

**FREEDOM OF INFORMATION ACT
FISCAL YEAR 2009 ANNUAL REPORT**

**Department of Homeland Security
COMPONENT: USCIS**

GENERAL GUIDANCE POINTS

- Do not include any requests processed exclusively under the Privacy Act
- Consultations should be tracked separately from initial requests
- Each FOIA request, both Processed (Closed) and Pending (Open), should be categorized into the following: Simple, Complex, Expedited, Non-Perfected.
- Any request was received and closed on the same day, the Processing Time is "1" or "<1". "0" is not allowed in these calculations.
- Each processed initial request may have only 1 (one) disposition recorded.

Disposition Priorities: because each case can only have one disposition regardless of how many actions were taken, there are certain dispositions that take priority. The following is the order in which dispositions are prioritized:

1. Full Grant or Partial Grant/Partial Denial
2. Denied in Full based on exemptions
3. No Records
4. All other reasons

Example 1: A FOIA request was granted in part, while the rest was referred, the disposition recorded would be Partial Grant.

Example 2: An office responded to a FOIA request with a No Records response and referred the case to another office, the disposition would be recorded as No Records.

1. CONSULTATIONS

GUIDANCE

- Consultations are defined as: procedure whereby the agency responding to a FOIA requests first forwards a record to another agency (or component) for its review
- This is the only section in which Consultations should be counted, as they should be tracked separately from initial requests.
- 1.a.1 is the number that was reported in last year's Annual Report.
- 1.a.1 and 1.a.2 should be equal, as they are the same number (end of last year = beginning of this year). There could, however, be exceptions to this rule, such as a FOIA case being reopened, etc.
- Math Guidance: 1.a.2 + 1.a.3 - 1.a.4 = 1.a.5. If not, something has been miscalculated.
- For Section 1.c: the number of Days Pending is the number of business days from the date of receipt to the end of the Fiscal Year (9/30/2009).

1.a FY2009 Received, Processed and Pending

1.a.1: Number of Consultations Received from Other Agencies that were Pending at the End of the Last Fiscal Year, as Reported in Annual Report	1.a.2: Number of Consultations Received from Other Agencies that Were <u>Pending</u> at Your Component as of <u>Start</u> of the Fiscal Year	1.a.3: Number of Consultations <u>Received</u> from Other Agencies During the Fiscal Year	1.a.4: Number of Consultations Received from Other Agencies that Were <u>Processed</u> by Your Component During the Fiscal Year	1.a.5: Number of Consultations Received from Other Agencies that Were <u>Pending</u> at Your Component as of <u>End</u> of the Fiscal Year
16	17	66	72	11

1.b: If 1.a.1 and 1.a.2 are not the same, please explain why: Request improperly coded in system

1.c TEN OLDEST CONSULTATIONS RECEIVED FROM OTHER AGENCIES AND PENDING AT YOUR COMPONENT

	10 th	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest
Date of Receipt	8-6-09	8-6-09	6-4-09	6-3-09	4-2-09	3-19-09	8-20-08	8-20-08	7-21-08	11-27-07
Number of Days Pending	39	39	83	84	127	137	279	279	301	464

INITIAL REQUESTS

GUIDANCE

- Initial Requests are defined as: All "purported" FOIA requests. Do not count Privacy Act requests or Consultations.

2. ANNUAL PRODUCTION RATES

2.a Comparison of Numbers of Requests from Previous and Current Fiscal Years

2.b FY2009 Received, Processed and Pending

GUIDANCE

-While there should be no change, 2.a.1, 2.a.2, 2.a.3 allow for any adjustments in calculations that result in numbers other than what was reported in last year's Annual Report. Please include an explanation if the numbers differ between FY 2008 Annual Report and Adjusted.

GUIDANCE

-2.b.1 is the number that was reported in last year's Annual Report.
 -2.b.1 and 2.b.2 should be equal, as they are the same number (end of last year = beginning of this year). There could, however, be exceptions to this rule, such as a FOIA case being reopened, etc.
 -Math Guidance: 2.b.2 + 2.b.3 - 2.b.4 = 2.b.5. If not, there is a miscalculation.
 -2.a.1 FY2009 is the same number as 2.b.3.
 -2.a.2 FY2009 is the same number as 2.b.4.

