OFFICE OF INSPECTOR GENERAL
FY 2007 Annual FOIA Report

Sections I. Basic Information, II. How to Make a FOIA Request, and III. Definitions of Terms, will be completed by the Office of Communications.

IV. Exemption 3 Statutes

A. List of Exemption 3 statutes relied on by agency during current fiscal year:

1. Brief description of types(s) of information withheld under each statute.

> **Rule 6(e), Federal Rules of Criminal Procedure – Grand Jury material.**

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

> **<u>Iglesias v. CIA</u>, 525 F. Supp. 547, 556 (D.D.C 1981)**

V. Initial FOIA/PA Access Requests

A. Number of Initial Requests: *(including all access requests, whether first party or third party)* **(NOTE: The total of Lines 1 and 2, minus Line 3, should equal Line 4.)**

1. Number of requests pending at end of FY 2006:	41
2. Number of requests received during FY 2007:	154
3. Number of requests processing during FY 2007:	173
4. Number of requests pending at end of FY 2007:	22

B. Disposition of Initial Requests: **(NOTE: The total of Lines 1, 2, 3, and 4 should equal the number of requests processed shown in Line 3 of Part A.)**

1. Number of total grants:	22
2. Number of partial grants:	88
3. Number of denials:	17

> a. Number of times each FOA exemption used: *(count each exemption once per requests)*

(1)	Exemption 1	0
(2)	Exemption 2	39
(3)	Exemption 3	1
(4)	Exemption 4	13
(5)	Exemption 5	29
(6)	Exemption 6	66
(7)	Exemption 7 (A)	15
(8)	Exemption 7 (B)	0
(9)	Exemption 7 (C)	46
(10)	Exemption 7 (D)	0
(11)	Exemption 7 (E)	4
(12)	Exemption 7 (F)	0
(13)	Exemption 8	0
(14)	Exemption 9	0

4. Other reasons for nondisclosure (total): 46
      a. No Records 18
      b. Referred elsewhere 1
      c. Request withdrawn 8
      d. Fee-related reason 3
      e. Records not reasonably described 0
      f. Not a proper FOIA request for some reason 6
      g. Not an agency record 2
      h. Duplicate request 3
      i. Other (specify) 5
         No authorization letter for release of information,
         no written consent of person.

Note: Do not count request requests referred within your agency in this, it pertains only to requests that are referred outside of your agency)

VI. Appeals of Initial Denials of FOIA/PA Requests (includes all access requests, whether first-party or third-party).

A. Number of Appeals:

1. Number of appeals received during FY 2007: 9
2. Number of appeals processed during FY 2007: 13

B. Disposition of Appeals:

1. Number of completed upheld 5
2. Number of partially reversed 6
3. Number completely reversed 1

       a. Number of times each FOA exemption used: (count each exemption once per appeal)

(1)	Exemption 1	0
(2)	Exemption 2	2
(3)	Exemption 3	0
(4)	Exemption 4	0
(5)	Exemption 5	2
(6)	Exemption 6	3
(7)	Exemption 7 (A)	3
(8)	Exemption 7 (B)	0
(9)	Exemption 7 (C)	3
(10)	Exemption 7 (D)	0
(11)	Exemption 7 (E)	0
(12)	Exemption 7 (F)	0
(13)	Exemption 8	0
(14)	Exemption 9	0

4. Other reasons for nondisclosure (total):   1
       a. No Records   0
       b. Referred elsewhere   0
       c. Request withdrawn   0
       d. Fee-related reason   1
       e. Records not reasonably described   0
       f. Not a proper FOIA request for some reason   0
       g. Not an agency record   0
       h. Duplicate request   0
       i. Other (specify)   0

VII. Compliance with Time Limits/Status of Pending Requests

A. Median Processing Time For Request: *(Example for calculation of median: Given 7 requests completed during the fiscal year, aged 10, 25, 35, 65, 75, 80, and 400 days from the date of perfection to date of completion, the total number of requests completed during the fiscal year would be 7 and the median age of the completed requests would be 65 days.)*

1. Simple requests (if multiple tracks used)
       a. Number of requests processed   149
       b. Median number of days to process   18

2. Complex requests (specify for any and all tracks used)
       a. Number of requests processed   20
       b. Median number of days to process   78

3. Requests accorded expedited processing
       a. Number of requests processed   4
       b. Median number of days to process   3

(NOTE: The number of requests listed in the different tracks must equal the number of requests processed from section A, Line 3.)

B. Status Pending Requests: *(Agencies using multiple tracks may provide numbers for each track as well as totals.)*

1. Number of requests pending at end of FY 2006:   22
2. Median number of days requests were pending as of FY 2006:   59

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

E. Describe Agency Effort To:

1. **Improve Timeliness:**

OIG continues to provide our public information and frequently requested
information through our FOIA website. Our median processing days for complex
requests improved by 24 days compared to 2006. Our median number of days for
pending request improved by 55 days compared to 2006.

