

**U.S. Small Business Administration  
Freedom of Information Act Annual Report  
Fiscal Year 2006**

I. Basic Information

- A. For questions concerning this Report, contact:

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- B. Report may be obtained online at: [www.sba.gov/foia/report.html](http://www.sba.gov/foia/report.html).
- C. Report may also be obtained by making a request to the address listed in A of this section or through the SBA Online FOIA Mailbox at [foia@sba.gov](mailto:foia@sba.gov).

II. How to Make a FOIA Request

- A. Our *Guide to Public Information*, located on SBA's FOIA Home Page at [www.sba.gov/foia/handbook.html](http://www.sba.gov/foia/handbook.html) details the different methods (postal mail, electronic mail, fax, in person) and requirements for submitting a FOIA request to the SBA.

- B. Agency response-time ranges:

The median response time for processing **initial requests** in FY '06 was seven working days. For **appeals**, the median processing time was 25 working days.

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### C. Brief description of why **some** requests are not granted:

The nature of the information created and/or maintained at the SBA commonly involves businesses requesting or receiving assistance. Therefore, the most frequently cited exemptions at the SBA are Exemptions 4, 5, and 6, when requests are made by third parties. Information withheld includes: commercial financial information; trade secrets; business plans; information on pending, declined, withdrawn, or canceled applications; information on defaults, delinquencies, losses; business owner's personal history, home address, birth date, social security number, and medical information; internal documents not incorporated into final Agency actions; and attorney work-product on pending litigation.

## III. Definitions of Terms and Acronyms Used in this Report

### A. SBA – U.S. Small Business Administration

### B. Basic Terms:

1. FOIA/PA request -- Freedom of Information Act/Privacy Act request. A FOIA request is **generally** a request for access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning oneself; such requests are also treated as FOIA requests. (All requests for access to records, regardless of which law is cited by the requester, are included in this report.)
2. Initial Request -- a request to a federal agency for access to records under the FOIA.
3. Appeal -- a request to a federal agency asking that it review at a higher administrative level a full or partial denial of access to records under the FOIA, or any other FOIA determination such as a fee waiver or assessment.

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4. **Processed Request or Appeal** -- a request or appeal for which an agency has taken a final action in all respects on the request or the appeal.
5. **Multi-track processing** -- a system in which simple requests requiring relatively minimal review are processed on one track, and more voluminous and complex requests are processed on 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.
6. **Expedited processing** -- an agency will process a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records, which warrants prioritization of his or her request over other prior requests.
7. **Simple request** -- a FOIA request that an agency using multi-track processing assigns to its fastest (non-expedited) track based on the volume and/or simplicity of records requested.
8. **Complex request** -- a FOIA request that an agency using multi-track processing assigns to a slower track based on the volume and/or complexity of records requested.
9. **Grant** -- an agency decision to disclose in full all records in response to a FOIA request.
10. **Partial grant** -- an agency decision to disclose a record in part in response to a FOIA request, deleting information it determines is exempt under one or more exemptions; or a decision to disclose some records in full, but to withhold others in whole or in part.
11. **Denial** -- an agency decision not to release any part of a record or records in response to a FOIA request because the agency determines all the information in the requested records is exempt under one or more exemptions, or for some procedural reason (such as because no record is located in response to a FOIA request).

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12. Time limits -- the time period for an agency to respond to a FOIA request (ordinarily 20 working days from proper receipt of a "perfected" FOIA request).
13. "Perfected" request -- a FOIA request for records which adequately describes the records sought; which has been received by the FOIA office of the agency or agency component in possession of the records; and for which there remains no question about the payment of applicable fees.
14. Exemption 3 statute -- a separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection (b)(3).
15. Median number -- the middle, not average, number. For example, among 3, 7, and 14, the median number is 7.
16. Average number -- the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.

### **IV. Exemption 3 Statutes**

- A. List of Exemption 3 statutes relied on by the SBA in FY '06.

SBA offices reported no instances of citing Exemption 3 in FY '06.

