

FREEDOM OF INFORMATION ACT
ANNUAL REPORT

Fiscal Year 2011



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I. BASIC INFORMATION REGARDING REPORT

1 **Contacts for questions about this report:**

DAVID J. CHRISTOPHER

FOIA Public Liaison

Public Information Office

Telephone: (202) 707-6800

Fax: (202) 707-6859

2 **Internet address for a copy of this report:**

<http://www.copyright.gov/foia>

3 **To request a copy of this report:** Contact David J. Christopher, FOIA public liaison, at the address or telephone number shown above.

II. MAKING A FOIA REQUEST

- 1 **Individual agency components that receive FOIA requests:** The Copyright Office (CO) has a single component for receiving and processing FOIA requests. The address is: FOIA Public Liaison, Copyright Office, GC/IR, P.O. Box 70400, Washington, DC 20024.
- 2 **Brief explanation for why some requests are not granted and overview of certain general categories of the agency's records to which FOIA exemptions apply:**

LOC RECORDS. Although the Copyright Office (CO) is a service unit of the Library of Congress (LOC), it functions independently with respect to FOIA because LOC is not subject to FOIA. However, as a courtesy, CO forwards requests for LOC records to LOC. This is the address to request records directly from LOC: Chief, Office Systems Services (OSS), Library of Congress, 101 Independence Avenue, SE, Washington, DC 20540-9440.

RECORDS PROTECTED BY COPYRIGHT. Under Exemption 3, CO will not release copies of records that have copyright protection without an owner's permission, as required by copyright law, unless the release is permissible under the fair use doctrine. See, 17 U.S.C. § 106(1) and (3) and § 107. CO will inform requesters when records are being withheld entirely or in part on this basis and identify the records that are being withheld.

DEPOSITS/DEPOSIT MATERIAL. Another type of record withheld under Exemption 3 because of copyright law is a unique type of registration record that is deposited with CO to identify copyright claims for registered works. These records are typically reproductions of the works and are usually referred to as “deposits” or “deposit material.” Therefore, consistent with an owner's exclusive right to copy or reproduce a protected work, copyright law mandates that CO may only authorize or furnish copies or reproductions of deposit materials if the governing regulations at 37 CFR§ 201.2(d)(2) are satisfied. 17 U.S.C. § 706(b). Section 201.2(d)(2) establishes the criteria for limited circumstances in which copies of deposit materials will be provided by the Copyright Office.

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

- 1 **Agency-specific acronyms or terms used in this report.**
 - a **CO:** U.S. Copyright Office
 - b **LOC:** Library of Congress
- 2 **Following are definitions of terms that appear in this report:**

- a **ADMINISTRATIVE APPEAL:** a request to a federal agency asking that it review at a higher administrative level a FOIA determination made by the agency at the initial request level.
- b **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.
- c **BACKLOG:** the number of requests or administrative appeals that are pending at an agency at the end of the fiscal year that are beyond the statutory time period for a response.
- d **COMPONENT:** for agencies that process requests on a decentralized basis, a “component” is an entity, also sometimes referred to as an Office, Division, Bureau, Center, or Directorate, within the agency that processes FOIA requests. The FOIA now requires that agencies include in their annual FOIA report data for both the agency overall and for each principal component of the agency.
- e **CONSULTATION:** the procedure whereby the agency responding to a FOIA request first forwards a record to another agency for its review because that other agency has an interest in the document. Once the agency in receipt of the consultation finishes its review of the record, it responds back to the agency that forwarded it. That agency, in turn, will then respond to the FOIA requester.
- f **EXEMPTION 3 STATUTE:** a federal statute that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3) of the FOIA.

- g **FOIA REQUEST:** generally a request to a federal agency for access to records concerning another person (i.e., a “third-party” request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., “first-party” requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act “systems of records” or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this report. Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this report.)
- h **FULL GRANT:** an agency decision to disclose all records in full in response to a FOIA request.
- i **FULL DENIAL:** an agency decision not to release any records in response to a FOIA request because the records are exempt in their entirety under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.
- j **MEDIAN NUMBER:** the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
- k **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 granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.

