

**DEPARTMENT of COMMERCE  
FOIA ANNUAL REPORT FY09**

**I. BASIC INFORMATION REGARDING REPORT**

1. Person to be contacted with questions about the report.

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2. Electronic link for access to the Report on the agency Web site.

<http://www.osec.doc.gov/omo/FOIA/FOIAWEBSITE.htm>

3. To obtain a copy of the Report in paper form.

Write to the address or contact the person listed above in section I.1.

**II. MAKING A FOIA REQUEST**

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

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The FOIA Officers for the Department are also listed at:

<http://www.osec.doc.gov/omo/FOIA/FOIAWEBSITE.htm>

2. Brief description of why some requests are not granted and an overview of certain general categories of the agency's records to which the FOIA exemptions apply.

A request for records may be denied if the requested record contains information which falls into one or more of the nine FOIA exemptions listed in section III, 3. If the requested record contains both exempt and nonexempt information, the nonexempt portions which may reasonably be segregated from the exempt portions will be released to the requester.

### **III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS**

1. Agency-specific acronyms or terms used in this Report.

OS- Office of the Secretary  
BIS- Bureau of Industry and Security  
Census- Bureau of the Census

EDA- Economic Development Administration

ESA- Economic and Statistics Administration/Bureau of Economic Analysis  
ITA- International Trade Administration  
MBDA- Minority Business Development Agency  
NIST- National Institute of Standards and Technology  
NOAA- National Oceanic and Atmospheric Administration  
NTIA- National Telecommunications and Information Administration  
NTIS- National Technical Information Service  
OIG- Office of Inspector General  
PTO- United States Patent and Trademark Office  
AGC/Admin.- Assistant General Counsel for Administration

2. Definitions of terms used in this Report:

- a. **Administrative Appeal** – a request to a federal agency asking that it review at a higher administrative level a FOIA determination made by the agency at the initial request level.
- b. **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.
- c. **Backlog** – the number of requests or administrative appeals that are pending at an agency at the end of the fiscal year that are beyond the statutory time period for a response.
- d. **Component** – for agencies that process requests on a decentralized basis, a “component” is an entity, also sometimes referred to as an Office, Division, Bureau, Center, or Directorate, within the agency that processes FOIA requests. The FOIA now requires that agencies include in their Annual FOIA Report data for both the agency overall and for each principal component of the agency.
- e. **Consultation** – the procedure whereby the agency responding to a FOIA request first forwards a record to another agency for its review because that other agency has an interest in the document. Once the agency in receipt of the consultation finishes its review of the record, it responds back to the agency that forwarded it. That agency, in turn, will then respond to the FOIA requester.
- f. **Exemption 3 Statute** – a federal statute that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3) of the FOIA.
- g. **FOIA Request** – a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a “third-party” request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., “first-party” requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include

any first-party requests where an agency determines that it must search beyond its Privacy Act “systems of records” or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

- h. **Full Grant** – an agency decision to disclose all records in full in response to a FOIA request.
- i. **Full Denial** – an agency decision not to release any records in response to a FOIA request because the records are exempt in their entirety under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.
- j. **Median Number** – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
- k. **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 granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.
  - i. **Expedited Processing** – an agency will process a FOIA request on an expedited basis when a requester satisfies the requirements for expedited processing as set forth in the statute and in agency regulations.
  - ii. **Simple Request** – a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the low volume and/or simplicity of the records requested.
  - iii. **Complex Request** – a FOIA request that an agency using multi-track processing places in a slower track based on the high volume and/or complexity of the records requested.
- l. **Partial Grant/Partial Denial** – in response to a FOIA request, an agency decision to disclose portions of the records and to withhold other portions that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.
- m. **Pending Request or Pending Administrative Appeal** – a request or administrative appeal for which an agency has not taken final action in all respects.

