transportation of individuals in a GOV, including family members, is prohibited, unless officially authorized. Willful use of a GOV for other than official purposes carries a minimum statutory penalty of a 30-day suspension from duty and pay.

6.9.4.2 Employees will not consume alcoholic beverages while operating a GOV and for a reasonable period of time prior to operating a GOV. Driving a GOV while impaired by alcohol is prohibited under all circumstances.

6.9.4.3 Any employee operating a GOV must observe all applicable state and local traffic laws consistent with the flexibility required for the conduct of law enforcement activities. Even then, employees are responsible for exercising due caution to ensure the safe operation of their vehicle.

6.9.5 Firearms.

6.9.5.1 Unless firearms are authorized and required in the performance of duty, employees will not carry firearms, either openly or concealed, while on government property or on official duty.

6.9.5.2 Employees authorized to carry firearms will do so strictly in accordance with applicable firearms policies. Employees carrying firearms are prohibited from consuming alcoholic beverages.

6.9.5.3 Employees authorized to carry and maintain firearms must not leave their firearms unattended and are responsible for properly storing their firearms in accordance with applicable policy. Upon discovery, employees must promptly report the loss or theft of their firearms to their supervisor.

6.10 USE OF ALCOHOLIC BEVERAGES.

6.10.1 Employees will not report for duty or remain on duty under the influence of alcohol.

6.10.2 Unless specifically authorized, employees may not consume alcoholic beverages while on official duty.

6.10.3 Under no circumstances will employees operate a GOV, on or off duty, while under the influence of alcohol.

6.10.4 Uniformed employees will not purchase or consume alcoholic beverages, on or off duty, while in uniform.

6.10.5 Members of aircrews will not consume alcoholic beverages within 8 hours prior to their performing scheduled flight duties. Any member of an aircrew who is found to have done so will be considered impaired for duty. Furthermore, even if a member of an aircrew has not consumed an alcoholic beverage during the 8-hour period immediately preceding flight duties, he or she may be considered impaired for duty if he or she, upon reporting for duty, is found to be suffering the residual effects of alcohol consumption.

6.11 BIAS-MOTIVATED CONDUCT.

6.11.1 Employees will not act or fail to act on an official matter in a manner which improperly takes into consideration an individual's race, color, age, sexual orientation, religion, sex, national origin, or disability.

6.11.2 Employees will not make abusive, derisive, profane, or harassing statements or gestures, or engage in any other conduct, evidencing hatred or invidious prejudice to or about another person or group on account of race, color, religion, national origin, sex, sexual orientation, age, or disability.

6.11.3 Employees will not engage in sexual harassment. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

6.12 GAMBLING.

6.12.1 CBP employees will not engage in any gambling activity on government premises, and/or using government equipment, including an office pool or any game with financial stakes. This prohibition also covers gambling on the Internet.

6.13 FINANCIAL MATTERS.

6.13.1 Lending and Borrowing Money.

6.13.1.1 An employee cannot give, make a donation to, or ask for contributions for a gift to his or her supervisor (immediate or in the chain of command). A gift includes any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. In addition, an employee cannot accept a gift from another employee who earns less pay, unless the person giving the gift is not a subordinate and

the gift is based on a strictly personal relationship. There are exceptions to these prohibitions. There is an exception for voluntary gifts worth more than \$10 on a special occasion such as marriage, illness, or retirement. Gifts valuing less than \$10 may be given and received on occasions when gifts are traditionally given or exchanged. An employee may give and/or receive items of food and refreshments to be shared at work among employees.

6.13.1.2 Supervisors will not request or require an employee under their supervision to act as a co-maker, co-signer, or endorser in financial matters. Furthermore, supervisors will not act as co-makers, co-signers, or endorsers in financial matters for employees under their supervision.

6.13.2 Financial Disclosures. Employees who occupy certain positions are required to file statements of employment and financial interests within 30 days of their entrance on duty and are further required to file annual supplemental statements. Affected employees will be notified of their requirement to file such statements.

