

**NATIONAL ENDOWMENT FOR THE HUMANITIES
FREEDOM OF INFORMATION ACT (FOIA)
ANNUAL REPORT FOR FISCAL YEAR 2007**

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I. BASIC INFORMATION REGARDING REPORT

A. Name, title, address, and telephone number of person(s) to be contacted with questions about report.

Thomas Lindsay
Deputy Chairman
National Endowment for the Humanities
1100 Pennsylvania Avenue, NW
Room 503
Washington, DC 20506
(202) 606-8235

Heather C. Gottry
Acting General Counsel
National Endowment for the Humanities
1100 Pennsylvania Avenue, NW
Room 529
Washington, DC 20506
(202) 606-8322

B. Electronic address for this report on the World Wide Web.

<http://www.neh.gov/whoweare/foiamain.html>

C. How to obtain a copy of this report in paper form.

Paper copies of this report can be obtained from Heather Gottry. Ms. Gottry's contact information is provided in Item I. A.

II. HOW TO MAKE A FOIA REQUEST

For basic information on how to make a FOIA request, visit our website at:

<http://www.neh.gov/howeare/foiamain.html>

A. Agency components and offices that received FOIA requests.

FOIA requests should be addressed to:

National Endowment for the Humanities
Freedom of Information Act Officer
1100 Pennsylvania Avenue, NW
Room 529
Washington, D.C. 20506

E-mail requests may be addressed to: gencounsel@neh.gov

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

The agency responded to simple requests in approximately twenty-five (25) working days and complex requests in approximately one hundred twenty (120) working days.

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

The primary reason for not fully granting requests for which records are located is that disclosure would result in unwarranted invasions of personal privacy. Generally, small, segregable portions of the records are withheld in those instances.

III. DEFINITIONS OF TERMS AND ACRONYMS USED IN THE REPORT

A. Agency-specific acronyms or other terms.

NEH - National Endowment for the Humanities

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 are also treated as FOIA requests.
2. Initial Request - A request to a federal agency for access to records under the Freedom of Information Act.

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 Freedom of Information Act, 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 simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests in each track are processed on a first-in/first-out basis. A requestor who has an urgent need for records may request expedited processing.
6. Expedited processing - An agency will process a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records which warrants prioritization of his or her request over other requests that were made earlier.
7. Simple request - A FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the volume and/or simplicity of records requested.
8. 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.
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, 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 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's exemptions, or for some procedural reason (such as because no record is located in response to a FOIA request).
12. Time limits - The time period in the Freedom of Information Act for an agency to respond to a FOIA request (ordinarily 20 working days from proper receipt of a "perfected" FOIA request).
13. "Perfected" request - A FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency or agency component in possession of the records, 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 subsection (b) (3).
15. Median number - The middle, not average number. For example, of 3, 7, and 14, the median number is 7.
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

No exemption 3 statutes were used by the agency during fiscal year 2007.

V. INITIAL FOIA/PA ACCESS REQUESTS

A. Numbers of Initial Requests.

1.	Number of requests pending as of end of preceding fiscal year	<u>18</u>
2.	Number of requests received in current fiscal year	<u>37</u>
3.	Number of requests processed during current fiscal year	<u>51</u>
4.	Number of requests pending as of end of current fiscal year	<u>4</u>

B. Disposition of initial requests.

1.	Number of total grants	<u>22</u>
2.	Number of partial grants	<u>19</u>
3.	Number of denials	<u>1</u>
	a. Number of times each FOIA exemption used:	
	Exemption 1	<u>0</u>
	Exemption 2	<u>0</u>
	Exemption 3	<u>0</u>
	Exemption 4	<u>9</u>
	Exemption 5	<u>4</u>
	Exemption 6	<u>16</u>
	Exemption 7	<u>0</u>
	Exemption 8	<u>0</u>
	Exemption 9	<u>0</u>
4.	Other reasons for nondisclosure (total):	<u>9</u>
	a. no records	<u>2</u>
	b. referrals	<u>0</u>
	c. request withdrawn	<u>0</u>
	d. fee-related reason	<u>0</u>
	e. records not reasonably described	<u>0</u>
	f. not a proper FOIA request for some other reason	<u>0</u>

g. not an agency record	<u>0</u>
h. duplicated request	<u>0</u>
i. other (specify) Administratively Closed	<u>7</u>

VI. APPEALS OF INITIAL DENIALS OF FOIA/PA REQUESTS

A. Number of Appeals.

1. Number of appeals received during fiscal year	<u>0</u>
2. Number of appeals processed during fiscal year	<u>2</u>

B. Disposition of appeals.

1. Number completely upheld	<u>1</u>
2. Number of partially reversed	<u>1</u>
3. Number of completely reversed	<u>0</u>
a. Number of times each FOIA exemption used:	
Exemption 1	<u>0</u>
Exemption 2	<u>0</u>
Exemption 3	<u>0</u>
Exemption 4	<u>1</u>
Exemption 5	<u>2</u>
Exemption 6	<u>0</u>
Exemption 7	<u>0</u>
Exemption 8	<u>0</u>
Exemption 9	<u>0</u>
4. Other reasons for nondisclosure (total):	<u>0</u>
a. no records	<u>0</u>
b. referrals	<u>0</u>
c. request withdrawn	<u>0</u>
d. fee-related reason	<u>0</u>
e. records not reasonably described	<u>0</u>
f. not a proper FOIA request for some other reason	<u>0</u>
g. not an agency record	<u>0</u>
h. duplicated request	<u>0</u>
i. other (specify)	<u>0</u>

