

**FREEDOM OF INFORMATION ACT (FOIA) ANNUAL REPORT
FOR THE SOCIAL SECURITY ADMINISTRATION (SSA) FOR FISCAL YEAR 2007**

I. Basic Information Regarding SSA's Report

A. Report Prepared By: Vincent A. Dormarunno

Title: Freedom of Information Officer

Agency/Component: SSA, Office of the General Counsel,
Office of Public Disclosure

Telephone: 410-966-6645 FAX: 410-966-4304

Mailing Address: Office of Public Disclosure
3-A-6 Operations Building
6401 Security Blvd.
Baltimore, MD 21235

B. Electronic address for a copy of this report on SSA's

Website: <http://www.socialsecurity.gov/foia/>

C. To obtain a paper copy of this report write to the address shown above, or phone, fax, or E-Mail to the Office of Public Disclosure. E-Mail address foia.pa.officers@ssa.gov

II. How to Make a FOIA Request

A. Complete information on making a FOIA request is contained in The Code of Federal Regulations (CFR), 20 CFR Part 402. It is available at <http://www.socialsecurity.gov/foia/>

B. SSA will try to furnish information as quickly as possible. However, it may take one month or more to locate, retrieve, and review many records. Complex requests and requests for numerous records may take longer.

C. We generally do not disclose information about living individuals without their written consent, as this would be a clearly unwarranted invasion of personal privacy. 5 U.S.C. 552(b)(6).

We do not disclose tax information about third parties obtained by SSA from the Internal Revenue Service (IRS), under 5 U.S.C. 552(b)(3).

Depending upon the nature of the document, SSA may withhold documents under the deliberative process privilege, the attorney work product privilege or attorney-client privilege under 5 U.S.C. 552(b)(5).

III. Definitions of Terms and Acronyms Used in the Report

A. Agency specific acronyms or other terms.

1. SSA - Social Security Administration
2. SSN - Social Security number

B. Basic terms, expressed in common terminology.

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 FOIA.
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 FOIA, 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 (nonexpedited) 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 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 no record is located in response to a FOIA request).
12. Time Limits - the time period 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 in the group. For example, of 3, 7, and 14, the average number is 8.

IV. Exemption 3 Statutes

- A. List of exemption 3 statutes relied on by the Agency during the fiscal year.

1. 26 U.S.C. 6103 - SSA withholds tax return information, such as third party addresses and employers' names and addresses, in situations in which section 6103 of the Internal Revenue Code is applicable.

41 U.S.C. 253b(m) - The National Defense Authorization Act for Fiscal Year 1997, Public Law No. 104-201, codified at 41 U.S.C. 253b(m), contained a prohibition on the release of contractor proposals under the FOIA. It prohibits the disclosure of any proposal that is not set forth or incorporated by reference in a contract entered into between an agency and the contractor that submitted the proposal. This provides blanket protection for proposals of unsuccessful offerors.

2. Statement of whether a court has upheld the use of each statute.

26 U.S.C. 6103: Yes

Examples:

The withholding of tax return information has been approved under three different cases. See e.g., Church of Scientology v. IRS, 484 U.S. 9, 15 (1987); Aronson v. IRS, 973 F.2d 962, 964-65 (1st Cir. 1992) (finding that IRS lawfully exercised discretion to withhold street addresses pursuant to 26 U.S.C. section 6103(m)(1)); and Long v. IRS, 891 F.2d 222, 224 (9th Cir. 1989) (holding that deletion of taxpayers' identification does not alter confidentiality of section 6103 information).

The United States Supreme Court and most appellate courts that have considered withholding tax return information have held either explicitly or implicitly that section 6103 of the Internal Revenue Code satisfies subpart (B) of exemption 3.

