

**FOOD & NUTRITION SERVICE
FY 2006 ANNUAL FOIA REPORT**

Sections I. Basic Information, II. How to Make a FOIA Request, and III. Definitions of Terms, will be completed by the Office of the Assistant Secretary for Administration.

IV. Exemption 3 Statutes

A List of Exemption 3 statutes relied on by agency during current fiscal year:

1. Brief description of type(s) of information withheld under each statute.

Technical and Business Proposals – business/financial information as authorized by 41 USC 253b(m)

Section 11(e)(8) of the Food Stamp Act and 7 CFR 272.1(c), The identity of the individual food stamp customer/household names and identifying information of investigators and other individuals who assisted the agency as private citizens.

Section 9(c) of the Food Stamp Act and section 278.1(q) – The store application shall provide safeguards which limit the use or disclosure of information obtained to purposes directly connected with administration and enforcement of the Food Stamp Act or the regulations issued pursuant to the Food Stamp Act.

7 USC 2018(c) – contents of the applications or other information furnished by firms, including information on their gross sales and food sales volumes and their redemptions of benefits, may not be used or disclosed to anyone except for purposes directly connected with the administration and enforcement of the Food Stamp Act

2. Statement of whether a court has upheld the use of each statute. If so cite example.

None to date.

V Initial FOIA/PA Access Requests

A Number of Initial Requests: *(include all access requests, whether first party or third party) (NOTE: The total of Lines 1 and 2, minus Line 3, should equal Line 4.)*

1	Number of requests pending at end of FY 05	4
2	Number of requests received during FY 06	125
3	Number of requests processed during FY 06	123
4	Number of requests pending at end of FY 06	6

B Disposition of Initial Requests: *(NOTE: The total of Lines 1, 2, 3, and 4 should equal the number of requests processed shown in Line 3 of Part A.)*

1	Number of total grants	53
2	Number of partial grants	26
3	Number of denials	12

a Number of times each FOIA exemption used: *(count each exemption once per request)*

(1)	Exemption 1	0
(2)	Exemption 2	1
(3)	Exemption 3	2
(4)	Exemption 4	8
(5)	Exemption 5	4
(6)	Exemption 6	10
(7)	Exemption 7(A)	0
(8)	Exemption 7(B)	2
(9)	Exemption 7(C)	13
(10)	Exemption 7(D)	10
(11)	Exemption 7(E)	10
(12)	Exemption 7(F)	4
(13)	Exemption 8	0
(14)	Exemption 9	0

4 Other reasons for nondisclosure: (total) 32

a	No records	16
b	Referred elsewhere _(See Note)	8
c	Request withdrawn	7
d	Fee-related reason	0
e.	Records not reasonably described	0
f	Not a proper FOIA request for some reason	0
g	Not an agency record	0
h	Duplicate request	0
i	Other (specify)	1

Store under administrative review for Food Stamp Trafficking.

(Note: Do not count requests referred within your agency in this category, it pertains only to requests that are referred outside of your agency)

VI APPEALS OF INITIAL DENIALS OF FOIA/PA REQUESTS (includes all access requests, whether first-party or third-party).

A Number of Appeals:

1	Number of appeals received during FY 06	5
2	Number of appeals processed during FY 06	1

B Disposition of Appeals:

1	Number completely upheld	1
2	Number partially reversed	0
3	Number completely reversed	0

a Number of times each FOIA exemption used: *(count each exemption once per appeal)*

(1)	Exemption 1	0
(2)	Exemption 2	0
(3)	Exemption 3	0
(4)	Exemption 4	0
(5)	Exemption 5	0
(6)	Exemption 6	1
(7)	Exemption 7(A)	1
(8)	Exemption 7(B)	0
(9)	Exemption 7(C)	0
(10)	Exemption 7(D)	0
(11)	Exemption 7(E)	0
(12)	Exemption 7(F)	0
(13)	Exemption 8	0
(14)	Exemption 9	0

4	Other reasons for nondisclosure: (total)	0
a	No records	0
b	Referred elsewhere (See Note)	0
c	Request withdrawn	0
d	Fee-related reason	0
e.	Records not reasonably described	0
f	Not a proper FOIA request for some reason	0
g	Not an agency record	0
h	Duplicate request	0
i	Other (specify)	0

VII COMPLIANCE WITH TIME LIMITS/STATUS OF PENDING REQUESTS.

A Median Processing Time For Requests: *(Example for calculation of median: Given 7 requests completed during the fiscal year, aged 10, 25, 35, 65, 75, 80, and 400 days from date of perfection to date of completion, the total number of requests completed during the fiscal year would be 7 and the median age of the completed requests would be 65 days.)*

1	Simple requests (if multiple tracks used)	
a	Number of requests processed	123
b	Median number of days to process	6
2	Complex requests (specify for any and all tracks used)	
a	Number of requests processed	0
b	Median number of days to process	0
3	Requests accorded expedited processing	
a	Number of requests processed	0
b	Median number of days to process	0

(NOTE: The number of requests listed in the different tracks must equal the number of requests processed from section A, Line 3.)

