

I. BASIC INFORMATION REGARDING REPORT

1. Name, title, address, and telephone number of person(s) to be contacted with questions about the Report.

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2. ELECTRONIC ADDRESS FOR THIS REPORT ON THE WORLD WIDE WEB:

<http://www.hhs.gov/foia/09anlrpt.html>

3. ADDRESS FOR PAPER COPIES OF THIS REPORT

Contact Robert Eckert at the address or telephone number listed above, or the link shown:
<http://www.hhs.gov/foia/request/index.html>

** Copies of the annual reports of a number of individual HHS Operating Divisions can be found by contacting the responsible component shown in Section II below, or by locating a FOIA link at the following websites:

Administration on Aging (AOA):

http://www.aoa.gov/AoARoot/Site_Utilities/FOIA/

Administration for Children and Families (ACF):

http://www.acf.hhs.gov/acf_foia.html

Agency for Healthcare Research and Quality (AHRQ):

<http://www.ahrq.gov/news/foia.htm>

Centers for Disease Control and Prevention (CDC):

<http://www.cdc.gov/od/foia/>

Centers for Medicare & Medicaid Services (CMS):

<http://www.cms.hhs.gov/foia/>

Food and Drug Administration (FDA):

<http://www.fda.gov/RegulatoryInformation/foi/>

Health Resources and Services Administration (HRSA):

<http://www.hrsa.gov/foia/>

Indian Health Service (IHS): <http://www.ihs.gov/AdminMngrResources/FOIA/>

National Institute of Health (NIH): <http://www.nih.gov/icd/od/foia/>

Office of Inspector General (OIG): <http://oig.hhs.gov/foia/>

Office of Public Health and Science (OPHS): <http://www.psc.gov/foia/>

Substance Abuse and Mental Health Services Administration:

<http://www.samhsa.gov/foia/>

II. HOW TO MAKE A FOIA REQUEST

Requests may be submitted electronically at: <http://www.hhs.gov/foia/request/index.html>

1. HHS and OPDIV Freedom of Information Officers/FOIA Requester Service Centers

Health and Human Services (HHS)
Freedom of Information Officer
Mary E. Switzer Building, Room 2221
330 C Street, S.W.
Washington, D.C. 20201
Phone: 202-690-7453

Administration for Children and Families (ACF)
Freedom of Information Officer
901 D Street, S.W.
7th Floor West
Aerospace Building
Washington, D.C. 20447
Phone: 202-401-9215

Administration on Aging (AOA)
Freedom of Information Officer
Washington, D.C. 20201
Phone: 202-357-3540

Centers for Medicare & Medicaid Services (CMS)
Freedom of Information Officer
North Building, Room N2-20-06
7500 Security Boulevard
Baltimore, Maryland 21244
Phone: 410-786-5353

Office of Inspector General (OIG)
Freedom of Information Officer
Cohen Building, Suite 1062
330 Independence Ave, S.W.
Washington, D.C. 20201
Phone: 202-619-2541

Office of Public Health and Science (OPHS)
Freedom of Information Officer
Room 17-66, Parklawn Building
5600 Fishers Lane
Rockville, MD 20857
Phone: 301-443-5252

Agency for Healthcare Research and Quality (AHRQ)
Freedom of Information Officer
540 Gaither Road
The Eisenberg Building, Room 2222
Rockville, Maryland 20850
Phone: 301-427-1866

Centers for Disease Control and Prevention (CDC) and/or
Agency for Toxic Substances and Disease Registry (ATSDR)
Freedom of Information Officer
1600 Clifton Road, N.E., MS D-54
Atlanta, Georgia 30333
Phone: 404-498-1580

Food and Drug Administration (FDA)
Freedom of Information Officer
Parklawn Building, Room 6-30
5600 Fishers Lane
Rockville, Maryland 20857
Phone: 301-827-6567

Health Resources and Services Administration (HRSA)
Freedom of Information Officer
Parklawn Building, Room 14-15
5600 Fishers Lane
Rockville, Maryland 20857
Phone: 301-443-3376