- n. **Perfect Request** – a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.
  - o. **Processed Request or Processed Administrative Appeal** – a request or administrative appeal for which an agency has taken final action in all respects.
  - p. **Range in Number of Days** – the lowest and highest number of days to process requests or administrative appeals.
  - q. **Time Limits** – the time period in the statute for an agency to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).
3. Concise descriptions of the nine FOIA exemptions:
- a. **Exemption 1:** classified national defense and foreign relations information
  - b. **Exemption 2:** internal agency rules and practices
  - c. **Exemption 3:** information that is prohibited from disclosure by another federal law
  - d. **Exemption 4:** trade secrets and other confidential business information
  - e. **Exemption 5:** inter-agency or intra-agency communications that are protected by legal privileges
  - f. **Exemption 6:** information involving matters of personal privacy
  - g. **Exemption 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
  - h. **Exemption 8:** information relating to the supervision of financial institutions
  - i. **Exemption 9:** geological information on wells

#### IV. EXEMPTION 3 STATUTES

- A. Exemption 3 Statutes Relied upon to Withhold Information for Initial Requests

<b>Statute</b>	<b>Type of Information Withheld</b>	<b>Case Citation</b>	<b>Number of Times Relied upon per Component</b>	<b>Total Number of Times Relied upon by Agency</b>
50 U.S.C. § 2411(c), Export Administration Act of 1979 § 12 (c)	Information concerning exporting license applications	Export Information Twin Coast Newspapers, Inc. v Dept. of Commerce, No. 78-0978 (D.D.C. Nov. 6, 1979)	BIS – 13	13
35 U.S.C. § 122	Information concerning patent applications	Irons & Sears v Dann, 606 F.2d 1215, 1220 (D.C. Cir.1979)	PTO – 17	17
13 U.S.C. § 9	Information collected by the Bureau of the Census	Baldrige v Shapiro, 455 U.S, 355 (1982)	OS – 1 Census – 32	33
5 U.S.C. appendix 105, Ethics in Govt. Act of 1978	Financial Disclosure Information	Meyerhoff v EPA 958 Fed 2 1497 9 <sup>th</sup> Circuit (1992)	OS – 1	1
15 U.S.C. 7306(c)	Public Safety Information	No Case	NIST - 5	5
13 U.S.C. § 301(g)	Shippers' Export Declarations	Young Conservative Found v Dept. of Commerce, No. 85-3982 (D.D.C. March 25, 1987)	Census – 3	3
41 U.S.C. § 253 & 423	Proposal not set forth or incorporated by reference in a contract	Hornbostel v Dept. of Interior, 305 F. Supp. 2d 21 (D.D.C. 2003)	NOAA - 8 NTIA-1 PTO - 2	11
16 U.S.C. § 1881(a)	Magnuson-Stevens Fishery Conservation and Management Act – pertains to statistical information contained in fishery management plans.	No Case	NOAA -9	9



## V. FOIA REQUESTS

### A. Received, Processed and Pending FOIA Requests

	Column 1	Column 2	Column 3	Column 4
	Number of Requests Pending as of Start of Fiscal Year	Number of Requests Received in Fiscal Year	Number of Requests Processed in Fiscal Year	Number of Requests Pending as of End of Fiscal Year
OS	20	235	245	10
BIS	11	89	91	9
Census	4	234	229	9
EDA	1	37	34	4
ESA	0	12	12	0
ITA	0	141	114	27
MBDA	0	10	10	0
NIST	22	170	157	35
NOAA	172	688	708	152
NTIA	0	45	45	0
NTIS	0	21	21	0
OIG	4	48	51	1
PTO	20*	361	375	6
<b>AGENCY OVERALL</b>	254 **	2091	2092	253

\* In the FY2008 FOIA Annual Report, PTO reported the number of requests pending at the end of FY08 as “22.” This number was reported incorrectly. The correct figure is “20.” Therefore, the number of requests pending as of the start of FY09 has been amended to “20” in the FY09 report.

\*\* In the FY2008 FOIA Annual Report, the number of requests pending at the end of FY08 was reported as “256.” Due to the amendment in the number of requests pending as of the start of FY09 for PTO (see footnote above), the number of requests pending as of the start of FY09 for the agency overall has been amended to “254.”

B. (1) Disposition of FOIA Requests – All Processed Requests

	Number of Full Grants	Number of Partial Grants/ Partial Denials	Number of Full Denials Based on Exemptions	Number of Full Denials Based on Reasons Other than Exemptions									TOTAL
				No Records	All Records Referred to Another Component or Agency	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper FOIA Request for Other Reason	Not Agency Record	Duplicate Request	Other *Explain in chart below	
OS	58	32	1	40	15	14	41	13	0	30	1	0	245
BIS	17	14	4	11	1	3	39	2	0	0	0	0	91
Census	15	32	33	42	19	17	37	1	11	0	0	22	229
EDA	20	4	3	5	0	2	0	0	0	0	0	0	34
ESA	2	1	0	7	0	0	2	0	0	0	0	0	12
ITA	35	9	5	20	0	7	25	6	6	0	1	0	114

