DEPARTMENT OF THE INTERIOR

Freedom of Information Act 2005 Annual Report
October 1, 2004 - September 30, 2005

Bureau/Office   Office of Information Policy
                     Office of DASIRM/CIO – Indian Affairs

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NOTE: Each bureau/office must complete all items on the report unless annotated otherwise. Enter "0" or "N/A" if there is no data to report. This is especially important with regard to the number of times each exemption is used (see V.B.3.a)

I & II. **(To be completed by the Department (OCIO))**

III.   Definitions of Terms and Acronyms Used in the Report

    A. Bureau - specific acronyms or other terms included in each report.
    (To be completed by the bureau if appropriate)

    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 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.

    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 or more of the FOIA's exemptions; or a decision to disclose some records in their entirety, 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, 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

1. List of Exemption 3 statutes relied on by bureau during current fiscal year and number of times invoked. **(Provide the complete title and citation of the statute used by the bureau/office.)**

2. Brief description of type(s) of information withheld under each statute. **(Be specific with regard to the information withheld.)**

3. Statement of whether a court has upheld the use of each statute. If so, then cite example. **(To be completed by SOL only.)**

V. Initial FOIA/PA Access Requests

• This should include all access requests, whether first-party or third-party. Only "perfected" requests should be included. A "perfected request" is 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.

A. Numbers of initial requests.

  • **Even though a requester may ask for several items, e.g., copies of four audit reports, this still only constitutes one request.**

  • **The total of the numbers in lines 1 and 2, minus the number in line 3, should equal the number in line 4.**

1. Number of requests pending as of end of preceding fiscal year __**968**__

2. Number of requests received during current fiscal year __1048__

3. Number of requests processed during current fiscal year __977__

4. Number of requests pending as of end of current fiscal year   <u>   1039   </u>
   (Enter this number also in line VII.B.1.)

B.   Disposition of initial requests.

- **The total of the numbers in lines 1, 2, 3, and 4 should equal the number in line V.A.3 (number of requests processed).**

- **Please note, each request should be counted just once under V.B. depending on how the majority of the documents were handled. For example, if a request is "partially granted" and a few documents are referred to another agency for response, the request should be counted just once as a "partially granted" request (this applies to the majority of the records).**

1. Number of total grants   <u> 298   </u>

2. Number of partial grants   <u> 81   </u>

3. Number of denials   <u> 5   </u>

- **Even though more than one exemption may be invoked for each denial, it still only constitutes one denial.**

- **A "no record" response does not constitute a denial which would be reported under 3--these should be included under 4a, "No records."**

a.   Number of times each FOIA exemption used **(counting each exemption once per request)**

     (1) Exemption 1   <u>   0   </u>

     (2) Exemption 2   <u>   1   </u>

     (3) Exemption 3   <u>   2   </u>

     (4) Exemption 4   <u>   8   </u>

     (5) Exemption 5   <u>   28   </u>

     (6) Exemption 6   <u>   62   </u>

(7) Exemption 7 (A) _____0_____

(8) Exemption 7 (B) _____0_____

(9) Exemption 7 (C) _____4_____

(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) _____303_____

- **Include fee waiver denials under item 4d.**

    a. no records _____106_____

    b. referrals _____89_____

    c. request withdrawn _____12_____

    d. fee-related reason _____19_____

    e. records not reasonably described _____33_____

    f. not a proper FOIA request for some other reason _____9_____

    g. not an agency record _____19_____

    h. duplicate request _____16_____

    i. other (specify) _____0_____
    (If a request was denied under the Privacy Act, specify which Privacy Act exemption was used to deny the information.)

VI.   Appeals of Initial Denials of FOIA/PA Requests **(To be completed by SOL.)**

- This should include all access requests, whether first-party or third-party.

A. Numbers of appeals.

    1. Number of appeals received during fiscal year   _____

    2. Number of appeals processed during fiscal year   _____

B. Disposition of appeals.

- **The total of the numbers in lines 1, 2, 3, and 4 should equal the number in line VI.A.2 (number of appeals processed).**

- **Please note, each appeal should be counted just once under VI.B. depending on how the majority of the documents were handled. For example, if a request is "partially reversed" and a few documents are referred to another agency for response, the appeal should be counted just once as a "partially reversed"appeal (this applies to the majority of the records).**

    1. Number completely upheld   _____

    2. Number partially reversed   _____

    3. Number completely reversed   _____

        a. Number of times each FOIA exemption used (counting each exemption once per appeal)

           (1) Exemption 1   _____

           (2) Exemption 2   _____

           (3) Exemption 3   _____

           (4) Exemption 4   _____

           (5) Exemption 5   _____

           (6) Exemption 6   _____

           (7) Exemption 7(A)   _____

           (8) Exemption 7(B)   _____

           (9) Exemption 7(C)   _____

(10) Exemption 7(D) _____

(11) Exemption 7(E) _____

(12) Exemption 7 (F) _____

(13) Exemption 8 _____

(14) Exemption 9 _____

4. Other reasons for nondisclosure (total) _____

    a. no records _____

    b. referrals _____

    c. request withdrawn _____

    d. fee-related reason _____

    e. records not reasonably described _____

    f. not a proper FOIA request for some other reason _____

    g. not an agency record _____

    h. duplicate request _____

    i. other (specify) _____
    **(If a request was denied under the Privacy Act, specify which
    Privacy Act exemption was used to deny the information.**

VII.   Compliance with Time Limits/Status of Pending Requests

- Bureaus should count days from the time at which a request is "perfected."