Indian Health Service (IHS)
Freedom of Information Officer
12300 Twinbrook Parkway, Suite 450
Twinbrook II, Metro Plaza Building
Rockville, Maryland 20857
Phone: 301-443-1116

National Institutes of Health (NIH)
Freedom of Information Officer
Building 31, Room 5B35
9000 Rockville Pike
Bethesda, Maryland 20892
Phone: 301-496-5633

Substance Abuse and Mental Health Services Administration (SAMHSA)
Freedom of Information Officer
1 Choke Cherry Road, Room 8-1042
Rockville, Maryland 20857
Phone: 240-276-2137

2. Brief description of why some requests are not granted: Documents requested were protected by an exemption and release would have caused harm to the interest protected by the exemption. Information withheld may include home addresses and phone numbers, social security numbers, medical records, proprietary business records, investigatory records, that if released may interfere with open investigations, and drafts of documents.

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS:

1. Agency-specific acronyms or other terms:

HHS - U.S. Department of Health and Human Services

OPDIVs - Operating Divisions of HHS

OS - Office of the Secretary, HHS

OASPA - Office of the Assistant Secretary for Public Affairs, HHS

AoA - Administration on Aging

ACF - Administration for Children and Families

AHRQ - Agency for Healthcare Research and Quality

ATSDR - Agency for Toxic Substances and Disease Registry

CDC - Centers for Disease Control and Prevention

FDA - Food and Drug Administration

HRSA - Health Resources and Services Administration

IHS - Indian Health Service

NIH - National Institutes of Health

OIG – Office of the Inspector General

OPHS - Office of Public Health and Science

PHS - Public Health Service

PRO - Professional Review Organization

PSC - Program Support Center

SAMHSA - Substance Abuse and Mental Health Services Administration

2. Basic terms (from FOIA UPDATE, Summer 1997):

- 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 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 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** - 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.
 - (A) **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.
 - (B) **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.

(C) **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

Statute	Type of Information Withheld	Case Citation	Number of Times Relied upon per Component	Total Number of Times Relied upon by Agency
18 U.S.C. § 2510 - 20	Pen Register Information	<i>Raulerson v. Ashcroft</i> , 271 F. Supp.2d 17 (D.D.C. 2002)	OIG – 1	1
41 U.S.C. § 253b(m)	Technical proposal not incorporated into a final contract	<i>Hornbostel v. U.S. Dep't. of Interior</i> , 305 F.Supp.2d 21 (D.D.C. 2003)	OS - 2 CDC – 5 PSC - 6 AHRQ – 1 SAMHSA - 3	17
42 U.S.C. § 262a	Select Agent Information	None	OIG – 2 CDC – 5	7
42 U.S.C. § 242m(d) (Public Health Service Act § 308(d))	Identifiable information for certain research and statistical activities	None	CDC - 2	2
42 U.S.C. § 300aa-12(d)(4)(A)	Medical records presented to a Special Master in <u>National Vaccine Injury Compensation Program</u> court proceedings	Diane and Craig Arpino on behalf of Joseph Craig Arpino, Somers Point, New Jersey, HRSA - Fed. Cl. Number 040005V	HRSA - 1	1
42 U.S.C. § 11137 (b)	Adverse reports of a health practitioner's conduct	None	HRSA - 1	1
15 U.S.C. 1335a(b)(2)(A) Comprehensive Smoking Education Act of 1984	Cigarette additive information	None	CDC - 1	1

Statute	Type of Information Withheld	Case Citation	Number of Times Relied upon per Component	Total Number of Times Relied upon by Agency
35 U.S.C. § 122	Information contained in a pending or otherwise non-issued patent application	<i>Irons and Sears v. Dann</i> , 606 F.2d 1215 (D.C. Cir. 1979); <i>Leeds v. Quigg</i> , 720 F. Supp. 193 (D.D.C. 1989)	NIH-1	1
5 U.S.C. § 574(j)	Confidential communications with agency Ombudsman	None	NIH-1	1
21 U.S.C. § 331(j)	Trade Secrets	<i>Anderson v. Department of Health & human Servs.</i> , 907 F.2d 936 (10 th Cir. 1990)	FDA - 45	45
21 U.S.C. § 350d(a)(4)	Food Registration Documents	None	FDA - 3	3

