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U.S. DEPARTMENT OF AGRICULTURE

Freedom of Information Act Annual Report FY 2001

I. Basic Information Regarding Report

Responsibility for preparing the U.S. Department of Agriculture's Freedom of Information Act Annual Report for fiscal year 1998 rests with USDA's Office of Communications. The report can be accessed from the World Wide Web at:

<http://www.usda.gov/news/foia/main.htm>

A paper copy of the report may be obtained by requesting it. For additional information, contact:

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II. How to Make a FOIA Request

Anyone may request USDA records under the FOIA by letter, fax or e-mail. A requester who sends USDA a FOIA request that is understandable and specific about the time frame of the records sought and who has addressed the request to the USDA agency with responsibility for the records has the greatest likelihood of receiving a response within 20 working days of the agency's receipt of the request. Any request that fails to identify the records sought or is sent to the wrong agency must be clarified before an agency can begin a search; in such case, USDA will try to contact the requester for additional information.

The url (universal resource locator) for the U.S. Department of Agriculture's home page is <http://www.usda.gov>. All USDA agencies are linked to the USDA home page. A significant portion of USDA records are maintained in agency files and are described on agency web pages, which are linked to the USDA home page. Potential requesters may want to review agency web pages in order to identify the USDA agency likely to have possession of the records sought.

USDA employs a number of Freedom of Information Act specialists who make every effort to comply with the requirements of the Freedom of Information Act as amended. A list of USDA agency employees responsible for handling FOIA requests can be found at <http://www.usda.gov/news/foia/contacts.htm>

III. Definitions of Terms and Acronyms Used in the Report

A. Agency-specific acronyms are as follows:

AMS - Agricultural Marketing Service;
APHIS - Animal and Plant Health Inspection Service;
CCC - Commodity Credit Corporation;
DA - Departmental Administration;
FAS - Foreign Agricultural Service;
FNCS - Food, Nutrition and Consumer Service;
FSA - Farm Service Agency;
FSIS - Food Safety and Inspection Service;
FS - Forest Service;
GIPSA - Grain Inspection, Packers and Stockyards
Administration;
NAD - National Appeals Division;
NFC - National Finance Center;
NRCS - Natural Resources Conservation Service;
OBPA - Office of Budget and Program Analysis;
OC - Office of Communications;
OCFO - Office of the Chief Financial Officer;
OCIO - Office of the Chief Information Officer;
OCR - Office of Civil Rights;
OGC - Office of General Counsel;
OIG - Office of the Inspector General;
RD - Rural Development;
REE - Research, Education and Economics; and
RMA - Risk Management Agency

B. Basic terms are as follows:

FOIA/PA request - a 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. Requests filed under either law are treated as FOIA requests and are processed as expeditiously as possible.

Initial request - a request to a Federal agency for access to records under the Freedom of Information Act.

Appeal - a request to a Federal agency asking that it review at a higher level of administrative authority any full or partial denial of access to records under the Freedom of Information Act or Privacy Act or any other FOIA determination, such as a proposed fee for access to records.

Processed request - a request or appeal for which an agency has made its final determination or taken its final action.

Multi-track processing - a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous, 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.

Expedited processing - an agency will process a FOIA request on an expedited basis when the requester has shown a compelling need for a specific record. A compelling need is a threat to life or physical safety for an individual or, in the case of the media, urgency to inform the public concerning actual or alleged Federal Government activity.

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.

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.

Grant - an agency decision to disclose all records in full in response to a FOIA request.

Partial grant - an agency decision to disclose part of a record 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 withhold others in whole or in part.

Denial - an agency decision not to release 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 because of a procedural reason, such as no record was located.

Time limits - the time period authorized in the FOIA for an agency to respond to a FOIA request is 20 working days from proper receipt of a "perfected" FOIA request.

"Perfected" request - a FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.

Exemption 3 statute - a separate Federal statute prohibiting the disclosure of certain types of records and authorizing their withholding under FOIA subsection (b)(3).

