



U.S. TRADE AND DEVELOPMENT AGENCY

1000 WILSON BOULEVARD, SUITE 1600, ARLINGTON, VA 22209
(703) 875-4357 • (703) 875-4009 FAX • INFO@USTDA.GOV

Freedom of Information Act (FOIA) Report for Fiscal Year 2006 (October 1, 2005 through September 30, 2006)

I. Basic Information Regarding Report.

A. Questions concerning this report may be addressed to:

Ms. Kendra Link
Attorney-Advisor and FOIA Public Liaison
U.S. Trade and Development Agency
1000 Wilson Boulevard, Suite 1600
Arlington, VA 22209-3901
Tel. No. (703) 875-4357
Fax No. (703) 875-4009

B. The World Wide Web address for the U.S. Trade and Development Agency (USTDA) is:
www.ustda.gov. This site provides general information about USTDA. The FOIA Report for Fiscal Year 2006 is posted at:
http://www.ustda.gov/USTDA/About_USTDA/USTDA_FOIAReport_FY06.pdf.

C. Paper copies of this FOIA report may be obtained by contacting Kendra Link at the address in A above.

II. How to Make a FOIA Request.

A. Names, addresses, and telephone numbers of all individual agency components and offices that receive FOIA requests:

All FOIA requests should be made to:

Ms. Kendra Link
Attorney-Advisor and FOIA Public Liaison
U.S. Trade and Development Agency
1000 Wilson Boulevard, Suite 1600
Arlington, VA 22209-3901
Tel. No. (703) 875-4357
Fax No. (703) 875-4009

B. Brief description of the agency's response-time ranges:

During FY2006, the median processing time for initial requests was 74 days. Not all requests took 74 days to process. Requests for readily available documents that involved little or no review were processed faster. Other requests took longer to process for a variety of reasons. For example, some requesters asked for a large volume of documents that had to be located, photocopied and reviewed, while other requesters asked for procurement-related documentation such as contracts entered into between grantees and contractors. Such requests were often time-consuming and labor-intensive because they involved extensive discussions with contractors, grantees and the requesters, concerning the competitive ramifications of releasing the requested information.

C. Brief description of why some requests may not be granted:

USTDA is a commercially-oriented agency. Some requests may not be granted because the records contain proprietary information or trade secrets generated by third party individuals or companies (5 U.S.C. 552(b)(4)). Other reasons for not releasing records may include the protection of individual privacy (5 U.S.C. 552(b)(6)), or predecisional deliberations (5 U.S.C. 552(b)(5)).

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

A. Agency-specific acronyms or other terms.

The U.S. Trade and Development Agency is referred to as "USTDA."

B. Basic terms, expressed in common terminology.

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 Freedom of Information Act.
3. **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.
4. **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.
5. **Multi-track processing** -- a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are

placed in one or more other tracks. Requests in each track are processed on a first-in/first out basis. A requester who has an urgent need for records may request expedited processing (see below).

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 requests that were made earlier.
7. **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.
8. **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.
9. **Grant** -- an agency decision to disclose all records in full 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 determined to be exempt under one or more of the FOIA's exemptions; or a decision to disclose some records in their entirety, 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 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).
12. **Time limits** -- the time period in the Freedom of Information Act 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 is no remaining 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, of 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 agency during current fiscal year.

None

2. Brief description of type(s) of information withheld under each statute.

N/A

3. Statement of whether a court has upheld the use of each statute. If so, then cite example.

N/A

V. Initial FOIA/PA Access Requests [approx. nos.].

A. Number of initial requests:

1. Number of requests pending at the end of the preceding fiscal year (FY 2005): 14

2. Number of requests received during current fiscal year (FY 2006): 25

3. Number of requests processed during current fiscal year (FY 2006): 33

4. Number of requests pending as of end of current fiscal year (FY 2006): 6

B. Disposition of initial requests.

1. Number of total grants: 10

2. Number of partial grants: 0

3. Number of denials: 0

a. number of times each FOIA exemption used

(counting each exemption once per request)