V. FOIA Requests

A. Received, Processed, and Pending FOIA Requests

	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	668	1,018	964	722
ACF	¹ 432	467	177	722
AOA	1	10	11	0
CMS	10,477	32,541	32,706	10,312
OIG	15	419	410	24
OPHS/PSC	² 315	566	664	217
AHRQ	5	72	68	9
CDC	586	1,272	1,370	488
FDA	6,568	10,337	12,087	4,818
HRSA	26	338	334	30
IHS	49	97	115	31
NIH	³ 151	1,270	1,306	115
SAMHSA	51	157	125	83
HHS Total	19,344	48,564	50,337	17,571

¹ The ACF reported 556 pending requests last year; inaccuracies were identified while implementing new FOIA system.

² The OPHS reported 296 pending requests last year; inaccuracies were identified while implementing new FOIA system.

³ The NIH reported 152 pending requests last year; one (1) inaccuracy was identified this year.

B. (1) Disposition of all 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	119	109	17	12	640	11	8	4	27	13	4	0	964
ACF	3	116	0	2	15	1	1	0	0	0	23	16	177
AOA	6	1	0	2	2	0	0	0	0	0	0	0	11
CMS	26,390	55	1,301	2,160	466	565	125	119	1,206	0	1	318	32,706
OIG	111	66	35	85	27	30	4	2	13	26	6	5	410
OPHS/PSC	180	146	8	64	61	133	0	12	17	2	4	37	664
AHRQ	22	20	1	9	7	4	0	1	1	3	0	0	68
CDC	337	250	16	341	62	183	50	37	15	14	32	33	1,370
FDA	8,592	135	111	934	36	1,158	228	14	129	3	216	531	12,087
HRSA	276	27	2	14	5	4	3	0	0	3	0	0	334
IHS	7	32	4	8	2	2	0	0	5	2	2	51	115
NIH	831	103	6	125	12	142	44	22	6	11	4	0	1,306
SAMHSA	5	99	3	8	0	3	2	2	0	0	3	0	125
HHS Total	36,879	1,159	1,504	3,764	1,335	2,236	465	213	1,419	77	295	991	50,337

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

Component	Description of “Other” Reasons for Denials from Chart B (1) & Number of Times Those Reasons Were Relied upon	TOTAL
OS	N/A	0
ACF	Closed under the Privacy Act	16
AOA	N/A	0
CMS	Administrative Closures	318
OIG	Records on OIG Webpage	1
	No response from Requester	4
OPHS/PSC	No response from Requester	37
AHRQ	N/A	0
CDC	Not Perfected	33
FDA	Available on internet	531
HRSA	N/A	0
IHS	No response from Requester	51
NIH	N/A	0
SAMHSA	N/A	0
HHS Total		991

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	0	14	2	21	47	71	37	1	51	2	2	0	0	0
ACF	0	0	0	15	35	133	0	0	0	0	0	0	0	0
AOA	0	0	0	1	0	1	0	0	0	0	0	0	0	0
CMS	0	1	0	1	9	1,349	1	0	5	0	0	0	0	0
OIG	0	20	3	13	33	58	29	0	32	1	15	0	0	0
OPHS/PSC	0	6	7	46	17	92	4	0	5	0	0	0	0	0
AHRQ	0	0	1	14	5	13	0	0	0	0	0	0	0	0
CDC	0	64	13	122	54	143	17	0	0	0	0	0	0	0
FDA	0	4	48	126	15	32	111	0	12	1	3	0	0	0
HRSA	0	1	2	18	5	12	0	0	0	0	0	0	0	0
IHS	0	0	0	11	7	18	0	0	0	0	0	0	0	0
NIH	0	1	2	14	31	49	0	0	11	1	0	0	0	0
SAMHSA	0	0	3	18	4	75	0	0	0	0	0	0	0	0
HHS Total	0	111	81	420	262	2,046	199	1	116	5	20	0	0	0