2. Reduce Backlog:

OIG reduced our pending backlog by 49 percent compared to previous year.

3. Provide Training:

Our FOIA personnel attended several training sessions.

The FOIA staff meets monthly to focus on complex cases, share current information, and to discuss best practices.

4. Expedited Processing:

OIG processed four expedited requests with a median of 3 days. This timeframe is similar to past years.

IX. Costs/FOIA Staffing

A. Staffing Levels

1. Number of full-time FOIA personnel: 2

2. Number of personnel with part-time or occasional FOIA duties
     (in work-years):   2.18

3. Total number of personnel (work-years):   4.18

B. Total Costs: *(include staff and all resources)* (**Note: use +20% for overhead.**)

1. FOIA processing (including appeals): $351,830

2. Litigation-related activities (estimated): $1,522

3. Total costs: $353,352

4. Comparison with previous year(s) (optional) _____

C. Statement of additional resources needed for FOIA compliance (optional).

X. Fees: (includes charges for search, review, document duplication, and any other direct costs permitted under agency regulations.)

A. Total fees collected for processing requests: $447.60

B. Percentage of total costs: .001

XI. FOIA Regulations: *(including Fee Schedule):*

XII. Report on FOIA Executive Order Implementation

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

    See below.

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

    We reduced the backlog of initial requests at calendar year end to 19.   As our goal number was 30, we beat this goal.

C. Identification and discussion of any deficiency in meeting plan milestones (if applicable).

    Not applicable.

D. Additional narrative statement regarding other executive order-related activities (optional).

    Having a contractor has helped us reduce our backlog. We have also made improvements to our FOIA website.

E. Concise descriptions of FOIA exemptions.

F. Additional Statistics

    For the Fiscal Year 2007 annual FOIA report, this element has been significantly changed and expanded to make it more informative. This element now has two parts. The first part requires a listing of your agency's ten oldest pending FOIA requests, using the template provided. The second part requires information regarding consultations that your agency receives from other agencies. Many agencies receive significant numbers of in-coming consultations which necessarily consume agency time and resources. Agencies will now report on that FOIA activity in part two of element F, using the template provided.

    1. Ten Oldest Pending FOIA Requests

    Using the template provided below, please list in the appropriate column labeled by year, each of your ten oldest pending requests as of January 1, 2008. Please list the requests by the date it was received by your agency.

Calendar Year	2000	2001	2002	2003	2004	2005	2006	2007
Requests							May 3 Sep 12	Jan 4 Mar 1 May 18 Jul 3 Jul 12 Jul 16 Aug 20 Aug 30

2. Consultations

Note: If your agency's tracking system is unable at this time to compute any of these numbers regarding consultations, please indicate that in response to this part of element F. For any statistic that you cannot provide for Fiscal Year 2007, start preparing now to collect this consultation data so that you can report it for Fiscal Year 2008.

a.) Number of Consultations Received, Processed, and Pending

Please provide the number of consultations received, processed, and currently pending, in the appropriate column below. (An illustrative example is provided in the template.)

Consultations Received From Other Agencies During FY07	Consultations Received From Other Agencies That Were Processed by Your Agency During FY07 (includes those received prior to FY07)	Consultations Received From Other Agencies That Were Pending at Your Agency as of October 1, 2007 (includes those received prior to FY07)
0 (not tracked)	5	0 (not tracked)

b.) Ten Oldest Pending Consultations Received From Other Agencies

Using the template provided below, please list in the appropriate column labeled by year, each of your ten oldest pending consultations received from other agencies as of January 1, 2008. Please list the consultations by the date it was received by your agency. (An example is provided in the template.)

Calendar Year	1999	2000	2001	2002	2003	2004	2005	2006	2007
Consults Received									0 (not tracked)

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

Part II – Office of Inspector General (OIG) FOIA Plan

A. Characterize overall nature of agency's FOIA operations (degree of detail optional), with optional reference to areas preliminarily considered for agency review. (Agencies may also describe any particular FOIA challenges that they face.)

Response: The OIG FOIA program regulations are found at 7 C.F.R. Part 2620. OIG has its own FOIA Program that is centralized. Many OIG records, particularly criminal investigation records and sensitive audit records and materials, present specialized concerns regarding FOIA processing. We have field office locations, but they do not process FOIA requests. All FOIA processing is done at OIG Headquarters. We are available by phone to answer questions, to walk requestors through the process of making a FOIA request, to clarify FOIA requests, and to give the status of FOIA requests. We receive many phone calls in connection with FOIA/PA requests.

OIG handles its own appeals due to OIG's statutory independence within USDA. OIG Office of Counsel (of which the FOIA Staff is a part) processes and advises the Inspector General on FOIA appeals. All FOIA appeals are decided by the Inspector General.

Staffing consists of four full time employees who work on FOIA matters: a FOIA Attorney, who acts as the Team Leader, a Management Analyst, a FOIA Paralegal and a FOIA Assistant. Supervisory oversight is provided by the Deputy Counsel to the IG for Congressional and Media Affairs, who in turn reports to the Counsel to the IG.

