

**UNITED STATES COAST GUARD (USCG)
SUBMISSION FOR DEPARTMENT OF TRANSPORTATION
FREEDOM OF INFORMATION ACT (FOIA)
REPORT TO CONGRESS
FISCAL YEAR 2004**

I. Basic Information Regarding Report.

Person to be contacted with questions about the report: Cecelia Odum, Office of Information Management, CG-611, United States Coast Guard, 2100 2nd Street, SW, Washington, DC 20593, (202) 267-2300.

II. How to Make a FOIA Request.

A. Name, address, and telephone number of component that receives FOIA requests:

Commandant (CG-611)
United States Coast Guard
2100 Second Street, SW
Washington, DC 20593

Email: acraig@comdt.uscg.mil

Phone: (202) 267-6929

Fax: (202) 267-4814

B. Brief description of the agency's response-time ranges.

The USCG administers a decentralized FOIA program. FOIA coordinators and responding program offices acknowledge receipt of FOIA requests promptly. Response time for a request varies according to the clarity and complexity of the request, the volume of documents requested, the number of record holders assigned to respond to the request, and the units' respective FOIA backlogs. Response time is facilitated when requesters are specific about the records they seek, and identify the organization(s) where the records may be located.

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

Some requests are not granted when the USCG does not possess responsive records; records are not reasonably described; the request is inadvertently sent to an inappropriate component for processing; the requester declines to pay fees assessed pursuant to the FOIA; or the responsive records are withheld pursuant to one or more of the FOIA exemptions.

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

A. Agency-specific acronyms or other terms.

1. USCG: United States Coast Guard
2. Remanded Appeal: An appeal returned to the original responder or forwarded to another office for continued processing at the initial response phase. The appeal is provisionally closed. The requester retains the right to appeal if he/she disagrees with the second response. Upon request, the Coast Guard places any new appeal in its processing queue commensurate with the date of the initial request.
3. MISLE: Marine Information for Safety and Law Enforcement system. A computerized information system that captures data on marine safety, environmental protection/response, and law enforcement activities.
4. PSIX: Port State Information Exchange. An Internet-based information system that provides data on vessels and USCG port activities.
5. MSIS: Marine Safety Information System. An information system formerly used to capture data on marine safety and environmental protection program activities. Replaced by MISLE.
6. CGMIX: Coast Guard Maritime Information Exchange. An Internet based information system that provides Coast Guard information on vessels and USCG activities associated with those vessels to the public. CGMIX includes several data subsets, such as Approved Equipment List (EQList) and Internet Investigation Reports (IIR).

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.
 - a. **41 U.S.C. 253b(m)**: Prohibits release of contract proposal not incorporated in contract.
 - b. **46 U.S.C. 7319**: Prohibits release of all information contained in files maintained on each merchant mariner document issued.
2. Statement of whether a court has upheld the use of each statute.

There are no instances where a court has reviewed an exemption 3 statute applied by the USCG.

V. Initial FOIA/PA Access Requests.

A. Numbers of Initial Requests.

1. Number of requests pending as of end of preceding fiscal year: 1,147
2. Number of requests received during current fiscal year: 7,579
3. Number of requests processed during current fiscal year: 7,403
4. Number of requests pending as of end of current fiscal year: 1,323

B. Disposition of initial requests.

1. Number of total grants: 4,840
2. Number of partial grants: 400
3. Number of denials: 41

Number of times each FOIA exemption used (counting each exemption once per request).

(1)	Exemption 1	11
(2)	Exemption 2	11
(3)	Exemption 3	15
(4)	Exemption 4	44
(5)	Exemption 5	76
(6)	Exemption 6	153
(7)	Exemption 7(A)	51
(8)	Exemption 7(B)	6
(9)	Exemption 7(C)	117
(10)	Exemption 7(D)	2
(11)	Exemption 7(E)	18
(12)	Exemption 7(F)	2

4. Other reasons for nondisclosure (total): 2,122.

a.	No records	606
b.	Referrals	768
c.	Request withdrawn	221
d.	Fee-related reason	20
e.	Records not reasonably described	69
f.	Not a proper FOIA request for some other reason	12
g.	Not an agency record	35
h.	Duplicate request	364
i.	Available from other source	27

VI. Appeals of Initial Denials of FOIA/PA Requests.

- A. Number of appeals.

