

January 27, 2005

Richard L. Huff, Co-Director
Daniel J. Metcalfe, Co-Director
Office of Information and Privacy
U.S. Department of Justice
Washington, DC 20530

Dear Sirs:

Pursuant to the requirements set forth by Title 5, United States Code, Section 552(e), enclosed is a copy of the Annual Report on the administration of the Freedom of Information Act (FOIA) by the Department of Energy. The report will be made available on the World Wide Web through the FOIA Home Page of the Department.

This report does not include the Freedom of Information Act activities of the Federal Energy Regulatory Commission, which submits a separate report.

Sincerely,

Abel Lopez, Jr.
Director
FOIA/Privacy Act Group

Enclosure

**U.S. Department of Energy
2004 Annual Report**

I. Basic Information Regarding Report.

A. Abel Lopez, Director
FOIA/Privacy Act Group, ME-73
Office of the Executive Secretariat
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585
202-586-5955

Sandi Beatty, Information Specialist
FOIA/Privacy Act Group, ME-73
Office of the Executive Secretariat
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585
202-586-5955

- B. The World Wide Web address to obtain an electronic copy of the Freedom of Information Act (FOIA) report is www.ma.mbe.doe.gov/execsec/foia.htm. The report can then be accessed by clicking **FOIA Annual Reports**.
- C. A paper copy of the report can be obtained at the Headquarters Freedom of Information Public Reading Room located in the Forrestal Building, 1000 Independence Avenue, S.W., Washington, DC 20585, or by submitting a request to the FOIA/Privacy Act Group. The hours of the Reading Room at Headquarters are from 9:00 a.m. to 4:00 p.m. weekdays, except federal holidays.

II. How to Make a FOIA Request.

The Department of Energy (DOE) FOIA Home Page links to the FOIA Reference Guide, which provides instructions on how to make a FOIA request. A FOIA request also may be submitted electronically through the DOE FOIA Home Page or by facsimile at (202) 586-0575. The FOIA Home Page address is www.ma.mbe.doe.gov/execsec/foia.htm and the guide can be accessed by clicking on **Reference Guide**.

A. Requests may be submitted to:

Abel Lopez, Director
FOIA/Privacy Act Group
Office of the Executive Secretariat
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585
202-586-5955

- B. The response time to complete action on FOIA cases in 2004 ranged from 2 days to 4 years based on the complexity of the request, the need to conduct a classification review of documents that were identified as responsive, or the need to consult and coordinate with other federal agencies on the review of documents.
- C. A requester may not be granted records that are requested because (1) the documents are not in existence; or (2) the information requested is exempt from disclosure in accordance with the Privacy Act and the FOIA.

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

A. Agency-specific acronyms or other terms are as follows:

DOE-- Department of Energy.

Field Offices--DOE offices that are not located in the Washington metropolitan area.

B. Basic terms expressed in common terminology.

1. *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 FOIA, or any other FOIA determination such as a matter pertaining to fees.
2. *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.
3. *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.

4. **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 exempted under one or more of FOIA exemptions, or for some procedural reason (such as because no record is located in response to a FOIA request).
5. **Exemption 3 statute** -- separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection (b)(3).
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 that warrants prioritization of his or her request over other requests that were made earlier.
7. **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. (All requests for access to records, regardless of which law is cited by the requester, are included in this report.)
8. **Grant** -- an agency decision to disclose all records in full in response to a FOIA request.
9. **Initial request** -- a request to a federal agency for access to records under the FOIA.
10. **Median number** -- the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
11. **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 requester who has an urgent need for records may request expedited processing.
12. **Nondisclosure** -- an agency procedural reason for not disclosing records, such as “no records exist” or “not an agency record” or “request canceled.”

13. ***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 FOIA exemptions; or a decision to disclose some records in their entireties, but to withhold others in whole or in part.
14. ***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.
15. ***Segregability review*** -- the act of reviewing a document, removing portions containing information that cannot be released under FOIA exemption(s), and then releasing the edited document to the requester (See “Partial grant.”)
16. ***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.
17. ***Time limits*** -- the time period in the FOIA for an agency to respond to a FOIA request (ordinarily 20 working days from receipt of a proper FOIA request).

