

January 2003

**U.S. DEPARTMENT OF AGRICULTURE**

**Freedom of Information Act Annual Report FY 2002**

**I. Basic Information Regarding Report**

Responsibility for preparing the U.S. Department of Agriculture's Freedom of Information Act Annual Report for fiscal year 1998 rests with USDA's Office of Communications. The report can be accessed from the World Wide Web at:

<http://www.usda.gov/news/foia/main.htm>

A paper copy of the report may be obtained by requesting it. For additional information, contact:

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**II. How to Make a FOIA Request**

Anyone may request USDA records under the FOIA by letter, fax or e-mail. A requester who sends USDA a FOIA request that is understandable and specific about the time frame of the records sought and who has addressed the request to the USDA agency with responsibility for the records has the greatest likelihood of receiving a response within 20 working days of the agency's receipt of the request. Any request that fails to identify the records sought or is sent to the wrong agency must be clarified before an agency can begin a search; in such case, USDA will try to contact the requester for additional information.

The url (universal resource locator) for the U.S. Department of Agriculture's home page is <http://www.usda.gov>. All USDA agencies are linked to the USDA home page. A significant portion of USDA records are maintained in agency files and are described on agency web pages, which are linked to the USDA home page. Potential requesters may want to review agency web pages in order to identify the USDA agency likely to have possession of the records sought.

USDA employs a number of Freedom of Information Act specialists who make every effort to comply with the requirements of the Freedom of Information Act as amended. A list of USDA agency employees responsible for handling FOIA requests can be found at <http://www.usda.gov/news/foia/contacts.htm>

### III. Definitions of Terms and Acronyms Used in the Report

#### A. Agency-specific acronyms are as follows:

AMS - Agricultural Marketing Service;  
APHIS - Animal and Plant Health Inspection Service;  
CCC - Commodity Credit Corporation;  
DA - Departmental Administration;  
FAS - Foreign Agricultural Service;  
FNCS - Food, Nutrition and Consumer Service;  
FSA - Farm Service Agency;  
FSIS - Food Safety and Inspection Service;  
FS - Forest Service;  
GIPSA - Grain Inspection, Packers and Stockyards Administration;  
NAD - National Appeals Division;  
NFC - National Finance Center;  
NRCS - Natural Resources Conservation Service;  
OBPA - Office of Budget and Program Analysis;  
OC - Office of Communications;  
OCFO - Office of the Chief Financial Officer;  
OCIO - Office of the Chief Information Officer;  
OCR - Office of Civil Rights;  
OGC - Office of General Counsel;  
OIG - Office of the Inspector General;  
RD - Rural Development;  
REE - Research, Education and Economics; and  
RMA - Risk Management Agency

#### B. Basic terms are as follows:

FOIA/PA request - a 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. Requests filed under either law are treated as FOIA requests and are processed as expeditiously as possible.

Initial request - a request to a Federal agency for access to records under the Freedom of Information Act.

Appeal - a request to a Federal agency asking that it review at a higher level of administrative authority any full or partial denial of access to records under the Freedom of Information Act or Privacy Act or any other FOIA determination, such as a proposed fee for access to records.

Processed request - a request or appeal for which an agency has made its final determination or taken its final action.

Multi-track processing - a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous, complex requests are placed in one or more other tracks. Requests in each track are processed on a first-in/first out basis. A requester who has an urgent need for records may request expedited processing.

Expedited processing - an agency will process a FOIA request on an expedited basis when the requester has shown a compelling need for a specific record. A compelling need is a threat to life or physical safety for an individual or, in the case of the media, urgency to inform the public concerning actual or alleged Federal Government activity.

Simple request - a FOIA request that an agency using multi-track processing places in its fastest, nonexpedited track based on the volume and/or simplicity of records requested.

Complex request - a FOIA request that an agency using multi-track processing places in a slower track based on the volume and/or complexity of records requested.

Grant - an agency decision to disclose all records in full in response to a FOIA request.

Partial grant - an agency decision to disclose part of a record in response to a FOIA request, deleting information determined to be exempt under one or more of the FOIA's exemptions, or a decision to disclose some records in their entirety but withhold others in whole or in part.