MBDA	6	2	0	0	0	1	1	0	0	0	0	0	10
NIST	30	12	7	12	3	8	20	4	0	58	0	3	157
NOAA	492	74	14	35	3	21	51	2	2	0	9	5	708
NTIA	25	6	2	8	0	4	0	0	0		0	0	45
NTIS	11	0	0	6	1	0	0	0	0	2	0	1	21
OIG	4	10	3	6	0	14	1	0	0	0	0	13	51
PTO	69	59	13	54	2	6	62	6	101	2	1	0	375
AGENCY OVERALL	784	255	85	246	44	97	279	34	120	92	12	44	2092

B. (2) Disposition of FOIA Requests – “Other” Reasons for “Full Denials Based on Reasons Other than Exemptions” from Section V, B (1) Chart

<b>Component</b>	<b>Description of “Other” Reasons for Denials from Chart B (1) &amp; Number of Times Those Reasons Were Relied upon</b>	<b>TOTAL</b>
Census	Publicly Available Information 21 Appealed Before Response Sent 1	22
NIST	No Certification of Identity Document Provided 1 Handled Through Another Process Outside of FOIA 2	3
NOAA	Publicly Available Information 5	5
NTIS	Statute Based Price Authority 1	1
OIG	Request Misdirected and Withdrawn 13	13

B. (3) Disposition of FOIA Requests – Number of Times Exemptions Applied

	Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex. 8	Ex. 9
OS	1	6	2	2	16	25	1	0	4	0	3	1	0	0
BIS	4	1	13	3	4	2	2	0	1	1	3	0	0	0
Census	0	8	35	9	6	25	1	0	1	1	0	1	0	0
EDA	0	0	0	3	1	3	0	0	0	0	0	0	0	0
ESA	0	0	0	0	1	0	0	0	0	0	0	0	0	0
ITA	1	2	0	4	11	1	0	0	0	0	0	0	0	0
MBDA	0	0	0	2	0	1	0	0	0	0	0	0	0	0
NIST	0	0	5	8	2	4	0	0	0	0	0	0	0	0
NOAA	0	8	17	27	52	30	6	0	6	0	4	0	0	0
NTIA	0	1	1	3	1	3	0	0	0	0	0	1	0	0
NTIS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OIG	0	3	0	0	5	3	1	0	8	0	2	0	0	0
PTO	0	23	19	19	9	25	0	0	3	0	0	0	0	0
<b>AGENCY OVERALL</b>	6	52	92	80	108	122	11	0	23	2	12	3	0	0

**VI. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS**

A. Received, Processed and Pending Administrative Appeals

	Column 1	Column 2	Column 3	Column 4
<b>Bureau</b>	<b>Number of Appeals Pending as of Start of Fiscal Year</b>	<b>Number of Appeals Received in Fiscal Year</b>	<b>Number of Appeals Processed in Fiscal Year</b>	<b>Number of Appeals Pending as of End of Fiscal Year</b>
AGC/Admin.*	87	68	95	60
PTO	0	15	15	0
<b>AGENCY OVERALL</b>	87	83	110	60

\* Assistant General Counsel for Administration (AGC/Admin.) processes the appeals for all the Department of Commerce components, except for PTO.

B. Disposition of Administrative Appeals – All Processed Appeals

	<b>Number Affirmed on Appeal</b>	<b>Number Partially Affirmed &amp; Partially Reversed/Remanded on Appeal</b>	<b>Number Completely Reversed/Remanded on Appeal</b>	<b>Number of Appeals Closed for Other Reasons</b>	<b>TOTAL</b>
AGC/Admin.	10	29	27	29	95
PTO	14	1	0	0	15
<b>AGENCY OVERALL</b>	24	30	27	29	110



C. (1) Reasons for Denial on Appeal – Number of Times Exemptions Applied

<b>Bureau</b>	<b>Ex. 1</b>	<b>Ex. 2</b>	<b>Ex. 3</b>	<b>Ex. 4</b>	<b>Ex. 5</b>	<b>Ex. 6</b>	<b>Ex. 7(A)</b>	<b>Ex. 7(B)</b>	<b>Ex. 7(C)</b>	<b>Ex. 7(D)</b>	<b>Ex. 7(E)</b>	<b>Ex. 7(F)</b>	<b>Ex. 8</b>	<b>Ex. 9</b>
AGC/ Admin.	0	2	8	4	25	15	1	0	1	0	0	0	0	0
PTO	0	1	2	0	2	0	0	0	0	0	0	0	0	0
<b>Agency</b>	0	3	10	4	27	15	1	0	1	0	0	0	0	0
<b>Overall</b>														