Median number - the middle, not average, number. For example, of 3, 7 and 14, the median number is 7.

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

Statute/Rule	Type of Information Withheld	Case Citation
P.L. 104-201	Negotiated Bid Proposals	None
7 U.S.C. § 201(c)	Store records for food stamp applications	None
7 U.S.C. § 608d(2)	Marketing orders for milk, fruits and vegetables.	Ivanhoe Citrus Ass'n v. Handley, 612 F. Supp. 1560 (D.D.C. 1985)
7 U.S.C. § 499(f)b	Confidential source	None
7 U.S.C. § 2323-2582	Application for plant variety protection	None
7 U.S.C. § 2018(c)	Electronic Benefit Transactions	None
7 U.S.C. § 2020(e)(8)	Names, addresses, phone numbers of food stamp recipients	None
7 U.S.C. § 373 [1373](a)	Tobacco & peanut production information	None
7 U.S.C. § 2276	Milk Production Reports & State identity codes	Chesapeake Bay Found. V. USDA, No. 89-1943 (D.D.C. March 26, 1990)
7 U.S.C. § 2131 et seq.	Report on administration and enforcement activities.	None
7 U.S.C. § 4801-4819	Identity of challenger	None
16 U.S.C. § 470hh	Archaeological site maps, cultural resource survey maps	None
16 U.S.C. § 470w-3	Nature & location of historic resources	None
41 U.S.C. § 253(b)(m)	Unsuccessful contract bid proposals	None
F.R.Cr.P. 6(e)	Grand jury information	<u>Iglesias v. CIA</u> , 525 F. Supp. 547, 556 (D.C. Cir. 1987)

V. Initial FOIA/PA Requests

A. Number of Initial Requests

1. Number of requests pending at end of FY 00:	2,615
2. Number of requests received during FY 01:	83,617
3. Number of requests processed during FY 01:	83,194
4. Number of requests pending at end of FY 01:	3,038

B. Disposition of Initial Requests

1. Number of total grants:	75,811
2. Number of partial grants:	3,750
3. Number of denials:	2,147

FOIA exemption used:

Exemption 1:	0
Exemption 2:	28
Exemption 3:	352
Exemption 4:	307
Exemption 5:	248
Exemption 6:	3,430
Exemption 7(A):	65
Exemption 7(B):	19
Exemption 7(C):	254
Exemption 7(D):	38
Exemption 7(E):	13
Exemption 7(F):	3
Exemption 8:	0
Exemption 9:	0

4. Other reasons for nondisclosure: Total 1486

No records:	828
Referred elsewhere:	250
Request withdrawn:	142
Fee-related reason:	62
Records not reasonably described:	22
Not a proper FOIA request for some reason:	43
Not an agency record:	47
Duplicate request:	22
Other (specify):	70
- Glomar	
- Third-party requests	
- No authorization letter	
- Ongoing Audit	
- Referred in error	
- Unable to contact requester	
- Non-response to clarification letter	
- Subpoenas	

VI. Appeals of Initial Denials

A. Number of Appeals

1. Number of appeals received during FY 00: 248
2. Number of appeals processed during FY 00: 283

B. Disposition of Appeals

1. Number completely upheld: 82
2. Number partially reversed: 77
3. Number completely reversed: 51

FOIA exemption used:

Exemption 1:	0
Exemption 2:	1
Exemption 3:	2
Exemption 4:	13
Exemption 5:	28
Exemption 6:	80
Exemption 7(A):	11
Exemption 7(B):	1
Exemption 7(C):	25
Exemption 7(D):	2
Exemption 7(E):	4
Exemption 7(F):	2
Exemption 8:	0
Exemption 9:	0

4. Other reasons for nondisclosure: 73

No records:	27
Referred elsewhere:	18
Request withdrawn:	11
Fee-related reason:	2
Records not reasonably described:	1
Not a proper FOIA request for some reason:	5
Not an agency record:	0
Duplicate request:	3
Other (specify):	6
- Lawsuit filed	
- Regional Office responded-appeal moot	
- Glomar	
- Preliminary injunction	
- Failure to process	
- Unable to contact requester	