41 U.S.C. 253b(m): Yes

Example:

The withholding of contractor proposals under this statute has been approved in Hornbostel v. Department of Interior, 305 F.Supp.2d 21. (D.D.C. 2003)

V. Initial FOIA/PA Access Requests

A. Number of initial requests

1. Number of requests pending as of end of preceding year 1,156

2. Number of requests received during fiscal year 2007	<u>18,995,845</u>
3. Number of requests processed during fiscal year 2007	<u>18,995,719</u>
4. Number of requests pending as of end of fiscal year 2007	<u>1,282</u>

B. Disposition of initial requests

1. Number of total grants	<u>18,994,411</u>
2. Number of partial grants	<u>206</u>
3. Number of denials based on FOIA exemptions	<u>300</u>

Number of times each FOIA exemption is used (multiple exemptions can be used for individual cases):

(1) Exemption 1	<u>0</u>
(2) Exemption 2	<u>121</u>
(3) Exemption 3	<u>38</u>
(4) Exemption 4	<u>8</u>
(5) Exemption 5	<u>119</u>
(6) Exemption 6	<u>249</u>
(7) Exemption 7(A)	<u>0</u>
(8) Exemption 7(B)	<u>0</u>
(9) Exemption 7(C)	<u>14</u>
(10) Exemption 7(D)	<u>0</u>
(11) Exemption 7(E)	<u>0</u>
(12) Exemption 7(F)	<u>0</u>
(13) Exemption 8	<u>0</u>
(14) Exemption 9	<u>0</u>

4. Total other reasons for non-disclosure	<u>802</u>
a. No record	<u>151</u>
b. Referrals	<u>0</u>
c. Request withdrawn	<u>0</u>
d. Fee-related reason	<u>34</u>
e. Records not reasonably described	<u>24</u>
f. Not a proper FOIA request for some other reason	<u>0</u>
g. Not an agency record	<u>0</u>
h. Duplicate request	<u>68</u>

i. Other (general information on making a FOIA/PA request and fee schedule)	<u>525</u>
---	------------

VI. Appeals of Initial Denials of FOIA/PA Requests

A. Number of Appeals

1. Appeals received during fiscal year	<u>73</u>
2. Appeals processed during fiscal year	<u>70</u>

B. Disposition of Appeals

1. Number completely upheld	<u>32</u>
2. Number partially reversed	<u>6</u>
3. Number completely reversed	<u>22</u>

Number of times each FOIA exemption is used (multiple exemptions can be used for individual cases):

Exemption 1	<u>0</u>
Exemption 2	<u>4</u>
Exemption 3	<u>3</u>
Exemption 4	<u>1</u>
Exemption 5	<u>5</u>
Exemption 6	<u>27</u>
Exemption 7A	<u>0</u>
Exemption 7B	<u>0</u>
Exemption 7C	<u>3</u>
Exemption 7D	<u>0</u>
Exemption 7E	<u>0</u>
Exemption 7F	<u>0</u>
Exemption 8	<u>0</u>
Exemption 9	<u>0</u>

4. Total other reasons for non-disclosure	<u>10</u>
a. No record	<u>6</u>
b. Referrals	<u>1</u>
c. Request withdrawn	<u>1</u>
d. Fee-related reason	<u>2</u>
e. Records not reasonably described	<u>0</u>
f. Not a proper FOIA request for some other reason	<u>0</u>
g. Not an agency record	<u>0</u>

h. Duplicate request	<u>0</u>
i. Other – failure to comply with requirements	<u>0</u>

VII. Compliance With Time Limits/Status of Pending Requests

A. Median processing time for requests processed during the year

1. Fast track

a. Number of requests processed	<u>1,181</u>
b. Median number of days to process	<u>14</u>

2. Simple requests

a. Number of requests processed	<u>274</u>
b. Median number of days to process	<u>33</u>

3. Complex requests

a. Number of requests processed	<u>1,297</u>
b. Median number of days to process	<u>43</u>

4. Requests accorded expedited processing.

a. Number of requests processed	<u>0</u>
b. Median number of days to process	<u>0</u>

5. Simple requests for Social Security number applications and other Office of Earnings Operations records

a. Number of requests processed	<u>32,577</u>
b. Median number of days to process	<u>2</u>

6. Simple requests handled by non-FOIA staff

a. Number of requests processed	<u>18,960,390</u>
b. Median number of days to process	<u>Not Available</u>

NOTE: SSA captures non-FOIA staff simple requests from field and district offices through an automatic workload database. The workload report consists primarily of these PA access requests. Nearly all of these requests are processed on the same day.