Denial - an agency decision not to release 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's exemptions or because of a procedural reason, such as no record was located.

Time limits - the time period authorized in the FOIA for an agency to respond to a FOIA request is 20 working days from proper receipt of a "perfected" FOIA request.

"Perfected" request - a FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.

Exemption 3 statute - a separate Federal statute prohibiting the disclosure of certain types of records and authorizing their withholding under FOIA subsection (b)(3).

Median number - the middle, not average, number. For example, of 3, 7 and 14, the median number is 7.

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

Statute/Rule	Type of Information Withheld	Case Citation
7 U.S.C. § 201(c)	Store records for food stamp applications	None
7 U.S.C. § 373 [1373](a)	Tobacco & peanut production information	None
7 U.S.C. § 2018(c)	Electronic Benefit Transactions	None
7 U.S.C. § 2020(e)(8)	Names, addresses, phone numbers of food stamp recipients	None
7 U.S.C. § 2131 et seq.	Report on administration and enforcement activities.	None
7 U.S.C. § 4601-4612	Honey Research, Promotion, and Consumer Information	None
7 U.S.C. § 4901-4916	Watermelon Research and Promotion Information	None
16 U.S.C. § 470hh	Archaeological site maps, cultural resource survey maps	None
16 U.S.C. § 470w-3	Nature & location of historic resources	None
18 U.S.C. § 504	Copies of Food Stamps	None
26 U.S.C. § 6103(a)	Tax Identification Number	Church of Scientology v. IRS, 484 U.S. 9 (1987)
35 U.S.C. § 209	Patent License Information	None
41 U.S.C. § 253(b)(m)	Unsuccessful contract bid proposals	None
F.R.Cr.P. 6(e)	Grand jury information	<u>Iglesias v. CIA</u> , 525 F. Supp. 547, 556 (D.C. Cir. 1987)

V. INITIAL FOIA/PA ACCESS REQUESTS.

A. NUMBERS OF INITIAL REQUESTS.

	NUMBER OF REQUESTS PENDING AS OF END OF PRECEDING YEAR	NUMBER OF REQUESTS RECEIVED IN CURRENT YEAR	NUMBER OF REQUESTS PROCESSED IN CURRENT YEAR	NUMBER OF REQUESTS PENDING AS OF END OF CURRENT YEAR
AMS	4	165	155	14
APHIS	874	714	697	891
DA	30	43	31	42
FAS	4	37	37	4
FNCS	4	131	133	2
FSA	133	69321	69263	191
FS	470	4465	4470	465
FSIS	124	461	337	248
GIPSA	11	72	79	4
NAD	3	54	56	1
NRCS	3	246	244	5
OBPA	0	8	8	0
OC	17	332	312	37
OCFO	0	26	23	3
OCIO	0	3	3	0
OCR	0	22	10	12
OGC	7	21	25	3
OIG	59	326	333	52
REE	15	177	182	10
RMA	0	78	77	1
RD	23	1591	1587	27
TOTALS	1781**	78293	78062	2012

\*\* Several USDA agencies installed automated tracking systems in FY 2002, and because of more accurate information, the total number of pending requests from FY 2001 has been updated.