	Fiscal Year 2008		Fiscal Year 2009	2.b.1	2.b.2	2.b.3	2.b.4	2.b.5
	Annual Report	Adjusted		Number of Requests Pending as of End of Fiscal Year 2008	Number of Requests Pending as of Start of Fiscal Year 2009	Number of Requests Received in Fiscal Year 2009	Number of Requests Processed in Fiscal Year 2009	Number of Requests Pending as of End of Fiscal Year 2009
2.a.1 Number of Requests Received	78,985		71,429	74,711	75,023	71,429	122,113	24,339
2.a.2 Number of Requests Processed	84,424		122,113					
2.a.3 Number of Requests Backlogged at end of FY	67,545		16,801	2.c If 2.b.1 and 2.b.2 are not the same, please explain why: Cases scanned in FY08 created in FY09, cases re-opened, receipt date modified.				

2.d: If the FY2008 Annual Report numbers differ from the FY2008 Adjusted numbers for 2.a.1, 2.a.2 or 2.a.3 please explain why:

3. Disposition of All Incoming Processed Requests

GUIDANCE

-Do not count Privacy Act requests or Consultations
 -Only 1 Disposition may be recorded per request. Only choose a disposition from 3.b. if the request cannot be counted in one of the columns in 3.a.
 -Improper Requests (3.b.6): if the requests is lacking a perjury statement, a 3rd party release statement, is asking questions rather than requesting records, etc (see Section 5.3 of FOIA Regulations for a full description of Improper Requests).
 -3.c is the sum of the categories in 3.a and 3.b and should equal the total amount of requests processed in FY 2009 (same number as 2.b.4)

3.a Dispositions based on Exemptions			3.b Dispositions for Reasons That Are Not Exemptions									3.c Total
No. of Full Grants	No. of Partial Grants/Partial Denials	No. of Full Denials Based on Exemptions	Number of Full Denials Based on Reasons Other than Exemptions									Total
			3.b.1 No Records	3.b.2 Referred	3.b.3 Request Withdrawn	3.b.4 Fee-Related Reason	3.b.5 Not Reasonably Described	3.b.6 Improper Request	3.b.7 Not Agency Record	3.b.8 Duplicate	3.b.9 Other	
12,316	81,981	137	3,749	804	323	3	2	17,260	1,728	3,717	93	122,113

3.d. Dispositions of "Other Reasons" (3.b.9)

GUIDANCE

-Include any case closed for reasons other than what is listed above. We have already listed the most common ones:
 - 3.e is the same number as 3.b.9

Description of "Other Reason"	Number of Times "Other" Reasons Invoked
Coordinated by another office	

Unable to Locate Requestor	
Redress	
Sent in Error	
Records Publicly Available	
Unable to locate records	93
3.e Total: 93	

4. Exemptions Applied

4.a Number of Times Exemptions Applied

GUIDANCE

-For each request, report all exemptions applied; however count each exemption only once per request.

(b)(1)	(b)(2)	(b)(3)	(b)(4)	(b)(5)	(b)(6)	(b)(7)(A)	(b)(7)(B)	(b)(7)(C)	(b)(7)(D)	(b)(7)(E)	(b)(7)(F)	(b)(8)	(b)(9)
0	58,164	845	35	57,687	59,090	41	0	67,320	6	63,217	0	0	0

4.b (b)(3) Statutes

GUIDANCE

-list the statutes cited for any (b)(3) exemptions. We have already listed some common ones.

-4.c should be the same number as 4.a (b)(3)

Statute	Type of Information Withheld	Case Citation	Number of Times Relied Upon
41 U.S.C. 253b(m)	Prohibition on Release of Contractor Proposals	<i>Hornbostel v. Dept of Interior</i> , 305 F.Supp.2d 21	3
49 U.S.C. 114(s)	Nondisclosure of Security Activities		
49 C.F.R. 1520.5(b)	Sensitive Security Information		
Federal Rule of Criminal Procedure 6(e) Grand Jury	Grand Jury Materials	<i>Fugier v. Dept of Justice</i> , 257 F.3d 534; <i>Iglesias v. CIA</i> , 525 F.Supp. 547	10
26 U.S.C. 6103	Tax returns and information therefrom	<i>Church of Scientology v. IRS</i> , 484 U.S. 9; <i>Long v. IRS</i> , 891 F.2d 222	830
41 U.S.C. 423	Restricts disclosing & obtaining contractor bid or proposal information or source selection information	None	2
4.c TOTAL			845

PROCESSED PERFECTED REQUESTS

GUIDANCE

-This section should only include Perfected requests (categorized Simple, Complex and Expedited).