6.13.3 Fund Raising Campaigns. Employees may refuse to participate in government-sponsored fund-raising campaigns. Supervisors will not exert pressure on employees to participate in such fund-raising campaigns.

6.13.4 Gifts. Except as provided in the Standards of Ethical Conduct for Employees of the Executive Branch, an employee will not directly or indirectly solicit or accept a gift from a prohibited source, or a gift given because of the employee's official position.

6.13.5 Just Financial Obligations. Employees will satisfy all just financial obligations in a timely manner, especially Federal, state, or local taxes that are imposed by law, and balances appearing on monthly statements of employees' government-sponsored credit cards.

6.13.6 Prohibition on Purchase of Certain Assets. Employees will not purchase, directly or indirectly, property owned by the government and under the control of CBP or sold under the direction or incident to the functions of CBP, except items sold generally to the public at fixed prices.

6.14 SAFETY. Employees will observe safe practices as well as all safety regulations in the performance of their duties. Employees will promptly report to their supervisors any injury or accident that occurs in connection with the performance of their official duties by the most expeditious means available.

6.15 OUTSIDE/FAMILY MEMBER EMPLOYMENT.

6.15.1 Employees must complete and submit the appropriate form through their supervisor for approval before entering into any outside employment or business activity. As a general rule, employees may, with prior approval, engage in any outside employment or business activity, provided such employment or activity is not prohibited

and does not interfere or conflict with performance of their official duties. No CBP employee shall work for a Customs broker, international carrier, bonded warehouse, foreign trade zone, cartman, or law firm engaged in the practice of customs or immigration law, any businesses or service organizations which assist aliens, or other companies engaged in services related to Customs or Immigration matters. This prohibition includes employment in the importation department of a business, employment in any private capacity related to the importation or exportation of merchandise or agricultural products requiring inspection, and employment related to immigration.

6.15.2 Any employee, who has a family member (spouse, child, or other relative, by marriage or blood, who is dependent upon the employee and/or resides in the employee's household), employed in one of the above listed categories, the employee must file an annual report through their supervisor to Office of Chief Counsel, for a determination as to whether the employment constitutes a conflict of interest or the appearance of a conflict of interest, with the CBP employee's performance of official duties.

6.16 POLITICAL ACTIVITY. Employees may take an active part in political management or in political campaigns to the extent permitted by law (Title 5 U.S.C. 7321-7325), vote as they choose, and openly express their opinions on political subjects and candidates. Employees may not use their official authority or influence to interfere with or affect election results. Employees may be disqualified from employment for knowingly supporting or advocating the violent overthrow of our constitutional form of government.

6.16.1 The following list contains example of permissible activities for CBP employees who are not Senior Executive Service (SES). See Title 5 CFR Part 734, Subpart B.

- Stand as candidates for public office in nonpartisan elections.
- Register and vote as they choose.
- Assist in voter registration drives.
- Express opinions about candidates and issues.
- Contribute money to political organizations.
- Attend political fund-raising functions.
- Campaign for or against candidates in partisan elections.
- Make campaign speeches for candidates in partisan elections.
- Distribute campaign literature in partisan elections.
- Hold office in political clubs or parties.
- Attend and participate in political rallies and meetings.
- Join and be active members of a political party or club.
- Sign nominating petitions.
- Campaign for or against referendum questions, constitutional amendments, and municipal ordinances.

6.16.2 The following list contains examples of prohibited activities for CBP employees who are not SES. See Title 5 CFR Part 734, Subpart C.

- Engage in political activity (an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group) while on duty, in a government office, wearing an official uniform, or driving a GOV.
- Use official authority or influence to interfere with an election.
- Solicit or discourage political activity on the part of anyone with business before CBP.
- Solicit or receive political contributions from any person except in certain limited situations as specified in Title 5 U.S.C. 7323 (a)(2).
- Be candidates for public office in partisan elections.
- Wear partisan political buttons while on duty.

6.16.3 The SES employees are subject to greater restrictions than those identified above. These individuals should refer to Title 5 U.S.C. Part 7321, or consult the Office of Chief Counsel.