B. Status of pending requests

1. Fast track	
a. Number of requests pending	<u>150</u>
b. Median number of days pending	<u>10</u>
2. Simple requests	
a. Number of requests pending	<u>3</u>
b. Median number of days pending	<u>4</u>
3. Complex requests	
a. Number of requests pending	<u>180</u>
b. Median number of days pending	<u>46</u>
4. Requests accorded expedited processing	
a. Number of requests pending	<u>0</u>
b. Median number of days pending	<u>0</u>
5. Simple requests for Social Security number applications and other Office of Earnings Operations records	
a. Number of requests pending	<u>949</u>
b. Median number of days pending	<u>Not Available</u>

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

For FY 2007, SSA processed 18,995,719 as compared to 18,691,303 processed in FY 2006. This is an increase of nearly 2%. The increase in requests processed mostly represents the continuing rise in the number of PA access requests submitted to SSA either by the individual, or a third party with consent, requesting information about themselves from SSA's computer systems. Many businesses and government entities, such as banks, mortgage companies, departments of motor vehicles, and social insurance agencies, ask their customers and clients to verify SSNs and/or certain benefit information as part of their regular business process. As in previous years, PA requests of this nature are rarely, if ever, denied. The vast majority of field requests continue to involve these PA access requests and requesters generally receive this information on the same day.

Most of the fees that SSA collected for earnings records and SSN verifications are based on a separate provision for fee charging in section 1106(c) of the Social Security Act (42 U.S.C. § 1306(c)), rather than the FOIA fee schedule. This

provision allows SSA to recover the full cost of certain non-programmatic requests and is reflected by the increase in fee collections.

Other statistics significant to the Agency:

1. Number of requests received for expedited processing:	<u>25</u>
2. Number of requests granted expedited processing:	<u>0</u>

IX. Costs/FOIA Staffing

A. Staffing levels

1. Number of full-time FOIA personnel	<u>36</u>
2. Number of personnel with part-time or occasional FOIA duties (Work Years)	<u>360</u>
3. Total number of FOIA personnel (Work Years)	<u>396</u>

B. Total costs (including staff and all resources)

1. FOIA processing (including appeals)	<u>\$29,784,374</u>
2. Litigation-related activities	<u>\$43,588</u>
3. Total costs	<u>\$29,827,962</u>
4. Comparison with FY 2006 Total	<u>+ \$722,439</u>

X. Fees

1. Total amount of fees collected by Agency for processing requests	<u>\$5,521,000</u>
2. Percentage of total costs	<u>19%</u>

XI. FOIA Regulations

See 20 CFR, Part 402. This regulation is available electronically at <http://www.ssa.gov/foia/>

XII. Report on FOIA Executive Order 13392 Implementation

On December 14, 2005, the President issued Executive Order 13392, which required each agency to conduct a review of its FOIA operations, develop an agency-specific plan to improve its administration of the Act, and to include in its annual FOIA report a description of its progress in meeting the milestones and goals established in its improvement plan.

This section of the annual FOIA report contains SSA's description of its progress in implementing the milestones and goals of the FOIA Improvement Plan.

The reporting period for this section concerning Executive Order implementation activities includes progress made by SSA through December 31, 2007, as well as through January 15, 2008, as outlined in our plan.

A. Description of supplementation/modification of agency improvement plan

Not applicable

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

SSA accomplished the majority of its goals established in the report it submitted on June 14, 2006, in response to Executive Order 13292 that we were to complete for this reporting period. One notable achievement during this time period is that OPD closed 90% of its ten oldest pending requests as identified in January 2007. OPD continues to promote training in all forums for its staff and will be hosting its biennial disclosure conference in May. This conference aligns with our goal of ensuring that FOIA analysts and liaisons from our regional offices and other components within SSA are receiving ongoing training.

