

**U.S. DEPARTMENT OF TRANSPORTATION
FREEDOM OF INFORMATION ACT (FOIA) REPORT
FISCAL YEAR 2005**

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II. How to Make a FOIA Request

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B. Brief description of the Agency's response times.

Some components of the Department of Transportation were able to respond to their FOIA requests within the statutory time frames. For a detailed breakdown of each component's response times, see Section VII of this report, Compliance With Time Limits.

C. Brief description of why some requests are not granted.

Some requested records, or portions of records, were withheld pursuant to the FOIA's exemptions. The most frequently used exemption in DOT was Exemption 6, which protects against a clearly unwarranted invasion of personal privacy. Other reasons for not granting requests included:

DOT did not have the records sought.

The requester did not seek records; rather, he or she was seeking answers to questions.

The information from the records sought was publicly available.

III. Definitions of Terms and Acronyms Used in the Report

A. Agency-specific acronyms or other terms.

DOT	Department of Transportation
OST	Office of the Secretary of Transportation
OIG	Office of Inspector General
BTS	Bureau of Transportation Statistics ^{1/}
FAA	Federal Aviation Administration
FHWA	Federal Highway Administration
FMCSA	Federal Motor Carrier Safety Administration
FRA	Federal Railroad Administration
FTA	Federal Transit Administration
MARAD	Maritime Administration
NHTSA	National Highway Traffic Safety Administration
PHMSA	Pipeline and Hazardous Materials Safety Administration ^{1/}
RITA	Research and Innovative Technology Administration ^{1/}
RSPA	Research and Special Programs Administration ^{1/}
SLSDC	Saint Lawrence Seaway Development Corporation
SSI	Sensitive Security Information. (49 U.S.C. § 40119 and 49 C.F.R. Parts 15 and 1520.)
Remanded Appeal	An appeal request, particularly a “no records” appeal, sent back to the original action office or forwarded to another office when the requester provides additional information either clarifying the documents sought or providing additional search parameters. The action office considers the request as if it were a new request, responding directly to the requester. Remanded appeal responses may again be appealed; appeal rights are provided if the remanded appeal response is a denial, partial denial or “no records” determination.

^{1/} Effective February 20, 2005, two new administrations were established within DOT. The Norman Y. Mineta Research and Special Programs Improvement Act reorganized **RSPA** into two new administrations—**PHMSA** and **RITA**. **PHMSA** succeeds to all the authority exercised by **RSPA** with regard to pipeline and hazardous materials safety. **RITA** succeeds to the research authority exercised by **RSPA** and, in addition, exercises other duties and powers of the Secretary that advance the Department’s research, development, and technology objectives. In addition, **BTS** was statutorily transferred to **RITA**.

B. Basic terms expressed in common terminology.

1. **FOIA / PA Request**—Freedom of Information Act / Privacy Act request. A FOIA request is generally a request for access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning oneself; such requests may also be treated as FOIA requests.
2. **Initial Request**—a request to a federal agency for access to records under the FOIA.
3. **Appeal**—a request to a federal agency asking that it review at a higher administrative level a full denial or partial denial of access to records under the FOIA, or any other FOIA determination such as a matter pertaining to fees.
4. **Processed Request or Appeal**—a request or appeal for which an agency has taken a final action on the request or the appeal in all respects.
5. **Multi-track Processing**—a system in which requests requiring relatively minimal review are classified as simple requests and are placed in one processing track and requests that are more voluminous and that require more review are classified as complex requests. Complex requests are placed in one or more other tracks. Requests within each track are processed on a first in, first out basis. A requester who has an urgent need for records may request expedited processing (see below).
6. **Expedited Processing**—When a requestor can show there is an exceptional need or urgency for a record or records (see 49 CFR 7.31(c)), an agency will process a FOIA request before those FOIA requests that have been submitted at an earlier date.
7. **Simple Request**—An agency using multi-track processing will classify a low volume request that requires relatively minimal review as a simple request and will place it in its fastest, non-expedited track.
8. **Complex Request**— An agency using multi-track processing will classify a voluminous request that requires more review as a complex request and will place it in its slower track.
9. **Grant**—an agency decision to disclose all records in full in response to a FOIA request.
10. **Partial Grant**—an agency decision to disclose a record in part in response to a FOIA request, withholding information determined to be exempt under one or more of the FOIA exemptions; or a decision to disclose some records in their entirety, but to withhold others in whole or in part.
11. **Denial**—an agency decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempt under one or more of the FOIA exemptions, or for some procedural reason, such as no record is located in response to a FOIA request.