VII. COMPLIANCE WITH TIME LIMITS/STATUS OF PENDING REQUESTS

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

1. Simple requests	
a. number of requests processed	<u>34</u>
b. average number of days to process	<u>25</u>

2.	Complex requests	
	a. number of requests processed	<u>17</u>
	b. average number of days to process	<u>120</u>
3.	Requests accorded expedited processing.	
	a. number of requests processed	<u>0</u>
	b. average number of days to process	<u>0</u>

B. Status of pending requests.

1.	Number of requests pending as of end of current fiscal year	<u>4</u>
2.	Average number of days that such requests were pending as of that date	<u>260</u>

VIII. COMPARISONS WITH PREVIOUS YEAR(S)

	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
A. Number of requests received in:	66	44	47	37
B. Number of requests processed in:	53	51	42	51
C. Number of request pending at end of FY	20	13	18	4

D. Other statistics significant to agency

The agency received one request for expedited processing. The request for expedited processing was denied.

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)

NEH revised and updated its FOIA webpage to make it more user friendly to the public and to FOIA requesters in particular. NEH monitors and works to continually make available on the NEH website new agency records. NEH sends acknowledgement letters to all FOIA requestors to provide them with notification that their request has been received and an agency point of contact. The NEH continues to review FOIA processing and backlog to identify areas of improvement and ways to increase responsiveness to FOIA requests.

IX. COSTS/FOIA STAFFING

A. Staffing levels.

1.	Number of full-time FOIA personnel	<u>0</u>
2.	Number of personnel with part-time or occasional FOIA duties (in total work-years)	<u>0.50</u>

3. Total number of personnel (in work-years) 0.50

B. Total costs (including staff and all resources).

1. FOIA processing (including appeals) \$40,000
2. Litigation-related activities (estimated) 0
3. Total costs \$40,000

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

X. FEES

A. Total amount of fees collected by agency for processing requests \$ 250

B. Percentage of total costs .625%

XI. FOIA REGULATIONS (INCLUDING FEE SCHEDULE)

<http://www.neh.gov/howeare/foia/foiaguide.html>

XII. REPORT ON EXECUTIVE ORDER 13,392 IMPLEMENTATION

On December 14, 2005, the President issued Executive Order 13,392, entitled "Improving Agency Disclosure of Information," which established a "citizen-centered" and "results-oriented" approach to administration of the Freedom of Information Act. The Executive Order required each agency to conduct a review of its FOIA operations, to develop an agency-specific plan to improve its administration of the Act, and to include in its annual FOIA report a description of its progress in meeting the milestones and goals established in its improvement plan. This section of NEH's annual FOIA report contains the agency's description of its progress in implementing the milestones and goals set forth in the agency's FOIA Improvement Plan.

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

NEH has not supplemented or modified its FOIA Improvement Plan.

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

NEH met almost all of the goals and milestones as established in the agency's FOIA Improvement Plan, which was submitted on June 14, 2006 in response to Executive Order 13,392, that were to be completed by December 31, 2007. In particular, NEH accomplished a series of improvements in the processing of FOIA requests and far exceeded its goal by

decreasing its pending FOIA Backlog by more than 70% and had only 4 requests pending at the end of FY 2007 compared with 18 at the end of FY 2006.

In the area of Web Site Improvement, NEH has completed all the initial steps set forth in the FOIA Improvement Plan as reported in Section XII of NEH's FOIA Annual Report for FY 2006. NEH continues to meet the goals of the FOIA Improvement Plan to enhance the content and accessibility of information and agency records on the NEH website by reviewing and supplementing, as necessary and on a regular basis, the NEH FOIA webpage, NEH FOIA Reference Guide, and Electronic Reading Room.

In the area of FOIA Request Processing Methods, NEH has continued to work to increase timely processing of FOIA requests. In furtherance of this goal, the NEH FOIA program has worked with other agency personnel to decrease response time in locating and producing responsive agency records. NEH also amended the FOIA processing coversheet to require more information from NEH staff on disclosure and exemptions related to requested records, as well as any potential processing expenses, to expedite responses. Additionally, NEH FOIA staff reviewed and dedicated resources to significantly reducing the existing FOIA backlog. NEH continues to review both new and pending FOIA requests and appeals on a regular basis to assess processing time and potential reasons for an increase in the FOIA backlog. Finally, while NEH began a review of potential proposed amendments to the agency's joint FOIA regulations, the agency has not been able to move the proposed revision of the regulations forward as anticipated when the FOIA Improvement Plan was drafted.