- i **EXPEDITED PROCESSING:** an agency will process a FOIA request on an expedited basis when a requester satisfies the requirements for expedited processing as set forth in the statute and in agency regulations.
 - ii **SIMPLE REQUEST:** a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the low volume and/or simplicity of the records requested.
 - iii **COMPLEX REQUEST:** a FOIA request that an agency using multi-track processing places in a slower track based on the high volume and/or complexity of the records requested.
- d **PARTIAL GRANT/PARTIAL DENIAL:** in response to a FOIA request, an agency decision to disclose portions of the records and to withhold other portions that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.
- e **PENDING REQUEST OR PENDING ADMINISTRATIVE APPEAL:** a request or administrative appeal for which an agency has not taken final action in all respects.
- f **PERFECTED REQUEST:** a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.
- g **PROCESSED REQUEST OR PROCESSED ADMINISTRATIVE APPEAL:** a request or administrative appeal for which an agency has taken final action in all respects.
- h **RANGE IN NUMBER OF DAYS:** the lowest and highest number of days to process requests or administrative appeals.
- i **TIME LIMITS:** the time period in the statute for an agency to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).
- 3 Following are concise descriptions of the nine FOIA exemptions:
- a **EXEMPTION 1.** Classified national defense and foreign relations information.
 - b **EXEMPTION 2.** Internal agency rules and practices.

- c **EXEMPTION 3.** Information that is prohibited from disclosure by another federal law.
- d **EXEMPTION 4.** Trade secrets and other confidential business information.
- e **EXEMPTION 5.** Inter-agency or intra-agency communications that are protected by legal privileges.
- f **EXEMPTION 6.** Information involving matters of personal privacy.
- g **EXEMPTION 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.
- h **EXEMPTION 8.** Information relating to the supervision of financial institutions.
- i **EXEMPTION 9.** Geological information on wells.

IV. EXEMPTION 3 STATUTES

STATUTE	TYPE OF INFORMATION WITHHELD	CASE CITATION	NUMBER OF TIMES RELIED UPON PER COMPONENT	TOTAL NUMBER OF TIMES RELIED UPON BY AGENCY
Copyright Law*	Copyrighted material	none	3	3

*In general, see part II.2

V. FOIA REQUESTS

A. Received, Processed, and Pending

	NUMBER OF REQUESTS PENDING AS OF START OF FISCAL YEAR	NUMBER OF REQUESTS RECEIVED IN FISCAL YEAR	NUMBER OF REQUESTS PROCESSED IN FISCAL YEAR	NUMBER OF REQUESTS PENDING AS OF END OF FISCAL YEAR
Agency Overall	1	44	40	5

B1. Disposition of FOIA Requests—All Processed Requests

	NUMBER OF FULL GRANTS	NUMBER OF PARTIAL GRANTS/PARTIAL DENIALS	NUMBER OF FULL DENIALS BASED ON EXEMPTIONS	NUMBER OF FULL DENIALS BASED ON REASONS OTHER THAN EXEMPTIONS									
				NO RECORDS	ALL RECORDS REFERRED TO ANOTHER COMPONENT OR AGENCY	REQUEST WITHDRAWN	FEE-RELATED REASON	RECORDS NOT REASONABLY DESCRIBED	IMPROPER FOIA REQUEST FOR OTHER REASON	NOT AGENCY RECORD	DUPLICATE REQUEST	OTHER (EXPLAINED IN CHART BELOW)	TOTAL
Agency Overall	9	8	0	8	1	4	6	1	0	1	0	2	40

B2. Disposition of FOIA Requests—“Other” Reasons for “Full Denials Based on Reasons Other than Exemptions” from Section V, Chart B1

	DESCRIPTION OF “OTHER” REASONS FOR DENIALS FROM CHART B1	NUMBER OF TIMES THOSE REASONS WERE RELIED UPON	TOTAL
Agency Overall	Requested exempt records, 5 USC section 552(a)(2)(D) and (3)(A).	1	2
	Requested service, not records.	1	

B3. Disposition of FOIA Requests—Number of Times Exemptions Applied

	EX.1	EX.2	EX.3	EX.4	EX.5	EX.6	EX.7A	EX.7B	EX.7C	EX.7D	EX.7E	EX.7F	EX.8	EX.9
Agency Overall	0	0	3	0	4	3	0	0	0	0	0	0	0	0

VI. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS

A. Received, Processed, and Pending Administrative Appeals

	NUMBER OF APPEALS PENDING AS OF START OF FISCAL YEAR	NUMBER OF APPEALS RECEIVED IN FISCAL YEAR	NUMBER OF APPEALS PROCESSED IN FISCAL YEAR	NUMBER OF APPEALS PENDING AS OF END OF FISCAL YEAR
Agency Overall	0	2	2	0