-Do not count Privacy Act requests, Consultations, or Non-Perfected requests.

-Any requests listed in 3.b.5 or 3.b.6 are automatically Non-Perfected requests.

-Processing Time is defined as the number of business days from the date of receipt to the date the case was closed.

-If the request was received and closed on the same day, the Processing Time is "1" or "<1". "0" is not allowed in these calculations.

5. PROCESSED (CLOSED) SIMPLE REQUESTS

GUIDANCE

-5.c and 5.d (Simple requests in which information was granted) is a subsection of 5.a and 5.b.

-The data used to calculate 5.b should also be used to calculate 5.e.

5.a Supply Raw Data of Processing Times (all Simple Processed Requests) in Separate File	5.b Processing Times of All Simple Processed Requests				5.c Supply Raw Data of Processing Time (Simple Processed Requests in Which Information Was Granted (Full Grant or Partial Grant/Denial)) in Separate File	5.d Processing Time of Simple Processed Requests in Which Information Was Granted			
	Lowest No. of Days	Highest No. of Days	Median No. of Days	Average No. of Days		Lowest No. of Days	Highest No. of Days	Median No. of Days	Average No. of Days
	1	1,396	198	215		1	1,396	223	245

5.e Processing Time in Day Increments for All Simple Processed 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
1,880	854	707	187	107	390	1,000	1,617	1,344	1,281	5,289	1,232	3,095	18,983

6. PROCESSED (CLOSED) COMPLEX REQUESTS**GUIDANCE**

-6.c and 6.d (Complex requests in which information was granted) is a subsection of 6.a and 6.b.

-The data used to calculate 6.b should also be used to calculate 6.e.

6.a Supply Raw Data of Processing Times (all Complex Processed Requests) in Separate File	6.b Processing Times of All Complex Processed Requests				6.c Supply Raw Data of Processing Time (Complex Processed Requests in Which Information Was Granted (Full Grant or Partial Grant/Denial)) in Separate File	6.d Processing Time of Complex Processed Requests in Which Information Was Granted			
	Lowest No. of Days	Highest No. of Days	Median No. of Days	Average No. of Days		Lowest No. of Days	Highest No. of Days	Median No. of Days	Average No. of Days
	Trk2 1 Trk3 1	967 542	370 47	344 60		Trk2 1 Trk3 1	932 542	376 47	359 60

6.e Processing Time in Day Increments for All Complex Processed 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
Trk2 2,937 Trk3 1,135	1,331 1,957	1,234 1,939	205 1,074	120 419	75 199	80 121	1,929 84	2,567 65	2,646 53	13,218 148	18,110 71	33,814 321	78,266 7,586

7. PROCESSED (CLOSED) EXPEDITED REQUESTS**GUIDANCE**

-7.c and 7.d (Expedited requests in which information was granted) is a subsection of 7.a and 7.b.

-The data used to calculate 7.b should also be used to calculate 7.e.

7.a Supply Raw Data of Processing Times (all Expedited Processed Requests) in Separate File	7.b Processing Times of All Expedited Processed Requests				7.c Supply Raw Data of Processing Time (Expedited Processed Requests in Which Information Was Granted (Full Grant or Partial Grant/Denial)) in Separate File	7.d Processing Time of Expedited Processed Requests in Which Information Was Granted			
	Lowest No. of Days	Highest No. of Days	Median No. of Days	Average No. of Days		Lowest No. of Days	Highest No. of Days	Median No. of Days	Average No. of Days
	4	309	26	67		4	309	26	67

7.e Processing Time in Day Increments for All Expedited Processed 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
7	3	0	1	2	0	0	0	0	0	1	1	1	16

APPEALS

GUIDANCE SECTION

-If your office does not process its own appeals, do not fill out the Appeals Section (9-13).