VI. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS

A. Received, Processed, and Pending Administrative Appeals

	Number of Appeals Pending as of Start of Fiscal Year	Number of Appeals Received in Fiscal Year	Number of Appeals Processed in Fiscal Year	Number of Appeals Pending as of End of Fiscal Year
OS	316	153	170	299
CMS	147	7	4	150
HHS Total	463	160	174	449

B. Disposition of Administrative Appeals – All Processed Appeals

	Number Affirmed on Appeal	Number Partially Affirmed & Partially Reversed/Remanded on Appeal	Number Completely Reversed/Remanded on Appeal	Number of Appeals Closed for Other Reasons	TOTAL
OS	51	4	5	110	170
CMS	0	1	0	3	4
HHS Total	51	5	5	113	174

C. (1) Reasons for denial on Appeal – 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	0	0	0	1	4	8	3	0	3	0	0	0	0	0
CMS	0	0	0	0	0	1	0	0	0	0	0	0	0	0
HHS Total	0	0	0	1	4	9	3	0	3	0	0	0	0	0

C. (2) Reasons for denial on Appeal – Reasons other than exemptions

	No Records	Records Referred at Initial Request Level	Request Withdrawn	Fee-Related Reason	Records Not Reasonably Described	Improper Request For Other Reasons	Not Agency Record	Duplicate Request Or Appeal	Request In Litigation	Appeal Based Solely on Denial of Request For Expedited Processing	Other Explain in Chart Below
OS	4	1	22	2	0	2	0	0	0	5	74
CMS	0	0	0	0	0	0	0	0	0	0	3
HHS Total	4	1	22	2	0	2	0	0	0	0	77

C. (3) Reasons for denial on Appeal – Other:

	Description of “Other” Reasons for Denial on Appeal from Chart C (2) & Number of Times Those Reasons Were Relied upon	TOTAL
OS	Administratively closed, requester did not respond/express continued interest in the records requested	74
CMS	Administrative Closures	3
HHS Total	Administrative Closures	77

C. (4) Response time for administrative appeals (See chart)

	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
OS	231	309	1	973
CMS	329	1,054	54	3,505
HHS Overall	289	650	1	3,505

C. (5) Ten Oldest Pending Appeals (See Chart)

		10th Oldest Appeal	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal
OS	Date of Receipt of Ten Oldest Appeals	8/31/04	7/30/04	7/1/03	5/20/03	2/11/03	12/3/02	10/25/02	10/31/01	8/15/01	4/28/00
	Number of Days Pending	1,023	1,043	1,314	1,341	1,408	1,602	1,624	1,629	1,659	1,980
CMS	Date of Receipt of Ten Oldest Appeals	1/03/00	12/29/99	11/22/99	11/13/99	5/7/99	4/14/99	3/29/96	4/6/95	2/26/95	6/23/94
	Number of Days Pending	2,455	2,458	2,484	2,490	2,620	2,636	3,402	3,650	3,678	3,848
HHS Overall	Date of Receipt of Ten Oldest Appeals	1/03/00	12/29/99	11/22/99	11/13/99	5/7/99	4/14/99	3/29/96	4/6/95	2/26/95	6/23/94
	Number of Days Pending	2,455	2,458	2,484	2,490	2,620	2,636	3,402	3,650	3,678	3,848

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

A. Processed Requests – Response Time for All Processed Perfected Requests⁴

	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
OS⁵	0	0	0	0	217	247	1	1,754	0	0	0	0
ACF	108	145	1	310	261	278	1	566	0	0	0	0
AOA	0	0	0	0	4	5	1	15	0	0	0	0
CMS	10	17	1	1,431	250	415	1	2,273	262	243	48	573
OIG	1	4	1	21	41	51	1	190	1	1	1	1
OPHS/PSC	24	100	0	751	153	220	18	862	8	7	0	13
AHRQ	0	12	1	30	0	13	10	35	25	25	25	25
CDC	16	49	0	652	27	84	0	681	2	1.5	1	2
FDA	10	95	1	1,250	293	316	1	1,420	171	254	40	635
HRSA⁶	0	0	0	0	15	17	1	174	0	0	0	0
HIS	12	14	3	24	52	90	34	141	13	10	5	32
NIH⁷	0	0	0	0	16	31	1	801	0	0	0	0
SAMHSA	12	20	0	30	68	75	12	180	0	0	0	0
HHS Total	19	46	0	1,431	107	141	0	2,272	37	54	0	635

⁴ Some numbers based on estimates.