IV. **Exemption 3 Statutes.**

- A. The Exemption 3 statutes relied on by DOE during the current fiscal year and a brief description of type(s) of information withheld under each statute are, as follows:
 1. National Defense Authorization Act for FY 1997, 41 U.S.C. 253(b)(m). Agency withheld technical, management, and cost proposals submitted in response to the requirements of a solicitation for a competitive proposal.
 2. Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq. Agency withheld information that is classified as Restricted Data, Formerly Restricted Data, or Uncontrolled Classified Nuclear Information (UCNI).
 3. Procurement Integrity Act, 41 U.S.C. 423. Agency withheld source selection information.
- B. Statement of whether a court has upheld the use of each statute. If so, then cite example.
 1. Hornbostel vs. Department of Interior 305 F. Supp. 2d 21 (DDC 2003)
 2. No.
 3. No.

V. **Initial FOIA/PA Access Requests.**

A. Numbers of initial requests.

1. Number of requests pending as of end of preceding fiscal year	1013
2. Number of requests received during current fiscal year	2289
3. Number of requests processed during current fiscal year	2440
4. Number of requests pending as of end of current fiscal year	862

(Enter this number also in Line VII.B.I)

B. Disposition of initial requests.

1. Number of total grants	1590
2. Number of partial grants	258
3. Number of denials	59

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

(1) Exemption 1	10
(2) Exemption 2	30
(3) Exemption 3	22
(4) Exemption 4	75
(5) Exemption 5	57
(6) Exemption 6	112
(7) Exemption 7(A)	20
(8) Exemption 7(B)	8
(9) Exemption 7(C)	9
(10) Exemption 7(D)	2
(11) Exemption 7(E)	2
(12) Exemption 7(F)	1
(13) Exemption 8	0
(14) Exemption 9	0

4. Other reasons for nondisclosure (Total). 533

a. no responsive records	193
b. referred to other agency	31
c. withdrawn/cancelled	122
d. no agreement to pay fees	45
e. not reasonably described	29

5

f. not a proper FOIA request	30
g. not an agency record	20

h. duplicate request	34
i. other (specify) - Privacy Act exemptions	29

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

A. Number of appeals.	
1. Number of appeals received during fiscal year	32
2. Number of appeals processed during fiscal year	28
B. Disposition of appeals.	
1. Number completely upheld	4
2. Number partially reversed	4
3. Number completely reversed	0
a. Number of times each FOIA exemption used (counting each exemption once per appeal).	
(1) Exemption 1	0
(2) Exemption 2	1
(3) Exemption 3	2
(4) Exemption 4	1
(5) Exemption 5	2
(6) Exemption 6	2
(7) Exemption 7(A)	0
(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).	20
a. no responsive records	7
b. referred to other agency	0
c. withdrawn/cancelled	5
d. no agreement to pay fees	0
e. not reasonably described	0
f. not a proper FOIA request	2
g. not an agency record	0