9. ANNUAL PRODUCTION RATES

9.a Comparison of Numbers of Requests from Previous and Current Fiscal Years	9.b FY2009 Received, Processed and Pending
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GUIDANCE -While there should be no change, 9.a.1, 9.a.2, 9.a.3 allow for any adjustments in calculations that result in numbers other than what was reported in last year's Annual Report. Please include an explanation if the numbers differ between FY 2008 Annual Report and Adjusted.	GUIDANCE -9.b.1 is the number that was reported in last year's Annual Report. -9.b.1 and 9.b.2 should be equal, as they are the same number (end of last year = beginning of this year). There could, however, be exceptions to this rule, such as a case being reopened, etc. -Math Guidance: 9.b.2 + 9.b.3 - 9.b.4 = 9.b.5. If not, there is a miscalculation. -9.a.1 FY2009 is the same number as 9.b.3. -9.a.2 FY2009 is the same number as 9.b.4.
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	Fiscal Year 2008		Fiscal Year 2009	9.b.1 Number of Requests Pending as of End of Fiscal Year 2008	9.b.2 Number of Requests Pending as of Start of Fiscal Year 2009	9.b.3 Number of Requests Received in Fiscal Year 2009	9.b.4 Number of Requests Processed in Fiscal Year 2009	9.b.5 Number of Requests Pending as of End of Fiscal Year 2009
	Annual Report	Adjusted						
9.a.1 Number of Requests Received	1,180		1,217	1,984	1,978	1,217	1,185	2,010
9.a.2 Number of Requests Processed	2,146		1,185					
9.a.3 Number of Requests Backlogged at end of FY	1,913		1,821					

9.c If 9.b.1 and 9.b.2 are not the same, please explain why: Cases scanned in FY08, created in FY09.

9.d: If the FY2008 Annual Report numbers differ from the FY2008 Adjusted numbers for 9.a.1, 9.a.2 or 9.a.3 please explain why:

10. Disposition of All Administrative Appeals

GUIDANCE

-10.a and 10.b are separate charts. An appeal may be counted in both.
-Improper Requests (10.b.6): if the requests is lacking a perjury statement, a 3rd party release statement, is asking questions rather than requesting records, etc.
-10.c is the sum of the categories in 10.a and 10.b and should equal the total amount of appeals processed in FY 2009 (same number as 9.b.4).

10.a Dispositions			10.b Appeals Closed for Other Reasons										
No. Affirmed on Appeal	No. Partially Affirmed & Partially Reversed/ Remanded on Appeal	No. Completely Reversed/ Remanded on Appeal	Number of Full Denials Based on Reasons Other than Exemptions										
			10.b.1 No Records	10.b.2 Referred at Initial Request Level	10.b.3 Request Withdrawn	10.b.4 Fee-Related Reason	10.b.5 Not Reasonably Described	10.b.6 Improper Request	10.b.7 Not Agency Record	10.b.8 Duplicate	10.b.9 Request in Litigation	10.b.10 Appeal Based Solely Upon Denial of Exp. Processing	10.b.11 Other
69	470	442	0	0	39	0	0	102	0	3	0	6	60

10.d. Dispositions of "Other Reasons" (10.b.11)

GUIDANCE

-Include any case closed for Other Reasons (10.b.11). We have already listed the most common ones:
- 10.e is the same number as 10.b.11

Description of "Other Reason"	Number of Times "Other" Reasons Invoked
Unable to Locate Requestor	

Moot	
Failure to Comply	60

10.e Total: 60

11. EXEMPTIONS APPLIED

Number of Times Exemptions Applied

GUIDANCE

-For each request, report all exemptions applied; however count each exemption once per request.

(b)(1)	(b)(2)	(b)(3)	(b)(4)	(b)(5)	(b)(6)	(b)(7)(A)	(b)(7)(B)	(b)(7)(C)	(b)(7)(D)	(b)(7)(E)	(b)(7)(F)	(b)(8)	(b)(9)
0	384	2	2	430	368	3	0	491	3	397	0	0	0

12. Processing Times for Administrative Appeals

GUIDANCE SECTION

-Processing Time is defined as the number of business days from the date of receipt to the date the case was closed.

-If the requests was received and closed on the same day, the Processing Time is "1". "0" is not allowed in these calculations.