OIG utilizes the ARGOS system, which is an Oracle database that provides all functions required for FOIA tracking. We use ARGOS to track and log requests, send out acknowledgment letters (both on initial requests and appeals), and to calculate our numbers for the annual report, our monthly reports, and the OIG's Semiannual Report to Congress. Searches for responsive documents are also made on this system based upon the information provided by requesters.

Pursuant to the DOJ guidelines, expedited processing has been granted in instances where the media requester has established an urgent need to inform the public concerning an OIG matter. Litigation deadlines also may be cause for expedited processing.

OIG has four tracks: 1) expedited, 2) a simple track, 3) a complex track, and 4) a remanded track for appeals that are remanded to FOIA staff for initial processing. Remanded cases occur, for example, in instances when an Exemption 7(A) case is no longer open, and the IG as the appellate authority remands the case for further processing.

OIG's website at http://www.usda.gov/oig/index.htm has many final products of OIG online, including our audit reports, investigative summaries, and the Inspector General's Congressional testimonies. Because our investigative reports are frequently part of a Privacy Act record, and additionally often contain sensitive information on subjects and witnesses, as well as on law enforcement techniques, we generally do not post our investigative reports. Instead, we post sanitized summaries of investigative results.

The website also contains detailed instructions on how to submit a FOIA request to OIG. We accept requests by e-mail, fax or by regular mail, as stated on our FOIA page at http://www.usda.gov/oig/foiareq.htm. Our annual

reports are also listed on our FOIA website, as well as links to the Department's FOIA websites. See
http://www.usda.gov/oig/foia.htm.

OIG FOIA Staff routinely provides courteous service to each FOIA requester, and provides alternative phone numbers for a member of the staff when they are on any extended leave from the office.

OIG has had a significant backlog in the past which is, with continued effort, showing steady improvement. In April of 2004, the backlog stood at 142. In FY 2004, we processed 191 FOIAs, including 5 appeals. In FY 2005, we processed 248 FOIAs, including 5 appeals. In FY 2006, we processed 244, including 18 appeals. In FY 2007, we processed 173, including 13 appeals. As of December 31, 2007, the pending backlog was 19 initial requests and no appeals. We are working to continue this downward trend.

B. List all areas selected for review:

Backlog.

C. Include narrative statement summarizing results of review:

Response: Our biggest challenge is our backlog. To eliminate/reduce the backlog, the following steps have been taken:

1. As of the end of each fiscal year, we plan to reduce our backlog by 25% per OIG's annual plan. As of September 30, 2007, the number of pending cases was 22.

2. We will continue our established monthly internal FOIA meetings. These meetings are devoted to awareness and education, including the discussion of new ideas that may have been learned from other sources such as DOJ or American Society of Access Professionals (ASAP) sponsored training. We also use these meetings to coordinate high priority or complex response efforts and to discuss FOIA policies and procedures that are working well, the implementation of new or improved "best practices," issues and requests needing special attention, and any problem areas that have arisen.

3. We periodically examine our internal work practices, which are captured in our "Workflow & Procedures." This gives us opportunity to identify bottlenecks in our process, so that we can try to resolve them as they arise. Examples in the past have included making website improvements, instituting new processing tracks, and making updates to the acknowledgement letter.

4. We have established a bifurcated process for handling FOIA appeals. The appeals are processed by attorneys in the OIG Office of Counsel.[1] This bifurcation was done to further alleviate the workload on the FOIA Staff, allow them to focus on initial requests, and to allow a different processor to take a fresh look upon appeal at the reasons for withholding or redacting documents at the initial processing stage.

5. FOIA Staff revised OIG's FOIA webpage, adding a FOIA Service Center and a Public Liaison as the public's point of contact for FOIA inquiries.

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[1] With consultation, as needed with the FOIA Attorney mentioned above, who acts as the Team Leader in the processing of initial FOIA requests.

To eliminate/reduce the backlog, the follows steps are being considered:

D. List all areas chosen as improvement areas for agency plan:

Backlog reduction is of particular focus for OIG's plan.

E. For each improvement area provide:

1. Name: Backlog reduction.

2. Brief statement of goal(s)/objective(s): Reduce backlog by 25% each year until it is eliminated.

3. List of all distinct steps planned to be taken: See above.

4. Time milestones (in relation to specific timetables and outcomes): See below.

5. Means of measurement of success: Backlog reduction expressed in numbers of pending requests. Reduce pending requests numbers to 15 pending requests by December 2008. Reduce pending requests to 12 by December 2009.

F. For the entire plan, group the improvement areas into the following time periods:

1. Areas anticipated to be completed by December 31, 2008: Reduction of backlog to 15 requests.

2. Areas anticipated to be completed by December 31, 2009: Reduction of backlog to 12 requests.

3. Areas anticipated to be completed after December 31, 2010: Reduction of backlog to a number between 9 and zero.