In the area of Use of Information Technology, the NEH FOIA program completed an assessment of new information technology that could potentially improve the quality and timeliness of responses to FOIA requests, and determined that it was not currently feasible to acquire such new technology. The NEH FOIA program will use existing scanning technology at the agency when appropriate to provide more timely and less costly responses to FOIA requests.

In the area of Customer Relations/Communications, NEH has completed all steps set forth in the FOIA Improvement Plan and reported in Section XII of NEH's FOIA Annual Report for FY 2006 on the completion of this milestone. However, the NEH FOIA Program will continue to work to improve its customer relations and communication with the general public.

In the area of FOIA Training, NEH has completed all the initial steps set forth in the FOIA Improvement Plan as reported in Section XII of NEH's FOIA Annual Report for FY 2006. Consistent with the FOIA Improvement plan, NEH will provide training to all NEH staff on FOIA, its exemptions, and new developments in FY 2008.

Through completion of the steps set forth in the NEH FOIA Improvement Plan, NEH has improved its FOIA program, communications with FOIA requestors, and has increased electronic access to agency records on the agency website.

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

1. FOIA Improvement Plan area to which the deficient milestone relates.

FOIA Request Processing Methods

2. Deficient milestone and the original target date from the FOIA Improvement Plan.

To amend NEH regulations to allow FOIA requestors to choose the format by which requested records are provided. - To be completed: August 1, 2007

3. Steps taken to correct the deficiency and the dates by which the steps were completed.

In 2007, NEH successfully reviewed existing regulations, identified areas which needed amendment, and drafted a proposed set of new regulations. However, as a result of understaffing in the NEH FOIA Program and because NEH's FOIA regulations are joint regulations issued with two other agencies, NEH was unable to meet the milestones initially set forth in the FOIA Improvement Plan which called for the new regulations to be final and published in the Federal Register by August 1, 2007.

4. Future remedial steps and the dates by which the steps will be completed.

To address this deficiency, NEH is working on amending its FOIA Improvement Plan to establish new and realistic steps for this milestone to be completed. By April 1, 2008, NEH will have completed a revision of the draft FOIA regulations and will circulate the draft to the two other agencies on NEH's joint FOIA regulations. After receiving feedback from those two agencies, NEH will request comments from the Department of Justice on the revised regulations and will incorporate any comments within a month of receipt. Through this process, NEH will continue to work with the two other agencies involved with NEH's joint FOIA regulations to facilitate amendment of the joint regulations. NEH is hopeful that significant progress will be made towards reaching this milestone by December 31, 2008.

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

In furtherance of Executive Order 13,392, NEH developed Backlog Reduction Goals for Fiscal Years 2008, 2009, and 2010. NEH established these goals with respect to the numbers of FOIA requests and administrative appeals to be processed for the next three fiscal years as well as the number of requests and number of appeals it expects to be pending beyond the statutory time period at the end of each fiscal year for Fiscal Years 2008, 2009, and 2010.

A paper copy of the NEH’s Backlog Reduction Goals for Fiscal Years 2008, 2009, and 2010 can be obtained by contacting the FOIA Officer (see Section I(A) of this report) or electronically at:

<http://www.neh.gov/howeare/foia/nehfoiaBackLogReduction.pdf>

E. Concise descriptions of FOIA exemptions

The nine exemptions to the FOIA authorize federal agencies to withhold information covering:

- (1) classified national defense and foreign relations information;
- (2) internal agency rules and practices;
- (3) information that is prohibited from disclosure by another federal law;
- (4) trade secrets and other confidential business information;
- (5) inter-agency or intra-agency communications that are protected by legal privileges;
- (6) information involving matters of personal privacy;
- (7) records or information compiled for law enforcement purposes, to the extent that the production of those records
 - (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,
 - (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or
 - (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (8) information relating to the supervision of financial institutions; and
- (9) geological information on wells.

F. Additional Statistics

1. Ten Oldest Pending FOIA Requests

Calendar Year	2000	2001	2002	2003	2004	2005	2006	2007
Requests	0	0	0	0	0	July 1	Mar 1	Jan 9 Nov 16 Nov 27

°As of January 1, 2008, NEH only had five pending FOIA requests.

2. Consultations

a.) Number of Consultations Received, Processed, and Pending

Consultations Received From Other Agencies During FY07	Consultations Received From Other Agencies That Were Processed by NEH During FY07 (includes those received prior to FY07)	Consultations Received From Other Agencies That Were Pending at NEH as of October 1, 2007 (includes those received prior to FY07)
0	0	0

b.) Ten Oldest Pending Consultations Received From Other Agencies

Calendar Year	2000	2001	2002	2003	2004	2005	2006	2007
Consults Received	0	0	0	0	0	0	0	0

G. Attachment: Agency improvement plan

A paper copy of the NEH FOIA Improvement Plan can be obtained by contacting the FOIA Officer (see Section I(A) of this report) or electronically at:

<http://www.neh.gov/whoweare/foia/nehfoiaplan.pdf>.