

## UTMB HANDBOOK OF OPERATING PROCEDURES

Section 6	Compliance Policies	07/30/06	-Effective
Subject 6.1.8	Policy Group		-Revised
Policy 6.1.8	<b>Response to Government Investigations and Inquiries</b>	Compliance	

## **Response to Government Investigations and Inquiries**

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### **Policy**

UTMB personnel must notify UTMB's Office of Legal Affairs of any inquiry, investigation or legal proceeding brought by a governmental entity or its agents involving an allegation that UTMB or its staff has committed a crime or engaged in fraudulent activity. The Office of Legal Affairs will notify the Office of Institutional Compliance of the investigation or inquiry.

UTMB personnel may be approached by government agencies to provide information related to a government investigation or inquiry. UTMB will cooperate with any appropriately authorized government investigation, inquiry or audit; however, UTMB will assert all protections afforded it by law in any such investigation or audit.

Government investigators may arrive unannounced at UTMB or the residence of UTMB personnel or call present or former employees and seek interviews and documentation.

### **Definitions**

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**Civil investigative demand:** a formal demand issued by the US or Texas Attorney General related to a false claim investigation requesting an entity to produce documents, provide responses to written interrogatories and give oral testimony concerning documentary material.

**Search Warrant:** A court order directing the search of and seizure of, specific evidence or instruments of a crime set forth in the warrant. A judge must sign the warrant after law enforcement officers have established probable cause to believe evidence of a crime exists at a specific location.

**Subpoena:** order, issued by a court of law or the Office of Inspector General, which requests documentary information and/or testimonial information for use in a criminal, civil or administrative investigation.

**UTMB personnel:** Any faculty, staff, student, volunteer or any other contractors or agents of UTMB.

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### **Governmental Requests for Documents for an Investigation or Inquiry**

UTMB personnel may be asked by government investigators to provide documents related to a government inquiry or investigation. UTMB personnel must undertake and follow the steps below before disclosing any documentation to the government agency:

1. Contact the Office of Legal Affairs immediately to notify them of the request for documents from the government agency.
2. Contact the administrator of your department to notify them of the request for documents from the government agency.
3. Cooperate with the government official, but do not consent to provide any documentation.
4. Ask if a civil investigative demand, subpoena or search warrant accompanies the request for the documents. If a civil investigative demand, subpoena or search warrant has been issued or ordered, request a copy of the document.
5. Wait for an attorney from the Office of Legal Affairs to provide instruction on how to move forward with the request for documents from the government agency.

If a search warrant is presented for the documents, please follow the guidelines below in the section titled “*Governmental Request to Search UTMB Premises with a Search Warrant*”

### **Governmental Request for an Interview for an Investigation or Inquiry**

When government officials request an interview with UTMB personnel,

1. UTMB personnel have the option of speaking with the government official with or without the presence of an attorney. UTMB personnel may decide to forgo any discussions with the governmental official until securing legal counsel. If the UTMB employee desires to have an attorney present at any meeting with the government official, the UTMB employee may request to consult with a private attorney or an attorney from the Office of Legal Affairs prior to conducting an interview with government officials.

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- 
2. If the UTMB employee decides to speak with a government official without an attorney from the Office of Legal Affairs present, the employee may be liable for any of the information provided to the governmental official regardless of whether the information harms the employee or UTMB as an entity. Regardless of whether the UTMB employee has obtained private legal counsel, the UTMB employee may be still liable for statements made to the government official without UTMB legal representation and without UTMB's permission to speak on its behalf.
  3. If the UTMB employee decides to speak with the government official, the UTMB employee should notify the Office of Legal Affairs of the request for an interview and provide the following information:
    - a. The name, agency affiliation, business telephone number, and address of the government representative, and
    - b. The reason for the interview, if known.
  4. The UTMB employee should ask if there is a civil investigative demand, subpoena or warrant accompanying the request for an interview and request a copy of the civil investigative demand, subpoena or warrant. If there is no civil investigative demand, subpoena or warrant, the UTMB employee may refuse to discuss any issues with the federal government.

### **Governmental Request to Search UTMB Premises without a Search Warrant**

When a government official requests a search of the UTMB premises without a search warrant, UTMB personnel must:

1. Contact the Office of Legal Affairs immediately to notify them of the request for the search by the government official.
  2. Contact the administrator of your department to notify them of the request for the search by the government official.
  3. Cooperate with the government officials, **but do not consent to a search** without permission from the Office of Legal Affairs or the Institutional Compliance Officer.
  4. Avoid altering, removing, or destroying permanent documents or records. All records are subject to the UTMB retention schedule.
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Policy 6.1.8	<b>Response to Government Investigations and Inquiries</b>	Compliance	

- 
5. Wait for an attorney from the Office of Legal Affairs to provide instruction on how to manage the request for the search from the government official.

### **Governmental Request to Search UTMB Premises with a Search Warrant**

When a government official requests a search of the UTMB premises with a search warrant, the government official has the authority to enter the premises, search for criminal activity, and seize documents listed in the warrant. UTMB personnel do not have to speak with investigators, but must provide the documents requested in the warrant.

When a government official presents a search warrant to search the premises, UTMB personnel must:

1. Notify the Office of Legal Affairs immediately of the search warrant and the activities of the government official.
  2. Request a copy of the search warrant.
  3. Make a request to the government official to halt the search until an attorney from the Office of Legal Affairs is present.
  4. Under no circumstances should UTMB staff obstruct or interfere with the search. If the government official does not agree to stop the search until an attorney from the Office of Legal Affairs arrives, the UTMB employee must allow the government official to execute the search warrant.
  5. Contact the administrator of your department to notify them of the request for the search from the government official.
  6. The administrator of the department should accompany the government officials during the search and take notes of what documents were reviewed or taken and should also take notes on any questions that were asked to any UTMB employee by the government official.
  7. The search warrant will include an attachment listing things that can be seized and places that may be searched. If the government officials go into areas that are not listed in the warrant or search documents not included in the warrant, the administrator should point this fact out to the government
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official. If the government official continues to search documents or areas not included in the search warrant, do not interfere, but note which government officials reviewed areas or documents not specified in the warrant and what information was taken.

8. Government officials may take original documents. The administrator of the department must ask for a detailed inventory of the material government officials are taking. Individuals executing a search warrant are required to provide a receipt of the articles taken pursuant to a search warrant.