

**THE SECRETARY'S ANNUAL  
FREEDOM OF INFORMATION ACT  
REPORT  
FY2006**



**Regulatory Information Management Services  
Office of Management**

**A Report to the  
Attorney General of the United States  
for the period  
October 1, 2005 – September 30, 2006**

U.S. Department of Education  
FREEDOM OF INFORMATION ACT ANNUAL REPORT  
FOR FISCAL YEAR 2006

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# U.S. Department of Education

## I. Basic Information Regarding Report

- a. The person to contact regarding this report or to obtain a paper copy of the report is:  
Angela Arrington  
Chief, FOIA Office  
Regulatory Information Management Services  
Office of Management  
United States Department of Education  
400 Maryland Ave, SW, PCP 9<sup>th</sup> Floor  
Washington, DC 20202-4700
- b. The Internet address for this report on the World Wide Web (www) is:  
<http://www.ed.gov/about/reports/annual/foia/index.html>
- c. This report provides data for the entire U.S. Department of Education (ED). A breakout by individual processing components is provided in Appendix A.

## II. How to Make a FOIA or Privacy Act Request

- a. Information on how to make a FOIA Request and on how to make a Privacy Act request is available from the ED FOIA website: <http://www.ed.gov/foia>
- b. In general:
  1. Make requests in writing, either handwritten or typed or electronic. Only use personal resources to make FOIA or Privacy Act requests and appeals, including inquiries of the status of a request or appeal.
  2. Be as specific as possible with regard to names, dates, places, events, subjects, etc. If known, include any file designations or descriptions for the records wanted. It is not necessary to give a requested record's exact name or title, but the more specific information provided about the desired records or types of records, the more likely the Department of Education will be able to locate them.
  3. Include a return mailing address, daytime phone number, and email address (if available).
  4. If you want your request to be made under the Privacy Act as well, include a statement signed under penalty of perjury stating that you are the person who you claim to be.

5. Send requests to the following mailing address:  
 U.S. Department of Education  
 Office of Management  
 Regulatory Information Management Services  
 400 Maryland Avenue, SW, PCP, 9th Floor  
 Washington, DC 20202-4700  
 Attn: FOIA Public Liaison
  6. Requests may also be faxed to: (202) 245-6623
  7. Requests may also be emailed to: [EDFOIAManager@ed.gov](mailto:EDFOIAManager@ed.gov).
  8. To avoid delay, be sure to display prominently on the envelope, fax cover sheet, or email subject line, "FOIA Request" or "Privacy Act Request."
- c. Responsive records are released in their entirety unless release is precluded on the basis of nine statutory exemptions specified in the FOIA. The nine exemptions are:
1. Properly classified as national defense and foreign relations information; (b)(1).
  2. Related solely to internal personnel rules and practices; (b)(2).
  3. Prohibited from disclosure by another federal law; (b)(3).
  4. Concerning trade secrets and other confidential business information; (b)(4).
  5. Protected by legal privilege inter-agency or intra-agency communications; (b)(5).
  6. Matters involving personal privacy; (b)(6).
  7. Compiled for law enforcement purposes, to the extent that the production of those records; (b)(7):
    - 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. Relate to the supervision of financial institutions; (b)(8), and
  9. Geological information on wells; (b)(9).
- d. Names, Addresses, and Contact Numbers for ED FOIA Officers and FOIA Liaisons. FOIA contacts for program office and regional FOIA Coordinators is available on the Internet in the ED FOIA section of [www.ed.gov](http://www.ed.gov).

**FOIA Requester Service Center**  
 U.S. Department of Education  
 400 Maryland Avenue, SW  
 Washington, D.C. 20202  
 (202) 245-6651

**Chief FOIA Officer**  
 Michell Clark  
 (202) 401-5848

**FOIA Public Liaisons**  
 Angela Arrington  
 Maria-Teresa Cueva  
 Linda Darby

**FOIA Appeals Coordinator:** Lee Eiden

**Privacy Act Officer:** Lee Eiden

### III. Definition of Terms:

a. Agency-specific acronyms or other terms:

1. **The Department**

U. S. Department of Education, whose mission is to ensure equal access to education and promote educational excellence throughout the nation.

2. **Principal Offices (POs)**

In FY2006, the ED had the following program offices and/or processing designations:

- CAM Contracts and Acquisitions Management (a component of OCFO)
- FSA Federal Student Aid
- IES Institute of Education Sciences
- Multiple Multiple Offices (may have responses to a single request)
- OCFO Office of the Chief Financial Officer
- OCIO Office of the Chief Information Officer
- OCO Office of Communications and Outreach
- OCR Office for Civil Rights (Headquarters)
  - OCR Boston Office
  - OCR New York Office
  - OCR Philadelphia Office
  - OCR Atlanta Office
  - OCR Chicago Office
  - OCR Dallas Office
  - OCR Kansas City Office
  - OCR Denver Office
  - OCR San Francisco Office
  - OCR Seattle Office
  - OCR District of Columbia Office
- ODS Office of the Deputy Secretary
- OELA Office of English Language Acquisition
- OESE Office of Elementary and Secondary Education
- OGC Office of the General Counsel
- OIG Office of Inspector General
- OII Office of Innovation and Improvement
- OLCA Office of Legislation and Congressional Affairs
- OM Office of Management
- OPE Office of Postsecondary Education
- OPEPD Office of Planning, Evaluation, and Policy Development
- OS Office of the Secretary
- OSDFS Office of Safe and Drug-Free Schools
- OSERS Office of Special Education and Rehabilitative Services
- OUS Office of the Under Secretary
- OVAE Office of Vocational and Adult Education
- RIMS Regulatory Information Management Services (a component of OM)

b. Basic Terms Used in This Report and in FOIA Training:

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 Freedom of Information Act, or any other FOIA determination such as a matter pertaining to fees.

2. **Appeal Disposition:**

a. **Appeal Upheld**

The basis cited by the requester for an appeal is upheld; meaning, the initial release determination of the agency is overturned.

b. **Appeal Partially Upheld**

The basis cited by the requester for an appeal is partially upheld; meaning, the initial release determination of the agency is partially overturned.

c. **Appeal Reversed**

The basis cited by the requester for an appeal is denied; meaning, the initial release determination of the agency is upheld.

3. **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.

4. **Backlog**

Requests that are actively in process and the requester has not received all responsive documents. Cases are closed once a final release of documents has been made, whether or not fees remain to be collected.

5. **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.

6. **Day**

Working day.

7. **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).

a. **No Records**

After a thorough search of agency records, no records were found to be responsive to the FOIA request or within the scope of the FOIA request.

7. **Denial** (*continued*)

b. **Fee Related**

Record/request was denied because there were fee issues. For example, the requester was not willing to pay assessable FOIA processing fees or the requester had delinquent fees from previous FOIA requests.

c. **Not an Agency Record**

Documents requested in a FOIA request that are not maintained, or possibly originated, by the ED or its components.

8. **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).

9. **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.

10. **Fees**

An agency will charge processing fees based on how the documents will be used and not on the type of FOIA requester. All fees allowed will be charged to the first requester, when there are multiple requesters for the same documents, and, unless waived, all subsequent requesters will be charged duplication and special services fees only. If a fee is not allowed by statute or regulation to be charged to the first requester, the fee cannot be passed on to the next subsequent requester.

11. **First-In-First-Out processing (FIFO) Policy**

An agency will process requests in the order in which requests are received consistent with a multi-track processing system and reasonable allocation of processing resources available for each track and the FOIA program of the agency.

12. **FOIA/PA Request**

A FOIA request is generally a request or 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.)

13. **Glomar Response**

A glomar response neither confirms nor denies the existence or non-existence of responsive records to a request in order to protect law enforcement, privacy, or other appropriate interests.

