II. How to Make a FOIA Request

Provide a brief description of the component's response-time ranges.

The legacy Immigration and Naturalization Service (INS) was decentralized. Legacy INS used a two-track system in its processing of requests (i.e., Track 1 – Simple requests - process in a brief time, 20 working days or less and Track 2 – Complex requests – require more than 20 working days to locate, review and prepare for disclosure). The overall average age for processing requests for the fiscal year was 45 days. Although legacy INS was not in compliance with the 20-day requirement, more than 58 percent of the field offices do meet the 20-day timeframe for responding to requests.

IV. Exemption 3 Statutes

A. List of Exemption 3 statutes relied on by component during reporting fiscal year.

Please answer by listing the information in the following chart format.

Statute/Rule	Type of Information Withheld	Case Citation
(List Exemption 3 statutes relied on.)	(Provide brief description of type of information withheld.)	(Cite court case that has upheld the statute. If not upheld, write "None.")
8 USC 1160(B)(6)	Information on Special Agricultural Workers	INS has not been challenged on this issue.
8 USC 1186A(C)(4)(c)	Admission Qualifications for Alien's Travel Control of Citizens and Aliens	Aguila-Cisneros v. INS, C.A.6 2001, 5 Fed. Apprx 415
8 USC 1304 (B)	Registration of Aliens	U.S. v. Ritter, C.A.9 (Cal.) 1985, 752 F2d 435
Rule 6 (e) of the Federal Rules of Criminal Procedures	Grand Jury Information	Aleman v. Shapiro, No. 85-3313 (DDC June 30, 1986)

V. Initial FOIA/PA Access Requests

A. Number of initial requests.

Total of the numbers in Lines 1 and 2, minus the number in Line 3, should equal the number in   Line 4. This should include all access requests, whether first-party or third-party.

> **1. Number of requests pending as of end of preceding fiscal year**
> 25,515
>
> **2. Number of requests received during current fiscal year**
> 144,559
>
> **3. Number of requests processed during current fiscal year**
> 144,748
> **4. Number of requests pending as of end of current fiscal year**
> 25,326
> > **(Enter this number also in Line VII.B.1.)**

B. Disposition of initial requests.

> **1. Number of total grants**   54,959
>
> **2. Number of partial grants**   50,755
>
> **3. Number of denials**   485
>
> > **a. number of times each FOIA exemption used (counting each exemption once per request)**
> >
> > > **(1) Exemption 1**   8
> > >
> > > **(2) Exemption 2**   3234
> > >
> > > **(3) Exemption 3**   166
> > >
> > > **(4) Exemption 4**   33
> > >
> > > **(5) Exemption 5**   11,933
> > >
> > > **(6) Exemption 6**   34,824
> > >
> > > **(7) Exemption 7(A)**   7,151
> > >
> > > **(8) Exemption 7(B)**   26
> > >
> > > **(9) Exemption 7(C)**   25,207
> > >
> > > **(10) Exemption 7(D)**   1,078
> > >
> > > **(11) Exemption 7(E)**   8,021
> > >
> > > **(12) Exemption 7(F)**   33

(13) Exemption 8 _____0_____

(14) Exemption 9 _____0_____

4. Other reasons for nondisclosure (total) __38,549____

    a. No records ___12,063_____

    b. Referrals __84___

    c. Request withdrawn __1,555__

    d. Fee-related reason ___924_____

    e. Records not reasonably described __9,453_____

    f. Not a proper FOIA request for some other reason __205____

    g. Not an agency record _1,520_____

    h. Duplicate request __9,457_____

    i. Other (specify)

        Unable to locate __2,836_____
        Old Records   __452_____

VI. Appeals of Initial Denials of FOIA/PA Requests

• This should include all access requests, whether first-party or third-party.

• Both large and small agencies should provide information in the format presented below.

• Agencies may additionally use chart format for breakdown by multiple agency components.

A. Numbers of appeals. (NOTE: Appeals recording for legacy INS started 3/1/03 due to the agency switch to the Department of Homeland Security. The electronic process for maintaining these statistics was not completed until July '03. Therefore, the final totals are low. Further, as per the Department of Justice, Office of Information and Privacy, they will record any statistics prior to 03/01/03.)

    1. Number of appeals received during fiscal year   <u>940</u>

    2. Number of appeals processed during fiscal year <u>140</u>

B. Disposition of appeals.

  1. Number completely upheld <u>1</u>

  2. Number partially reversed   <u>0</u>

  3. Number completely reversed <u>0</u>

    a. number of times each FOIA exemption used

    (counting each exemption once per appeal)