12.a Supply Raw Data of Processing Times (all Processed Appeals) in Separate File	12.b Processing Times for All Processed Administrative Appeals			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
	530	591	1	1,718

13. PENDING (OPEN) ADMINISTRATIVE APPEALS

GUIDANCE

-Days Pending is defined as the number of business days from the date of receipt to the end of the Fiscal Year (9/30/2009)

13.a TEN OLDEST PENDING ADMINISTRATIVE APPEALS

	10 th Oldest	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest Appeal
Date of Receipt	9-8-05	9-8-05	9-8-05	9-8-05	9-8-05	8-30-05	8-29-05	8-29-05	8-29-05	5-19-03
Number of Days Pending	1019	1019	1019	1019	1019	1025	1026	1026	1026	1615

SPECIAL PROCESSING REQUESTS MADE AT INITIAL AND APPELLATE LEVELS

14. REQUESTS FOR EXPEDITED PROCESSING

GUIDANCE

- Processing time for Requests for Expedited Processing is defined as the number of CALENDAR DAYS from the date of receipt to the date of adjudication.
- Adjudication is defined as any decision made (grant or deny) regarding a request for expedited processing.
- 14.b and 14.c should calculate all cases in which a request for expedited processing was granted or denied
- Do not count a request for expedited processing that became moot (case closed within 10 calendar days)

14.a Adjudication of Requests for Expedited Processing		14.b Supply Raw Data of Processing Times for Adjudication of Requests for Expedited Processing in Separate File	14.c Processing Times for Adjudication of 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
16	1,019		1	2.21	998

15. REQUESTS FOR FEE WAIVERS

GUIDANCE

- Processing time for Requests for Fee Waiver is defined as the number of BUSINESS DAYS from the commencement of adjudication to the date of adjudication. Do not include the additional days that may precede consideration of the fee waiver request, e.g. days the request waits in a processing queue, processing time which precedes commencement of adjudication of fee waiver request, etc.
- Adjudication is defined as any decision made (grant or deny) regarding a request for fee waiver.
- 15.b and 15.c should calculate all cases in which a request for fee waiver was granted or denied.
- Do not count a request for a fee waiver that became moot (no fees were charged because it did not meet the threshold).

15.a Adjudication of Requests for Fee Waivers		15.b Supply Raw Data of Processing Times for Adjudication of Requests for Fee Waivers in Separate File	15.c Processing Times for Adjudication of Requests for Fee Waiver	
Number Granted	Number Denied		Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
0	7		5	7.25

FOIA ADMINISTRATION					
16. PERSONNEL			17. COSTS		
GUIDANCE -16.a is the number of staff that dedicated to processing FOIA requests full time. This should be a whole number. - 16.b is to account for any staff that spends part of their time processing FOIA requests. Person 1 (.25) + Person 2 (.5) = .75 -If your office responds to FOIA requests, it has some level of FOIA personnel. A "0" will be rejected.			GUIDANCE -See 17.d for a breakdown of the various costs that should be included.		
16.a Number of "Full-Time FOIA Employees"	16.b Number of "Equivalent Full-Time FOIA Employees"	16.c Total Number of FOIA Staff (Sum of 16.a and 16.b)	17.a Processing Costs (At initial request and appeal levels)	17.b Litigation-Related Costs	17.c Total Costs
211	4.6	215.6	\$24,807,460	\$192,675	\$25,000,135
17.d OPTIONAL SECTIONS to calculate Section 17					
GUIDANCE -Your component's budget will often be a useful resource for this information.					
17.d.1 Processing Costs Worksheet					
Descriptions of Costs			Amount		
FOIA Staff Salaries (includes government and contractors)			\$19,389,330		
Overhead Costs			\$1,518,130		
FOIA-related expenses (maintenance & development)			\$3,900,000		
			Total: \$24,807,460		
17.d.2 Litigation Costs Worksheet					
Descriptions of Costs			Amount		
Salaries of personnel involved in litigating FOIA requests			\$192,675		
Litigation Overhead Costs					
FOIA litigation-related expenses					
			Total: \$192,675		
18. FEES COLLECTED FOR PROCESSING REQUESTS					
GUIDANCE -Include fees received from a FOIA requestor for search, review, document duplication, and any other direct costs permitted by the DHS FOIA Regulations, 6 CFR Part 5. § 5.11					
18.a Total Amount of Fees Collected			18.b Percentage of Total Costs		
\$7,200.80			.0288		