B Status of Pending Requests: *(Agencies using multiple tracks may provide numbers for each track as well as totals.)*

1	Number of requests pending at end of FY 06	6
2	Median number of days requests were pending at end of FY 06	14

VIII COMPARISONS WITH PREVIOUS YEAR(S) (Optional)

A Describe Agency Efforts To:

1	Improve timeliness: All FOIAs are faxed to the appropriate Program office to improve response time.
2	Reduce backlog: Emails are sent to Program offices to keep everyone aware of due dates and follow up with phone calls.
3	Provide training - Training was provided via
4	Add new categories of records

IX COSTS/FOIA STAFFING.

A Staffing Levels:

1	Number of full-time FOIA personnel:	1
2	Number of personnel with part-time or occasional FOIA duties (in work-years)	4.375
3	Total number of personnel (Work-years):	5.375

B Total Costs: (include staff and all resources) (Note: Use +20% for overhead.)

1	FOIA processing (including appeals):	\$183,254
2	Litigation-related activities (estimated)	\$ 6720.76
3	Total costs:	\$189,974.76
4	Comparison with previous year(s) (optional)	

C Statement of additional resources needed for FOIA compliance (optional).

X FEES: (includes charges for search, review, document duplication, and any other direct costs permitted under agency regulations.)

A	Total amount of fees collected for processing requests:	\$1,696.78
B	Percentage of total costs:	0.89%

XI FOIA REGULATIONS: (including Fee Schedule): 7 CFR 295

XII Report on FOIA Executive Order Implementation

A Description of supplementation/modification of agency improvement plan (if applicable).

The US Department of Agriculture updated the improvement plan and it was approved October 2006.

B Report on agency implementation of its plan including its performance in meeting milestones, with respect to each improvement area.

Completed the review of the Food and Nutrition Service FOIA Website. All information is current. Backlog is currently at 0% for the agency.

C Identification and discussion of any deficiency in meeting plan milestones (if applicable).

N/A

D Additional narrative statement regarding other executive order-related activities (optional).

N/A

E Concise descriptions of FOIA exemptions.

Exemption (b)(1) Classified information to be use only after a document is pronounced "classified."

Exemption (b)(2) Records "related solely to the internal personnel rules and practices of an agency"

Exemption (b)(3) Matters which are "specifically exempted from disclosure by statute, (other than section 552b of [Title 5]), provided that such statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or establishes particular criteria for withholding or refers to particular types of material to be withheld"

Exemption (b)(4) "Trade secrets and commercial or financial information obtained from any person and privileged or confidential." This exemption does not itself preclude discretionary disclosure of business information unless, however, the Trade Secrets Act (18 U.S.C. 1905) prevents such discretionary disclosure. This exemption covers material which would not customarily be made public by the person from whom it was obtained. Requested records will be considered "confidential" within the meaning of this exemption if their disclosure is likely to either impair the government's ability to obtain necessary information in the future, or cause substantial harm to the competitive business position of the person or the business on which the information was supplied.

Exemption (b)(5) "Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." This exemption protects internal memorandums and letters of a pre-decisional and deliberative nature, the release of which would inhibit the free exchange of ideas within an agency prior to a final decision. It cannot be used to withhold material merely because it is embarrassing or to withhold purely factual material or final decisions.

Exemption (b)(6). "Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." This exemption excludes from disclosure requirements all personnel and medical files and all private or personal information contained in other files which, if disclosed to the public, would amount to a clearly unwarranted invasion of personal privacy. Personal information which would not be available by law to a third party may be released if a written authorization to do so is granted by the first party waiving provisions of the Privacy Act of 1974.

Exemption (b)(7) "Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information: (A) could reasonably be expected to interfere with enforcement proceedings; (B) would deprive a person of a right to a fair trial or an impartial adjudication; (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy; (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source; (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual."

F Additional statistics:

1 Time range of requests pending, by date of request (or, where applicable, by date of referral from another agency).

FOIA dated 8/9/06 completed 10/5/06	39 days
FOIA dated 9/11/06 completed 10/6/06	20 days
FOIA dated 9/11/06 completed 10/2/06	16 days
FOIA dated 9/20/06 completed 10/31/06	28 days
FOIA dated 9/27/06 completed 10/30/06	22 days
FOIA dated 9/27/06 completed 10/3/06	5 days

2 Time range of consultations pending with other agencies, by date of initial interagency communication.

N/A

G Attachment: Agency improvement plan (in current form) – FOUND ON FNS FOIA WEBSITE.