14. **Initial Denial Authority**  
Agency official who is delegated the authority to make release determinations of documents and information contained in documents requested under the FOIA on behalf of the agency.
15. **Initial Request**  
A request to a federal agency for access to records under the Freedom of Information Act.
16. **Median Number**  
The middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
17. **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 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.
18. **Partial Release**  
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, in a multiple record response, a decision to disclose some records in their entireties but to withhold others in whole or in part. This sometimes referred to as a "partial denial" or "partial grant."
19. **Perfect Request**  
A FOIA request for records that is submitted using personal resources, 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.
20. **Perjury Statement**  
A signed statement executed under the penalty of law, usually associated with a request for the personal records of the requester, attesting that they are the individual who they say they are.
21. **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 is deemed fully processed.
22. **Proper Request**  
A request that fits the definition of a FOIA request: reasonably describes the agency records being sought and cites a willingness to pay assessable fees or justifies the granting of a fee waiver. Proper requests do not use federal government resources in making the request – federal government requests for agency documents for official purposes are not FOIA requests.



**23. Reasonably Described**

A request is reasonably described if it enables a professional agency employee familiar with the subject area to locate the record with a reasonable amount of effort. An appeal is reasonably described if it adequately describes the action taken by the agency regarding the request and the basis on why the action is not in compliance with the statute or agency regulation.

**24. Referral**

Transferring a FOIA request and/or document(s) that are under another agency’s purview to another entity for processing. This also includes redirecting a requester to the appropriate agency instead of referring the request.

**25. Release**

An agency decision to disclose all records in full in response to a FOIA request. This sometimes is referred to as a “grant.”

**26. Remanded**

A request that is returned to the initial denial authority for reconsideration of their release determination and further processing.

**27. 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.

**28. Time Limits**

Once an agency properly receives a perfected FOIA request, it has ordinarily 20 working days in which to make a determination on the request. Agencies are not necessarily required to release the records within the statutory time limit, but access to releasable records will be granted promptly thereafter following the first-in-first-out processing policy and reasonable allocation of available FOIA program resources.

**IV. ED Exemption b(3) statutes applied by ED components throughout FY 2006:**

STATUTE	TYPE OF INFORMATION	CASE CITATION
41 U.S.C. 253b(m)	Prohibition on Release of Contractor Proposals	Hornbostel v. DOI, 305 F. Supp. 2d 21 (D.D.C. 2003)
20 U.S.C. 1232g	Family Educational Rights & Privacy Act (FERPA)	None

## V. Initial FOIA/PA Access Requests:

### a. Number of initial requests:

CHARACTERISTIC		NUMBER
1	Number of requests pending at close of FY 2005	585 <sup>1</sup>
2	Number of requests received during FY 2006	1,858
3	Number of requests processed during FY 2006	1,904
4	<b>Number of requests pending at close of FY 2006</b>	<b>539</b>

### b. Disposition of initial requests:

CHARACTERISTIC		NUMBER
1	Number receiving a full release	795
2	Number receiving a partial release	722
3	Number receiving a full denial	44
4	Number of times each FOIA exemption was used	
	Exemption 1	0
	Exemption 2	423
	Exemption 3	10
	Exemption 4	233
	Exemption 5	82
	Exemption 6	462
	Exemption 7	
	Exemption (7)(A)	82
	Exemption (7)(B)	0
	Exemption (7)(C)	216
	Exemption (7)(D)	0
	Exemption (7)(E)	6
	Exemption (7)(F)	0
	Exemption 8	0
	Exemption 9	0
5	Other reasons for non-disclosure	343
	a. No records	151
	b. Duplicate request	23
	c. Fee related	10
	d. Request withdrawn	120
	e. Not reasonably described	13
	f. Not a proper request	15
	g. Not an agency record	5
	h. Referred to appropriate agency	6
	i. Other reasons for non-disclosure	0

<sup>1</sup> Reported in error as 545 in FY 2005 Annual Report. Due to reorganization of various offices, data was not transferred accurately to new offices with FOIA processing accountability. This report corrects that error.

## VI. Appeals of Release Determinations of FOIA/PA Requests:

### a. Number of Appeals of Release Determinations and Outcomes:

1. Number of appeals received during FY 2006: **18**
2. Number of appeals processed during FY 2006: **29**

### b. Disposition of Appeals:

CHARACTERISTIC		NUMBER
1	Appeal Upheld (agency release determination reversed)	<b>3</b>
2	Appeal Partially Upheld (agency release determination partially reversed)	<b>8</b>
3	Appeal Denied (agency release determination upheld)	<b>13</b>
4	Number of times each FOIA exemption was used	
	Exemption 1	0
	Exemption 2	3
	Exemption 3	2
	Exemption 4	0
	Exemption 5	8
	Exemption 6	7
	Exemption 7	
	Exemption (7)(A)	6
	Exemption (7)(B)	0
	Exemption (7)(C)	10
	Exemption (7)(D)	1
	Exemption (7)(E)	0
	Exemption (7)(F)	0
	Exemption 8	0
	Exemption 9	0
5	Other reasons for disposition of appeals:	<b>5</b>
	a. No records	0
	b. Duplicate request	0
	c. Fee related	0
	d. Request withdrawn	3
	e. Not reasonably described	1
	f. Not a proper request	1
	g. Not an agency record	0
	h. Referred to appropriate agency	0
	i. Other reasons for non-disclosure	0

## VII. Departmental compliance with Time Limits/Status of Pending FOIA/PA Requests:

### a. Median Processing Time for Requests Processed During FY 2006:

1. Simple requests:
  - a. Number of requests processed: 1701
  - b. Median number of days to process: *(see Appendix A, Chart 1d)*
2. Complex requests:
  - a. Number of requests processed: 188
  - b. Median number of days to process: *(see Appendix A, Chart 1d)*
3. Expedited requests:
  - a. Number of requests processed: 15
  - b. Median number of days to process: *(see Appendix A, Chart 1d)*

### b. Status of Pending FOIA/PA Requests:

1. Number of requests pending at end of FY 2006: 539
2. Median number of days pending at end of FY 2006: *(see Appendix A, Chart 1e)*

## VIII. Comparisons with Previous Years

### a. Annual workload, staffing levels, and estimated processing cost comparisons:

CHARACTERISTIC	FY 2003	FY 2004	FY 2005	FY 2006	Percentage change (FY 2005 to FY 2006)
Requests Received + FY carryover	2,054	2,430	2,764	<b>2,443</b>	<b>11.6%</b> decrease
Requests Processed	1,840	2,082	2,219	<b>1,904</b>	<b>14.2%</b> decrease
Expedited Requests Processed	76	74	16	<b>15</b>	<b>6.3%</b> decrease
End of Year Pending Requests	198	348	585	<b>539</b>	<b>7.9%</b> decrease
Appeals Received	24	25	40	<b>18</b>	<b>55.0%</b> decrease
Appeals Processed	12	59	39	<b>29</b>	<b>25.6%</b> decrease
End of Year Pending Appeals	67	33	34	<b>23</b>	<b>32.4%</b> decrease
Staffing Levels (full time)	1.0	4.0	4.0	<b>21.8</b>	<b>445%</b> increase <sup>1</sup>
Staffing Levels (part time)	5.9	6.7	6.1	<b>5.2</b>	<b>14.8%</b> decrease
Estimated Processing Costs (Total)	\$489,339	\$809,158	\$1,063,860	<b>\$2,502,689</b>	<b>135.2%</b> <sup>2</sup> increase

<sup>1</sup> Staffing levels reflect total of full-time federal and contract employees. Previous years reported only federal staffing levels.

<sup>2</sup> Processing costs include total of full-time federal salary and benefits and contract staff costs. Previous years reported only federal costs.