h. duplicate request	0
i. other (specify) Search adequate 1: Remand: 5	6

VII. COMPLIANCE WITH TIME LIMITS/STATUS OF

PENDING REQUESTS

A. MEDIAN PROCESSING TIME FOR REQUESTS PROCESSED DURING THE YEAR

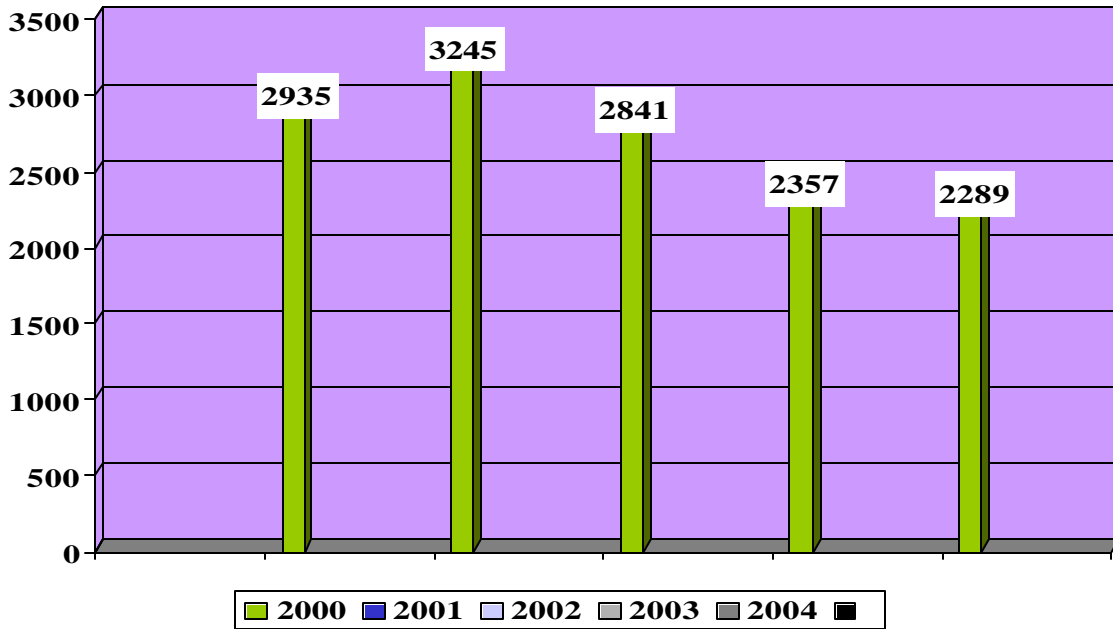
Office Name	Simple Requests		Complex Requests		Requests Accorded Expedited Processing	
	Number Of Requests Processed	Median Number Of Days To Process	Number Of Requests Processed	Median Number Of Days To Process	Number Of Requests Processed	Median Number Of Days To Process
Rocky Flats Field Office	0	0	16	916	0	0
Golden Field Office	21	14	2	20.5	0	0
Southwestern Power Administration	5	10	0	0	0	0
Carlsbad Field Office	0	0	10	35	0	0
Western Area Power Administration	35	10	2	20	0	0
Oak Ridge Operations Office	1012	158	139	257	30	7
Yucca Mountain Office of Repository Development	42	15	29	60	0	0
Bonneville Power Administration	54	12	0	0	0	0
Richland Operations Office	0	0	115	18	0	0
Southeastern Power Administration	3	10	0	0	0	0
Idaho Operations Office	45	11	34	41	0	0
Office of Scientific Technology Information	1	1	0	0	0	0
Savannah River Operations Office	65	61	0	0	0	0
Chicago Operations Office	0	0	38	21	0	0
Strategic Petroleum Reserve Project	13	10	0	0	0	0
NNSA Service Center, Albuquerque	118	30	99	58	0	0
Nat'l Energy Technology Library, Morgantown/Pitts.	9	20	9	25	0	0
Ohio Field Office	89	152	0	0	10	5
Headquarters	395	81	0	0	0	0
Totals	1907		493		40	

B. STATUS OF PENDING REQUESTS

Office Name	NUMBER OF REQUESTS PENDING AS OF END OF FISCAL YEAR	MEDIAN NUMBER OF DAYS PENDING
Rocky Flats Field Office	8	944
Golden Field Office	0	0
Southwestern Power Administration	0	0
Carlsbad Field Office	7	25
Western Area Power Administration	0	0
Oak Ridge Operations Office	480	226
Yucca Mountain, Office of Repository Development	15	8
Bonneville Power Administration	2	29
Richland Operations Office	34	10
Southeastern Power Administration	0	0
Idaho Operations Office	2	2
Office of Scientific Technology Information	0	0
Savannah River Operations Office	8	143
Chicago Operations Office	6	7
Strategic Petroleum Reserve Project	0	0
NNSA Service Center, Albuquerque	82	25
Nat'l Energy Technology Laboratory, Morgantown/Pittsburg	2	5
Ohio Field Office	30	25
Headquarters	186	214
Total	862	

VIII. Comparisons with Previous Year(s).

Five Year Comparison of Previous Years
2000-2001-2002-2003-2004
Requests Received



D. Other statistics significant to components:

The agency accorded expedited processing to 40 requests.

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):

2004 FOIA Accomplishments

Reduced Headquarters FOIA pending cases by 9% from 217 to 198.

Placed more than 47,000 pages on the DOE Headquarters FOIA web page in accordance with E-FOIA requirements.

Conducted FOIA and Privacy Act training programs for DOE and contractor personnel.

Convened a FOIA and Privacy Act training conference for Field FOIA officers. The conference participants also included other DOE and contractor personnel with FOIA responsibilities and representatives from four other federal agencies.

Conducted special FOIA training sessions for two Headquarters DOE program offices and the Office of Legacy Management on the relationship between FOIA and records management requirements.

IX. Costs/FOIA Staffing.

A. Staffing levels.

1.	Number of full-time FOIA personnel	25
2.	Number of personnel with part-time or occasional FOIA duties (in total work years)	46
3.	Total number of personnel (in work-years)	71

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

1.	FOIA processing (including appeals)	3,297,469.00
2.	Litigation-related activities (estimated)	189,035.00
3.	Total costs	3,486,504.00

X. Fees.

A.	Total amount of fees collected by agency for processing requests.	\$57,026.98
B.	Percentage of total costs.	2%

XI. FOIA Regulations (including Fee Schedule).

To obtain the DOE FOIA regulation, go to www.ma.mbe.doe.gov/execsec/foia.htm and click on **Federal Register and look for U.S. Code and C.F.R.**