VII. Compliance with Time Limits/Status of Pending Requests

A. Median Processing Time for Requests

1. Simple requests

- a. Number of requests processed: 72,599
- b. Median number of days to process: 30 days

2. Complex requests

- a. Number of requests processed: 8,831
- b. Median number of days to process: 49 days

3. Requests accorded expedited processing

- a. Number of requests processed: 1,764
- b. Median number of days to process: 33 days

Records retrieved from a Federal Records Center take several weeks to obtain. Requests that require a notice to submitters of information, allowing them time to comment on the release of responsive records, and USDA's acknowledgment of comments may take several weeks to process. Requests that require an advance payment of fees before processing also take additional time.

B. Status of Pending Requests

- 1. Number of requests pending at end of FY 00: 3,038
- 2. Median number of days requests were pending at end of FY 00: 30 days

VIII. Comparisons With Previous Years

Improve timeliness.

Agencies are continuing to provide public information and frequently requested information through their agency FOIA websites.

One agency has set deadlines for responses from field offices and deleted review of initial requests by the legal staff to improve timeliness. Another agency is date stamping all incoming requests.

Several Agencies updated their internal employee FOIA guidelines and instructions to the public on how to make FOIA requests. Internal directives stressed the importance of timely responses, and negative consequences were specified as reminders to staff.

One agency established a central point of contact list and they also established a central FOIA file where all requests are filed in chronological order and all FOIA technicians, and specialists retrieve requests in the order in which they are received. This has eliminated most of the backlog.

Reduce backlog.

Several agencies have hired new full and part-time employees to assist in processing requests. One agency hired five additional program specialists and one additional supervisor.

Provide training.

The FOIA personnel of most USDA agencies attended training sponsored by the Department of Justice, the USDA Graduate School, or the American Society for Access Professionals. A majority of USDA agencies conducted on-the-job training for agency personnel on processing FOIA requests.

Several agencies provided field locations with copies of the Freedom of Information Act Guide & Privacy Act Overview and the Department of Justice quarterly FOIA Updates to use as reference material. Some field locations have scheduled monthly FOIA conference calls as a training tool.

All agency FOIA personnel continue to meet quarterly to share information and establish consistent standards for processing of FOIA requests within the Department.

Add new categories of records.

The establishment of agency web pages expanded the categories of records available to the public.

IX. Costs/FOIA Staffing

A. Staffing Levels

1. Number of full-time FOIA personnel: 56.00
2. Number of personnel with part-time or occasional FOIA duties (in work-years): 209.6
3. Total number of personnel (Work-years): 275.2

B. Total Costs

1. FOIA processing: \$21,192,010
2. Litigation-related activities (estimated): \$159,381
3. Total costs: \$21,351,391

C. Statement of Additional Resources Needed

Most agencies expressed the need for more professional staffing, more clerical assistance, and more money to pay for training, national meetings, and to upgrade automated record processing. Several agencies expressed the need for more advanced tracking and document imaging systems.

X. Fees

A. Total fees collected for search, review, duplication and other direct costs permitted by agency regulations: \$109,332

B. Most USDA agencies collected fees that amounted to less than one percent of total costs.

XI. FOIA Regulations

USDA's regulations implementing the Electronic Freedom of Information Act Amendments of 1996 were published in the Federal Register July 28, 2000, and are available on the World Wide Web at:

[http://www.usda.gov/News&Information;/FOIA Information/USDA FOIA Regulations](http://www.usda.gov/News&Information;/FOIA%20Information/USDA%20FOIA%20Regulations)

USDA's current fee schedule was published in the Federal Register December 31, 1987.

USDA's home page is located at <http://www.usda.gov>. The web sites of USDA agencies are linked to this home page, and each agency's web site contains explanatory information about FOIA processing.