12. **Time Limits**—Under FOIA, the period of time within which an agency must respond to a FOIA request. Ordinarily, this period is 20 working days from proper receipt of a “perfected” FOIA request.
13. **Perfected Request**—a FOIA request for records that has been received by the FOIA office of the agency or agency component in possession of the records, which adequately describes the records sought, and for which there is no remaining question about the payment of applicable fees.
14. **Exemption 3 Statute**—a separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA exemption (b)(3).
15. **Median Number**—the median number is the middle number on the list in a set of numbers listed from the least number to the greatest number. For example, of 3, 7, and 14, the median number is 7. If a set of numbers has two middle numbers, the median is the number halfway between the two numbers. For example, 3, 4, 8, 12, the median number equals $4+8 = 12/2 = 6$.
16. **Average Number**—the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.

IV. Exemption 3 Statutes		
A. List of Exemption 3 statutes relied on by agency during current fiscal year.		
Statute	Type of Information Withheld	Case Citation
5 U.S.C. App. 4, § 107(a)(2)	Confidential financial disclosure reports.	<i>Meyerhoff v. EPA</i> , 958 F.2d 1498 (9 th Cir. 1992)
23 U.S.C. § 403, note	The identity of individuals in highway traffic accident or research reports.	N/A
31 U.S.C. § 3729(d)	Certain information on false claims	N/A
41 U.S.C. § 253b(m)	Contract proposals not incorporated in contracts.	<i>Hornbostel v. DOI</i> , 305 F.Supp.2d 21 (D.D.C. 2003)
49 U.S.C. § 30305(c)(1)	Certain information received pursuant to the National Driver Register Act of 1982.	N/A
49 U.S.C. § 31143(b)	IDs of motor carrier safety complainants.	N/A
49 U.S.C. § 40119	Information that would be an unwarranted invasion of personal privacy, would reveal a trade secret or privileged or confidential information, or would be detrimental to the safety of passengers in transportation.	N/A
49 U.S.C. § 46102(c)	Aviation safety, when requested for national defense	N/A

V. Initial FOIA / PA Access Requests				
A. Numbers of Initial Requests				
	1. Number of requests pending end of FY 2004	2. Number of requests received during FY 2005	3. Number of requests processed during FY 2005	4. Number of requests pending as of end of FY 2005
OST	74	316	247	143
OIG	19	111	84	46
FAA	* 1,402	6,680	6,626	1,456
FHWA	87	296	342	41
FRA	66	491	451	106
NHTSA	8	264	263	9
FTA	26	184	199	11
SLSDC	2	32	33	1
MARAD	64	171	124	111
RSPA	20	149	119	N/A
PHMSA	N/A			50
FMCSA	91	829	823	97
BTS	0	74	73	N/A
RITA	N/A			1
Totals	1,859	9,597	9,384	2,072

* This number is 112 fewer than the number reported as pending at the end of the year in the FY 2004 report; these 112 were either FY 2004 double entries discovered during FY 2005, or FY 2004 closures that were not entered until FY 2005.

V. Initial FOIA / PA Access Requests				
B. Disposition of Initial Requests				
	1. Number of Total Grants	2. Number of Partial Grants	3. Number of Denials	4. Other Reasons for Non-Disclosure
OST	25	20	6	196
OIG	16	30	19	19
FAA	2,723	1,304	95	2,504
FHWA	156	52	29	105
FRA	207	95	0	149
NHTSA	95	107	10	51
FTA	84	56	6	53
SLSDC	19	5	0	9
MARAD	71	24	1	28
RSPA	73	12	5	29
PHMSA				
FMCSA	193	469	84	77
BTS	33	6	0	34
RITA				
Totals	3,695	2,180	255	3,254

V. Initial FOIA / PA Access Requests														
B. Disposition of Initial Requests (cont'd)														
2. & 3. Number of times each FOIA exemption was used														
	FOIA Exemptions													
	1	2	3	4	5	6	7(A)	7(B)	7(C)	7(D)	7(E)	7(F)	8	9
OST	0	3	0	7	5	11	3	0	6	2	1	0	0	0
OIG	0	8	4	3	11	20	16	0	19	0	1	0	0	0
FAA	0	30	10	103	395	728	90	8	11	0	12	0	0	0
FHWA	0	2	6	25	20	19	0	0	0	0	0	0	0	0
FRA	0	0	1	0	2	90	4	0	90	0	0	0	0	0
NHTSA	0	0	3	18	12	23	0	0	0	0	0	0	0	0
FTA	0	0	0	11	7	21	4	0	0	0	0	0	0	0
SLSDC	0	0	0	0	0	3	0	0	0	0	0	0	0	0
MARAD	0	0	0	7	5	5	0	0	0	0	0	0	0	0
RSPA	2	1	0	3	5	0	0	0	0	0	0	0	0	0
PHMSA														
FMCSA	0	9	91	6	3	446	27	1	261	88	9	0	0	0
BTS	0	1	0	5	2	0	0	0	0	0	0	0	0	0
RITA														
Totals	2	54	115	188	467	1,366	144	9	387	90	23	0	0	0

