



U.S. DEPARTMENT OF THE TREASURY

FREEDOM OF INFORMATION ACT

ANNUAL REPORT TO THE ATTORNEY GENERAL

FOR FISCAL YEAR 2004

Disclosure Services

February 1, 2005

# **DEPARTMENT OF THE TREASURY**

The Departmental Offices

Alcohol and Tobacco Tax and Trade Bureau

Office of the Comptroller of the Currency

Bureau of Engraving and Printing

Financial Management Service

Internal Revenue Service

United States Mint

Bureau of the Public Debt

Office of Thrift Supervision

Treasury Inspector General for Tax Administration

Financial Crimes Enforcement Network



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FREEDOM OF INFORMATION ACT ANNUAL REPORT  
FOR FISCAL YEAR 2004

CONTENTS

- I. Basic Information Regarding Report
  - II. How to Make a FOIA Request
  - III. Definition of Terms
  - IV. Exemption 3 Statutes
  - V. Initial FOIA/PA Access Requests
  - VI. Appeals of Initial Denials of FOIA/PA Requests
  - VII. Compliance with Time Limits/Status of Pending Requests
  - VIII. Additional Information/Explanation
  - IX. Costs/FOIA Staffing
  - X. Fees
  - XI. FOIA Regulations
- 

I. BASIC INFORMATION REGARDING REPORT.

This is the Fiscal Year 2004 FOIA Report for the Department of the Treasury. For purposes of administering the FOIA, the Department is divided into 10 bureaus. Each bureau is responsible for those records under its control, and each bureau will post its report on its own web site. Disclosure Services prepared the report in collaboration with the bureau FOIA Officers.

**Questions about the report may be directed to:**

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Disclosure Services

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FOIA Request

Disclosure Services

Department of the Treasury

Washington, DC 20220

**Treasury Department FOIA Home Page:** [www.treas.gov/foia/](http://www.treas.gov/foia/)

Paper copies of this report may be obtained by contacting Disclosure Services or by downloading from the Treasury FOIA website at:

<http://www.treas.gov/foia/reports/index.html>, “FY 2004 FOIA Report to the Attorney General.”

## II. How To Make A FOIA Request for Treasury Department records.

The Department of the Treasury’s Guide to Accessing Treasury Records is available at [www.treas.gov/foia/](http://www.treas.gov/foia/), or by contacting Disclosure Services, as described above.

II.A. Names, addresses, and numbers of Treasury bureau FOIA officers.

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## II.B. Brief description of Treasury Department's response-time ranges.

For a breakdown of each bureau's response times, see Section VII of this report, "Compliance with Time Limits/Status of Pending Requests."

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

The most common reasons reported by the bureaus regarding why requests for records could not be granted were: (1) records did not exist; (2) procedural requirements were not followed; (3) the records reflected the internal practices involved in investigations or inspections; (4) the records contained confidential taxpayer information and other statutorily protected information; and (5) the records contained contractor confidential and proprietary commercial information. Others: protecting personal privacy; deliberative process privilege.

## III. Definition of Terms.

### A. Agency-specific:

BEP	Bureau of Engraving and Printing
BPD	Bureau of the Public Debt
DO	Departmental Offices
FinCEN	Financial Crimes Enforcement Network
FMS	Financial Management Service
IRS	Internal Revenue Service
Mint	United States Mint
OCC	Office of the Comptroller of the Currency
OTS	Office of Thrift Supervision
TIGTA	Treasury Inspector General (Tax Administration)
TTB	Alcohol and Tobacco Tax and Trade Bureau

### B. Basic Terms Used in This Report

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 (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 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 entireties, 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 Relied on by the Department During Current Fiscal Year.