- Bureaus should provide the median number of days under A and B. If the bureau believes that "average time" is a better measure of its performance, it may wish to include that as well.

- **Examples - calculating the median:**

1) Given 7 requests completed during the fiscal year, aged 10, 25, 35, 65, 75, 80, and 400 days from 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.

2) Example for calculation of median: If there were 6 pending cases aged 10, 20, 30, 50, 120, and 200 days from date of perfection to date of completion, the total number of requests completed would be 6 and the median age would be 40 days (the average of the 2 middle numbers).

A.   Processing time for requests processed during the year.

- **The total of the numbers in lines 1a and 2a should equal the number reported under line V.A.3 (number of requests processed).**

1.   Normal Processing **(Complete this section only if your bureau/office is not using multi-track processing.)**

      a. number of requests processed   __977__

      b. median number of days to process   __41__

2.   Multi-track Processing **(Complete this section if your bureau/office is using multi-track processing.)**

      a.   Simple requests

            1.   Number of requests processed   _____
            2.   **Median number of days to process**   _____

      b.   Normal requests

            1.   Number of requests processed   _____
            2.   **Median number of days to process**   _____

      c.   Complex requests

            1.   Number of requests processed   _____
            2.   **Median number of days to process**   _____

3.   Requests accorded expedited processing **(All bureaus/offices must complete)**

      a. number of requests processed   _____

b. median number of days to process   _____

B.   Status of pending requests.

    1.   Number of requests pending as of end of FY 2005   ___1038___
    (Enter this number from Line V.A.4.)

    2.   Median number of days that such requests were
    pending as of that date (September 30, 2005)   ___421___

    3.   Average number of days that such requests were
    pending as of that date (**optional**)   _____

VIII.   Comparisons with Previous Year(s)

Bureaus should state comparisons both in total numbers and in percentage of change.

A.   Comparison of numbers of requests received:

	No.	% change over FY 04
FY 05	1048	-3.9%
FY 04	1090	

B.   Comparison of numbers of requests processed:

	No.	% change over FY 04
FY 05	977	+13.3%
FY 04	862	

C.   Comparison of median numbers of days requests were pending at the end of FY:

	No.	% change over FY 04
FY 05	1038	+7.2%
FY 04	968	

D.   Other narrative statements describing bureau efforts to improve timeliness of FOIA responses and making records available to the public (e.g., backlog - reduction efforts, training provided by bureau to its employees [do not list training sponsored by DOJ, ASAP, USDA], etc.):

During FY05, FOIA and PA training sessions were conducted at Navajo, Western and Eastern Oklahoma Regions. In addition, OIP staff assisted with additional FOIA/PA training at Navajo Region. Approximately 100 employees were training during these sessions.

    E.   Number of requests for expedited processing received: __0__

          Number of requests for expedited processing granted: __0__

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 total work-years)   ____11____

(For example, if one employee spends 10% of his time on FOIA, another 25%, and a third employee 50%, the total would be .85 work-years.)

        3. Total number of personnel (in work-years)   ____13____

(For example, if there are 5 employees who are involved in FOIA/PA matters full time, and 3 employees working on FOIA/PA matters part time (for a total of .85 work-years), the total under line 3 would be 5.85 work-years.)

    B.   Total Costs (including staff and all resources):

- **The salaries (or portion thereof) of the FOIA Officer/Coordinator(s) and others involved in administering/implementing the FOIA Program, including clerical support (include under 1, 2, and 3, if applicable). For purposes of the report, use the individual's salary (exclude benefits and overhead).**

- **Cost to provide or attend training (include under 1).**

- **Fees which are waived or not recovered, including those instances where the fee is $30 or under, provided that a record of such fees is maintained as backup information (include under 1).**

- **The cost to develop and maintain the bureau's FOIA home page**

(include under 1).

1. FOIA processing (including appeals)

Staff	$859,498
Other	$4,500

Other: The includes the purchase of FOIA training materials that are provided during onsite training at Regional and Agency Offices, staff training costs, and travel to provide onsite technical assistance.

2. Litigation-related activities (estimated)

Staff	0
Other	0

3. Total costs $863, 998

4. Comparison with previous year(s) (including % of change)   +11%

C.   Statement of additional resources needed for FOIA compliance $727,656

The Deputy Assistant Secretary for Information Resources Management/Chief Information Officer – Indian Affairs currently manages and assigns FOIA and PA requests. BIA responses to FOIA requesters may be sensitive and under regulatory response times. Failure to provide requests in accordance with regulation may result in Departmental and BIA legal liability. The 4 additional FTEs will be used to reduce the FOIA backlog and fully implement FOIA laws, regulations and increase Departmental coordination and implementation of Departmental Manuals, mandates, polices and procedures.

Training:
Provide intranet and onsite FOIA management training. Develop and implement FOIA training within the parameters established by the Departmental policy and operations guidelines. Provide training and technical assistance on FOIA regulations and guidance regarding current FOIA policy and assistance to BIA management and staff to resolving FOIA issues down to the field level.

X.   Fees
- This includes charges for search, review (commercial-use requesters only), document duplication, and any other direct costs permitted under agency regulations.

A.   Total amount of fees collected by agency for processing requests $54,115

B.   Percentage of total costs   .06%

XI. FOIA Regulations (Including the Fee Schedule)
     (To be completed by the Department)