C. (2) Reasons for Denial on Appeal – Reasons Other than Exemptions

	<b>No Records</b>	<b>Records Referred at Initial Request Level</b>	<b>Request Withdrawn</b>	<b>Fee-Related Reason</b>	<b>Records not Reasonably Described</b>	<b>Improper Request for Other Reasons</b>	<b>Not Agency Record</b>	<b>Duplicate Request or Appeal</b>	<b>Request in Litigation</b>	<b>Appeal Based Solely on Denial of Request for Expedited Processing</b>	<b>Other *Explain in chart below</b>
AGC/Admin.	4	0	8	8	0	5	1	3	0	0	0
PTO	6	1	0	3	0	1	0	0	0	3	0
<b>AGENCY OVERALL</b>	10	1	8	11	0	6	1	3	0	3	0

C. (3) Reasons for Denial on Appeal – “Other” Reasons from Section VI, C (2) Chart

<b>Description of “Other” Reasons for Denial on Appeal from Chart C (2) &amp; Number of Times Those Reasons Were Relied upon</b>	<b>TOTAL</b>
0	0

C. (4) Response Time for Administrative Appeals

<b>Bureau</b>	<b>Median Number of Days</b>	<b>Average Number of Days</b>	<b>Lowest Number of Days</b>	<b>Highest Number of Days</b>
AGC/Admin.	208	410	4	1447
PTO	17	19	1	20
<b>Agency Overall</b>	338	104	4	1447

C. (5) Ten Oldest Pending Administrative Appeals

Bureau		10 <sup>th</sup> Oldest Appeal	9 <sup>th</sup>	8 <sup>th</sup>	7 <sup>th</sup>	6 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	Oldest Appeal
AGC/Admin.	<b>Date of Receipt of Ten Oldest Appeals</b>	5/30/06	2/14/06	2/13/06	12/9/05	10/17/05	9/20/05	8/1/05	1/14/05	4/28/03	3/17/03
AGC/Admin.	<b>Number of Days Pending</b>	873	948	949	995	1034	1053	1089	1230	1679	1709
		10 <sup>th</sup> Oldest Appeal	9 <sup>th</sup>	8 <sup>th</sup>	7 <sup>th</sup>	6 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	Oldest Appeal
PTO	<b>Date of Receipt of Ten Oldest Appeals</b>	0	0	0	0	0	0	0	0	0	0
PTO	<b>Number of Days Pending</b>	0	0	0	0	0	0	0	0	0	0
Agency Overall	<b>Date of Receipt</b>	5/30/06	2/14/06	2/13/06	12/9/05	10/17/05	9/20/05	8/1/05	1/14/05	4/28/03	3/17/03
Agency Overall	<b>Number of Days Pending</b>	873	948	949	995	1034	1053	1089	1230	1679	1709

**VII. FOIA REQUESTS: RESPONSE TIME FOR PROCESSED AND PENDING REQUESTS**

A. Processed Requests – Response Time for All Processed Perfected Requests

	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
OS	13	13	1	46	82	134	52	573	0	0	0	0
BIS	6	15	1	112	51	74	10	214	0	0	0	0
Census	9	11	1	66	0	0	0	0	24	24	20	30
EDA	1	4	1	9	20	27	11	57	8	8	8	8
ESA	9	10	1	25	0	0	0	0	0	0	0	0

ITA	11	21	1	152	0	0	0	0	0	0	0	0
MBDA	12	19	7	76	0	0	0	0	0	0	0	0
NIST	28	31	1	256	0	0	0	0	0	0	0	0
NOAA	9	9	1	20	50	113	21	762	6	10	5	40
NTIA	7	9	1	26	0	0	0	0	19	19	9	29
NTIS	7	6	6	10	0	0	0	0	5	5	5	5
OIG	20	23	1	190	0	0	0	0	0	0	0	0
PTO	5	7	0	58	0	0	0	0	0	0	0	0
<b>AGENCY OVERALL</b>	12	15	1	256	51	115	10	762	20	18	5	40

B. Processed Requests – Response Time for Perfected Requests in Which Information Was Granted

	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
OS	14	14	1	46	178	198	64	573	0	0	0	0
BIS	19	30	4	112	50	73	10	214	0	0	0	0
Census	19	20	5	66	0	0	0	0	24	25	22	30
EDA	4	4	1	9	18	21	11	57	8	8	8	8
ESA	6	6	6	6	0	0	0	0	0	0	0	0