V. Initial FOIA / PA Access Requests											
B. Disposition of Initial Requests (cont'd)											
4. Other reasons for non-disclosure											
	No records	Referral	Request with-drawn	Fee related	Not reasonably described	Not a proper request	Not a record	Duplicate request	Available from another source	Referred to agency website	Total
OST	31	150	2	0	2	0	0	3	8	0	196
OIG	15	3	0	0	0	1	0	0	0	0	19
FAA	1,840	20	399	165	14	51	15	0	0	0	2,504
FHWA	4	15	8	2	1	1	28	9	31	6	105
FRA	129	1	11	0	0	1	0	7	0	0	149
NHTSA	20	17	4	0	0	0	0	3	0	7	51
FTA	41	4	3	2	3	0	0	0	0	0	53
SLSDC	8	0	0	0	1	0	0	0	0	0	9
MARAD	17	7	3	0	0	1	0	0	0	0	28
RSPA	10	2	7	3	0	3	0	0	0	4	29
PHMSA											
FMCSA	13	0	23	1	5	5	23	5	2	0	77
BTS	2	28	2	0	0	0	0	0	2	0	34
RITA											
Totals	2,130	247	462	173	26	63	66	27	43	17	3,254

VI. Appeals of Initial Denials of FOIA/PA Requests						
A. Number of Appeals						
B. Disposition of Appeals						
	A. 1. Number of appeals received in FY 2005	A. 2. Number of appeals processed in FY 2005	B.1. Number of appeals completely upheld	B.2. Number of appeals partially upheld/partially reversed	B.3. Number of appeals completely reversed	B.4 Total Other Reasons for Non- Disclosure
OST	5	4	1	0	0	3
OIG	2	5	3	0	1	1
FAA	72	92	31	13	9	39
FHWA	17	8	0	3	2	3
FRA	2	1	0	0	0	1
NHTSA	7	6	2	0	1	3
FTA	5	3	2	1	0	0
SLSDC	0	0	0	0	0	0
MARAD	1	1	0	1	0	0
RSPA	1	1	1	0	0	0
PHMSA						
FMCSA	13	15	7	6	1	1
BTS	0	0	0	0	0	0
RITA						
Totals	125	136	47	24	14	51

VI. Appeals of Initial Denials of FOIA/PA Requests														
B. Disposition of Appeals (cont'd)														
2. & 3. Number of times each FOIA exemption was used														
	FOIA Exemptions													
	1	2	3	4	5	6	7(A)	7(B)	7(C)	7(D)	7(E)	7(F)	8	9
OST	0	1	0	0	0	0	0	0	0	0	0	0	0	0
OIG	0	2	0	1	2	2	0	0	2	1	0	0	0	0
FAA	0	1	0	8	12	19	5	0	5	4	0	0	0	0
FHWA	0	0	0	2	1	1	0	0	0	0	0	0	0	0
FRA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NHTSA	0	0	2	1	1	1	0	0	0	0	0	0	0	0
FTA	0	0	0	2	1	2	1	0	2	0	0	0	0	0
SLSDC	0	0	0	0	0	0	0	0	0	0	0	0	0	0
MARAD	0	0	0	0	1	0	0	0	0	0	0	0	0	0
RSPA	0	0	0	1	0	1	0	0	0	0	0	0	0	0
PHMSA														
FMCSA	0	1	1	0	0	6	0	0	5	1	1	0	0	0
BTS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
RITA														
Totals	0	5	3	15	18	32	6	0	14	6	1	0	0	0

VI. Appeals of Initial Denials of FOIA/PA Requests**B. Disposition of Appeals (cont'd)****4. Other Reasons for Non-Disclosure**

	No records	Referral	Request with-drawn	Fee related	Not reasonably described	Not a proper appeal	Not an agency record	Duplicate request	Available from another source	Remanded	Total
OST	3	0	0	0	0	0	0	0	0	0	3
OIG	0	0	0	0	0	1	0	0	0	0	1
FAA	10	0	9	0	1	0	0	0	0	19	39
FHWA	0	0	0	3	0	0	0	0	0	0	3
FRA	1	0	0	0	0	0	0	0	0	0	1
NHTSA	1	0	0	2	0	0	0	0	0	0	3
FTA	0	0	0	0	0	0	0	0	0	0	0
SLSDC	0	0	0	0	0	0	0	0	0	0	0
MARAD	0	0	0	0	0	0	0	0	0	0	0
RSPA	0	0	0	0	0	0	0	0	0	0	0
PHMSA											
FMCSA	0	0	0	0	0	0	1	0	0	0	1
BTS	0	0	0	0	0	0	0	0	0	0	0
RITA											
Totals	15	0	9	5	1	1	1	0	0	19	51