⁵ Uses single-track log.

⁶ Uses single-track log.

⁷ Uses single-track log.

B. Processed Requests – Response Time for Perfected Requests in Which Information Was Granted⁸

	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
OS⁹	0	0	0	0	209	216	1	1,646	0	0	0	0
ACF	54	137	1	370	81	145	1	534	0	0	0	0
AOA	0	0	0	0	4	5	1	15	0	0	0	0
CMS	12	19	1	1,431	308	489	1	5,496	143	243	48	573
OIG	1	4	0	20	41	50	1	190	0	0	0	0
OPHS/PSC	20	90	0	751	153	222	18	862	0	0	0	0
AHRQ	0	12	1	30	0	13	10	35	25	15	10	25
CDC	19	45	0	609	38	97	0	681	0	0	0	0
FDA	10	95	1	1250	295	317	1	1,420	171	254	40	635
HRSA¹⁰	0	0	0	0	15	17	1	174	0	0	0	0
IHS	14	42	15	45	32	35	20	130	0	0	0	0
NIH¹¹	0	0	0	0	16	38	1	802	0	0	0	0
SAMHSA	10	20	0	30	68	75	12	180	0	0	0	0
HHS Overall	13	46	0	1,431	97	132	1	5,496	33	51	0	635

⁸ Some numbers based on estimates.

⁹ Uses single-track log.

¹⁰ Uses single-track log.

¹¹ Uses single-track log.

C. Processed Requests – Response Time in Day Increments

1. Simple 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
OS¹²	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ACF	52	11	5	0	4	5	1	0	2	32	16	32	2	133
AOA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
CMS	27,310	2,371	681	323	165	145	76	34	35	49	45	50	35	31,319
OIG	329	3	0	0	0	0	0	0	0	0	0	0	0	332
OPHS/PSC	272	64	34	26	12	14	10	11	13	9	56	28	36	585
AHRQ	46	22	0	0	0	0	0	0	0	0	0	0	0	68
CDC	103	40	7	6	4	4	30	0	0	0	0	2	8	178
FDA	397	434	395	600	521	447	406	520	444	312	1,578	312	1,015	7,381
HRSA¹³	0	0	0	0	0	0	0	0	0	0	0	0	0	0
IHS	55	10	12	3	0	0	0	3	0	0	0	0	0	83
NIH¹⁴	0	0	0	0	0	0	0	0	0	0	0	0	0	0
SAMHSA	10	18	10	200	0	0	0	0	0	0	0	0	0	58
HHS Overall	28,574	2,973	1,144	978	706	615	496	568	494	373	1,695	424	1,096	40,136

¹² Uses single-track log.

¹³ Uses single-track log.

¹⁴ Uses single-track log.

2. 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	640	54	12	18	11	15	13	4	6	4	13	12	162	964
ACF	7	9	1	4	2	1	1	1	0	3	2	6	4	44
AOA	11	0	0	0	0	0	0	0	0	0	0	0	0	11
CMS	287	117	74	44	57	43	56	65	47	32	164	93	289	1,368
OIG	9	28	18	8	6	4	1	2	0	1	0	0	0	77
OPHS/PSC	1	10	11	3	5	5	1	4	3	3	15	7	11	79
AHRQ	5	2	0	0	0	0	0	0	0	0	0	0	0	7
CDC	271	257	77	74	73	46	27	36	65	28	54	63	46	1,117
FDA	39	85	109	208	111	112	124	147	133	114	637	414	2,454	4,687
HRSA	264	47	9	10	2	1	0	0	1	0	0	0	0	334
IHS	0	0	5	2	5	4	3	4	4	2	0	0	0	29
NIH	41	731	251	47	21	19	18	11	4	21	28	8	9	1,306
SAMHSA	13	16	5	0	2	3	0	0	0	0	8	10	10	67
HHS Total	2,319	876	418	418	295	253	244	274	263	208	924	613	2,985	10,090