(1) Exemption 1 0

(2) Exemption 2 0

(3) Exemption 3 0

(4) Exemption 4 0

- (5) Exemption 5 0
- (6) Exemption 6 0
- (7) Exemption 7(A) 0
- (8) Exemption 7(B) 0
- (9) Exemption 7(C) 0
- (10) Exemption 7(D) 0
- (11) Exemption 7(E) 0
- (12) Exemption 7(F) 0
- (13) Exemption 8 0
- (14) Exemption 9 0

4. Other reasons for nondisclosure (total): 23

- a. no records 17
- b. referrals 0
- c. request withdrawn 4
- d. fee-related reason 0
- e. records not reasonably described 1
- f. not a proper FOIA request for some other reason 0
- g. not an agency record 0
- h. duplicate request 0
- i. other (specify) 1

USTDA received a FOIA request for a report on the current status and past trends on Hispanic employment in federal agencies that deal with foreign affairs. USTDA attempted to contact the submitter to no avail. Accordingly, USTDA considers the request withdrawn.

VI. Appeals of Initial Denials of FOIA/PA Requests

A. Numbers of appeals.

1. Number of appeals received during fiscal year _____ 0 _____

2. Number of appeals processed during fiscal year _____ 0 _____

B. Disposition of appeals.

1. Number completely upheld _____ 0 _____

2. Number partially reversed _____ 0 _____

3. Number completely reversed _____ 0 _____

a. number of times each FOIA exemption used

(counting each exemption once per appeal)

(1) Exemption 1 _____ 0 _____

(2) Exemption 2 _____ 0 _____

(3) Exemption 3 _____ 0 _____

(4) Exemption 4 _____ 0 _____

(5) Exemption 5 _____ 0 _____

(6) Exemption 6 _____ 0 _____

(7) Exemption 7(A) _____ 0 _____

(8) Exemption 7(B) _____ 0 _____

(9) Exemption 7(C) _____ 0 _____

(10) Exemption 7(D) _____ 0 _____

(11) Exemption 7(E) _____ 0 _____

(12) Exemption 7(F) _____ 0 _____

(13) Exemption 8 _____ 0 _____

(14) Exemption 9 0

4. Other reasons for nondisclosure (total) 0

a. no records 0

b. referrals 0

c. request withdrawn 0

d. fee-related reason 0

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 0

i. other (specify) 0

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

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

1. Simple requests (if multiple tracks used).

a. number of requests processed N/A

b. median number of days to process N/A

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

a. number of requests processed 33

b. median number of days to process 74

3. Requests accorded expedited processing.

a. number of requests processed 0

b. median number of days to process 0

B. Status of pending requests.

1. Number of requests pending as of end of current fiscal year (FY2006): 6
2. Median number of days that such requests were pending as of that date: 171

VIII. Comparisons with Previous Year(s) (Optional).

1. Number of requests for expedited processing: 1
2. Number of requests for expedited processing granted: 0

IX. Costs/FOIA Staffing.

A. Staffing levels.

1. Number of full-time FOIA personnel: None.
2. Number of personnel with part-time or occasional duties (in total work years): 35%
3. Total number of personnel (in work years): 35%

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

1. FOIA processing (including appeals): Approx. \$ 19,750
2. Litigation-related activities (estimated): \$ 0.
3. Total costs: Approx. \$ 19,750

X. Fees

A. Total amount of fees collected by agency for processing requests:

The agency does not have a fee schedule, and has made records available without charging any fees. However, in the event that USTDA has knowledge that requesters owe fees to other agencies, USTDA maintains the policy that requesters be current with payment of all their FOIA fees before their requests can be processed.

B. Percentage of total costs: None.

XI. FOIA Regulations (Including Fee Schedule).

The agency processes FOIA requests under the Freedom of Information Act statute at 5 U.S.C. 552, as amended, with no separate fee schedule.