- b. Other statistics significant to the Department:
1. Median response times for simple requests ranged from 15 to 478 days; complex requests ranged from 13 to 279 days; and the 15 expedited requests were processed in 1 to 15 days.
  2. Brief description of the Department's release actions:
    - a. **98%** -- Requests received a response ranging from a full release to no records. The most frequent reasons why requests were not processed is that no record responsive to the request could be located or the requester withdrew their request.
      - i. **42%** -- Requests received a full release.
      - ii. **38%** -- Request received a partial release.
      - iii. **45%** -- Requests received a response other than a full or partial release.
    - b. **2%** -- Requests received a full denial
    - c. Four (4) of nine (9) FOIA Exemptions were invoked most often than other exemptions, usually in combination with other exemptions.
      - i. **60%** of releases contained **Exemption b(6)** information.
      - ii. **55%** of releases contained **Exemption b(2)** information.
      - iii. **40%** of releases contained **Exemption b(7)** information.
      - iv. **30%** of releases contained **Exemption b(4)** information.
    - d. The Department's processing action was **upheld in 45%** of the processed appeals, **partially upheld in 27%** of appeals, and **overturned in 10%** of appeals. The remaining appeals were not processed for other reasons; most common was the appellant withdrew their appeal.
  3. Other narrative statements describing Department **Fiscal Year 2006 efforts to improve timeliness** of FOIA responses:
    - a. A dedicated electronic mail address for requesters seeking to make a FOIA request or inquire as to the status of their FOIA request aids FOIA information dissemination.
    - b. Enhancements to the FOIA website provide an interactive FOIA request form to help requesters describe the documents sought and assist in the formulation of their FOIA request.
    - c. The Department initiated efforts to expand the use of an electronic FOIA processing program for each of the Department's twelve (12) Office for Civil Rights Field Offices. During FY 2006, two (2) offices were initially pilot tested and then incorporated fully. The Department is on track to include the remaining field offices into this networked system before the end of Fiscal Year 2007. Using a single processing system will enhance cooperative FOIA handling across the Department and permit the development of more comparable and timely FOIA statistics. The electronic processing will also enhance more timely handling.

- d. Use of the electronic FOIA processing program resulted in the assignment of RIMS as an action office in all FOIA cases where the responsive office has completed all processing actions within its control. This change strengthens the management of the multi-track processing system, management of the Department's backlog, and accurately reflects the active FOIA workload in the various program offices. Creation of the RIMS action office for processing did not occur until late in the fiscal year and, therefore, the data for RIMS in this annual report reflects approximately 2 weeks of processing data instead of 12 months.
- e. In compliance with Executive Order 13392, "Improving Agency Disclosure of Information," during FY2006, the Department appointed a Chief FOIA Officer, FOIA Public Liaisons, established a *FOIA Requester Service Center*, and developed and implemented a FOIA Improvement Plan with action objectives continuing into FY2008. Additional information related to the FOIA Improvement Plan is provided in Section XII.

**IX. Costs/FOIA Staffing:**

- a. FOIA/PA Staffing Level (in work years):
  - i. Number of full-time FOIA staff (federal and contractor): **21.8**
  - ii. Number of staff with part-time or occasional FOIA duties: **5.2**
  - iii. Total number of staff: **27.0**
- b. ED FOIA/PA Processing Costs:
  - i. Processing costs including appeals: **\$2,502,689**
  - ii. Litigation-related activities: **\$ 0**
  - iii. Total reported costs: **\$2,502,689**

**X. Fees:**

- a. Total amount of fees collected: **\$22,728**
- b. Percentage of total costs: **0.91%**

**XI. ED FOIA/PA Implementing Regulations:**

The Department of Education FOIA Implementing Regulation is codified at 6 CFR Part 5 and can be found at 68 Fed. Reg. 4056 (January 27, 2003) and at: <http://www.ed.gov/foia>.

## **XII. Report on Executive Order 13392 Implementation** *(June 2006 – January 2007):*

On December 14, 2005, the President issued Executive Order 13392, entitled “Improving Agency Disclosure of Information,” which established a citizen-centered and results-oriented approach to administration of the FOIA. 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 the annual FOIA Report contains the Department of Education’s description of its progress and highlights in implementing the milestones and goals of the Department’s FOIA Improvement Plan. The reporting period for Section XII (only) includes progress made through January 2007; the reporting period for all other sections and appendices of the report is for Fiscal Year 2006.

The Department’s FOIA program is, primarily, a centralized program with the FOIA Requester Service Center (located within the Regulatory Information Management Services of the Office of Management) providing centralized oversight and having overall responsibility. This office has full time staff dedicated to this work. All other Principal Offices and relevant components have staff with part-time or collateral duty FOIA responsibilities. Therefore, the Department has a single coordinated “FOIA Improvement Plan.” The Department initiated goals for eight (8) areas of improvement as outlined in the Department’s “FOIA Improvement Plan,” which is available in Appendix B of this report and also on the Department’s FOIA section of the website: <http://www.ed.gov/policy/gen/leg/foia/foiatoc.html>

### **Department of Education Improvement Plan Progress and Highlights:**

- A. Description of supplementation/modification of agency improvement plan:  
The Department published its FOIA Improvement Plan on June 14, 2006. The plan was revised to include additional goals and milestones for backlog reduction and elimination. The revised plan was published on August 1, 2006.
- B. Implementation of the plan, including performance in meeting milestones, with respect to each improvement area:
- I. Affirmative Disclosure Improvements**  
The Department did not report any milestones for this reporting period. In support of the goal, the Department has already:
- Drafted a Standard Operating Procedure for FOIA processors.
  - Enhanced the electronic FOIA processing training for identifying status of a request, conducting searches for previously released relevant documents, and conducting an electronic review of documents.

## **II. Proactive Disclosure Improvements**

The Department did not report any milestones for this reporting period. In support of the goal, the Department has already:

- Identified and posted to the FOIA Reading Room released documents responsive to multiple requests.
- Re-emphasized the Rule-of-Three to identify requests subject to posting to the FOIA Reading Room and to identify types of documents likely to receive multiple requests.
- Established a Rule-of-News guideline for preparing pre-FOIA-request releasable documents for posting to the website and/or making quickly available once a request(s) is received.

## **III. FOIA Website Improvements**

The Department met the milestone for Fiscal Year 2006; updating the FOIA website to identify and provide contact information for the Chief FOIA Officer, the public FOIA Liaisons, and the newly established *FOIA Requester Service Center*. Additional milestones occur after this reporting period.

## **IV. Electronic FOIA Improvements**

The Department met the milestone for Fiscal Year 2006; updating and creating standardized agency response letter formats. In support of the goal and additional milestones, the Department has already:

- Developed training points on use of the electronic FOIA processing program to increase effectiveness of processing and accountability for processing actions.
- Expanded the number of releases electronically transmitted through training of processors and communicating with requesters the format release options available to them.

## **V. Multi-Track Processing Improvements**

The Department met the goal and milestones established in the FOIA Improvement Plan for this improvement area 6 months in advance of the published completion date. A multi-track processing system was created and implemented before the start of Fiscal Year 2007. Specifically:

- Developed the Simple/Routine and Complex processing tracks consistent with the policy of First-In-First-Out for each track.
- Developed the Expedited processing track consistent, whenever possible, with the policy of First-In-First-Out.

## **VI. Backlog Reduction/Elimination Improvements**

The Department met the Fiscal Year 2006 milestones associated with this improvement area. As the FOIA Improvement Plan outlined, the Department implemented a schedule of monthly, quarterly, and semi-annual meetings to review case workload and resource allocation, processing roadblocks and solutions, and identify adjustments to policies or guidance. All meetings have been conducted on time. The Department also met the Fiscal Year 2006



milestone to develop and implement a process to eliminate the 10-oldest FOIA requests of the Department. The Department's goal to reduce a backlog benchmark of 480, established in June 2006, by 10% was significantly exceeded: The 480 backlog was reduced by 48%.

## **VII. Implementation of Improvement Ideas from Field Office Staff**

The Department met all Fiscal Year milestones associated with this improvement area. Specifically, completed a pilot program and implemented an electronic FOIA processing program at the OCR San Francisco Field Office and the Philadelphia Field Office. In further support of the goal, the Department has already completed training and implementation of electronic FOIA processing in three additional regional offices.