3. Requests Granted Expedited Processing

	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	0	0	0	0	0	0	0	0	0	0	0	0
ACF	0	0	0	0	0	0	0	0	0	0	0	0	0	0
AOA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
CMS	4	1	1	1	2	1	0	2	1	0	2	2	2	19
OIG	1	0	0	0	0	0	0	0	0	0	0	0	0	1
OPHS/PSC	0	0	0	0	0	0	0	0	0	0	0	0	0	0
AHRQ	0	1	0	0	0	0	0	0	0	0	0	0	0	1
CDC	1	1	0	0	0	0	0	0	0	0	0	0	0	2
FDA	0	0	0	0	0	0	0	1	0	0	1	1	1	4
HRSA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
IHS	1	2	1	0	0	0	0	0	0	0	0	0	0	4
NIH	0	0	0	0	0	0	0	0	0	0	0	0	0	0
SAMHSA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
HHS Total	7	5	2	1	2	1	0	3	1	0	3	3	3	31

D. Pending Requests – All Pending Perfected Requests¹⁵

	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
OS¹⁶	0	0	0	722	105	117	0	0	0
ACF	533	88	145	178	73	182	0	0	0
AOA	0	0	0	0	0	0	0	0	0
CMS	2,293	10	42	8,007	596	657	12	484	520
OIG	1	2	2	23	41	100	0	0	0
OPHS/PSC	24	230	66	176	230	267	0	0	0
AHRQ	0	0	0	5	0	10	0	0	0
CDC	10	528	418	469	84	161	4	102	103
FDA	677	70	163	4,121	189	231	0	0	0
HRSA¹⁷	0	0	0	30	20	12	0	0	0
IHS	9	31	90	22	275	372	0	0	0
NIH¹⁸	0	0	0	115	31	77	0	0	0
SAMHSA	0	0	0	83	191	198	0	0	0
HHS Total	3,547	95	93	13,951	141	183	16	58	62

¹⁵ Some numbers based on estimates.

¹⁶ Uses single-track log.

¹⁷ Uses single-track log.

¹⁸ Uses single-track log.

E. Pending Requests – Ten Oldest Pending Perfected Requests

	10th Oldest Request and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request and Number of Days Pending
OS	11/14/02 1,458	11/4/02 1,466	10/1/02 1,488	9/26/02 1,492	9/16/02 1,494	9/11/02 1,497	9/5/02 1,502	9/4/02 1,503	8/7/02 1,521	6/5/02 1,560
ACF	4/5/07 825	4/5/07 825	4/4/07 826	4/4/07 826	4/4/07 826	4/4/07 826	4/4/07 826	4/4/07 826	4/2/07 828	1/19/07 873
AOA	0	0	0	0	0	0	0	0	0	0
CMS	4/24/01 2,125	4/11/01 2,134	2/23/01 2,167	2/13/01 2,174	1/31/01 2,184	1/23/01 2,188	1/08/01 2,199	12/11/00 2,218	11/30/00 2,226	10/27/00 2,249
OIG	5/13/09 100	4/16/09 119	4/14/09 121	4/8/09 125	3/24/09 136	2/24/09 156	2/19/09 159	1/21/09 180	9/4/08 279	6/13/08 338
OPHS/PSC	7/11/07 580	6/18/07 597	5/15/07 621	5/15/07 621	5/15/07 621	3/16/07 663	0/07/07 690	2/01/07 694	1/18/07 704	1/18/07 704
AHRQ	0	9/25/09 3	9/22/09 5	9/25/09 7	9/23/09 9	9/18/09 12	9/17/09 13	9/15/09 15	9/14/09 16	9/4/09 22
CDC	1/17/07 681	1/16/07 682	1/08/07 687	11/30/06 712	11/27/06 715	11/24/06 716	10/24/06 737	10/19/06 740	10/03/06 751	10/02/06 752
FDA	4/18/05 1,117	3/11/05 1,143	2/4/05 1,167	1/26/05 1,174	1/24/05 1,176	1/12/05 1,183	9/17/04 1,261	9/7/04 1269	4/27/04 1,361	4/6/04 1,375