XII. Report on FOIA Executive Order Implementation.

On December 14, 2005, the President issued Executive Order 13,392, entitled "Improving Agency Disclosure of Information," which required each agency to conduct a review of its FOIA operations, to develop an agency-specific plan to improve its administration of the FOIA, and to include in its annual FOIA report a description of its progress in meeting the milestones and goals established in its improvement plan. The reporting period for Section XII is different from that used for the rest of this report, which is based on data compiled for Fiscal Year 2006. The reporting period for this section concerning Executive Order implementation activities includes progress made by USTDA through January 26, 2007.

- A. Description of supplementation/modification of agency improvement plan (if applicable).

N/A

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

In the agency FOIA Improvement Plan, USTDA examined the following Potential Improvement Areas: (i) affirmative disclosures under subsection (a)(2); (ii) proactive disclosure of information; (iii) overall FOIA web site improvement; (iv) improvement of agency's FOIA reference guide; (v) electronic FOIA – receiving/responding to requests electronically; (vi) backlog reduction/elimination; (vii) forms of communication with requesters; and (viii) process by which necessary cooperation is obtained from agency "program personnel." USTDA met all of the goals and milestones established in the FOIA Improvement Plan for this reporting period.

The Potential Improvement Areas, including a discussion USTDA's performance in meeting the time milestones, are discussed below.

- (i) Affirmative disclosures under subsection (a)(2)

For this reporting period, USTDA did not have a milestone to meet with respect to completion of this Potential Improvement Area. However, in its efforts to meet future milestones to improve USTDA's affirmative disclosures under subsection (a)(2), USTDA is compiling a list of agency policy statements not required to be published in the Federal Register, administrative staff manuals, and instructions to staff that affect a member of the public. Once USTDA establishes a comprehensive list of all pertinent documents that would fall under (a)(2), agency personnel will review the documents, and, if necessary, make appropriate documents available for public inspection and copying.

- (ii) Proactive disclosure of information

In its effort to improve the proactive disclosure of information, USTDA made information that does not fall into any subsection (a)(2) category more readily available with the intention of potentially reducing the number of FOIA requests made to the

agency. In order to improve its proactive disclosure of information, USTDA included links from the improved USTDA FOIA web site to existing USTDA web pages of information. These links include connections to USTDA “Events and Publications” and USTDA “Library Holdings” web pages. USTDA met its milestone to have created a link on the USTDA FOIA web page to other USTDA web pages of information by December 31, 2007, one year earlier than specified in the USTDA FOIA Improvement Plan.

(iii) Overall FOIA web site improvement

USTDA made extensive improvements towards overall FOIA web site improvement. In its effort to significantly improve this area, USTDA added a “FOIA FAQs” section, which explains the basic tenants of the FOIA and lists the USTDA FOIA contacts, including Request Service Center information. It further explains what types of materials are available from USTDA without making a FOIA request, how to make a FOIA request, how to submit your request, and how to formulate your request. Furthermore, USTDA has changed the name of the home page item that identifies the FOIA web page so that the FOIA web page is more easily accessible to the public. USTDA met its milestone to have improved USTDA’s main FOIA home page and incorporate FOIA Request Service Center information onto the USTDA FOIA website by December 31, 2006.

(iv) Improvement of agency’s FOIA reference guide

For this reporting period, USTDA did not have a milestone to meet with respect to completion of this Potential Improvement Area. However, in its efforts to meet future milestones to review and update USTDA’s FOIA Reference Guide, and if applicable, to post it on USTDA’s FOIA web site, USTDA created periodic goals and an internal timeline in order to successfully meet this milestone.