B. DISPOSITION OF INITIAL REQUESTS.

	NUMBER OF TOTAL GRANTS	NUMBER OF PARTIAL GRANTS	NUMBER OF DENIALS	NO RECORDS	REFERRALS	REQUEST WITHDRAWN	FEE-RELATED REASON	RECORDS NOT REASONABLY DESCRIBED	NOT A PROPER FOIA REQUEST FOR SOME OTHER REASON	NOT AN AGENCY RECORD	DUPLICATE REQUEST	OTHER
AMS	47	51	17	26	2	5	2	1	1	1	1	1
APHIS	101	233	37	84	153	52	0	0	0	0	0	37
DA	13	5	1	6	4	0	1	0	0	1	0	0
FAS	21	6	0	6	2	1	1	0	0	0	0	0
FNCS	65	21	28	7	6	3	1	2	0	0	0	0
FSA	66047	765	1249	786	62	62	24	26	27	22	24	106
FS	2765	774	503	173	20	72	55	17	20	4	12	55
FSIS	145	88	26	44	15	5	2	5	5	3	6	3
GIPSA	30	29	1	10	0	1	6	0	2	0	0	0
NAD	18	6	32	29	0	0	0	1	0	0	2	0
NRCS	161	32	25	19	9	3	3	3	0	3	1	5
OBPA	8	0	0	0	0	0	0	0	0	0	0	0
OC	0	60	0	3	249	0	0	0	0	0	0	0
OCFO	7	1	2	6	5	1	0	0	0	0	0	1
OCIO	2	0	0	1	0	0	0	0	0	0	0	0
OCR	3	1	6	0	0	0	0	0	0	0	0	1
OGC	8	5	3	6	1	2	0	0	0	0	0	0
OIG	93	95	25	31	27	9	10	1	9	2	8	23
REE	57	75	4	24	10	6	3	1	0	0	1	1
RMA	18	22	6	10	8	7	0	0	0	1	0	5
RD	1356	70	100	13	7	18	13	3	7	0	0	0
TOTALS	70965	2339	2065	1284	580	247	121	60	71	37	55	238

**B. DISPOSITION OF INITIAL REQUESTS (Continued)**

EXPLANATION OF DISPOSITION OF FOIA/PA INITIAL REQUESTS:  
OTHER REASONS FOR NONDISCLOSURE  
(COLUMN MARKED "OTHER")

<b>Component</b>	<b>Number of Times</b>	<b>Reason(s)</b>
AMS	1	Memorandum of Understanding
APHIS	37	Court Order Doe #1et al. v. Veneman et al.
DA	0	
FAS	0	
FNCS	0	
FSA	106	Transferred to field offices Duplicates Failure to comply with requirements
FS	55	Glomar Nonresponse to clarification request Unable to contact requester
FSIS	3	Too voluminous
GIPSA	0	
NAD	0	
NRCS	5	Failure to comply with requirements
OBPA	0	
OC	0	
OCFO	1	Waiver justification not approved
OCIO	0	
OCR	1	No notary
OGC	0	
OIG	26	No authorization letter Requesters referred to Website
REE	1	Requester owed money to other federal agency
RMA	0	
RD	0	



**B. DISPOSITION OF INITIAL REQUESTS (Continued)**

**EXEMPTIONS CLAIMED UNDER THE FREEDOM OF INFORMATION ACT**

	(1)	(2)	(3)	(4)	(5)	(6)	(7)(A)	(7)(B)	(7)(C)	(7)(D)	(7)(E)	(7)(F)	(8)	(9)
AMS	0	0	2	29	11	37	9	0	0	1	0	0	0	0
APHIS	0	12	2	100	56	172	16	0	27	11	8	0	0	0
DA	0	0	0	2	1	3	0	0	0	0	0	0	0	0
FAS	0	0	0	2	4	1	0	0	1	1	0	0	0	0
FNCS	0	0	3	1	5	27	0	0	28	18	4	0	0	0
FSA	0	27	235	29	32	915	43	0	10	10	0	0	0	0
FS	0	13	20	50	135	339	71	11	123	1	2	1	0	0
FSIS	0	9	0	68	7	55	12	0	1	0	0	0	0	0
GIPSA	0	0	0	14	11	16	3	0	1	6	1	0	0	0
NAD	0	0	0	0	0	5	0	0	0	0	0	0	0	0
NRCS	0	1	0	16	10	50	0	0	0	0	0	0	0	0
OBPA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OC	0	0	0	0	0	60	0	0	0	0	0	0	0	0
OCFO	0	0	0	0	0	3	0	0	0	0	0	0	0	0
OCIO	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OCR	0	0	0	0	0	1	5	0	0	0	0	0	0	0
OGC	0	0	0	1	7	2	0	0	0	0	0	0	0	0
OIG	0	3	2	3	3	44	29	0	85	4	6	0	0	0
REE	0	3	4	52	12	39	0	0	1	0	0	0	0	0
RMA	0	0	0	6	6	20	6	0	5	0	0	0	0	0
RD	0	5	2	32	45	87	3	0	13	0	0	0	0	0
TOTALS	0	73	270	405	345	1876	197	11	295	52	21	1	0	0