	10th Oldest Request and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request and Number of Days Pending
HRSA	9/10/09 14	9/10/09 14	9/9/09 15	9/3/09 20	9/2/09 21	8/28/09 26	8/17/09 35	8/5/09 42	7/31/09 45	7/8/09 60
IHS	3/10/09 201	2/18/09 220	1/08/09 263	12/22/08 279	12/17/08 284	11/25/08 306	11/20/08 311	11/20/08 311	11/04/08 326	10/08/08 372
NIH	1/21/09 177	1/2/09 189	11/6/08 226	8/25/08 277	5/21/08 343	2/20/08 408	8/17/08 533	6/4/07 586	6/15/06 828	4/2/06 880
SAMHSA	9/2/09 20	9/2/09 20	7/7/09 43	7/11/09 47	7/14/09 49	3/18/09 114	9/28/08 252	9/23/08 257	9/9/08 267	8/26/08 277
HHS Total	4/24/01 2,125	4/11/01 2,134	2/23/01 2,167	2/13/01 2,174	1/31/01 2,184	1/23/01 2,188	1/08/01 2,199	12/11/00 2,218	11/30/00 2,226	10/27/00 2,249

VIII. REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER

A. Requests for Expedited Processing

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
OS	0	6	6	10	5
ACF	0	0	0	0	0
AOA	0	0	0	0	0
CMS	15	5	20	35	11
OIG	0	3	1	10	2
OPHS/PSC	0	6	2	3	5
AHRQ	1	0	0	0	1
CDC	2	33	0	0	35
FDA	2	122	23	41.3	40
HRSA	0	3	4	13	2
IHS	2	0	13	33	14
NIH	0	0	0	0	0
SAMHSA	0	0	0	0	0
HHS Total	22	178	11	24	115

B. Requests for Fee Waiver

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
OS	0	0	0	0
ACF	0	0	0	0
AOA	0	0	0	0
CMS	0	8	84	90
OIG	2	8	4	2
OPHS/PSC	0	4	3	5
AHRQ	3	0	20	20
CDC	1	7	0	0
FDA	273	27	7	21
HRSA	0	1	19	19
IHS	1	0	10	10
NIH	0	1	29	29
SAMHSA	0	0	0	0
HHS Total	280	56	7	21

IX. FOIA PERSONNEL AND COSTS

	Personnel			Costs		
	Number of “Full-Time FOIA Employees”	Number of “Equivalent Full-Time FOIA Employees”	Total Number of Full- Time FOIA Staff	Processing Costs	Litigation- Related Costs	Total Costs
OS	6	0	6	\$480,300	\$505,706	\$986,006
ACF	3	1.5	4.5	307,206	22,500	329,706
AOA	0	.04	.04	2,576	0	2,576
CMS	54	13	67	2,244,272	201,686	2,445,958
OIG	3	1	4	83,000	5,500	88,500
OPHS/PSC	5	1.9	6.9	924,500	1,600	926,100
AHRQ	1	0	1	52,157	0	52,157
CDC	11	1	12	1,040,856	0	1,040,856
FDA	94	30.4	124.4	21,106,261	359,147	21,465,408
HRSA	2	1.5	3.5	374,338	0	374,338
IHS	1	2.3	3.3	276,180	0	276,180
NIH	16	14	30	3,005,078	9,494	3,014,572
SAMHSA	1	.5	1.5	150,000	0	150,000
HHS Total	197	67.14	264.14	\$30,046,724	\$1,105,633	\$31,152,357

X. FEES COLLECTED FOR PROCESSING REQUESTS

	Total Amount of Fees Collected	Percentage of Total Costs
OS	\$1,240	0.1%
ACF¹⁹	0	0.0%
AOA	0	0.0%
CMS	381,886	15.6%
OIG	1,385	1.6%
OPHS/PSC	414	0.0%
AHRQ	284	0.5%
CDC	33,434	3.2%
FDA	388,084	1.8%
HRSA	3,731	1.0%
IHS	1,050	0.4%
NIH	40,963	1.4%
SAMHSA	873	0.6%
HHS Total	\$853,344	2.7%

¹⁹ The ACF has temporarily suspended fee collections.