## **VIII. Training and Guidance Improvements**

The Department met all Fiscal Year 2006 milestones for this improvement area. Specifically, wrote and issued a "FOIA Standard Operation Procedure" manual for training and outreach, and conducted the first quarterly ED FOIA Coordinator Meeting. In further support of this goal, the Department has also conducted ahead of schedule a review of all FOIA and Privacy Act directives and guidance and has initiated the process for revisions. In addition, a significant revision of the Department's FOIA regulations has been drafted and is undergoing internal review.

### **C. Deficiencies in meeting plan milestones for Backlog Reduction/Elimination Improvement Area:**

The goal to close the 10-oldest requests (as of October 2006) by January 2007 was not met. Resources were reallocated to address other unplanned FOIA priorities and workload. Workload has been adjusted and the completion target date has been revised to March 2007.

### **D. Additional narrative statements regarding other executive order-related activities:** None.

### **E. Concise descriptions of FOIA exemptions:** Refer to section II(c) of this report.

### **F. Additional Statistics:**

1. Time range of requests pending: December 11, 2003, to January 31, 2007.
2. Time range of consultations pending with other agencies: Not applicable.

### **G. The Agency FOIA Improvement Plan is provided in Attachment B to this report.**

## APPENDIX A . ED Component Charts

### 1. ED Component FOIA/PA Statistical Charts:

#### a. Number of Initial Requests:

FOIA/PA Component Offices		Pending End of FY 2005	Received FY 2006	Processed FY 2006	Pending End of FY 2006
<b>Department Totals</b>		<b>585</b>	<b>1,858</b>	<b>1,904</b>	<b>539</b>
<b>ED Headquarters Offices</b>	CAM (OCFO)	29	1	20	<b>10</b>
	FSA	127	194	260	<b>61</b>
	IES	15	41	45	<b>11</b>
	Multiple Offices	68	86	107	<b>47</b>
	OCFO	2	39	17	<b>24</b>
	OCIO	4	12	15	<b>1</b>
	OCO	0	1	1	<b>0</b>
	OCR	21	129	128	<b>22</b>
	ODS	1	1	1	<b>1</b>
	OELA	8	11	12	<b>7</b>
	OESE	59	140	141	<b>58</b>
	OGC	13	5	8	<b>10</b>
	OIG	10	45	51	<b>4</b>
	OII	24	57	44	<b>37</b>
	OLCA	1	1	1	<b>1</b>
	OM	3	36	29	<b>10</b>
	OPE	25	78	82	<b>21</b>
	OPEPD	0	0	0	<b>0</b>
	OS	1	5	3	<b>3</b>
	OSDFS	49	70	63	<b>56</b>
OSERS	21	74	90	<b>5</b>	
OUS	2	2	1	<b>3</b>	
OVAE	4	6	10	<b>0</b>	
RIMS (OM)	24	68	5	<b>87</b>	
<b>TOTAL FOIA HQ Offices</b>		<b>511</b>	<b>1,102</b>	<b>1,134</b>	<b>479</b>
<b>OCR Field Offices</b>	OCR Boston	6	101	103	<b>4</b>
	OCR New York	1	99	95	<b>5</b>
	OCR Philadelphia	3	64	46	<b>21</b>
	OCR Atlanta	0	58	58	<b>0</b>
	OCR Chicago	9	98	104	<b>3</b>
	OCR Dallas	12	63	70	<b>5</b>
	OCR Kansas City	2	57	47	<b>12</b>
	OCR Denver	1	36	36	<b>1</b>
	OCR San Francisco	37	67	95	<b>9</b>
	OCR Seattle	3	92	95	<b>0</b>
	OCR District of Columbia	0	21	21	<b>0</b>
	<b>TOTAL OCR Field Offices</b>		<b>74</b>	<b>756</b>	<b>770</b>

#### b. Disposition of FY 2006 Initial Processed Requests:

FOIA/PA Component Offices		Full Release	Partial Release	Denied	No Records	Duplicate Request	Fee Related	Request Withdrawn	Not Reasonably Described	Not a Proper Request	Not an Agency Record	Referred to Appropriate Agency	Other non-processing Reason
<b>ED TOTAL (1904)</b>		<b>795</b>	<b>722</b>	<b>44</b>	<b>151</b>	<b>23</b>	<b>10</b>	<b>120</b>	<b>13</b>	<b>15</b>	<b>5</b>	<b>6</b>	<b>0</b>
ED Headquarters Offices	CAM	4	12	0	3	0	0	1	0	0	0	0	0
	FSA	136	71	0	15	4	2	14	6	11	0	1	0
	IES	4	35	0	2	1	0	2	0	0	0	1	0
	Multiple Offices*	24	59	2	14	1	1	5	0	1	0	0	0
	OCFO	2	6	0	7	1	0	1	0	0	0	0	0
	OCIO	7	5	0	0	0	0	1	1	1	0	0	0
	OCO	0	0	0	0	0	0	1	0	0	0	0	0
	OCR	26	60	7	18	2	3	12	0	0	0	0	0
	ODS	0	1	0	0	0	0	0	0	0	0	0	0
	OELA	1	5	0	4	2	0	0	0	0	0	0	0
	OESE	23	82	0	15	4	0	16	0	0	0	1	0
	OGC	3	0	0	5	0	0	0	0	0	0	0	0
	OIG	9	18	10	8	0	0	6	0	0	0	0	0
	OII	2	36	0	5	1	0	0	0	0	0	0	0
	OLCA	1	0	0	0	0	0	0	0	0	0	0	0
	OM	17	4	0	4	0	2	2	0	0	0	0	0
	OPE	10	59	0	7	1	0	4	0	0	1	0	0
	OPEPD	0	0	0	0	0	0	0	0	0	0	0	0
	OS	0	1	0	1	0	0	1	0	0	0	0	0
	OSDFS	1	39	1	3	2	2	13	0	0	0	2	0
	OSERS	16	56	0	7	2	0	8	1	0	0	0	0
OUS	0	0	0	1	0	0	0	0	0	0	0	0	
OVAE	2	4	0	3	0	0	1	0	0	0	0	0	
RIMS	3	0	0	1	0	0	1	0	0	0	0	0	
<b>Total Disposition: (1134)</b>		<b>291</b>	<b>553</b>	<b>20</b>	<b>123</b>	<b>21</b>	<b>10</b>	<b>89</b>	<b>8</b>	<b>13</b>	<b>1</b>	<b>5</b>	<b>0</b>
OCR Field Offices	OCR Boston	85	15	0	0	0	0	0	2	0	1	0	0
	OCR New York	62	28	4	1	0	0	0	0	0	0	0	0
	OCR Philadelphia	38	3	2	0	0	0	3	0	0	0	0	0
	OCR Atlanta	53	0	1	3	0	0	1	0	0	0	0	0
	OCR Chicago	58	25	5	12	0	0	4	0	0	0	0	0
	OCR Dallas	30	30	0	4	0	0	3	0	1	2	0	0
	OCR Kansas City	35	1	5	0	0	0	3	2	0	1	0	0
	OCR Denver	13	16	2	2	0	0	1	1	1	0	0	0
	OCR San Francisco	56	19	3	2	2	0	12	0	0	0	1	0
	OCR Seattle	59	29	0	4	0	0	3	0	0	0	0	0
	OCR DC	15	3	2	0	0	0	1	0	0	0	0	0
<b>Total Disposition: (770)</b>		<b>504</b>	<b>169</b>	<b>24</b>	<b>28</b>	<b>2</b>	<b>0</b>	<b>31</b>	<b>5</b>	<b>2</b>	<b>4</b>	<b>1</b>	<b>0</b>

c. Number and rate of FOIA exemption use:

Component		Exemption											
Offices		1	2	3	4	5	6	7a	7b	7c	7d	7e	7f
<b>ED TOTAL</b>		<b>0</b>	<b>423</b>	<b>10</b>	<b>233</b>	<b>82</b>	<b>462</b>	<b>82</b>	<b>0</b>	<b>216</b>	<b>0</b>	<b>6</b>	<b>0</b>
ED Headquarters Offices	CAM	0	7	0	4	1	6	0	0	0	0	0	0
	FSA	0	57	0	5	11	57	0	0	3	0	0	0
	IES	0	34	0	29	0	32	0	0	0	0	0	0
	Multiple Offices*	0	45	0	20	10	47	4	0	3	0	0	0
	OCFO	0	5	0	5	0	3	0	0	0	0	0	0
	OCIO	0	1	0	0	2	3	0	0	0	0	0	0
	OCO	0	0	0	0	0	0	0	0	0	0	0	0
	OCR	0	0	1	0	3	18	9	0	56	0	0	0
	ODS	0	1	0	1	0	1	0	0	0	0	0	0
	OELA	0	4	0	3	0	2	0	0	0	0	0	0
	OESE	0	76	0	37	1	70	0	0	0	0	0	0
	OGC	0	0	0	0	0	0	0	0	0	0	0	0
	OIG	0	12	2	0	5	17	5	0	14	0	6	0
	OII	0	28	0	20	1	26	0	0	0	0	0	0
	OLCA	0	0	0	0	0	0	0	0	0	0	0	0
	OM	0	2	0	1	1	2	0	0	0	0	0	0
	OPE	0	55	0	44	2	25	0	0	0	0	0	0
	OPEPD	0	0	0	0	0	0	0	0	0	0	0	0
	OS	0	1	0	0	0	1	0	0	0	0	0	0
	OSDFS	0	38	0	21	5	18	0	0	0	0	0	0
OSERS	0	51	0	37	5	48	2	0	1	0	0	0	
OUS	0	0	0	0	0	0	0	0	0	0	0	0	
OVAE	0	2	0	4	0	4	0	0	0	0	0	0	
RIMS	0	0	0	0	0	0	0	0	0	0	0	0	
<b>Headquarters (TOTAL)</b>		<b>0</b>	<b>419</b>	<b>3</b>	<b>231</b>	<b>47</b>	<b>380</b>	<b>20</b>	<b>0</b>	<b>77</b>	<b>0</b>	<b>6</b>	<b>0</b>
OCR Field Offices	OCR Boston	0	0	0	0	3	1	5	0	13	0	0	0
	OCR New York	0	0	1	1	0	26	6	0	1	0	0	0
	OCR Philadelphia	0	0	0	0	0	0	3	0	3	0	0	0
	OCR Atlanta	0	0	0	0	1	1	0	0	1	0	0	0
	OCR Chicago	0	0	0	0	2	3	26	0	14	0	0	0
	OCR Dallas	0	0	2	0	2	3	1	0	30	0	0	0
	OCR Kansas City	0	0	0	0	0	0	5	0	1	0	0	0
	OCR Denver	0	0	0	1	4	19	5	0	19	0	0	0
	OCR San Francisco	0	3	4	0	14	21	0	0	23	0	0	0
	OCR Seattle	0	1	0	0	7	3	10	0	29	0	0	0
	OCR DC	0	0	0	0	2	5	1	0	5	0	0	0
<b>OCR Field Offices (TOTAL)</b>		<b>0</b>	<b>4</b>	<b>7</b>	<b>2</b>	<b>35</b>	<b>82</b>	<b>62</b>	<b>0</b>	<b>139</b>	<b>0</b>	<b>0</b>	<b>0</b>

d. Median Response Times for Simple, Complex, and Expedited Processed Requests:

FOIA / PA Component Offices		Simple Requests		Complex Requests		Expedited Requests	
		Processed	Median Days	Processed	Median Days	Processed	Median Days
<b>ED TOTAL</b>		<b>1701</b>		<b>188</b>		<b>15</b>	
ED Headquarters Offices	CAM (OCFO)	20	174	0	0	0	0
	FSA	258	99	2	279	0	0
	IES	45	66	0	0	0	0
	Multiple Offices*	107	115	0	0	0	0
	OCFO	17	61	0	0	0	0
	OCIO	15	24	0	0	0	0
	OCO	1	34	0	0	0	0
	OCR	128	25	0	0	0	0
	ODS	1	478	0	0	0	0
	OELA	12	183	0	0	0	0
	OESE	141	97	0	0	0	0
	OGC	8	232	0	0	0	0
	OIG	50	17	1	75	0	0
	OII	44	47	0	0	0	0
	OLCA	1	99	0	0	0	0
	OM	29	26	0	0	0	0
	OPE	82	79	0	0	0	0
	OPEPD	0	0	0	0	0	0
	OS	3	84	0	0	0	0
	OSDFS	63	199	0	0	0	0
	OSERS	90	40	0	0	0	0
OUS	1	131	0	0	0	0	
OVAE	10	61	0	0	0	0	
RIMS (OM)	5	15	0	0	0	0	
<b>Headquarters (TOTAL)</b>		<b>1131</b>		<b>3</b>		<b>0</b>	
OCR Field Offices	OCR Boston	58	8	36	36	9	7
	OCR New York	95	10	0	0	0	0
	OCR Philadelphia	46	22	0	0	0	0
	OCR Atlanta	50	10	6	20	2	5
	OCR Chicago	102	13	2	26	0	0
	OCR Dallas	56	26	13	42	1	15
	OCR Kansas City	26	11	21	34	0	0
	OCR Denver	27	17	6	24	3	1
	OCR San Francisco	89	7	6	12	0	0
	OCR Seattle	0	0	95	13	0	0
	OCR DC	21	10	0	0	0	0
<b>OCR Field Offices (TOTAL)</b>		<b>570</b>		<b>185</b>		<b>15</b>	

e. Status of Pending FOIA/PA Requests:

FOIA/PA Component Offices	Pending at the End of FY 2006	Median Number of Days Pending
<b>ED TOTAL</b>	<b>539</b>	
<b>Headquarters Organizations Totals</b>		
CAM (OCFO)	10	397
FSA	61	64
IES	11	41
Multiple Offices*	47	143
OCFO	24	129
OCIO	1	132
OCO	0	0
OCR	22	26
ODS	1	83
OELA	7	133
OESE	58	126
OGC	10	297
OIG	4	16
OII	37	237
OLCA	1	11
OM	10	49
OPE	21	139
OPEPD	0	0
OS	3	196
OSDFS	56	162
OSERS	5	24
OUS	3	340
OVAE	0	0
RIMS (OM)	87	248
<b>Headquarters (TOTALS)</b>	<b>479</b>	
<b>OCR Field Office Totals</b>		
OCR Boston	4	22
OCR New York	5	10
OCR Philadelphia	21	20
OCR Atlanta	0	0
OCR Chicago	3	13
OCR Dallas	5	12
OCR Kansas Clty	12	66
OCR Denver	1	9
OCR San Francisco	9	7
OCR Seattle	0	0
OCR DC	0	0
<b>OCR Field Office (TOTALS)</b>	<b>60</b>	

f. FOIA/PA Staffing Level:

FOIA/PA Component Offices	FY 05 FOIA/PA Staffing Levels		
	Full-Time Employee (federal & contractor)	Part-time FOIA/PA/Admin Support	Total Work Years
<b>ED TOTAL</b>	<b>21.8</b>	<b>5.2</b>	<b>27.0</b>
<b>Headquarters Organizations Totals</b>			
CAM (OCFO)	0.1	0	0.1
FSA	1.7	0	1.7
IES	0.1	0	0.1
Multiple Offices*	0	0.5	0.5
OCFO	0.3	0	0.3
OCIO	0.1	0.1	0.2
OCO	0.1	0	0.1
OCR	0.6	0.1	0.7
ODS	0.1	0	0.1
OELA	0.1	0	0.1
OESE	0.5	0.1	0.6
OGC	0.1	0	0.1
OIG	0.7	0	0.7
OII	0.1	0	0.1
OLCA	0.1	0	0.1
OM	0.1	0	0.1
OEP	0.5	0	0.5
OPEPD	0	0	0
OS	0.1	0	0.1
OSDFS	0.7	0.7	1.4
OSERS	0.9	0.3	1.2
OUS	0.1	0	0.1
OVAE	0.1	0	0.1
RIMS (OM)	9.2	1.2	10.4
<b>Headquarters (TOTALS)</b>	<b>16.4</b>	<b>3.0</b>	<b>19.4</b>
<b>OCR Field Office Totals</b>			
OCR Boston	0.5	0	0.5
OCR New York	2.0	0.1	2.1
OCR Philadelphia	0.1	0	0.1
OCR Atlanta	0.7	0	0.7
OCR Chicago	0.6	0.1	0.7
OCR Dallas	0	1.2	1.2
OCR Kansas Clty	0	0	0
OCR Denver	0	0.2	0.2
OCR San Francisco	0	0	0
OCR Seattle	1.4	0.6	2
OCR DC	0.1	0	0.1
<b>OCR Field Office (TOTALS)</b>	<b>5.4</b>	<b>2.2</b>	<b>7.6</b>

g. ED FOIA/PA Processing Costs:

FOIA/PA Component Offices	Processing Costs		
	Processing (including Appeals)	Litigation Related Activities	Total Costs
<b>ED TOTAL</b>	<b>\$2,502,689</b>	<b>\$ 0</b>	<b>\$2,502,689</b>
<b>Headquarters Organizations Totals</b>			
CAM (OCFO)	4,426	0	4,426
FSA	48,754	0	48,754
IES	8,468	0	8,468
Multiple Offices*	34,637	0	34,637
OCFO	1,963	0	1,963
OCIO	4,319	0	4,319
OCO	310	0	310
OCR	3,098	0	3,098
ODS	310	0	310
OELA	1,608	0	1,608
OESE	38,773	0	38,773
OGC	1,608	0	1,608
OIG	6,492	0	6,492
OII	7,294	0	7,294
OLCA	369	0	369
OM	3,157	0	3,157
OPE	10,402	0	10,402
OPEPD	0	0	0
OS	344	0	344
OSDFS	22,216	0	22,216
OSERS	172,155	0	172,155
OUS	611	0	611
OVAE	1,334	0	1,334
RIMS (OM)	1,690,931	0	1,690,931
<b>Headquarters (TOTAL Costs)</b>	<b>\$2,063,579</b>	<b>0</b>	<b>\$2,063,579</b>
<b>OCR Regional Office Totals</b>			
OCR Boston	31479	0	31479
OCR New York	171,854	0	171,854
OCR Philadelphia	7,235	0	7,235
OCR Atlanta	46,090	0	46,090
OCR Chicago	40,240	0	40,240
OCR Dallas	21,915	0	21,915
OCR Kansas City	7,235	0	7,235
OCR Denver	8,638	0	8,638
OCR San Francisco	70,500	0	70,500
OCR Seattle	27,063	0	27,063
OCR Cleveland	3,098	0	3,098
OCR Boston	3,763	0	3,763
<b>OCR Field (TOTAL Costs)</b>	<b>\$439,110</b>	<b>0</b>	<b>\$439,110</b>



h. ED FOIA/PA Fees:

<b>FOIA/PA Component Offices</b>	<b>FOIA Fees Collected</b>	<b>Fee Percentage of Office Processing Costs</b>	<b>Fee Percentage of ED Total Processing Costs</b>
<b>ED Fee Collection (TOTAL)</b>	<b>\$22,728</b>		<b>0.91%</b>
<b>Headquarters Organizations Totals</b>			
CAM (OCFO)	390	8.81%	0.02%
FSA	11,557	23.70%	0.46%
IES	621	7.33%	0.02%
Multiple Offices*	0	0.00%	0.00%
OCFO	567	28.88%	0.02%
OCIO	0	0.00%	0.00%
OCO	0	0.00%	0.00%
OCR	619	19.98%	0.02%
ODS	0	0.00%	0.00%
OELA	0	0.00%	0.00%
OESE	2,283	5.89%	0.09%
OGC	0	0.00%	0.00%
OIG	109	1.68%	0.00%
OII	705	9.67%	0.03%
OLCA	0	0.00%	0.00%
OM	38	1.20%	0.00%
OPE	1,540	14.80%	0.06%
OPEPD	0	0.00%	0.00%
OS	0	0.00%	0.00%
OSDFS	356	1.60%	0.01%
OSERS	2,410	1.40%	0.10%
OUS	0	0.00%	0.00%
OVAE	65	4.87%	0.00%
RIMS (OM)	0	0.00%	0.00%
<b>Headquarters Fee Collection (TOTAL)</b>	<b>\$21,260</b>		<b>0.85%</b>
<b>OCR Regional Office Totals</b>			
OCR Boston	66	0.00%	0.00%
OCR New York	38	0.00%	0.00%
OCR Philadelphia	187	0.00%	0.01%
OCR Atlanta	71	0.00%	0.00%
OCR Chicago	115	0.00%	0.00%
OCR Dallas	118	0.01%	0.00%
OCR Kansas City	173	0.02%	0.01%
OCR Denver	38	0.00%	0.00%
OCR San Francisco	637	0.01%	0.03%
OCR Seattle	25	0.00%	0.00%
OCR DC	0	0.00%	0.00%
<b>OCR Field Office Fee Collection (TOTAL)</b>	<b>\$1,468</b>		<b>\$ 0</b>

# APPENDIX B



## U.S. DEPARTMENT OF EDUCATION

# FOIA PLAN

*(format edited for placement in the FY 2006 FOIA Annual Report)*

**Wednesday, June 14, 2006**

*(Revised August 18, 2006)*

The following **Freedom Of Information Act** review and improvement plan  
is required by Executive Order 13,392

# U.S. Department of Education FOIA Plan (FY 2006)

## A. OVERALL NATURE OF FOIA OPERATIONS

The U.S. Department of Education's Regulatory Information Management Services (RIMS) within the Office of Management (OM) serves as the **FOIA Requester Service Center**, managing centralized Freedom of Information Act (FOIA) / Privacy Act (PA) operations for requests of records maintained by 20 headquarters organizations.<sup>1</sup> The Director of RIMS is the official denial authority and oversees the RIMS staff.<sup>2</sup>

During Fiscal Year (FY) 2005, the Department received 2,416 FOIA requests (an increase of eight percent compared to FY 2004), and completed processing of 2,219 requests. Many of these requests are for sensitive, complex and voluminous records that require meticulous review and multiple consultations. Requests are processed by the FOIA Requester Service Center, staffed by 4.0 full-time FOIA personnel and 6.1 personnel with part-time or occasional FOIA duties.<sup>3</sup> Fees collected during FY 2005 represent an increase of 239 percent above those collected during FY 2004.

During FY 2004, ED conducted an in-depth review and business case analysis of the full range of the Department's FOIA operations. The findings resulted in reengineered processes, customer service and training expansion, and technology improvements. In particular, the use of FOIAXpress, the most comprehensive COTS application available for processing FOIA and Privacy Act requests, is increasing productivity, decreasing administrative costs and providing an important case-tracking portal for FOIA requesters. FOIAXpress electronically stores, retrieves, redacts and prints documents for delivery to requesters; keeps track of processing statistics and fees; generates reports on the number, types and disposition of requests processed; and provides round-the-clock requester access for tracking case status. Currently, FOIAXpress is used at headquarters only.

It is our intent to propose improvements that can be implemented and measured. This relates to the timeliness of responding to FOIA requests, providing user-friendly means for requesters to determine the status of their requests, ensuring that responses are complete and accurately reflect necessary exemptions, providing accurate, timely, and reliable information for our annual FOIA report. Routinely, approximately 30 percent<sup>4</sup> of

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<sup>1</sup> <http://www.ed.gov/policy/gen/leg/foia/contacts.html>

<sup>2</sup> This does not include the authority to administer FOIA for documents maintained in the Office of the Inspector General, which is delegated to the Inspector General.