6.16.4 Employees who reside in localities (designated by the Office of Personnel Management) where the majority of voters are employed by the Federal Government are covered by additional provisions (See Title 5 CFR Part 733).

Commissioner
U.S. Customs and Border Protection

JUL 05 2007



U.S. Customs and
Border Protection

MEMORANDUM FOR: DIRECTORS, FIELD OPERATIONS
OFFICE OF FIELD OPERATIONS

FROM: Assistant Commissioner
Office of Field Operations

SUBJECT: Border Search/Examination of Documents, Papers, and
Electronic Information

The purpose of this memorandum is to provide advance notice of a comprehensive strategy for examining, copying, and disseminating documents and information in electronic devices acquired from passengers as CBP performs its law enforcement functions. The strategy includes three phases:

1. Provide interim operational guidance with respect to the review and retention of paper documents as well as information in electronic devices. The attached guidance was authored by the CBP Office of Chief Counsel and the DHS Office of General Counsel. [REDACTED]

For permanent guidance, the Office of Field Operations is engaged with the Office of Anti-Terrorism and the Office of Chief Counsel in authoring a comprehensive update to CBP Directive 3340-006A.

2. [REDACTED]
3. [REDACTED]

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This strategy will be implemented in coordination with Immigration and Customs Enforcement (ICE), both at a Headquarters and Field Office level. As phase two is

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implemented, [REDACTED] shall coordinate with ICE and other appropriate agencies to establish local mechanisms to ensure thorough case development results from use of the [REDACTED]. ICE has [REDACTED], therefore you should consider this factor when developing local procedures. All Field Offices should also be aware that ICE has issued its own interim guidance regarding authorities for examining, copying, and disseminating documents and information from electronic devices. As part of the investigative process, ICE or other agencies may exercise independent authorities after CBP properly receipts evidence/property to them.

OFO, Tactical Operations Division will work closely with the Field Offices receiving the equipment to coordinate training. It is expected that a group of select CBP Officers be identified from existing [REDACTED] teams to operate the equipment and work with responding agencies.

For additional information, please contact the Executive Director, National Targeting and Security at (202) 344-1850.

[REDACTED]

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Jayson P. Ahern

Attachments

Interim Procedures for Border Search/Examination of Documents, Papers, and Electronic Information [REDACTED]

The purpose of this document is to clarify operational guidance with respect to the review and retention of paper documents as well as information in electronic devices (e.g., laptop computers, cell phones, MP3 players) and electronic storage media (e.g., DVDs, CDs, diskettes, memory cards/sticks, thumbnail drives) (collectively, "electronic devices")¹ [REDACTED]

CBP's information handling authority under the customs laws is currently reflected in CD 3340-006A, *Procedures for Examining Documents and Papers*. CBP also has broad authority respecting documents under the immigration laws, which has not been fully integrated into CBP policy.

[REDACTED]

[REDACTED] These interim provisions incorporate CBP authority under customs, immigration, and other laws.

1. Initial Review.

Absent individualized suspicion, paper documents and electronic devices may be reviewed in the course of administering customs, immigration, or other laws enforced or administered by CBP.³

2. Copying and Transmitting

a. Consistent with existing policy, where technical assistance is necessary to determine the existence of a violation of customs, immigration, or other law enforced or administered by CBP, officers may copy and transmit documents

¹ The guidance in this memorandum does not pertain to notes, reports, or other impressions recorded by CBP officers in the course or as the product of a border encounter.

² [REDACTED]

³ Note that existing provisions from CD 3340-006A, and the International Mail Operations and Enforcement Handbook, CIS HB 3200-006A, remain in place regarding the opening of sealed letter class mail, including the prohibition against reading correspondence therein. With respect to information other than letter class mail, officers may read correspondence that appears to bear upon a determination under the laws enforced or administered by CBP. In addition, existing guidance from CD 3340-006A remains in place, [REDACTED] regarding attorney-client privileged information; any claim of attorney-client or attorney work product privilege with respect to information encountered in the border context should be coordinated with the appropriate Associate/Assistant Chief Counsel.