VII. Compliance with Time Limits

A. Median processing time for requests processed during the fiscal year

B. Status of pending requests.

	A.1. Simple Requests		A.2. Complex Requests		A.3. Expedited Processing		B. Status of Pending Requests	
	Number processed	Median # of days	Number processed	Median # of days	Number processed	Median # of days	Number pending	Median # of days pending
OST	150	1	87	77	10	30	143	85
OIG	50	8	34	64	0	0	46	108
FAA	4,401	3	2,179	28	46	9	1,456	92
FHWA	294	16	31	134	17	13	41	12
FRA	0	N/A	451	90	0	N/A	106	55
NHTSA	0	N/A	263	20	0	N/A	9	10
FTA	199	29	0	N/A	0	N/A	11	28
SLSDC	0	N/A	33	20	0	N/A	1	1
MARAD	124	30	0	N/A	0	N/A	111	60
RSPA	43	15	75	40	1	5	50	85
PHMSA								
FMCSA	0	N/A	823	31	0	N/A	97	17
BTS	67	11	6	20	0	N/A	1	180
RITA								
Totals	5,328		3,982		74		2,072	

VIII. Comparisons with Previous Year

		FY 2004	FY 2005
A.	Requests received	10,375	9,597
B.	Requests processed	10,905	9,384
C.	Comparison of median number of days requests were pending as of end of fiscal year	Varies by component.	

D. Other narrative statements describing agency efforts to improve timeliness of FOIA performance and to make records available to the public.

The **DOT** received approximately 208 requests for expedited processing. Of those requests, 74 were afforded expedited processing.

Many **DOT** FOIA offices actively communicate with the requesters to effectively refine the scope of their request to better target more efficient searches.

The **FAA** continues to increase the types and volume of non-sensitive information available to the public on the Internet.

The **FMCSA** received more requests for processing during the reporting period, but maintained its response time. FMCSA also developed an internal additional tracking system to monitor the progress of each pending request.

At the end of the fiscal year, **FHWA** had upgraded its FOIA Database and was preparing to permit all of its field offices to use the database to record and track requests received directly by the field.

The **OIG** continues to improve its website by providing high profile products on its website as promptly as possible, as well as continuing to provide all of its public audit reports,

Congressional testimonies, and correspondences on the website. The OIG provides monthly status reports to senior management which helps to keep the timely processing of FOIA requests a priority of the agency. Training was provided for OIG's new FOIA Officer in FY 2005.

IX. FOIA Costs / Staffing

- A. Staffing Levels
- B. Total Costs (including staff and resources)

X. Fees Collected

	IX.A. Number of full- time Personnel	IX.A. Number of Personnel with Part- time or occasional FOIA duties (<i>in total work- years</i>)	IX.A. Total Number of Personnel (In work- years)	IX.B. FOIA Processing	IX.B. Litigation- related costs	IX.B. TOTAL Costs	X. Fees Collected	X. % of total costs
OST	2.5	2.20	4.70	\$431,211	\$38,839	\$470,050	\$126	
OIG	.5	.875	1.375	\$158,259	0	\$158,259	0	
FAA	9	* 48.33	57.33	\$4,540,740	\$43,750	\$4,584,490	\$174,212	
FHWA	2	1.5	3.5	\$395,319	0	\$395,319	\$13,096	
FRA	0	2.8	2.8	\$201,937	0	\$201,937	\$1,052	
NHTSA	2	1.6	3.6	\$339,040	\$881	\$339,921	\$8,935	
FTA	0	1.9	1.9	\$144,888	0	\$144,888	\$1,829	
SLSDC	0	.24	.24	\$23,061	0	\$23,061	\$246	
MARAD	1	1.10	2.10	\$429,643	0	\$429,643	\$1,991	
RSPA	0	1.9	1.9	\$184,190	0	\$184,190	\$1,424	
PHMSA								
FMCSA	5.5	.5	6.0	\$402,229	0	\$402,229	\$12,622	
BTS	1	.40	1.40	\$93,534	0	\$93,534	\$736	
RITA								
Totals	23.5	* 63.345	86.845	\$7,344,051	\$83,470	\$7,427,521	\$216,269	2.91%

* Increase from previous fiscal year due to a thorough accounting of all field personnel performing FOIA duties during the fiscal year.

XI. DOT FOIA Regulations (including fee schedule) – 49 CFR Part 7

(http://www.dot.gov/foia/regulation_foia.html)