<sup>3</sup> U.S. Department of Education "FOIA Annual Report (FY 2005)"

<sup>4</sup> *ibid*

## **U.S. Department of Education FOIA Plan (FY 2006)**

the total FOIA requests received by the Department seek records maintained by one or more of twelve regional offices of ED's Office for Civil Rights (OCR). To further expedite processing, this review and implementation plan proposes to delegate responsive authority to each of 12 OCR Regional Directors. It is also our intent to implement these improvements as we continue to experience increases in the number of our requests.

The Department's ultimate goal is nothing short of "best-in-class" services.

### **B. AREAS SELECTED FOR REVIEW**

For this report, the Department focused on the ten (10) areas noted below:

- Affirmative disclosure under subsection (a)(2)
- Proactive disclosure of information
- Overall website improvement
- Increased staffing
- Politeness/Courtesy
- Automated processing – Electronic FOIA
- Multi-track processing
- Backlog reduction/elimination
- Improvement ideas from field office personnel
- Training and guidance

### **C. NARRATIVE STATEMENT SUMMARIZING RESULTS OF REVIEW**

As described in Part A ("Overall Nature of FOIA Operations"), ED's current FOIA operations reflect a broad analysis of functions and processes that yielded major results-driven improvements. Most recently, RIMS selected 10 potential performance target areas identified in Part B above which present opportunities for additional improvements. Of these, eight were chosen as the optimum mix of next steps for strengthening oversight and quality control, providing transparent accountability, and ensuring clear FOIA roles throughout the Department.

A major conclusion of the review was the potentially significant impact of releasing more information to ease the administrative burden that FOIA imposes on requesters and the Department. Although the Department has made strides in this area, there is much more to be done. Establishing internal protocols to identify and post documents likely to be of public interest and appropriate for disclosure would preclude the need for numerous FOIA requests and the ensuing searches, document reviews, redactions,

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copying and fees. Making greater use of information technology advances would provide a cost-effective tool to facilitate the public's instant access to the information.

Similarly, the review underscored the untapped benefits of proactive disclosure through intra-agency collaboration that identifies current records of interest (e.g., grant and contract awards), redacts documents as needed, and posts them at ED's Electronic FOIA Reading Room. In addition, the Department could take advantage of its cutting edge FOIA processing software (FOIAXpress) to recognize and tag multiple requests for similar information, which along with the "rule-of-three", would enable the speedy proactive posting of releasable materials to the E-FOIA Reading Room. The review also pointed to the absence of systematic trend analyses that could assist in identifying and posting releasable information to the E-FOIA Reading Room.

The review also evaluated the Department's FOIA Website, which recently was re-designed to incorporate the requirements of the E-FOIA Amendments of 1996 (e.g., the handbook for requesters, the E-FOIA Reading Room, and on-line annual reports). The Department populated the FOIA home page with ED-specific materials and links to other important FOIA Websites; and the *ed.gov* home page includes a prominently displayed "FOIA" button for easy customer navigation and retrieval of FOIA information. The current user-friendly format and the benefits of ongoing information technology improvements offer additional advantages for upgrading the E-FOIA Reading Room to accommodate an increasing volume of information anticipated through the various improvement initiatives. The format and utilities of the website also provide outreach possibilities for customer feedback questionnaires, web-based FOIA status reports, and recent FOIA news.

The Department's FOIA process reengineering summarized earlier in this section integrated state-of-the-art technology and procedural efficiencies. The current review looked at the incremental efficiencies available through additional automation improvements, including expanding the functionality of FOIAXpress. Using FOIAXpress to track the process and prepare electronic responses transmitted to requesters via e-mail or the Internet would significantly reduce processing time and the associated administrative costs. In addition, use of specially configured CDs to ensure more secure and standardized response formats would provide further standardize the response process, saving time and resources, and improving quality control.

Since FOIA requests received by ED typically are processed in order of receipt, without regard to level of complexity, the review pinpointed significant performance strides available through the use of multi-track processing. Placing simple requests that require relatively minimal review in one processing track and more voluminous, complex requests in another track offers significant savings in processing and response time.

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The review also looked at the Department's FOIA request backlog inventory (480).<sup>5</sup> Coupling the need to reduce or eliminate the backlog to the electronic tracking system mentioned above could provide an efficiency measure absent from the current process and developing specific goals to target the backlog reduction, including the implementation of a "10-Oldest" Backlog Reduction Effort.

The Department's initial rollout for FOIAXpress was limited to headquarters. The current review addressed options for phasing in the software at the 12 OCR regional offices and transitioning this initiative with a pilot program at the San Francisco and Philadelphia location during 2006. Regional FOIA coordinators, program managers and Regional Directors have critical roles and responsibilities in processing and responding to FOIA requests, including disclosure decision-making. These regional staff require training on the use of FOIAXpress in order to process requests consistently, correctly and rapidly. Implementing FOIAXpress as a pilot in these two field offices could provide lessons learned prior to fully implement the technology. Coupled with FOIA training at all regional offices would ensure that the Department adheres to a standardized FOIA program by using the same tools to deliver more uniform FOIA services.

At the Secretary's request, last year, the RIMS FOIA team developed and presented Department-wide stakeholder FOIA Awareness Training. Training materials, maintained by the FOIA Requester Service Center staff, are updated annually. In addition, the Department is currently developing a comprehensive Training and Outreach Plan. The Plan will include multiple levels of training for different audiences, and will link training subjects to specified user groups. As this program matures over the next several years, ED will develop and implement strategies that provide flexible options for FOIA training and retraining throughout the Department. The current review focused on the additional value of revising/updating the current Standard Operating Procedure (SOP) for the FOIA Requester Service Center and including a new reference section for Principal Office FOIA processing.

### **D. List of Improvement Areas**

- Affirmative disclosure under subsection (a)(2)
- Proactive disclosure of information
- Overall website improvement
- Automated processing – Electronic FOIA
- Multi-track processing
- Backlog reduction/elimination
- Improvement ideas from field office personnel
- Training and guidance

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<sup>5</sup> As of June 2, 2006

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## **E. Explanation of Improvement Areas**

### **1. Affirmative disclosure under subsection (a)(2)**

**Goal:** Serve the interests of the public through the proactive release of information likely to be of widespread interest and ease the administrative processing burdens by reducing the need for requests submitted under the Freedom of Information Act.

#### **Improvement Steps**

- Develop internal protocols to identify, in advance, certain records or information that are likely to be of such interest to members of the public, and can be disclosed without concern for any FOIA exemption sensitivity.  
**To Be Completed by March 2007.**
- Increase use of electronic information technology to facilitate ready-access to information of interest to the public.  
**To be completed by March 2007.**

#### **Measurements of Success**

- Increased "views" (hits) on our E-FOIA Reading Room.
- Fewer manual packages needed to respond to requests by referring requestors to the E-FOIA Reading Room.

### **2. Proactive Disclosure of Information**

**Goal:** Make records available to the public on own initiative so that there is less likelihood that records will become the subjects of FOIA requests filed by persons who are interested in obtaining them.

