

FREEDOM OF INFORMATION ACT ANNUAL REPORT INTERNAL REVENUE SERVICE

Fiscal Year 2005

October 1, 2004 through September 30, 2005

I. Basic Information Regarding the Report

A. Questions concerning this report may be directed to:

Chief, Disclosure
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, DC 20224
SE:S:CLD:GLD

B. This report is available on the internet at: <http://www.irs.gov/foia/index.html>.

C. Copies of this report may be requested at the address provided in A. above.

II. How to Make a FOIA Request

A. FOIA requests for IRS records may be sent to any IRS Disclosure Office. Addresses are listed in the IRS FOIA regulations at 26 C.F.R. 701.602 or are available on the Internet at: [IRS Disclosure Offices](#).

Time Ranges of Responses

B. Response times are from 0 to 921 days, with an average response time of 30 days.

Why Some Requests are Not Granted

C. The majority of the requests denied by the IRS are requests for confidential tax information being sought by individuals who are not authorized to receive it or are requests related to tax investigations, the disclosure of which might impair federal tax administration.

III. Definitions of Terms and Acronyms Used in Report

A. Agency Specific None.

B. Basic Terms Please see consolidated Treasury Report.

IV. Supporting Statutes Used with Exemption (b) (3)

A.1. Listing and brief description of type of information withheld under each statute:

26 U.S.C. 6103 Confidentiality of Returns and Return Information: Prohibits the disclosure of (1) tax returns and return information of third party taxpayers (section 6103(a)); (2) the standards used for selection of returns for examination (section 6103(b)(2)); and (3) a requester's own return information if the release would seriously impair federal tax administration (section 6103(e)(7)).

31 U.S.C. 5319 Bank Secrecy Act Records: Prohibits the disclosure of records. Generally used to withhold Currency Transaction Reports.

<u>26 U.S.C. 6105</u>	Internal Revenue Code section 6105 protects records provided by foreign governments provided for use in tax administration.
<u>Rule 6(e)</u>	Part of the Federal Rules of Criminal Procedure-Grand Jury Secrecy: regulates matters occurring before the Grand Jury. Used to withhold records used in Grand Jury proceedings.
<u>18 U.S.C. 701</u>	Official Badges, identification cards. Prohibits the reproduction of official identification media. Used to withhold copies of IRS employee identification badges and pocket commissions.
<u>5 U.S.C. 7114</u>	Delineates the rights and duties of a labor organization which is the exclusive representative of the employees in the unit it represents.
<u>41 U.S.C. 253(b)</u>	Protects the solicitations of unsuccessful bidders in a competitive proposal. This provision is used to withhold the unsuccessful bidder's contract proposal as well as information in the winning solicitation that was not incorporated into the contract.

A.2. Statement of whether a court has upheld the use of each statute:

<u>26 U.S.C. 6103</u>	<i>Church of Scientology v. IRS</i> , 484 U.S. 9 (1987); <i>Aronson v. IRS</i> , 973 F.2d 962 (1 st Cir. 1992); <i>Stebbins v. Sullivan</i> , No. 90-5361, slip op. at 1 (D.C. Cir. July 22, 1992); <i>Wishart v. Commissioner</i> , C-97-20614-SW (N.D. Cal., decided August 6, 1998); <i>Gillin v. IRS</i> , No. 90-31 (D.N.H. Apr. 15, 1991), <i>aff'd</i> , 980 F.2d 819 (1 st Cir. 1992); <i>Casa Investors, Ltd. v. Gibbs</i> , No. 88-2485, 1990 WL 180703 (D.D.C. Oct. 11, 1990) and others.
<u>31 U.S.C. 5319</u>	<i>Small v. IRS</i> , 820 F. Supp. 163 (D.N.J. 1992)
<u>Rule 6(e)</u>	<i>Fund for Constitutional Gov't v. National Archives & Records Service</i> , 656 F. 2 nd 856, 867 (D.C. Cir. 1981); <i>Walston v. U.S. Department of Justice</i> , 799 F. Supp. 193, 195 (D.D.C. 1992).
<u>26 U.S.C. 6105</u>	<i>Tax Analysts v. IRS</i> , No. 99-0372, 2002 WL 1791162 (D.D.C. Aug. 6, 2002)
<u>5 U.S.C. 7114</u>	<i>Dublin v. Dept. of the Treasury</i> , 555 F. Supp. 408, 412 (N.D. Ga. 1981), <i>aff'd</i> , 697 F.2d 1093 (unpublished table decision); <i>NTEU v. OPM</i> , No. 76-695, slip op at 49 D.D.C. July 9, 1979).
<u>18 U.S.C. 701</u>	Not litigated.
<u>41 U.S.C. 253(b)</u>	Not litigated.