ITA	14	15	1	43	0	0	0	0	0	0	0	0
MBDA	12	19	7	76	0	0	0	0	0	0	0	0
NIST	28	32	1	256	0	0	0	0	0	0	0	0
NOAA	9	9	1	20	50	119	21	762	6	10	5	40
NTIA	2	8	1	26	0	0	0	0	19	19	9	29
NTIS	6	7	6	8	0	0	0	0	5	5	5	5
OIG	19	26	1	190	0	0	0	0	0	0	0	0
PTO	10	10	1	58	0	0	0	0	0	0	0	0
<b>AGENCY OVERALL</b>	12	15	1	256	52	119	10	762	20	18	5	40

C. Processed Requests – Response Time in Day Increments

1. Number of perfected requests processed in each of the thirteen designated time increments.

**Simple Requests**

	<b>1-20 Days</b>	<b>21-40 Days</b>	<b>41-60 Days</b>	<b>61-80 Days</b>	<b>81-100 Days</b>	<b>101-120 Days</b>	<b>121-140 Days</b>	<b>141-160 Days</b>	<b>161-180 Days</b>	<b>181-200 Days</b>	<b>201-300 Days</b>	<b>301-400 Days</b>	<b>401+ Days</b>	<b>TOTAL</b>
OS	115	47	4	0	0	0	0	0	0	0	0	0	0	166
BIS	60	11	1	1	1	1	0	0	0	0	0	0	0	75
Census	203	18	2	1	0	0	0	0	0	0	0	0	0	224
EDA	16	0	0	0	0	0	0	0	0	0	0	0	0	16
ESA	10	2	0	0	0	0	0	0	0	0	0	0	0	12
ITA	87	41	3	5	3	0	0	2	0	0	0	0	0	141

MBDA	9	0	0	1	0	0	0	0	0	0	0	0	0	10
NIST	119	24	5	4	2	1	1	0	0	0	1	0	0	157
NOAA	413	0	0	0	0	0	0	0	0	0	0	0	0	413
NTIA	42	1	0	0	0	0	0	0	0	0	0	0	0	43
NTIS	20	0	0	0	0	0	0	0	0	0	0	0	0	20
OIG	38	9	2	0	0	0	0	1	0	1	0	0	0	51
PTO	94	250	30	1	0	0	0	0	0	0	0	0	0	375
<b>AGENCY OVERALL</b>	1226	403	47	13	6	2	1	3	0	1	1	0	0	1703

### Complex Requests

	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
OS	0	0	14	4	2	4	2	0	1	3	3	3	1	37
BIS	2	3	5	0	2	1	1	0	1	0	1	0	0	16
Census	0	0	0	0	0	0	0	0	0	0	0	0	0	0
EDA	9	6	2	0	0	0	0	0	0	0	0	0	0	17
ESA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ITA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
MBDA	0	0	0	0	0	0	0	0	0	0	0	0	0	0

	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NIST	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NOAA	0	119	40	22	17	13	10	12	3	6	20	15	18	295
NTIA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NTIS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OIG	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PTO	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>AGENCY OVERALL</b>	11	128	61	26	21	18	13	12	5	9	24	18	19	365

**Requests Granted Expedited Processing**

	<b>1-20 Days</b>	<b>21-40 Days</b>	<b>41-60 Days</b>	<b>61-80 Days</b>	<b>81-100 Days</b>	<b>101-120 Days</b>	<b>121-140 Days</b>	<b>141-160 Days</b>	<b>161-180 Days</b>	<b>181-200 Days</b>	<b>201-300 Days</b>	<b>301-400 Days</b>	<b>401+ Days</b>	<b>TOTAL</b>
OS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
BIS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Census	1	4	0	0	0	0	0	0	0	0	0	0	0	5
EDA	1	0	0	0	0	0	0	0	0	0	0	0	0	1
ESA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ITA	0	0	0	0	0	0	0	0	0	0	0	0	0	0

	0	0	0	0	0	0	0	0	0	0	0	0	0	0
MBDA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NIST	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NOAA	6	4	0	0	0	0	0	0	0	0	0	0	0	10
NTIA	1	1	0	0	0	0	0	0	0	0	0	0	0	2
NTIS	1	0	0	0	0	0	0	0	0	0	0	0	0	1
OIG	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PTO	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>AGENCY OVERALL</b>	10	9	0	0	0	0	0	0	0	0	0	0	0	19

D. Pending Requests – All Pending Perfected Requests

1. Number of perfected requests pending as of the end of fiscal year, and the median and average number of days those requests had been pending.