      (1) Exemption 1   <u>N/A</u>

      (2) Exemption 2   <u>N/A</u>

      (3) Exemption 3   <u>N/A</u>

      (4) Exemption 4   <u>N/A</u>

      (5) Exemption 5   <u>N/A</u>

      (6) Exemption 6   <u>N/A</u>

      (7) Exemption 7(A)   <u>N/A</u>

      (8) Exemption 7(B)   <u>N/A</u>

(9) Exemption 7(C)   <u>N/A</u>

(10) Exemption 7(D)   <u>N/A</u>

(11) Exemption 7(E)   <u>N/A</u>

(12) Exemption 7(F)   <u>N/A</u>

(13) Exemption 8   <u>N/A</u>

(14) Exemption 9   <u>N/A</u>

4. Other reasons for nondisclosure (total)   <u>139</u>

   a. no records   <u>1</u>

   b. referrals   <u>N/A</u>

   c. request withdrawn   <u>N/A</u>

   d. fee-related reason   <u>N/A</u>

   e. records not reasonably described   <u>N/A</u>

   f. not a proper FOIA request for some other reason   <u>N/A</u>

   g. not an agency record   N/A

   h. duplicate request   <u>N/A</u>

   i. other (specify)   <u>139</u>   (Remands - Cases returned to the original processing office for reprocessing<u>)</u>

VII. Compliance with Time Limits/Status of Pending Requests

Using "working days," count days from the time at which a request is "perfected."

Separately report each track of a multi-track system, as well as an "expedited processing" track. A component may report any other type of request at its option.

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

   1. **Simple requests (if multiple tracks used)**

      a. **Number of requests processed** __110,405__

      b. **Median number of days to process** __15__

   2. **Complex requests (specify for any and all tracks used)**

      a. **Number of requests processed** __34,349__

      b. **Median number of days to process** __39__

   3. **Requests accorded expedited processing**

      a. **Number of requests processed** __100__

      b. **Median number of days to process** __10__

B. **Status of pending requests.**

   Components using multiple tracks should provide numbers for each track, as well as totals.

   1. **Number of requests pending as of end of current fiscal year**
   Track 1 __13,929__
         (Enter this number from Line V.A.4.)
               Track 2 __11,397__

   2. **Median number of days that such requests were pending as of that date**
      Track 1 __40__
      Track 2 __76__

Examples 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.

If there were 6 pending cases aged 10, 20, 30, 50, 120, and 200 days from date of perfection to date of completion, the total number of requests completed would be 6 and the median age would be 40 days (the average of the 2 middle numbers).

VIII.   Comparisons with Previous Year(s)

      A.   Received Requests – FY '02 – 130,511, FY '03 – 144, 559 – 14,048 more cases received in
FY'03   (10% increase).

      B.   Processed Requests – FY '02 – 133,368, FY'03 – 144,748; 11,380 more
cases processed in FY'03

      C.   Median Processing – FY '02 – Track 1 – 40, Track 2 – 68; FY'03 –
Track 1 – 40, Track 2 – 76; Eight day increase for processing Track 2 cases
(i.e., 12% increase).

      D.   Other statistics significant to component _____ *
              Expedited Requests 3,985 (NOTE: The median age for processing expedited requests
              is 11 days.)
              Expedited Granted   100

      **E.   Other narrative statements describing component 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) Optional.**

          Legacy INS started maintaining its own backlog reduction plan
          after the changed in the administration – from Department of
          Justice (DOJ) to the Department of Homeland Security (DHS). (In
          the fall of 2002, Attorney General Ashcroft placed this
          responsibility on the individual agencies to establish and monitor
          their backlogs.) A service-wide backlog reduction goal of 25
          percent was targeted for FY'03. The goal however was not met
          because of the following factors:
              1. ten percent increase in requests while the staff
                 decreased by four percent;
              2. a hiring freeze was imposed and;
              3. the Centralization project was delayed pending the
                 reorganization from DOJ to DHS.

***All components are asked to specify here the number of requests for expedited
processing that were received, as well as the number granted.**

IX. Costs/FOIA Staffing

Components such as EOUSA, Tax, Civil, and OIP should include attorneys who handle FOIA litigation in court.

   A. Staffing levels.

   1. **Number of full-time FOIA personnel** ____246_____

   2. **Number of personnel with part-time or occasional FOIA duties (in total work-years)**
   _____0_____

   3. **Total number of personnel (in work-years)** _____246_____

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

   1. **FOIA processing (including appeals** _____$14,604,392__

   2. **Litigation-related activities (estimated**) _$82,116_
   (35 attorneys @ 1800 hours)

   3. **Total costs** $14,686,508__

   4. Comparison with previous year(s), including percentage of change (optional)

   In FY-02 legacy INS reported total costs of $12,256,282. Costs for FY' 03 totaled $14,686,508. This costs shows an increase of resources by $2,430,226 (i.e., a 20 percent increase). The increase is a result of additional hiring of contract workers.

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

   Additional funding is not needed at this time.

X.   Fees

Includes charges for search, review, document duplication, and any other direct cost permitted under agency regulations.

   A. Total amount of fees collected for processing requests _$85,993_____

   B. Percentage of total costs ___.05 %_____

          In addition to personnel costs, this may include estimates for such items as photocopying, postage, data-   processing services, and any items of overhead that are reasonably allocable to FOIA operations.
          ***Provide best estimate in accordance with supplemental annual report guidance (Attachment F). Also include such litigation-related activities as writing declarations, Vaughn Indexes, briefs, and letters, as well as and meetings, depositions, conferences, telephone calls, etc.*

Attachment F. Supplemental Guidance on Annual FOIA Reports

http://www.usdoj.gov/oip/foiapost/2001foiapost13.htm