#### **Improvement Steps**

- Identify grant and contract awards that are likely FOIA requests, redact them and have them posted on the ED Electronic FOIA Reading Room.  
**To be completed by March 2007.**
- Identify records that are likely to be of news media interest so that they can be made available in advance of a request through public affairs channels. Where there is no FOIA exemption sensitivity to such records, they can be disclosed most efficiently through this non-FOIA channel once the news media interest in obtaining them is identified.  
**To be completed by March 2007.**

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- Develop operational mechanisms to increase intra-agency communication and coordination to determine potential records for posting.  
**To be completed by March 2007.**
- Post documents within the ED Electronic FOIA Reading Room once the Department receives three similar requests for the same information ("rule-of-three").  
**To be completed by March 2007.**
- Along with the "rule-of-three", use the FOIAXpress technology to assist in the identification of multiple requests for similar information and then proactively post the releasable materials in the E-FOIA Reading Room.  
**To be completed by March 2007.**
- Implement consistent language to capture request descriptions and leveraging existing capability in FOIAXpress.  
**To be completed by December 2007.**
- Track requests and identify trends on daily basis to determine the need for posting releasable information in the E-FOIA Reading Room.  
**To be completed by December 2007.**

### **Measurements of Success**

- Increased "views" (hits) on our E-FOIA Reading Room.
- Fewer manual packages needed to respond to requests by referring requestors to the E-FOIA Reading Room.

### **3. Overall Website Improvement**

**Goal:** Implement web enhancements as a result of a review of its current structure.

#### **Improvement Steps**

- Update information on ED FOIA Website to reflect the designations described in Executive Order 13,392.  
**To be completed by December 2006.**
- Redesign E-FOIA Reading Room to accommodate increased volume of information likely to be included based upon earlier recommendations.  
**To be completed by December 2007.**



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- Propose outreach possibilities using the Web; such as using the web for customer feedback questionnaires, web-based FOIA status reports, and recent FOIA news.

**To be completed by December 2007.**

### **Measurements of Success**

- Increased "views" (hits) to the ED FOIA Website.
- Reduced number of calls indicating that ED FOIA Web information is confusing and/or not useful.
- Improved communication between the public and the FOIA Requester Service Center by leveraging the appropriate contacts to answer public inquiries.

#### **4. Electronic FOIA -- Automated Processing**

**Goal:** Improve the automation of FOIA submissions and tracking process by utilizing the full functionality of FOIAXpress. Use specialized CDs to respond electronically to requesters.

#### **Improvement Steps**

- Leverage the "status" capability within FOIAXpress to better recognize where a request is within the lifecycle.  
**To be completed by March 2007.**
- Use FOIAXpress to deliver responses via email or the Internet.  
**To be completed by December 2007.**
- Use form letters in Microsoft Word for standardized agency responses and any other authorized correspondence.  
**To be completed by December 2006.**
- Develop a consistent protocol to determine the most user-friendly and cost effective use of CDs to respond to high volume responses.  
**To be completed by December 2007.**
- Acquire and use specially configured CDs to ensure more secure and standardized response formats.  
**To be completed by December 2007.**

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### Measurements of Success

- Reduced number of inquiries made from the FOIA Requester Service Center processors to the Program Office FOIA Coordinators.
- Fewer requests directed to the wrong FOIA contact.
- Improved transmission of documents to requesters.
- Increased customer service.
- Improved quality control.

### 5. Multi-Track Processing

**Goal:** Establish three tracks for processing FOIA requests.

#### Improvement Steps

- Develop and implement the following tracks:  
**To be completed by March 2007.**
  - **Track One – "Simple" requests (1–5 Workdays):**  
Implement process for "**Simple**" requests; those which do not have responsive documents to provide or those for which there are already records easily available from prior requests.
  - **Track Two – Normal requests (20 Workdays):**  
Implement process for "**Normal**" requests; those that do not involve the location and/or redaction of a voluminous amount of records, nor do they require extensive consultation with other entities to respond.
  - **Track Three – Complex requests (Over 20 Workdays):**  
Implement process for those "**Complex**" requests; those which involve the location and/or redaction of voluminous records and for which lengthy or numerous consultations are required, or those requests which may involve sensitive records. The Department will notify the requester that it has placed his/her request in the "Complex" track. The Department may provide a requester filing a "Complex" request with an opportunity to limit the scope of the request. If a requester limits the scope of his/her request, it may result in faster processing.

### Measurements of Success

- Average response time decreases.

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- Average response time for "Simple" requests is less than the response time for the average of the "Normal" and "Complex" tracks (as a whole).
- Less confusion is reported by the Principal Office FOIA Coordinators regarding processing instructions.

### 6. Backlog Reduction/Elimination

**Goal:** Reduce the backlog of pending requests (480 as of June 2, 2006). In addition, the Department will implement a "10-Oldest" Backlog Reduction Effort.

#### Improvement Steps

- On a **monthly** basis:
  - the ED FOIA Public Liaison (Leader, Information Case Management Services Team) will review existing backlog to determine the number of cases pending for more than the twenty days provided by statute.  
**To be completed each month from August 2006 through December 2008.**
- On a **quarterly** basis:
  - the ED FOIA Public Liaison (Leader, Information Case Management Services Team) and the RIMS Director will review the workload of each FOIA Requester Service Center analyst to determine whether cases need to be redistributed and to consider the possible reallocation or augmentation of resources where needed.  
**To be completed by November 2006, February 2007, May 2007, August 2007, November 2007, February 2008, May 2008, August 2008, and November 2008.**
- On a **semi-annual** basis:
  - the ED Chief FOIA Officer (Assistant Secretary for Management), FOIA Public Liaison (Leader, Information Case Management Services Team), and the RIMS Director will meet to address further means of backlog reduction.  
**To be completed by November 2006, May 2007, November 2007, May 2008, and November 2008.**
- Implement a "10-Oldest" Backlog Reduction Effort.  
**To be completed by November 2008.**
  - By **October 2006**, propose a process to focus and eliminate the oldest Department of Education FOIA requests, in 10-case increments.

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- By **November 2006**, implement a process to focus and eliminate the oldest Department of Education FOIA requests in 10-case increments.
- By **January 2007**, close the 10-oldest cases identified in October 2006.
- By **January 2008**, close the 10-oldest cases identified in October 2007.

### **Measurements of Success**

- Fewer open cases at the end of each successive calendar year. Reduce the backlog of pending requests (480 as of June 2, 2006):
  - 10% by **January 2007**,
  - 15% by **January 2008**, and
  - 20% by **December 31, 2008**.
- Ten oldest cases identified in October 2006 are closed by **January 2007**.
- Ten oldest cases identified in October 2007 are closed by **January 2008**.

## **7. Improvement Ideas from Field Office Personnel**

**Goal:** Implement FOIAXpress software in Office for Civil Rights Regional Offices

### **Improvement Steps**

- Pilot FOIAXpress in two OCR Regional Offices (San Francisco, CA and Philadelphia, PA).  
**To be completed by July 2006.**
- Implement FOIAXpress in remaining ten OCR Regional Offices.  
**To be completed by May 2007.**

### **Measurements of Success**

- All reporting for the FOIA Annual Report is automated.

## **8. Training and Guidance**

**Goal:** Develop a strategic outreach training/guidance program for all ED employees.

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### **Improvement Steps**

- Develop and issue a Standard Operating Procedure (SOP) that will include repeatable FOIA processing and guidance.  
**To be completed by December 2006.**
- Conduct quarterly training workshops for FOIA Coordinators.  
**To be completed by August 2006 and Ongoing.**
- Review/update Departmental Directive as needed.  
**To be completed by December 2007.**
- Develop performance standards for FOIA processing.  
**To be completed by December 2008.**

### **Measurements of Success**

- Reduced administrative costs.
- Increased efficiency of FOIA processing.
- Increased quality control.

## **F. Improvement Area Time Periods**

### **Areas anticipated to be completed by December 31, 2006**

- Overall website improvement
- Automated processing – Electronic FOIA
- Backlog reduction/elimination
- Improvement ideas from field office personnel
- Training and guidance

### **Areas anticipated to be completed by December 31, 2007**

- Affirmative disclosure under subsection (a)(2)
- Proactive disclosure of information
- Overall website improvement
- Automated processing – Electronic FOIA
- Multi-track processing

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- Backlog reduction/elimination
- Improvement ideas from field office personnel
- Training and guidance

### **Areas anticipated to be completed after December 31, 2007**

- Training and guidance
- Backlog reduction/elimination