STATUTE	TYPE OF INFORMATION	UPHELD BY COURTS
5 U.S.C. 7114	Delineates the rights and duties of a labor organization which is the exclusive representative of the employees in the unit it represents.	<i>Dublin v. Dept. of the Treasury</i> , 555 F. Supp. 408, 412 (N.D. Ga. 1981), aff'd, 697 F.2d 1093 (unpublished table decision); <i>NTEU v. OPM</i> , No. 76-695, slip op at 49 (D.D.C. July 9, 1979)
41 U.S.C. 253b(m)	Technical proposals not incorporated into contracts.	<i>Hornbostel v. Dept. of the Interior</i> , 305 F. Supp. 2d 21 (D.D.C. 2003)
18 U.S.C. 701	Official Badges, identification cards. Prohibits the reproduction of official identification media. Used to withhold copies of the IRS employee identification badges and pocket commissions.	Not litigated
26 U.S.C. 6103	Confidentiality of Returns and Return Information: Prohibits the disclosure of (1) tax returns and return information of 3 <sup>rd</sup> party taxpayers (section 6103(a)); (2) the standards used for selection of returns for examination (section 6103(b)(2)) ; and (3) a requester's own return information if the release would seriously impair federal tax administration (section 6103(e)(7)).	<i>Church of Scientology v. IRS</i> , 484 U.S. 9 (1987); <i>Aronson v. IRS</i> , 973 F.2d 962 (1 <sup>st</sup> Cir. 1992); <i>Stebbins v. Sullivan</i> , No. 90-5361, slip op. at 1 (D.C. Cir. July 22, 1992); <i>Wishart v. Commissioner</i> , C-97-20614-SW (N.D. Cal., decided August 6, 1998); <i>Chamberlain v. Kurtz</i> , 589 F. 2d at 827 (5 <sup>th</sup> Cir.).
26 U.S.C. 6105	Internal Revenue Code section 6105 states that tax convention information shall not be disclosed, except as specifically stated in Internal Revenue Code Section 6105(b).	<i>Tax Analysts v. IRS</i> , No. 99-0372, 2002 WL 1791162 (D.D.C. Aug. 6, 2002)
31 U.S.C. 5319	Bank Secrecy Act Records: Prohibits the disclosure of records. Generally used to withhold Currency Transaction Reports. Office of Thrift Supervision Criminal Referral Form.	<i>Small v. IRS</i> , 820 F. Supp. 163 (D.N.J. 1992)

Rule 6(e)	Part of the Federal Rules of Criminal Procedure X Grand Jury Secrecy: regulates matters occurring before the Grand Jury. Used to withhold records used in Grand Jury proceedings.	<i>Fund for Constitutional Gov't v. National Archives &amp; Records Service</i> , 656 F. 2 <sup>nd</sup> 856, 867 (D.C. Cir. 1981); <i>Walston v. U.S. Department of Justice</i> , 799 F. Supp. 193, 195 (D.D.C. 1992)
31 U.S.C. § 5318(g)	Office of Thrift Supervision Criminal Referral Form	<i>Lee v. Bankers Trust Co.</i> , 166 F.3d 540 (2d Cir. 2000); <i>Cotton v. PrivateBank and Trust Co.</i> , 235 F. Supp.2d 809 (N.D. Ill. 2002)
12 U.S.C. § 1829b	Currency Transaction Reports, Foreign Bank Account Reports, Currency and Monetary Instrument Reports, Suspicious Activity Reports, and Registration of Money Services Businesses.	Not litigated.
12 U.S.C. 1951-1959	Currency Transaction Reports, Foreign Bank Account Reports, Currency and Monetary Instrument Reports, Suspicious Activity Reports, and Registration of Money Services Businesses.	Not litigated.
31 U.S.C. 5311-5331	Currency Transaction Reports, Foreign Bank Account Reports, Currency and Monetary Instrument Reports, Suspicious Activity Reports, and Registration of Money Services Businesses.	Not litigated.

V. Initial FOIA/PA Access Requests.

A. Number of initial requests.

<b>Bureau</b>	<b>Number of Requests Pending as of End of Preceding Year</b>	<b>Number of Requests Received in Current Year</b>	<b>Number of Requests Processed in Current Year</b>	<b>Number of Requests Pending as of End of Current Year</b>
*DO	1,412	1,410	1,114	1,708
TTB	52	223	201	74
OCC	16	8,350	8,352	14
BEP	7	108	114	1
FMS	3	534	529	8
IRS	4,096	51,423	51,985	3,534
Mint	3	73	67	9
BPD	1	90	91	0
OTS	100	1,755	1,829	26
TIGTA	24	279	256	47
*FinCEN	58	91	32	117
<b>TOTAL</b>	<b>5,772</b>	<b>64,336</b>	<b>64,570</b>	<b>5,538</b>

\*Note: Effective October 1, 2003, FinCEN became a bureau for FOIA purposes. Prior to that date, FinCEN was part of DO. DO had 1,470 pending requests at the close of FY 2003, and 58 of those requests were FinCEN's. Therefore, 58 requests have been subtracted from DO's total pending requests for FY 2003.