XI. FOIA REGULATIONS

<http://www.hhs.gov/foia/45cfr5.html>

XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS

A. Backlogs of FOIA Requests and Administrative Appeals

	Number of Backlogged Requests as of End of Fiscal Year	Number of Backlogged Appeals as of End of Fiscal Year
OS	722	299
ACF	699	N/A
AOA	0	N/A
CMS	10,312	150
OIG	21	N/A
OPHS/PSC	196	N/A
AHRQ	0	N/A
CDC	488	N/A
FDA	4,818	N/A
HRSA	30	N/A
IHS	31	N/A
NIH	70	N/A
SAMHSA	83	N/A
HHS Total	17,470	449

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

	Number of Consultations Received from Other Agencies that Were Pending at Your Agency as of Start of the Fiscal Year	Number of Consultations Received from Other Agencies During the Fiscal Year	Number of Consultations Received from Other Agencies that Were Processed by Your Agency During the Fiscal Year	Number of Consultations Received from Other Agencies that Were Pending at Your Agency as of End of the Fiscal Year
OS	0	0	0	0
ACF	0	0	0	0
AOA	0	0	0	0
CMS	0	0	0	0
OIG	0	0	0	0
OPHS/PSC	0	0	0	0
AHRQ	0	1	1	0
CDC	0	0	0	0
FDA	0	13	13	0
HRSA	0	0	0	0
IHS	0	0	0	0
NIH	0	1	0	1
SAMHSA	0	0	0	0
HHS Total	0	15	14	1

C. Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency

	10th Oldest Request and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request and Number of Days Pending
OS	0	0	0	0	0	0	0	0	0	0
ACF	0	0	0	0	0	0	0	0	0	0
OAD	0	0	0	0	0	0	0	0	0	0
CMS	0	0	0	0	0	0	0	0	0	0
OIG	0	0	0	0	0	0	0	0	0	0
OPHS/PSC	0	0	0	0	0	0	0	0	0	0
AHRQ	0	0	0	0	0	0	0	0	0	0
CDC	0	0	0	0	0	0	0	0	0	0
FDA	0	0	0	0	0	0	0	0	0	0
HRSA	0	0	0	0	0	0	0	0	0	0
IHS	0	0	0	0	0	0	0	0	0	0
NIH	0	0	0	0	0	0	0	0	0	7/16/09 53
SAMHSA	0	0	0	0	0	0	0	0	0	0
HHS Total	0	0	0	0	0	0	0	0	0	7/16/09 53

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

(1) Requests Received and Processed

	Number of Requests Received		Number of Requests Processed	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
OS	882	1,018	1,320	964
ACF	328	467	146	177
AOA	14	10	15	11
CMS	43,792	32,541	41,260	32,706
OIG	124	419	109	410
OPHS/PSC	474	566	321	664
AHRQ	61	72	63	68
CDC	1,539	1,272	1,357	1,370
FDA	9,432	10,337	20,348	12,087
HRSA	305	338	303	334
IHS	36	97	64	115
NIH	1,146	1,270	1,165	1,306
SAMHSA	157	133	107	125
HHS Total	58,290	48,564	66,578	50,337

(2) Requests Backlogged

	Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report
OS	686	722
ACF	408	699
AOA	1	0
CMS	10,477	10,312
OIG	3	21
OPHS/PSC	292	196
AHRQ	0	0
CDC	586	488
FDA	6,568	4,818
HRSA	28	30
IHS	49	31
NIH	100 ²⁰	70
SAMHSA	51	83
HHS Total	19,249	17,470

²⁰ NIH reported 100 backlogged requests last year; one inaccuracy was identified this year.

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

(1) Appeals Received, Processed

	Number of Appeals Received		Number of Appeals Processed	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
OS	163	153	97	170
CMS	36	7	273	4
HHS Total	199	160	370	174

(2) Appeals Backlogged

	Number of Backlogged Administrative Appeals as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Administrative Appeals as of End of the Fiscal Year from Current Annual Report
OS	316	299
CMS	147	150
HHS Total	463	449