B. Disposition of Administrative Appeals—All Processed Appeals

	NUMBER AFFIRMED ON APPEAL	NUMBER PARTIALLY AFFIRMED AND PARTIALLY REVERSED/ REMANDED ON APPEAL	NUMBER COMPLETELY REVERSED/ REMANDED ON APPEAL	NUMBER OF APPEALS CLOSED FOR OTHER REASONS	TOTAL
Agency Overall	2	0	0	0	2

C1. Reasons for Denial on Appeal—Number of Times Exemptions Applied

	EX.1	EX.2	EX.3	EX.4	EX.5	EX.6	EX.7a	EX.7b	EX.7c	EX.7d	EX.7e	EX.7f	EX.8	EX.9
Agency Overall	0	0	0	0	0	0	0	0	0	0	0	0	0	0

C2. Reasons for Denial on Appeal—Reasons Other than Exemptions

	NO RECORDS	RECORDS REFERRED AT INITIAL REQUEST LEVEL	REQUEST WITHDRAWN	FEE-RELATED REASON	RECORDS NOT REASONABLY DESCRIBED	IMPROPER REQUEST FOR OTHER REASONS	NOT AGENCY RECORD	DUPLICATE REQUEST OR APPEAL	REQUEST IN LITIGATION	APPEAL BASED SOLELY ON DENIAL OF REQUEST FOR EXPEDITED PROCESSING	OTHER (EXPLAINED IN CHART BELOW)
Agency Overall	0	0	0	0	0	0	0	0	0	0	2

C3. Reasons for Denial on Appeal—“Other” Reasons from Section VI, Chart C2

	DESCRIPTION OF “OTHER” REASONS FOR DENIAL ON APPEAL FROM CHART C2	NUMBER OF TIMES “OTHER” REASON WAS RELIED UPON	TOTAL
Agency Overall	No procedural issues or controversy recognized under FOIA	2	2

C4. Response Time for Administrative Appeals

	MEDIAN NUMBER OF DAYS	AVERAGE NUMBER OF DAYS	LOWEST NUMBER OF DAYS	HIGHEST NUMBER OF DAYS
Agency Overall	20	20	20	20

C5. Ten Oldest Pending Administrative Appeals

	10TH OLDEST APPEAL	9TH	8TH	7TH	6TH	5TH	4TH	3RD	2ND	OLDEST APPEAL AND NUMBER OF DAY PENDING
Agency Overall	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	0	0	0	0	0	0	0	0	0	0

VII. FOIA REQUESTS: RESPONSE TIME FOR PROCESSED AND PENDING REQUESTS

A. Processed Requests—Response Time for All Processed Perfected Requests

	SIMPLE				COMPLEX*				EXPEDITED PROCESSING*			
	MEDIAN NUMBER OF DAYS	AVERAGE NUMBER OF DAYS	LOWEST NUMBER OF DAYS	HIGHEST NUMBER OF DAYS	MEDIAN NUMBER OF DAYS	AVERAGE NUMBER OF DAYS	LOWEST NUMBER OF DAYS	HIGHEST NUMBER OF DAYS	MEDIAN NUMBER OF DAYS	AVERAGE NUMBER OF DAYS	LOWEST NUMBER OF DAYS	HIGHEST NUMBER OF DAYS
Agency Overall	20	19.8	1	50	0	0	0	0	0	0	0	0

*No complex or expedited processing

	REQUESTS GRANTED EXPEDITED PROCESSING													
	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
Agency Overall	0	0	0	0	0	0	0	0	0	0	0	0	0	0

D. Pending Requests—All Pending Perfected Requests

	SIMPLE			COMPLEX			EXPEDITED PROCESSING		
	NUMBER PENDING	MEDIAN NUMBER OF DAYS	AVERAGE NUMBER OF DAYS	NUMBER PENDING	MEDIAN NUMBER OF DAYS	AVERAGE NUMBER OF DAYS	NUMBER PENDING	MEDIAN NUMBER OF DAYS	AVERAGE NUMBER OF DAYS
Agency Overall	4*	8	8	1	454	454	0	0	0

*These four requests were received in September of FY 2011, and processing was completed in October 2011.