## B. Disposition of initial requests (continued on next page)

Bureau	Total Grants	Total Partial Grants	Total Denials	No Records	Referrals	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described
DO	96	407	24	50	319	32	30	0
TTB	43	12	12	65	16	10	0	0
OCC	7,911	33	27	175	127	43	2	7
BEP	48	37	0	17	5	3	1	1
FMS	102	16	2	312	22	3	11	8
IRS	20,272	2,710	430	15,404	1,633	350	0	0
Mint	30	12	1	5	4	5	3	1
BPD	22	9	3	5	19	3	0	2
OTS	1,567	78	16	17	7	61	2	2
TIGTA	11	99	30	25	3	5	0	0
FinCEN	12	0	6	1	0	0	0	0
<b>TOTAL</b>	30,114	3,413	551	16,076	2,155	515	49	21

## B. Disposition of Initial Requests (continued from previous page)

<b>Bureau</b>	<b>Not a Proper FOIA Request</b>	<b>Not an Agency Record</b>	<b>Duplicate</b>	<b>Lack of ID or 3<sup>rd</sup> Party Authorization</b>	<b>Closed Administratively</b>
DO	50	18	0	0	88
TTB	26	12	1	0	4
OCC	1	4	0	0	22
BEP	1	1	0	0	0
FMS	6	0	7	40	0
IRS	8,229	0	0	0	2,957
Mint	2	0	2	0	2
BPD	9	15	0	0	4
OTS	0	15	0	0	64
TIGTA	76	7	0	0	0
FinCEN	0	0	0	0	13
<b>TOTAL</b>	<b>8,400</b>	<b>72</b>	<b>10</b>	<b>40</b>	<b>3,154</b>

## a. Number of times each FOIA exemption used:

<b>Bureau</b>	<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>	<b>(5)</b>	<b>(6)</b>	<b>(7)(A)</b>	<b>(7)(B)</b>	<b>(7)(C)</b>	<b>(7)(D)</b>	<b>(7)(E)</b>	<b>(7)(F)</b>	<b>(8)</b>	<b>(9)</b>
DO	16	31	199	233	137	226	8	0	61	3	5	0	0	0
TTB	0	4	14	8	4	9	1	0	0	0	0	0	0	0
OCC	0	0	0	9	11	9	0	0	5	0	0	0	27	0
BEP	0	7	0	16	2	12	0	0	0	0	1	0	0	0
FMS	0	0	7	2	3	6	0	0	1	0	0	0	0	0
IRS	1	0	0	0	0	0	0	0	964	91	1,208	13	0	0
Mint	0	2	0	3	8	13	0	0	0	0	2	0	0	0
BPD	0	1	0	3	4	8	0	0	0	0	0	0	0	0
OTS	0	3	1	80	18	65	1	3	1	0	1	0	42	0
TIGTA	0	9	39	0	15	6	6	0	108	5	6	0	0	0
FinCEN	0	0	3	0	1	0	0	0	0	0	2	0	0	0
<b>TOTAL</b>	17	57	263	354	203	354	16	3	1,140	99	1,225	13	69	0

## VI. Appeals of initial denials of FOIA/PA requests (continued on next page)

<b><u>Bureau</u></b>	<b><u>Number of Appeals Received in Current Year</u></b>	<b><u>Number of Appeals Processed in Current Year</u></b>	<b><u>Number of Appeals Completely Upheld in Current Year</u></b>	<b><u>Number of Appeals Partially Reversed in Current Year</u></b>	<b><u>Number of Appeals Completely Reversed</u></b>
DO	11	5	3	0	0
TTB	1	0	0	0	0
OCC	5	5	3	2	0
BEP	7	7	3	1	3
FMS	27	27	24	0	3
IRS	288	413	221	16	2
Mint	9	4	0	0	1
BPD	6	6	5	1	0
OTS	14	13	8	4	0
TIGTA	15	19	6	6	0
FinCEN	5	5	5	0	0
<b>TOTAL</b>	388	504	278	30	9

## 4. Other reasons for non-disclosure on appeals (Continued from previous page)

<u>Bureau</u>	<u>No Records</u>	<u>Referrals</u>	<u>With-drawn</u>	<u>Fee-Related</u>	<u>Records Not reasonably Described</u>	<u>Not a Proper FOIA or Appeal</u>	<u>Not an Agency Record</u>	<u>Duplicate Request</u>	<u>Administratively Closed</u>
DO	2	0	0	0	0	0	0	0	0
TTB	0	0	0	0	0	0	0	0	0
OCC	0	0	0	0	0	0	0	0	0
BEP	0	0	0	0	0	0	0	0	0
FMS	0	0	0	0	0	0	0	0	0
IRS	72	0	2	1	8	58	5	2	26
Mint	0	0	2	0	0	0	0	1	0
BPD	0	0	0	0	0	0	0	0	0
OTS	0	0	0	1	0	0	0	0	0
TIGTA	3	0	1	0	0	1	0	2	0
FinCEN	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	77	0	5	2	8	59	5	5	26