1. Number of appeals received during fiscal year: 25
2. Number of appeals processed during fiscal year: 4

B. Disposition of appeals.

1. Number completely upheld: 4
2. Number partially reversed: 0
3. Number completely reversed: 0

Number of times each FOIA exemption used:

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

4. Other reasons for nondisclosure (total): 38.

a.	Remanded appeals	13
b.	Withdrawn	25
c.	Litigation	0

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

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

1. Simple requests (if multiple tracks used).
 - a. number of requests processed: 6,735
 - b. median number of days to process: 13
2. Complex requests (specify for any and all tracks used).
 - a. number of requests processed: 638
 - b. median number of days to process: 21
3. Requests accorded expedited processing.
 - a. number of requests processed: 30
 - b. median number of days to process: 1

B. Status of pending requests.

1. Number of requests pending as of end of current fiscal year: 1,323
2. Median number of days that such requests were pending as of that date: 24

VIII. Comparisons with Previous Year(s).

- A. Comparison of numbers of requests received: FY 2003: 8,642; FY 2004: 7,579
- B. Comparison of numbers of requests processed: FY 2003: 8,467; FY 2004: 7,403
- C. Comparison of median number of days requests were pending at the end of fiscal year: FY 2003: 22; FY 2004: 24
- D. Other statistics significant to agency: None.
- E. Other narrative statements describing agency efforts to improve timeliness of FOIA performance and to make records available to the public (e.g., backlog-reduction efforts; specification of average number of hours per processed request; training activities; public availability of new categories of records).

The USCG has implemented a FOIA Imaging System (FIS). While the system is centralized in the FOIA office, it has been expanded to program offices. Our goal is to expand the system throughout Coast Guard Headquarters. FIS is an image-enabled workflow system that scans FOIA requests and responses, and automates the workflow management process associated with these functions.

The Marine Safety, Security, and Environmental Protection Directorate (G-M) purchased and distributed scanners to all of its field units in October 2003. Since that time, the majority of its investigation files have been scanned into MISLE. MISLE stores records electronically, thereby significantly reducing the time required to find and obtain those documents. Electronic storage has also facilitated electronic redaction of files. The use of the Coast Guard Intranet portal (CG Central) by G-M to store redacted files for easy retrieval in the event of future requests for that material has been a plus for responding to FOIA requests in a timely manner. This has reduced rework in redacting files a second time because of the limited file space available within the office to store previously redacted paper files. G-M continues to make records available to the public via the Internet through the Coast Guard Maritime Information Exchange (CGMIX) and other Internet sites. This year G-M added to CGMIX the ability to check the status of security plan reviews and it is working on an enhancement to CGMIX that will make an abbreviated version of all marine casualty investigation reports available on the Internet. G-M also continues to make available the "Merchant Vessels of the U.S. Data File" to the public on CD-ROM via the National Technical Information Service (NTIS) and via the Internet on the National Marine Fisheries Service

site. This year, G-M increased the frequency of updates for that file from quarterly to monthly in response to customer requests. Marine casualty and pollution data are made available to the public on the Internet via the TRANSTATS database run by the Bureau of Transportation Statistics, and on CD-ROM via the National Technical Information Service (NTIS).

The central FOIA office remands appeals to the original processor for reconsideration when it determines that the original processor failed to follow procedures. This improves the quality and timeliness of responses, while preserving requesters' appeal rights.

Additionally, many unclassified USCG policy directives and forms are available via the Internet/CD-ROM in Adobe Acrobat format.

Timeliness of FOIA performance and making records available to the public electronically is in concert with E-government initiatives and the 1996 Electronic FOIA Amendment. With the recent purchase of scanners, records which were previously distributed only by paper can now be collected and distributed electronically and posted on line. As more scanners are acquired, we will continue to enhance our ability to collect data electronically and post it online.

IX. Costs/FOIA Staffing.

- A. Staffing levels (in work years).
 - 1. Number of full-time FOIA personnel: 17
 - 2. Number of personnel with part-time or occasional FOIA duties: 85.14
 - 3. Total number of personnel: 112.14
- B. Total costs (including staff and all resources).
 - 1. FOIA processing (including appeals): \$646,086
 - 2. Litigation-related activities (estimated): \$7,000
 - 3. Total costs: \$653,086
 - 4. Comparison with previous year(s) (including percentage of change):
Costs decreased from FY 2003 to FY2004 by \$492,113(10%).
- C. Statement of additional resources needed for FOIA compliance/comments.

Congress does not appropriate funds for the Coast Guard and the other executive branch agencies to comply with the mandates of the FOIA. Funds diverted for FOIA compliance must be derived from those which were appropriated to the agency for other purposes, and this continuing drain inevitably negatively impacts agency mission performance. As evidenced in this report, the fees the agency collects for processing these requests only represent a fractional portion of its true costs for FOIA compliance. In any event, the agency is not permitted by law to retain the collected fees, but must forward them to the U.S. Treasury.

Like many other agencies, the Coast Guard has a considerable backlog of unanswered FOIA initial requests and appeals, and often cannot meet the statutory response deadlines imposed by the FOIA. Consequently, the agency frequently is not in compliance with the FOIA and requesters often become despondent because of delays in receiving responses. This despondency manifests itself in appeals and lawsuits against executive branch agencies, which require additional agency funds to resolve.

We do not expect this situation to improve. Agencies have little control over the number of requests they receive, but the trend, especially with the advent of e-mail, is for the number of FOIA requests to increase.

The surest method for Congress to assist agencies in increasing FOIA compliance is to appropriate funds commensurate with agency FOIA expenses.

X. Fees.

- A. Total amount of fees collected by agency for processing requests:
\$23,273.77.
- B. Percentage of total costs: 27%