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and information in electronic devices to an appropriate agency or entity *without individualized suspicion*. This may be the case where translation is required to decipher the contents of a document.

b. Except as provided in the preceding subsection, officers may copy and transmit documents and information from electronic devices only where there is *reasonable suspicion* that [REDACTED] the information may relate to, terrorist activities or other unlawful conduct. Reasonable suspicion is not required if [REDACTED] consents to copying and transmission.

[REDACTED]

3. Retention, Seizure, and Destruction.

a. CBP may retain relevant information in DHS and CBP record systems such as TECS, the immigration A-file system, or related systems, to the extent authorized by law. Nothing in this policy guidance alters existing policies and procedures for retaining documents and information in the immigration A-file system or related systems.

b. Copies of documents or information from electronic devices provided to another agency or entity for the purpose of rendering technical assistance shall be returned to CBP as expeditiously as possible.⁴ Where information is returned to CBP and determined to be of no relevance to customs, immigration, or any other laws enforced or administered by CBP, that information will be destroyed.

c. There may be situations where an agency or entity, in furtherance of its respective mission, wishes to retain or disseminate copies of the information provided to it by CBP for technical assistance. Any such retention and/or dissemination will be governed by that agency or entity's existing legal authorities and policies, including concerning periodic reviews of retained materials to evaluate and ensure continued relevancy.

* * *

The above guidance does not alter the authority or ability of officers to seize, disseminate, or retain documents and information in electronic devices [REDACTED] where there is probable cause to believe that such

⁴ This period of time, unless otherwise approved by the DFO in consultation with the appropriate Associate/Assistant Chief Counsel, shall be not longer than 15 days from transmittal to the assisting agency, with that time period subject to extensions, in increments not longer than 7 days that are requested and justified by the assisting agency.

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documents or information constitute evidence of a crime or are otherwise subject to seizure and forfeiture.

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This guidance is intended to augment and clarify paragraphs 6.5.2, 6.5.3, and 6.9.11 of CBP Directive 3340-021B, *Responding to Potential Terrorists Seeking Entry Into the United States* (September 7, 2006). CBP officers and agents, in [REDACTED] and otherwise, must give particular consideration to this guidance in determining how to implement [REDACTED] [REDACTED] from other agencies regarding the collection of information from a given traveler. Field offices are responsible for the development of an appropriate mechanism to ensure the proper tracking of information processed pursuant to this memorandum. No traveler information may be reviewed or retained in contravention of the above provisions, unless approved in advance by the Director, Field Operations in consultation with the appropriate Associate/Assistant Chief Counsel.

DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection

**DOCUMENT AND ELECTRONIC MEDIA TRANSMITTAL RECORD
(ADDENDUM TO THE DETENTION NOTICE AND CHAIN OF CUSTODY RECEIPT)**

1. Name of Traveler From Whom Information Detained	2. Office of Detention and Date of Detention
3. Purpose of Transmittal <input type="checkbox"/> Technical Assistance – CBP requests technical assistance from the receiving entity, specifically as follows – <hr style="border: 0.5px solid black; margin: 5px 0;"/> <input type="checkbox"/> National Security / Law Enforcement Consultation – CBP seeks the views of the receiving agency regarding whether the transmitted information constitutes evidence of terrorist activity or other unlawful conduct, or otherwise bears upon a determination under the laws enforced or administered by CBP.	
4. Description of Information Transmitted	
5. Name, Telephone, Fax, and E-mail of Recipient	6. Department, Agency, and Office of Recipient
7. Address of Recipient	
8. Transmitted By (Name, Office)	9. Transmitted By (Telephone, Fax, E-mail)
10. Retention, Seizure, and Destruction The recipient of this transmittal hereby agrees, as a condition of receipt, to render the requested assistance – to include reporting upon all findings, conclusions, or observations deriving from the information that pertain to the laws enforced or administered by CBP – in a diligent and expeditious manner, and in a period of time not to exceed 15 days. This time period is subject to extensions in increments not longer than 7 days that are requested and justified by the assisting agency. Upon the expiration of the period of time required for rendering of assistance, all transmitted information shall be returned to CBP, or destruction of all copies must be certified to CBP, unless the recipient asserts, in writing, a valid basis for its own independent authority to seize or continue retention of the transmitted information. <u>[Recipient to sign and return copy of signed transmittal to CBP] → Signature of Recipient</u>	
<u>CBP Use Only – Final Disposition (Choose One):</u> (a) Information returned to CBP on date _____, or (b) Certification of destruction received by CBP on date _____, or (c) CBP received entity's asserted independent basis to seize or continue retention on date _____	
<u>CBP Notes, Including Information Regarding Extension(s), If Applicable:</u> 	