C. Identification and discussion of any deficiency in meeting plan milestones

1. FOIA Improvement Plan area to which the deficient milestone relates

Backlogs.

2. Deficient milestone and the original target date from the FOIA Improvement Plan.

SSA was unable to meet the goal it established for backlog reduction, which was to decrease the backlog by 5% from the previous year's reporting date of January 15, 2007. The delays in processing are due in part to the loss of some highly-skilled personnel including the Deputy Executive Director, a Division Director, three senior analysts, and an eFOIA administrator. With current budget restraints, we are unsure

whether all of these positions will be filled in the future. In addition, OPD has experienced difficulties in our migration to our new eFOIA system and future updates to the system are required in order for the system to be fully operational as intended and to improve FOIA processing. Changes from the recently enacted OPEN Government Act also require changes to the system. Further, there has been a significant increase in complex cases, which require extensive searches for documents from other components, as well as high-level analysis.

3. Steps taken to correct the deficiency and the dates by which the steps were completed.

Like most other agencies, SSA's efforts to decrease the backlog are an ongoing process. OPD's management staff holds weekly old case meetings, as well as weekly management meetings to assess workloads. We have also stressed to component heads the importance of timely searches to ensure that we adhere to FOIA guidelines. In our effort to streamline operations, we have been tasking our junior-level analysts with responding to priority routine requests. This allows our senior analysts to focus on our more complex cases.

4. Future remedial steps and the dates by which the steps will be completed.

OPD has requested additional staff and we are hopeful we can post any new staff positions by June 1, 2008. We have also recently hired two upper-level college interns who will be on board until late May 2008. We hope these interns will assist us with backlog reduction.

OPD is committed to eliminating backlog and continuously seeks alternative ways to eliminate it. We are also considering temporary details where detailees will work strictly on backlog reduction. We are also considering having staff members work compensatory time with added incentives to maximize and encourage participation.

Given our FY 2007 actual experience and the increasing challenges we have faced concerning existing staffing and the overall increase in incoming complex cases and internet requests, we recognize that our goals for decreasing backlog will not be back on target until FY 2009.

D. Additional narrative statements regarding other Executive Order-related activities (optional)

Not applicable

E. Concise descriptions of FOIA exemptions

The nine exemptions to the FOIA authorize Federal agencies to withhold information

covering:

- (1) Classified national defense and foreign relations information;
- (2) Internal agency rules and practices;
- (3) Information that is prohibited from disclosure by another Federal law;
- (4) Trade secrets and other confidential business information;
- (5) Inter-agency or intra-agency communications that are protected by legal privileges;
- (6) Information involving matters of personal privacy;
- (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;
- (8) Information relating to the supervision of financial institutions; and
- (9) Geological information on wells.

F. Additional Statistics

1. Ten Oldest Pending FOIA Requests

Calendar Year	2000	2001	2002	2003	2004	2005	2006	2007
Requests								Jan 8 Feb 5 Mar 28 Mar 30 Apr 20 Apr 30 May 18 May 23 Jun 15 Jun 26

2. Consultations

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

Consultations Received From Other Agencies During FY 2007	Consultations Received From Other Agencies That Were Processed by Your Agency During FY 2007 (includes those received prior to FY 2007)	Consultations Received From Other Agencies That Were Pending at Your Agency as of October 1, 2007 (includes those received prior to FY 2007)
1	1	0

b.) Ten Oldest Pending Consultations Received From Other Agencies

Year	1999	2000	2001	2002	2003	2004	2005	2006	2007
Consults Received	0	0	0	0	0	0	0	0	0

G. Attachment:

The FOIA Improvement Plan for SSA is attached at Website address http://www.ssa.gov/foia/SSA_FOIA_Improvement_Plan%20Revision.doc