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V. Initial FOIA/PA Access Requests

A. Numbers of initial requests

1.	# of requests pending end of FY '05	<u>32</u>
2.	# of requests received during FY '06	<u>6259</u>
3.	# of requests processed during FY '06	<u>6245</u>
4.	# of requests pending end of FY '05	<u>46</u>

B. Disposition of initial requests

1.	# of total grants	<u>5678</u>
2.	# of partial grants	<u>202</u>
3.	# of denials	<u>71</u>

a. number of times each exemption used

(1) Exemption 1	<u>0</u>
(2) Exemption 2	<u>10</u>
(3) Exemption 3	<u>0</u>
(4) Exemption 4	<u>152</u>
(5) Exemption 5	<u>74</u>
(6) Exemption 6	<u>89</u>
(7) Exemption 7(A)	<u>1</u>
(8) Exemption 7(B)	<u>0</u>
(9) Exemption 7(C)	<u>1</u>
(10) Exemption 7(D)	<u>0</u>
(11) Exemption 7(E)	<u>0</u>
(12) Exemption 7(F)	<u>0</u>
(13) Exemption 8	<u>0</u>
(14) Exemption 9	<u>0</u>

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- 4. Other reasons for nondisclosure: total 294
  - a. no records 132
  - b. referral 27
  - c. request withdrawn 38
  - d. fee-related reason 16
  - e. records not reasonably described 34
  - f. not a proper FOIA request for some other reason 3
  - g. not an agency record 35
  - h. duplicate request 6
  - i. other 3 (not readily available; waiting for identification verification)

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

**A. Numbers of appeals**

- 1. # of appeals received during FY '05 29
- 2. # of appeals processed during FY '05 33

**B. Disposition of appeals**

- 1. # completely upheld 7
- 2. # partially reversed 8
- 3. # completely reversed 1
  - a. number of times each exemption used
    - (1) Exemption 1 0
    - (2) Exemption 2 1
    - (3) Exemption 3 0
    - (4) Exemption 4 9
    - (5) Exemption 5 7

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(6) Exemption 6	<u>6</u>
(7) Exemption 7(A)	<u>1</u>
(8) Exemption 7(B)	<u>0</u>
(9) Exemption 7(C)	<u>1</u>
(10) Exemption 7(D)	<u>0</u>
(11) Exemption 7(E)	<u>1</u>
(12) Exemption 7(F)	<u>0</u>
(13) Exemption 8	<u>1</u>
(14) Exemption 9	<u>0</u>

4. Other reasons for nondisclosure: total 17
- a. no records 9
  - b. referrals 0
  - c. request withdrawn 1
  - d. fee-related reason 1
  - e. records not reasonably described 0
  - f. not a proper FOIA request for some other reason 0
  - g. not an agency record 0
  - h. duplicate request 1
  - i. other 5 (initial office provided response)

**VII. Compliance with Time Limits/Status of Pending Requests**

- A. Median processing time for requests processed during the year
- 1. Simple requests (Tracks not used)
    - a. # of requests processed 6245
    - b. median # of days to process 7
  - 2. Complex requests (No response as tracks not used)
  - 3. Requests accorded expedited processing (No expedited processing requests received)
    - a. # of requests processed 0
    - b. median # of days to process 0

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### **B. Status of pending requests**

1. # of requests pending at end of FY '06 46
2. Median # of days those requests were pending as of 9/30/06 15 days.

## **VIII. Comparisons (Optional)**

### **A. Comparison of numbers of requests received:**

There was a significant increase in requests received from 3739 in FY '05 to 6259 in FY '06, a 60% increase. This increase is attributed to the major U.S. disasters in '05 (Hurricanes Katrina and Rita), resulting in requests for records related to business and home disaster loan applicants, mainly first party requests for *Loss Verification Reports*. This increase carried over from FY '04 to FY '05 when there was also a substantial increase (51%) in requests for the same reason.

### **B. Comparison of numbers of requests processed:**

See A.

### **C. Comparison of median numbers of days requests were pending as of end of fiscal year:**

There was a decrease from 16 to 15 days, which is insignificant.

### **D. The SBA received 0 requests for expedited processing as defined in 5 U.S.C. § 552(b)(6)(E) and granted 0 requests for expedited processing.**

E. The SBA's internal FOIA Tracking System is fully deployed and is used by SBA FOIA Requester Service Center staff and FOIA Public Liaisons in program and field offices, along with the FOI/PA Office. The mandatory system was created to facilitate the Agency's decentralized tracking of access requests and includes data on the requester and the subject of the request, key dates, actions until final disposition, and which program or field office processed the request.



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**IX. Costs/FOIA Staffing**

**A. Staffing levels**

1. # of full-time FOIA personnel 2
2. # of personnel with part-time or occasional FOIA duties (in total work-years) 13.1
3. Total # of personnel (in work-years) 15.1  
(The totals for #2 and #3 are estimated and based on percentages of time that individuals work on FOIA.)