	SIMPLE			COMPLEX			EXPEDITED PROCESSING		
	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days
OS	4	11	7	6	93	214	0	0	0
BIS	2	31	34	7	99	119	0	0	0
Census	8	7	7	0	0	0	1	51	51
EDA	4	8	9	0	0	0	0	0	0
ESA	0	0	0	0	0	0	0	0	0
ITA	27	34	46	0	0	0	0	0	0
MBDA	0	0	0	0	0	0	0	0	0
NIST	35	171	258	0	0	0	0	0	0
NOAA	0	0	0	152	92	154	0	0	0



NTIA	0	0	0	0	0	0	0	0	0
NTIS	0	0	0	0	0	0	0	0	0
OIG	1	52	52	0	0	0	0	0	0
PTO	6	16	17	0	0	0	0	0	0
<b>AGENCY OVERALL</b>	87	10	24	165	34	103	1	51	51

E. Pending Requests – Ten Oldest Pending Perfected Requests

1. Dates of receipt of the ten oldest perfected requests pending as of the end of the fiscal year, and the number of days those requests had been pending.

	<b>10<sup>th</sup> Oldest Request and Number of Days Pending</b>	<b>9<sup>th</sup></b>	<b>8<sup>th</sup></b>	<b>7<sup>th</sup></b>	<b>6<sup>th</sup></b>	<b>5<sup>th</sup></b>	<b>4<sup>th</sup></b>	<b>3<sup>rd</sup></b>	<b>2<sup>nd</sup></b>	<b>Oldest Request and Number of Days Pending</b>
OS	9/25/09 3	9/25/09 3	9/15/09 11	8/13/09 13	7/28/09 44	6/2/09 84	5/27/09 88	5/19/09 93	4/2/08 378	5/3/07 605
BIS	N/A	9/23/09 7	9/9/09 21	8/31/09 30	8/31/09 30	8/31/09 30	7/28/09 64	7/28/09 64	6/6/09 117	4/2/09 151
Census	N/A	9/28/09 2	9/25/09 3	9/22/09 6	9/21/09 7	9/21/09 7	9/17/09 9	9/16/09 10	9/9/09 15	7/20/09 51
EDA	N/A	N/A	N/A	N/A	N/A	N/A	9/28/09 8	9/23/09 9	9/17/09 14	8/18/09 10  (per requestor notification, payment for fee forthcoming)
ESA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ITA	8/4/09 41	8/3/09 42	7/1/09 64	6/26/09 67	6/26/09 68	6/8/09 81	6/4/09 83	5/29/09 87	2/26/09 152	2/26/09 152
MBDA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
NIST	7/8/08 309	6/24/08 319	4/21/08 363	8/24/07 588	8/8/07 600	3/5/07 697	2/9/07 710	3/24/06 919	2/27/06 947	1/6/06 1001
NOAA	1/17/08 428	11/29/07 462	11/7/07 472	10/31/07 480	10/30/07 482	7/2/07 564	6/11/07 579	4/30/07 608	12/8/06 705	10/20/06 753
NTIA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

NTIS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
OIG	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	8/17/09 52
PTO	N/A	N/A	N/A	N/A	N/A	N/A	N/A	9/22/09 6	9/21/09 7	9/8/09 16

Agency Overall	10 <sup>th</sup> Oldest Request and Number of Days Pending	9 <sup>th</sup>	8 <sup>th</sup>	7 <sup>th</sup>	6 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	Oldest Request and Number of Days Pending
		10/20/06 487	7/20/06 552	4/26/06 613	4/17/06 618	3/24/06 635	2/21/06 657	2/6/06 667	1/11/06 684	1/6/06 688

## VIII. REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER

### A. Requests for Expedited Processing

	<b>Number Granted</b>	<b>Number Denied</b>	<b>Median Number of Days to Adjudicate</b>	<b>Average Number of Days to Adjudicate</b>	<b>Number Adjudicated Within Ten Calendar Days</b>
OS	0	0	0	0	0
BIS	0	0	0	0	0
Census	5	1	1	1	6
EDA	1	0	1	1	1
ESA	0	0	0	0	0
ITA	0	19	1	1	19
MBDA	0	0	0	0	0
NIST	0	0	0	0	0
NOAA	10	5	14	15	7
NTIA	2	1	21	16	0
NTIS	1	0	1	1	1