## a. Number of times each FOIA exemption was used in an appeal

<b>Bureau</b>	<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>	<b>(5)</b>	<b>(6)</b>	<b>(7)(A)</b>	<b>(7)(B)</b>	<b>(7)(C)</b>	<b>(7)(D)</b>	<b>(7)(E)</b>	<b>(7)(F)</b>	<b>(8)</b>	<b>(9)</b>
DO	0	0	0	2	0	1	0	0	0	0	0	0	0	0
TTB	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OCC	0	0	1	1	0	1	1	0	2	2	1	1	3	0
BEP	0	1	0	1	1	0	0	0	0	0	1	0	0	0
FMS	0	0	1	0	0	0	0	0	0	0	0	0	0	0
IRS	0	0	25	0	14	15	3	0	5	1	2	0	0	0
Mint	0	0	0	0	0	0	0	0	0	0	0	0	0	0
BPD	0	1	0	1	1	2	0	0	0	0	0	0	0	0
OTS	0	0	0	3	2	3	0	0	0	0	0	0	3	0
TIGTA	0	1	5	0	2	0	0	0	6	0	0	0	0	0
FinCEN	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	0	3	32	8	20	22	4	0	13	3	4	1	6	0

## VII. Compliance with time limits/status of pending requests

## A. Median Time for Processing Requests

\* Simple request limited to the Office of Tax Policy

Bureau	<u>Simple Requests</u>		<u>Complex Requests</u>		<u>Requests Accorded Expedited Processing</u>	
	Number of Requests Processed	Median Number of Days to Process	Number of Requests Processed	Median Number of Days to Process	Number of Requests Processed	Median Number of Days to Process
DO*	332	2	782	172	0	0
TTB			201	78	0	0
OCC	322	10	8,030	50	0	0
BEP	69	4	44	60	1	5
FMS			529	8	0	0
IRS			51,985	21	0	0
Mint			67	15	0	0
BPD			91	4.33	0	0
OTS			1,827	15	2	10
TIGTA			256	172	0	0
FinCEN			32	99	0	0
<b>TOTAL</b>	723	N/A	63,844	N/A	3	N/A

## B. Status of pending requests

<b>Bureaus</b>	<b>Number of Requests Pending as of End of Fiscal Year</b>	<b>Median Number of Days Pending</b>
DO	1,708	532
TTB	74	115
OCC	14	166
BEP	1	0
FMS	8	16
IRS	3,534	20
Mint	9	170
BPD	0	0
OTS	26	78
TIGTA	47	104
FinCEN	117	328
<b>TOTAL</b>	<b>5,538</b>	<b>N/A</b>

## VIII. Additional Information/Explanation.

The Department of the Treasury received 12 requests for expedited processing and processed 3 requests on an expedited basis. The median number of days to process these requests was 7 days.

## IX. Costs/FOIA Staffing

Bureaus	Staffing Levels			Total Costs (staff and resources combined)		
	Number of Full Time Personnel	Number of Personnel with Part Time or Occasional FOIA Duties (in Total Work-Years)	Total Number of Personnel (in Work-Years)	FOIA Processing (including appeals)	Litigation-related activities	Total Costs
DO	4	13.04	17.04	645,635.00	105,629.00	751,264.00
TTB	1	.55	1.55	60,614.00	0	60,614.00
OCC	7	1	8	596,848.00	0	596,848.00
BEP	1	1	2	227,818.00	0	227,818.00
FMS	0	.85	.85	79,545.00	0	79,545.00
IRS	12	92	104	10,973,734.00	277,014.00	11,250,748.00
Mint	1	0	1	87,229.00	0	87,229.00
BPD	1	.20	1.20	115,000.00	0	115,000.00
OTS	2	1.40	3.40	255,096.00	2,990.00	258,086.00
TIGTA	5	.75	5.75	433,018.00	442.00	433,460.00
FinCEN	1	.10	1.10	102,500.00	22,500.00	125,000.00
<b>TOTAL</b>	<b>35</b>	<b>110.89</b>	<b>145.89</b>	<b>13,577,037.00</b>	<b>408,575.00</b>	<b>13,985,612.00</b>

## X. FOIA Fees

<b>FOIA Fees</b>		
	<b>Total Fees collected</b>	<b>Percentage of Total Costs</b>
<b>TOTAL</b>	<b>\$472,323.00</b>	<b>3.38%</b>

## XI. Treasury Department FOIA Implementing Regulations.

The Department's FOIA regulations can be found at 31 CFR Part 1, Subpart A. The regulations can be accessed at: [www.treas.gov/foia/foiaregs.pdf](http://www.treas.gov/foia/foiaregs.pdf).