## VI. Appeals of Initial Denials

	Appeals Received FY 2002	Appeals Processed FY 2002	Appeals Upheld	Appeals Partly Reversed	Appeals Completely Reversed	(b)(1) Upheld on Appeal	(b)(2) Upheld on Appeal	(b)(3) Upheld on Appeal	(b)(4) Upheld on Appeal
AMS	14	10	8	2	0	0	0	1	0
APHIS	19	7	0	1	6	0	12	2	0
DA	0	0	0	0	0	0	0	0	0
FAS	1	1	1	0	0	0	0	0	0
FNCS	7	6	6	0	0	0	0	0	0
FSA	50	63	21	28	14	0	2	1	4
FS	96	36	8	5	23	0	0	1	7
FSIS	19	3	1	2	0	0	0	0	4
GIPSA	4	3	3	0	0	0	0	0	0
NAD	0	0	0	0	0	0	0	0	0
NRCS	6	4	1	1	2	0	0	0	3
OBPA	0	0	0	0	0	0	0	0	0
OC	3	2	2	0	0	0	0	0	0
OCFO	2	1	1	0	0	0	0	0	0
OCIO	0	0	0	0	0	0	0	0	0
OCR	1	0	0	0	0	0	0	0	0
OGC	2	1	0	0	1	0	0	0	0
OIG	14	14	10	4	0	0	0	0	0
REE	7	4	3	0	1	0	0	0	0
RMA	7	0	0	0	0	0	0	0	0
RD	23	9	2	5	2	0	1	0	0
Total	275	164	67	48	49	0	15	5	18

**VI. Appeals of Initial Denials (continued):**

	(b)(5) Upheld on Appeal	(b)(6) Upheld on Appeal	(b)(7)(A) Upheld on Appeal	(b)(7)(B) Upheld on Appeal	(b)(7)(C) Upheld on Appeal	(b)(7)(D) Upheld on Appeal	(b)(7)(E) Upheld on Appeal	(b)(7)(F) Upheld on Appeal	(b)(8) Upheld on Appeal	(b)(9) Upheld on Appeal
AMS	0	0	7	0	0	0	0	0	0	0
APHIS	1	2	0	0	0	0	0	0	0	0
DA	0	0	0	0	0	0	0	0	0	0
FAS	0	0	0	0	0	0	0	0	0	0
FNCS	0	6	0	0	6	6	0	0	0	0
FSA	9	38	3	0	0	1	26	0	0	0
FS	7	17	0	0	5	0	0	0	0	0
FSIS	1	2	0	0	0	0	0	0	0	0
GIPSA	0	0	0	0	0	0	0	0	0	0
NAD	0	0	0	0	0	0	0	0	0	0
NRCS	1	3	0	0	0	0	0	0	0	0
OBPA	0	0	0	0	0	0	0	0	0	0
OC	0	0	0	0	0	0	0	0	0	0
OCFO	0	1	0	0	0	0	0	0	0	0
OCIO	0	0	0	0	0	0	0	0	0	0
OCR	0	0	0	0	0	0	0	0	0	0
OGC	0	0	0	0	0	0	0	0	0	0
OIG	0	1	5	0	5	0	0	0	0	0
REE	0	0	0	0	0	0	0	0	0	0
RMA	0	0	0	0	0	0	0	0	0	0
RD	1	4	0	0	4	0	0	0	0	0
Total	20	74	15	0	20	7	26	0	0	0