OIG	0	0	0	0	0
PTO	0	9	1	2	9
<b>AGENCY OVERALL</b>	19	35	11	9	43

B. Requests for Fee Waiver

	<b>Number Granted</b>	<b>Number Denied</b>	<b>Median Number of Days to Adjudicate</b>	<b>Average Number of Days to Adjudicate</b>
OS	4	1	10	10
BIS	2	0	1	1
Census	5	2	2	2
EDA	0	0	0	0
ESA	0	0	0	0
ITA	26	0	1	1
MBDA	0	0	0	0
NIST	0	5	5	7
NOAA	29	6	15	14
NTIA	1	1	21	16

NTIS	3	0	1	1
OIG	0	0	0	0
PTO	0	9	4	5
<b>AGENCY OVERALL</b>	70	24	5	10

**IX. FOIA PERSONNEL AND COSTS**

	Column 1	Column 2				
	PERSONNEL			COSTS		
	Number of “Full-Time FOIA Employees”	Number of “Equivalent Full-Time FOIA Employees”	Total Number of “Full- Time FOIA Staff”  (The sum of Columns 1 & 2)	Processing Costs  (At initial request and appeal levels)	Litigation- Related Costs	Total Costs
OS	3	N/A	3	329,892.74*	8,076.20	337,968.94
BIS	1	.35	1.35	122,048.00	N/A	122,048.00
Census	N/A	3.7	3.7	347,194.67	N/A	347,194.67
EDA	N/A	1	1	40,587.00	N/A	40,587.00
ESA	N/A	1	1	1,650.00	N/A	1,650.00
ITA	.5	N/A	.5	47,513.00	12,535.20	60,048.20
MBDA	N/A	.25	.25	21,912.25	N/A	21,912.25
NIST	N/A	1	1	96,894.00	10,799.20	107,963.20



NOAA	2	10	12	1,023,372.00	18,486.20	1,041,858.20
NTIA	1	N/A	1	63,851.00	N/A	63,851.00
NTIS	N/A	.05	.05	10,500.00	N/A	10,500.00
OIG	N/A	1.65	1.65	269,488.00	N/A	269,488.00
PTO	3	1.5	4.5	275,728.00**	12,837.00	288,565.00
<b>AGENCY OVERALL</b>	10.5	18.8	29.3	2,650,630.60	62,733.80	2,713,364.40

\*Includes processing costs at the appeal level for the AGC/Admin.

\*\* Includes processing costs at the appeal level for PTO.

**X. FEES COLLECTED FOR PROCESSING REQUESTS**

	<b>Total Amount of Fees Collected</b>	<b>Percentage of Total Costs</b>
OS	520.46	.017%
BIS	10,128.78	8.2%
Census	108.84	0.03%
EDA	165.87	.40%
ESA	0	0
ITA	0	0
MBDA	0	0
NIST	26,479.49	27%
NOAA	24,139.48	2.4%
NTIA	259.77	0.4%
NTIS	0	0
OIG	0	0

PTO	7,342.00	2.5%
<b>AGENCY OVERALL</b>	69,144.69	.025%

## XI. FOIA REGULATIONS

- Electronic link to FOIA regulations, including fee schedule.

[www.osec.doc.gov/omo/FOIA/ereadingroom.htm#laws](http://www.osec.doc.gov/omo/FOIA/ereadingroom.htm#laws)

## XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS

### A. Backlogs of FOIA Requests and Administrative Appeals

	<b>Number of Backlogged Requests as of End of Fiscal Year</b>	<b>Number of Backlogged Appeals as of End of Fiscal Year</b>
OS	6	9*
BIS	8	4*
Census	1	2*
EDA	0	0*
ESA	0	1*
ITA	16	2*
MBDA	0	0*

NIST	29	9*
NOAA	98	32*
NTIA	0	1*
NTIS	0	0*
OIG	1	0*
PTO	0	0
<b>AGENCY OVERALL</b>	159	60

\* Assistant General Counsel for Administration (AGC/Admin.) processes the appeals for all the Department of Commerce components, except for PTO. Data provided by AGC/Admin.