Weekly Muster 2007-07

Week of Muster: Upon Receipt

Topic: Operational Guidance for Border Search/Examination of Documents, Papers, and Electronic Information

Headquarters POC: Tactical Operations Division

[Redacted]

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CBP's primary mission is to protect the American public against terrorists and their instruments of terror. With this priority mission in mind, the Offices of Anti-Terrorism and Field Operations generated operational guidance regarding the review and retention of paper documents and information in electronic devices and electronic storage media.

[Redacted]

Further, this operational guidance does not alter the authority or ability of officers to seize, disseminate, or retain documents and information in electronic media [Redacted] where there is *probable cause* to believe that such documents or information constitute evidence of a crime or are otherwise subject to seizure and forfeiture.

Guidance Relating to Initial Review

- *Without individualized suspicion*, paper documents and electronic devices may be reviewed in the course of administering customs, immigration, or other laws enforced or administered by CBP.

Guidance Relating to Copying, Transmitting, and Retaining

- CBP officers may copy and transmit documents and information in electronic devices to appropriate agencies or entities *without individualized suspicion* when technical support is required, such as translation services.
- For reasons other than technical assistance, officers may copy and transmit documents and information in electronic media to other agencies or entities only where *reasonable suspicion* exists that [Redacted] information relating to, terrorist activities or unlawful conduct. Reasonable suspicion is not required if [Redacted] provides consent. [Redacted]

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- When technical assistance is required from an entity outside CBP, copies of documents or information shall be returned to CBP within 15 days from transmittal unless the Director, Field Operations in consultation with the appropriate legal counsel, approves extensions in seven-day increments. In cases where retention or dissemination of copies furthers the mission of another agency or entity, that agency or entity's existing legal authorities and policies will govern retention and/or dissemination.
- Copies of documents or information returned to CBP, when determined to be of no relevance to customs, immigration, or other laws enforced or administered by CBP, will be destroyed.

Presenters Note: Discretionary authority is to be utilized to deny entry to persons that pose a known or possible threat to the United States. All officers must bear in mind that the authority to exercise discretion and make decisions affecting people's lives, carries with it the responsibility for ensuring that all actions advance the goals of professionalism, courtesy, and respect for the position of public trust that we hold.

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b7E [REDACTED] all officers and managers must maintain the highest levels of professionalism, impartiality, and courtesy to the traveling public. As always, please take this muster opportunity to stress the importance of professionalism when dealing with members of the public.

Weekly Muster 2007-11

Week of Muster: Upon Receipt

Topic: Operational Guidance for Border Search/Examination of Documents, Papers, and Electronic Information

Headquarters POC: **Tactical Operations Division**

(b)(6) & (b)(7)
(C)

CBP's primary mission is to protect the American public against terrorists and their instruments of terror. With this priority mission in mind, the Offices of Anti-Terrorism and Field Operations generated operational guidance regarding the review and retention of paper documents and information in electronic devices and electronic storage media.

(b)(2) & (b)(7)(E)

Further, this operational guidance does not alter the authority or ability of officers to seize, disseminate, or retain documents and information in electronic media [REDACTED] where there is *probable cause* to believe that such documents or information constitute evidence of a crime or are otherwise subject to seizure and forfeiture.