**VI. Appeals of Initial Denials (continued):**

	Other reasons for Non-disclosure	No Records	Referred elsewhere	Request Withdrawn	Fee-related reason	Records not Reasonably Described	Not a Proper FOIA Request	Not an agency record	Duplicate Request	Other
AMS	2	0	0	1	0	0	0	0	0	1
APHIS	7	2	0	0	0	0	0	0	0	5
DA	0	0	0	0	0	0	0	0	0	0
FAS	0	0	0	0	0	0	0	0	0	0
FNCS	0	0	0	0	0	0	0	0	0	0
FSA	27	7	0	8	3	0	5	1	2	1
FS	47	19	1	0	6	0	3	0	0	17
FSIS	0	0	0	0	0	0	0	0	0	0
GIPSA	3	0	0	0	3	0	0	0	0	0
NAD	0	0	0	0	0	0	0	0	0	0
NRCS	0	0	0	0	0	0	0	0	0	0
OBPA	0	0	0	0	0	0	0	0	0	0
OC	2	2	0	0	0	0	0	0	0	0
OCFO	0	0	0	0	0	0	0	0	0	0
OCIO	0	0	0	0	0	0	0	0	0	0
OCR	0	0	0	0	0	0	0	0	0	0
OGC	0	0	0	0	0	0	0	0	0	0
OIG	3	0	0	1	2	0	0	0	0	0
REE	3	1	0	1	0	0	0	0	0	1
RMA	0	0	0	0	0	0	0	0	0	0
RD	2	0	1	1	0	0	0	0	0	0
Total	96	31	2	12	14	0	8	1	2	25

**VII. Compliance with Time Limits/Status of Pending Requests**

**A. MEDIAN PROCESSING TIME FOR REQUESTS PROCESSED DURING THE YEAR**

	<u>Simple Requests</u>		<u>Complex Requests</u>		<u>Requests Accorded Expedited Processing</u>	
	<u>Number of Requests Processed</u>	<u>Median Number Of Days To Process</u>	<u>Number of Requests Processed</u>	<u>Median Number Of Days To Process</u>	<u>Number of Requests Processed</u>	<u>Median Number Of Days To Process</u>
AMS	155	16	0	0	0	0
APHIS	679	43	32	905	57	18
DA	14	10	5	20	0	0
FAS	37	30	0	0	0	0
FNCS	127	9	6	20	0	0
FSA	65360	23	1977	28	723	76
FS	2453	15	2009	13	8	3
FSIS	0	0	337	51	0	0
GIPSA	0	0	79	10	0	0
NAD	56	5	0	0	0	0
NRCS	223	8	15	18	6	5
OBPA	8	7	0	0	0	0
OC	312	36	0	0	0	0
OCFO	0	0	23	10	0	0
OCIO	3	11	0	0	0	0
OCR	10	85	0	0	0	0
OGC	0	0	24	30	0	0
OIG	221	2	112	146	0	0
REE	0	0	182	15	0	0
RMA	74	20	0	0	3	7
RD	0	0	1587	9	0	0

B. STATUS OF PENDING REQUESTS

	NUMBER OF REQUESTS PENDING AS OF END OF FISCAL YEAR	MEDIAN NUMBER OF DAYS PENDING	
AMS	14	25	
APHIS	897	661	
DA	42	30	
FAS	4	20	
FNCS	2	5	
FSA	191	14	
FS	465	35	
FSIS	248	111	
GIPSA	4	12	
NAD	1	10	
NRCS	5	14	
OBPA	0	0	
OC	37	40	
OCFO	3	53	
OCIO	0	0	
OCR	12	134	
OGC	3	30	
OIG	52	48	
REE	10	15	
RMA	1	30	
RD	27	11	

**VIII. Comparisons With Previous Years**

Improve timeliness.

Agencies are continuing to provide public information and frequently requested information through their agency FOIA websites.

One agency hired a full-time FOIA specialist instead of handling FOIA as a collateral duty.

Several Agencies updated their internal employee FOIA guidelines and instructions to the public on how to make FOIA

requests. Internal directives stressed the importance of timely responses, and negative consequences were specified as reminders to staff.

Reduce backlog.

One agency has improved timeliness and reduced backlog as a result of posting completed audit reports on their agency web site. This resulted in 29% fewer FOIA requests in 2002 due to the availability of the reports on the internet.

Another agency is improving efforts to contact program staffs to encourage timely responses and also contacting requesters to clarify and narrow requests.

Provide training.

The FOIA personnel of most USDA agencies attended training sponsored by the Department of Justice, the USDA Graduate School, or the American Society for Access Professionals. A majority of USDA agencies conducted on-the-job training for agency personnel on processing FOIA requests.