B. Consultations on FOIA Requests – Received, Processed, and Pending Consultations

	Column 1	Column 2	Column 3	Column 4
	<b>Number of Consultations Received from Other Agencies that Were <u>Pending</u> at Your Agency as of <u>Start</u> of the Fiscal Year</b>	<b>Number of Consultations <u>Received</u> from Other Agencies During the Fiscal Year</b>	<b>Number of Consultations Received from Other Agencies that Were <u>Processed</u> by Your Agency During the Fiscal Year</b>	<b>Number of Consultations Received from Other Agencies that Were <u>Pending</u> at Your Agency as of <u>End</u> of the Fiscal Year</b>
OS	0	6	6	0
BIS	5	12	15	2
Census	0	0	0	0
EDA	0	0	0	0
ESA	0	1	1	0
ITA	0	25	14	11
MBDA	0	0	0	0
NIST	0	2	2	0
NOAA	0	0	0	0
NTIA	0	0	0	0
NTIS	0	0	0	0
OIG	0	0	0	0
PTO	0	2	2	0

<b>AGENCY OVERALL</b>	5	48	40	13
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C. Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency

	10 <sup>th</sup> Oldest Consultation and Number of Days Pending	9 <sup>th</sup>	8 <sup>th</sup>	7 <sup>th</sup>	6 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	Oldest Consultation and Number of Days Pending
OS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
BIS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	7/28/09 45	6/5/09 81
Census	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
EDA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ESA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ITA	9/17/09 10	9/17/09 10	9/15/09 12	8/28/09 23	8/24/09 27	8/11/09 36	8/4/09 41	7/1/09 64	6/26/09 67	2/26/09 152
MBDA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
NIST	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

NOAA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
NTIA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
NTIS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
OIG	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
PTO	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Agency Overall	10 <sup>th</sup> Oldest Consultation and Number of Days Pending	9 <sup>th</sup>	8 <sup>th</sup>	7 <sup>th</sup>	6 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	Oldest Consultation and Number of Days Pending
	Date	8/28/09	8/24/09	8/11/09	8/4/09	7/28/09	7/1/09	6/26/09	6/5/09	2/26/09
Number of Days	23	27	36	41	45	64	67	81	152	



D. Comparison of Numbers of Requests from Previous and Current Annual Report – Requests Received, Processed, and Backlogged

	Column 1	Column 2	Column 3	Column 4
	<b>NUMBER OF REQUESTS <u>RECEIVED</u></b>		<b>NUMBER OF REQUESTS <u>PROCESSED</u></b>	
	<b>Number Received During Fiscal Year from Last Year's Annual Report</b>	<b>Number Received During Fiscal Year from Current Annual Report</b>	<b>Number Processed During Fiscal Year from Last Year's Annual Report</b>	<b>Number Processed During Fiscal Year from Current Annual Report</b>
OS	227	235	223	245
BIS	67	89	58	91
Census	194	234	196	229
EDA	64	37	64	34
ESA	9	12	9	12
ITA	111	141	111	114
MBDA	28	10	28	10
NIST	180	170	176	157
NOAA	605	688	576	708
NTIA	6	45	7	45

NTIS	15	21	16	21
OIG	46	48	46	51
PTO	384	361	375	375
<b>AGENCY OVERALL</b>	1936	2091	1885	2092

	Column 1	Column 2
	<b>Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report</b>	<b>Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report</b>
OS	15	6
BIS	6	8
Census	1	1
EDA	0	0
ESA	0	0
ITA	0	16
MBDA	0	0

NIST	17	29
NOAA	102	98
NTIA	0	0
NTIS	0	0
OIG	2	1
PTO	0	0
<b>AGENCY OVERALL</b>	143	159

E. Comparison of Numbers of Administrative Appeals from Previous and Current Annual Report – Appeals Received, Processed, and Backlogged

	Column 1	Column 2	Column 3	Column 4
	<b>NUMBER OF APPEALS <u>RECEIVED</u></b>		<b>NUMBER OF APPEALS <u>PROCESSED</u></b>	
	<b>Number Received During Fiscal Year from Last Year's Annual Report</b>	<b>Number Received During Fiscal Year from Current Annual Report</b>	<b>Number Processed During Fiscal Year from Last Year's Annual Report</b>	<b>Number Processed During Fiscal Year from Current Annual Report</b>
AGC/Admin.	53	68	46	95
PTO	17	15	17	15
<b>AGENCY OVERALL</b>	70	83	63	110

Column 1

Column 2

	<b>Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report</b>	<b>Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report</b>
AGC/Admin.	87	60
PTO	0	0
<b>AGENCY OVERALL</b>	87	60