DEPARTMENT OF THE INTERIOR

Freedom of Information Act 1999 Annual Report
October 1, 1998 - September 30, 1999

Bureau/Office   Bureau of Indian Affairs____

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Date   December 28, 1999_____

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

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 (FOIA)/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.   Multitrack 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 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.

12. Time limits -- the time period in the FOIA 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.

National Historic Preservation Act and the Archeological Resources Protection Act: each invoked once in response to the same request.

2. Brief description of type(s) of information withheld under each statute.

Location of culturally significant Indian religious sites.

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

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   **46**

2. Number of requests received during current fiscal year   **1,409**

3. Number of requests processed during current fiscal year   **1,389**

4. Number of requests pending as of end of current fiscal year   **66**
   (Enter this number also in line VII.B.1.)

B.   Disposition of initial requests.

1. Number of total grants   **1,003**

2. Number of partial grants   **79**

3. Number of denials   **51**

- 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."

- Fee waiver denials should be included under 4d, " Fee-related reason."

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

(1) Exemption 1   **0**

(2) Exemption 2   **1**

(3) Exemption 3   **1**

(4) Exemption 4   **26**

(5) Exemption 5   **15**

(6) Exemption 6   **65**

(7) Exemption 7 (A)   **2**

(8) Exemption 7 (B)   **0**

(9) Exemption 7 (C)   **13**

(10) Exemption 7 (D)   **1**

(11) Exemption 7 (E)   **0**

(12) Exemption 7 (F)   **0**

(13) Exemption 8   **0**

(14) Exemption 9   **0**

4. Other reasons for nondisclosure (total)   **256**

     a. no records   **99**

     b. referrals   **57**

     c. request withdrawn   **4**

     d. fee-related reason   **49**
     (Include fee waiver denials here.)

     e. records not reasonably described   **19**

f. not a proper FOIA request for some other reason   15

g. not an agency record   5

h. duplicate request   5

i. other (specify)   3

[I. In all three instances the requester had initiated litigation and further processing was terminated upon the advice of the Office of the Solicitor.]

(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 the Department.)**

-     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.

    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 _____
       (Include fee waiver denials here.)

    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 for 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.

    1. Normal Processing

        a. number of requests processed   **1,389**

        b. median number of days to process   **42**

        c. average number of days to process (**optional**)   **N/A**

    2. Requests accorded expedited processing.

        a. number of requests processed   **N/A**

        b. median number of days to process   **N/A**

        c. average number of days to process (**optional**)   **N/A**

(NOTE: DOI does not use multitrack processing at this time.)

B. Status of pending requests.

    1. Number of requests pending as of end of FY 99   **66**
        (Enter this number from Line V.A.4.)

    2. Median number of days that such requests were
        pending as of that date (September 30, 1999)   **43**

    3. Average number of days that such requests were   **N/A**
        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 98
FY 99	**1,409**	**+51.7%**
FY 98	**929**	

B.   Comparison of numbers of requests processed:

	No.	% change over FY 98
FY 99	**1,389**	**+56.6%**
FY 98	**887**	

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

	No.	% change **under** FY 98
FY 99	**48**	**84.1% decrease**
FY 98	**301**	**in days pending**

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.):

The Bureau has developed a data base to allow more accurate tracking of pending requests and to improve consistence in reporting from the Regions; policies and procedures have been updated and will be issued in the Indian Affairs Manual in January 2000; and the full-time FOIA Officer position was filled.

IX.   Costs/FOIA Staffing

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A.   Staffing levels.

1. Number of full-time FOIA personnel   **1.0**

2. Number of personnel with part-time or occasional FOIA duties (in total work-years)   **18.35**

3. Total number of personnel (in work-years)   **19.35**

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. For purposes of the report, use the individual's salary (exclude benefits and overhead)(include under 1, 2, and 3, if applicable)

● Cost to provide or attend training (include under 3).

● Fees which are waived or not recovered, including those instances where the fee is $15 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 3).

● Other costs (Check with the Departmental FOIA Officer).

    1. FOIA processing (including appeals)

                Staff **$1,000,000**

                Other   **18,000**

    2. Litigation-related activities (estimated)

                Staff   **7,000**

                Other   **-0-**

    3. Other costs - administering
       the program (training, home
       page costs etc.)   **$34,000**

    4. Total costs   **$1,041,000**

    5. Comparison with **FY 98** (including % of change) **N/A**

C. Statement of additional resources needed for FOIA compliance **N/A**

Note: The costs identified above represent the Bureau's best estimate of the costs of processing FOIA requests. During 2000, we will routinely collect information on the cost of processing each request as it is answered.

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
                                                  $10,289

B. Percentage of total costs   **.98%**