V. Initial FOIA/PA Access Requests

A. Number of initial requests:

1. Requests Pending as of 10/01/04	3,534
2. Requests Received during FY 2005	41,912
3. Requests Processed during FY 2005	42,533
4. Requests Pending as of 09/30/05	2,913

B. Disposition of initial requests:

1. Total Grants	16,650
2. Partial Grants	2,637
3. Total Denials	428

3.a. Number of times each FOIA exemption was used (counting each exemption once per case):

Exemption	Use	Exemption	Use	Exemption	Use
(b)(1)	0	(b)(6)	557	(b)(7)(E)	1,070
(b)(2)	176	(b)(7)(A)	658	(b)(7)(F)	12
(b)(3)	2,489	(b)(7)(B)	2	(b)(8)	0
(b)(4)	33	(b)(7)(C)	851	(b)(9)	0
(b)(5)	463	(b)(7)(D)	66		

4. Other reasons for non-disclosure of requested information:

Total of Others (as categorized below)	22,818
No Records	11,795
Referrals	1,054
Requests Withdrawn	256
Not a proper FOIA request for some other reason	6,274
Misc. other reasons for not processing a request*	3,439

*Closed without determination because an appeal was filed; the records had previously been provided to the requester; or the requester had not paid the fee from a previous request.

VI. Appeal of Initial Denials of FOIA/PA Requests

A. Number of appeals:

1. Received during FY 2005	244
2. Processed during FY 2005	324

B. Disposition of appeals.

1. Completely upheld	283
2. Partially reversed	23
3. Completely reversed	9

3.a. Number of times each FOIA exemption was used in a completely or partially upheld appeal case (counting each exemption once per case):

Exemption	Use	Exemption	Use	Exemption	Use
(b)(1)	0	(b)(6)	27	(b)(7)(E)	27
(b)(2)	4	(b)(7)(A)	5	(b)(7)(F)	6

(b)(3)	67	(b)(7)(B)	0	(b)(8)	0
(b)(4)	0	(b)(7)(C)	33	(b)(9)	1
(b)(5)	23	(b)(7)(D)	12		

4. Other reasons for non-disclosure during appeal process:

Total of Others (as categorized below)	9
a. No Records	0
b. Referrals	1
c. Withdrawn	1
d. Fee-related	0
e. Records not reasonably described	0
f. Treated as a non-appeal	0
g. Not an agency record	0
h. Duplicate request	7
i. Other (litigation due to failure to respond)	0

VII. Compliance with Time Limits/Status of Pending Requests

1. Median time for processing requests:

Simple Requests		
a.	Number of requests processed	0
b.	Median number of days to process	N/A
Complex Requests		
a.	Number of requests processed	42,533
b.	Median number of days to process	21
Expedited Requests		

a.	Number of requests processed	0
b.	Median number of days to process	N/A

2. Status of pending requests (as of September 30, 2005):

Number of requests pending	2,913
Median age of pending cases	22

VIII. Comparison with Previous Year (Optional). Comparison not made.

IX. Costs/FOIA Staffing

A.1. Staffing levels, given in number of positions in agency:

Full-time FOIA personnel	4
Personnel with part-time or occasional FOIA duties (composite total, in work years)	81
Total personnel (in composite work years)	85

A.2. Total costs (including all staff and resources):

FOIA processing (including appeals)	\$10,312,722
Litigation related activities (estimated)	698,611
Total Costs	\$11,011,333

X. Fees

A. Total fees collected by the agency during FY 2005	\$ 201,332
B. Percentage of total costs	1.8%