(v) Electronic FOIA – receiving/responding to requests electronically

USTDA reviewed how agency personnel can more effectively use the internet and email to respond to FOIA requests electronically. Current USTDA practice now includes responding to requests electronically whenever practicable. Only when a requester specifically requests another means by which they would like to receive documents or does not provide USTDA with an email address does USTDA provide those documents by another means (e.g., via mail or fax). Furthermore, on USTDA’s improved FOIA web site, USTDA informs requesters that they may specify the format in which they would like the information released. USTDA specifically uses “via email” as an example of a specific format to encourage requesters to specify an electronic means of response. Since USTDA’s submission of its FOIA Improvement Plan, USTDA has responded to a total of 58% of its FOIA requests electronically. Of the FOIA requests that actually provided an email address to which USTDA could respond, USTDA responded to 100% of those requests electronically.

In order to more effectively respond to FOIA requests, USTDA evaluated the agency's use of scanning technologies to respond to FOIA request. Current USTDA practice now involves scanning incoming FOIA requests in order to retain an electronic copy of every request received. USTDA FOIA personnel scan outgoing correspondence in order to retain all FOIA documents and responses in their electronic format. Finally, USTDA utilizes scanning technology every time it responds to a request electronically.

(vi) Backlog reduction/elimination

USTDA successfully reached its goal of significantly reducing its backlog. As of January 26, 2007, USTDA had reduced its backlog of pending initial requests by 50%. As part of this backlog reduction effort, USTDA completed its three oldest pending FOIA cases. USTDA is continuing to work on decreasing its backlog of initial requests, with the objective of eliminating its backlog by December 31, 2007.

(vii) Forms of communication with requesters

USTDA met its goal of improving communication with requesters. In its efforts to ensure clarity and responsiveness to all FOIA requesters, USTDA created five sample letters which USTDA FOIA personnel utilize to respond to FOIA requests. These sample letters were created for communications that occur on a frequent basis, but which were not currently available in sample form prior to the USTDA FOIA Improvement Plan. These letters have helped USTDA FOIA personnel more effectively reply to requesters with timely and consistent responses.

USTDA examined the benefit of USTDA FOIA personnel making an "acknowledgement phone call" to a FOIA requester. However, taking into consideration available resources, personnel constraints, and the relatively small number of FOIA requests USTDA receives each year, USTDA determined that "acknowledgement phone calls" would not have a significant positive impact on a FOIA requester's awareness of the status of their request or on USTDA's FOIA operations as a whole.

(viii) Process by which necessary cooperation is obtained from agency "program personnel

As USTDA "program personnel" have primary missions that are not FOIA-related, USTDA cooperated with agency personnel in order to improve their ability to provide FOIA-related assistance. USTDA met its goal of establishing written guidelines to provide guidance to "program personnel" on best practices on searching for documents in response to a FOIA request. These guidelines trained "program personnel" on how to complete searches within their electronic documents, as well as within their email. All USTDA "program personnel" were provided a contact in the USTDA IT Department to whom they could direct any questions and request one-on-one instruction in the event they desired further instruction.

Furthermore, USTDA examined how USTDA IT personnel can be utilized to improve FOIA searches for electronic documents. One outcome of this examination was for USTDA FOIA personnel to utilize IT personnel to improve FOIA searches in the retired users folders and emails, which are not readily accessible.

- C. Identification and discussion of any deficiency in meeting plan milestones. N/A
- D. Additional narrative statement regarding other executive order-related activities. N/A
- E. Concise descriptions of FOIA exemptions.

The nine exemptions to the FOIA authorize federal agencies to withhold information covering: (1) classified national defense and foreign relations information; (2) internal agency rules and practices; (3) information that is prohibited from disclosure by another federal law; (4) trade secrets and other confidential business information; (5) inter-agency or intra-agency communications that are protected by legal privileges; (6) information involving matters of personal privacy; (7) records or information compiled for law enforcement purposes, to the extent that the production of those records (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) information relating to the supervision of financial institutions; and (9) geological information on wells.

- F. Additional statistics.
 - 1. Time range of requests pending, by date of request (or, where applicable, by date of referral from another agency)

April 28, 2006 to January 25, 2007
 - 2. Time range of consultations pending with other agencies, by date of initial interagency communication

N/A. No consultations pending with other agencies.

- G. Attachment: Agency improvement plan (in current form).