Guidance Relating to Initial Review

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Guidance Relating to Copying, Transmitting, and Retaining

- CBP officers may copy and transmit documents and information in electronic devices to appropriate agencies or entities *without individualized suspicion* when technical support is required, such as translation services.
- For reasons other than technical assistance, officers may copy and transmit documents and information in electronic media to other agencies or entities only where *reasonable suspicion* exists that (b)(2) & (b)(7)(E) [REDACTED] information relating to, terrorist activities or unlawful conduct. Reasonable suspicion is not required if (b)(2) & (b)(7)(E) provides consent. (b)(2) & (b)(7)(E) [REDACTED]

- When technical assistance is required from an entity outside CBP, copies of documents or information shall be returned to CBP within 15 days from transmittal unless the Director, Field Operations in consultation with the appropriate legal counsel, approves extensions in seven-day increments. In cases where retention or dissemination of copies furthers the mission of another agency or entity, that agency or entity's existing legal authorities and policies will govern retention and/or dissemination.
- Copies of documents or information returned to CBP, when determined to be of no relevance to customs, immigration, or other laws enforced or administered by CBP, will be destroyed.

Presenters Note: Discretionary authority is to be utilized to deny entry to persons that pose a known or possible threat to the United States. All officers must bear in mind that the authority to exercise discretion and make decisions affecting people's lives, carries with it the responsibility for ensuring that all actions advance the goals of professionalism, courtesy, and respect for the position of public trust that we hold.

(b)(2) & (b)(7)(E)

, all officers and managers must maintain the highest levels of professionalism, impartiality, and courtesy to the traveling public. As always, please take this muster opportunity to stress the importance of professionalism when dealing with members of the public.

From: (b)(6) & (b)(7)(C)
Sent: Wednesday, February 27, 2008 1:12 PM
To: (b)(6) & (b)(7)(C)
Cc: (b)(6) & (b)(7)(C)
Subject: (b)(2) & (b)(7)(E) Sites
Importance: High

(b)(2) & (b)(7)(E) Teams,

Please brief the below guidance (b)(5), (b)(2) & (b)(7)(E)

In addition, please ensure that you review (b)(5), (b)(2) & (b)(7)(E)

Current guidance:

(b)(5), (b)(2) & (b)(7)(E)

Amended guidance:

2.1.2 (b)(5), (b)(2) & (b)(7)(E)

(b)(6) & (b)(7)

(C)

OPS-Tactical Operations Division
Office of Field Operations
U.S. Customs and Border Protection

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**U.S. Customs and Border Protection
Detroit Field Operations**

**Border Search/Examination of Documents, Papers, and
Electronic Information (b)(2) & (b)(7)(E)
Standard Operating Procedures
October 24, 2007**

1. PURPOSE

The purpose of this document is to provide additional operational guidance on the review and retention of paper documents as well as information in electronic devices (e.g., laptop computers, cell phones, MP3 players) and electronic storage media (e.g., DVDs, CDs, diskettes, memory cards/sticks, thumbnail drives) (collectively, "electronic devices") (E)

as outlined in **Interim Procedures for Border Search/Examination of Documents, Papers, and Electronic Information (b)(2) & (b)(7)(E)** (Appendix 1)

The following procedures are to be adhered to in response to faxing, copying and otherwise obtaining any information from a traveler and transmitting the information to an alternate requesting government agency.

2. OVERVIEW

CBP's information handling authority under the customs laws is currently reflected in CD 3340-006A, *Procedures for Examining Documents and Papers*. (b)(2) & (b)(7)(E)

These procedures incorporate CBP authority under customs, immigration, and other laws.

3. PROCEDURES

Upon the notification to copy or transmit documentation or information to other agencies for consultation or for technical assistance, the following actions will be taken.

- a) If the requesting official is on site:
 - 1) Complete a CF 6051S to capture information concerning the documentation or information to be transmitted. (Appendix 2)
 - 2) Complete the "Document and Electronic Media Transmittal Record" (6051 Addendum). (Appendix 3)
 - 3) Obtain a signature on the "Document and Electronic Media Transmittal Record" from