**B. Total costs**

1. FOIA processing - approximately \$1,050,777.00  
(This total includes the average basic salary for employees in field and program offices plus the salary percentages of those working in the FOI/PA Office.)
2. Litigation-related activities (estimated) – \$4,964.00
3. Total costs – approximately \$1,055,741.00

**X. Fees**

- A. Total fees collected by agency for processing requests \$21,572.80
- B. Percentage of total costs – approximately 2%

**XI. FOIA Regulations**

A copy of the current SBA Regulations on *Record Disclosure and Privacy*, 13 CFR § 102, is accessible electronically at [www.sba.gov/library/cfrs/13cfr102.pdf](http://www.sba.gov/library/cfrs/13cfr102.pdf).

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### XII.

- A. Description of supplementation/modification of agency improvement plan.

No supplementation or modification necessary.

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

SBA is in compliance with the schedule for its two Executive Order Plan goals and all December 31, 2006 milestone dates have been met.

*Goal 1* – Strengthen FOIA internal systems and processes to support a continually improving, highly efficient and effective organization.

1. Review Disclosure Determinations

- Selected three high-volume offices for review by July 31, 2006
- Completed random review of '04 and '05 FOIA responses by October 31, 2006

2. Conduct FOIA Training for Public Liaisons, Service Center Representatives and SBA Management Board

- Onsite FOIA training by the Department of Justice Deputy Director for Information Policy conducted August 15, 2006
- Compact disks of the training session were available for distribution by November 1, 2006

3. FOIA Training for Agency Personnel and Contractors

- Compact disks of the onsite FOIA training session were available for distribution by November 1, 2006

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**4. FOIA Case Tracking System Training for all Public Liaisons and Service Center Representatives**

- User access list was updated by July 15, 2006
- Online training slides and instruction manual made available to all users by September 30, 2006

*Goal 2* – Maintain and expand the use of the Internet to simplify the interaction between the Agency, staff and the public.

**1. Redesign the FOIA Webpage**

- The review of the FOIA Homepage was completed by November 30, 2006

**2. Affirmative FOIA Disclosure**

- The review of Frequently Requested Records was completed by August 31, 2006
- The FOI/PA Office consulted with the pertinent offices/ program areas to develop record updates by December 15, 2006

**3. Revision of SBA's FOIA Reference Guide**

- The review of the SBA's current FOIA Reference Guide was completed by December 31, 2006

**C. Identification and discussion of any deficiency in meeting plan milestones.**

Not applicable.

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- D. Additional narrative statement regarding other executive order-related activities.

In the Attorney General's Report to the President pursuant to Executive Order 13392, SBA was included as one of the agencies that "have implemented the Executive Order in a vigorous manner fully commensurate with the importance of this unprecedented Presidential initiative." In addition, the General Accountability Office, in their draft review of FOIA status and the implementation of the Executive Order, stated that "The SBA plan contained all four elements that we determined were required by the Executive Order."

- E. Concise descriptions of FOIA exemptions.

Exemption 1 (5 U.S.C. 552 (b)(1)): protects records that are currently and properly classified in the interest of national security;

Exemption 2 (5 U.S.C. 552 (b)(2)): covers records that relate solely to the internal personnel rules and practices of an agency;

Exemption 3 (5 U.S.C. 552 (b)(3)): pertains to records that are protected by a statute that specifically exempts the information from public disclosure;

Exemption 4 (5 U.S.C. 552 (b)(4)): protects trade secrets and privileged or confidential commercial or financial information obtained from a person which would cause substantial competitive harm to the submitter if disclosed;

Exemption 5 (5 U.S.C. 552 (b)(5)): protects inter-agency or intra-agency records not available by law to a party other than an agency in litigation with the agency; records may be deliberative in nature, part of the decision making process, and/or attorney-client or attorney work-product records;

Exemption 6 (5 U.S.C. 552 (b)(6)): guards personnel, medical, and similar files the disclosure of which would constitute an unwarranted invasion of individual privacy;

Exemption 7 (5 U.S.C. 552 (b)(7)): allows the withholding of investigatory records or information compiled for law enforcement purposes;

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Exemption 8 (5 U.S.C. 552 (b)(8)): protects records relating to an agency's responsibility for the regulation or supervision of financial institutions; and

Exemption 9 (5 U.S.C. 552 (b)(9)): covers records that contain geological and geophysical information (including maps) concerning wells.

F. Additional statistics:

1. Time range of requests pending.

May 15, 2006 – November 20, 2006

2. Time range of consultations pending with other agencies, by date of initial interagency communication.

Not applicable.

G. Attachment: SBA's Executive Order 13392 Improvement Plan

<http://www.sba.gov/foia/EO13392ReportPlan.pdf>