Several agencies provided field locations with copies of the Freedom of Information Act Guide & Privacy Act Overview and the Department of Justice quarterly FOIA Updates to use as reference material. Some field locations have scheduled monthly FOIA conference calls as a training tool.

All agency FOIA personnel continue to meet quarterly to share information and establish consistent standards for processing of FOIA requests within the Department.

Add new categories of records.

The establishment of agency web pages expanded the categories of records available to the public.

## IX. Costs/FOIA Staffing

### A. Staffing Levels

	<u>Staffing Levels</u>			<u>Total Costs (Including Staff and All Resources)</u>		
	Number of Full Time Personnel	Number of Personnel With Part Time or Occasional FOIA Duties (In Total Workyears)	Total Number Of Personnel (In Work-Years)	FOIA Processing (Including Appeals) (Estimated)	Litigation-Related Activities (Estimated)	Total
AMS	1	3	4	\$324,517.00	\$0.00	\$324,517.00
APHIS	18	0	18	\$1,395,985.21	\$0.00	\$1,395,985.21
DA	1	1	2	\$43,614.00	\$0.00	\$43,614.00
FAS	0	2	2	\$142,000.00	\$0.00	\$142,000.00
FNCS	1	4	5	\$18,810.71	\$0.00	\$18,810.71
FSA	7	300	307	\$9,140,432.13	\$0.00	\$9,140,432.13
FS	29	76	105	\$3,114,367.43	\$12,080.00	\$3,126,447.43
FSIS	7	1	8	\$388,228.00	\$0.00	\$388,228.00
GIPSA	0	1	1	\$52,871.00	\$0.00	\$52,871.00
NAD	0	1	0	\$1,491.60	\$0.00	\$1,491.60
NRCS	1	0	1	\$136,459.01	\$7,520.00	\$143,979.01
OBPA	0	0	0	\$360.00	\$0.00	\$360.00
OC	1	0	1	\$112,000.00	\$0.00	\$112,000.00
OCFO	0	1	1	\$8,279.00	\$0.00	\$8,279.00
OCIO	1	0	1	\$100,056.00	\$0.00	\$100,056.00
OCR	1	0	1	\$73,200.00	\$10,000.00	\$83,200.00
OGC	0	6	6	\$500,000.00	\$250,000.00	\$750,000.00
OIG	1	4	5	\$253,883.00	\$1,836.00	\$255,719.00
REE	1	1	2	\$114,000.00	\$0.00	\$114,000.00
RMA	1	2	3	\$75,600.00	\$0.00	\$75,600.00
RD	2	3	5	\$519,361.67	\$0.00	\$519,361.67
TOTALS	73	403	476	\$16,515,515.76	\$281,436.00	\$16,796,951.76



## X. Fees

	Total Fees collected	Percentage of Total costs	
AMS	\$3,743.00	1.15%	
APHIS	\$2,127.66	0%	
DA	\$495.50	1%	
FAS	\$150.00	0%	
FNCS	\$18,143.71	0%	
FSA	\$63,731.17	1%	
FS	\$15,497.50	0%	
FSIS	\$1,025.80	0%	
GIPSA	\$4,059.00	8%	
NAD	\$237.10	16%	
NRCS	\$3,548.87	2%	
OBPA	\$0.00	0%	
OC	\$0.00	0%	
OCFO	\$896.00	11%	
OCIO	0	0%	
OCR	\$0.00	0%	
OGC	0	0%	
OIG	\$1,360.20	1%	
REE	\$2,850.00	3%	
RMA	\$432.20	1%	
RD	\$5,891.82	1%	
Total	\$124,189.53	1%	

## **XI. FOIA Regulations**

USDA's regulations implementing the Electronic Freedom of Information Act Amendments of 1996 were published in the Federal Register July 28, 2000, and are available on the World Wide Web at:

[http://www.usda.gov/News&Information/FOIA  
Information/USDA FOIA Regulations](http://www.usda.gov/News&Information/FOIA/Information/USDA%20FOIA%20Regulations)

USDA's current fee schedule was published in the Federal Register December 31, 1987.

USDA's home page is located at <http://www.usda.gov>. The web sites of USDA agencies are linked to this home page, and each agency's web site contains explanatory information about FOIA processing.