E. Pending Requests—Ten Oldest Pending Perfected Requests

	10TH OLDEST REQUEST	9TH	8TH	7TH	6TH	5TH	4TH	3RD	2ND	OLDEST REQUEST AND NUMBER OF DAYS PENDING
Agency Overall	N/A	N/A	N/A	N/A	N/A	09/26/2011	09/21/2011	09/19/2011	09/02/2011	12/10/2009
	0	0	0	0	0	7	9	11	21	454

VIII. REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER

A. 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
Agency Overall	0	0	0	0	0

B. Requests for Fee Waiver

	NUMBER GRANTED	NUMBER DENIED	MEDIAN NUMBER OF DAYS TO ADJUDICATE	AVERAGE NUMBER OF DAYS TO ADJUDICATE
Agency Overall	10	0	13.5	13.7

IX. FOIA PERSONNEL AND COSTS

	PERSONNEL			COSTS		
	NUMBER OF "FULL-TIME FOIA EMPLOYEES"	NUMBER OF "EQUIVALENT FULL-TIME FOIA EMPLOYEES"	TOTAL NUMBER OF "FULL-TIME FOIA STAFF"	PROCESSING COSTS	LITIGATION-RELATED COSTS	TOTAL COSTS
Agency Overall	0	0.89	0.89	\$139,940	\$0	\$139,940

X. FEES COLLECTED FOR PROCESSING REQUESTS

	TOTAL AMOUNT OF FEES COLLECTED	PERCENTAGE OF TOTAL COSTS
Agency Overall	\$1,565	1.12%

XI. FOIA REGULATIONS

FOIA regulations, which include the FOIA fee schedule, are at 37 CFR Sec. 204. Title 37 is available on the Copyright Office website at <http://www.copyright.gov/title37/>.

XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS

A. Backlogs of FOIA Requests and Administrative Appeals

	NUMBER OF BACKLOGGED REQUESTS AS OF END OF FISCAL YEAR	NUMBER OF BACKLOGGED APPEALS AS OF END OF FISCAL YEAR
Agency Overall	2	0

B. CONSULTATIONS ON FOIA REQUESTS—RECEIVED, PROCESSED, AND PENDING CONSULTATIONS

	NUMBER OF CONSULTATIONS RECEIVED FROM OTHER AGENCIES THAT WERE PENDING AT THIS AGENCY AS OF START OF THE FISCAL YEAR	NUMBER OF CONSULTATIONS RECEIVED FROM OTHER AGENCIES DURING THE FISCAL YEAR	NUMBER OF CONSULTATIONS RECEIVED FROM OTHER AGENCIES THAT WERE PROCESSED BY THIS AGENCY DURING THE FISCAL YEAR	NUMBER OF CONSULTATIONS RECEIVED FROM OTHER AGENCIES THAT WERE PENDING AT THIS AGENCY AS OF END OF THE FISCAL YEAR
Agency Overall	0	0	0	0

C. Consultations on FOIA Requests—Ten Oldest Consultations Received from Other Agencies and Pending at the Copyright Office

	NUMBER OF DAYS	10TH OLDEST CONSULTATION	9TH	8TH	7TH	6TH	5TH	4TH	3RD	2ND	OLDEST CONSULTATION AND NUMBER OF DAYS PENDING
Agency Overall	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	0	0	0	0	0	0	0	0	0	0	0

D. COMPARISON OF NUMBERS OF REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORT—REQUESTS RECEIVED, PROCESSED, AND BACKLOGGED

	NUMBER OF REQUESTS RECEIVED		NUMBER OF REQUESTS PROCESSED	
	NUMBER RECEIVED DURING FISCAL YEAR FROM LAST YEAR'S ANNUAL REPORT	NUMBER RECEIVED DURING FISCAL YEAR FROM CURRENT ANNUAL REPORT	NUMBER PROCESSED DURING FISCAL YEAR FROM LAST YEAR'S ANNUAL REPORT	NUMBER PROCESSED DURING FISCAL YEAR FROM CURRENT ANNUAL REPORT
Agency Overall	36	44*	44	40

*Four out of 44 requests were received in September of FY 2011, and processing was completed in October 2011.

	NUMBER OF BACKLOGGED REQUESTS AS OF END OF THE FISCAL YEAR FROM PREVIOUS ANNUAL REPORT	NUMBER OF BACKLOGGED REQUESTS AS OF END OF THE FISCAL YEAR FROM CURRENT ANNUAL REPORT
Agency Overall	1	2

E. Comparison of Numbers of Administrative Appeals from Previous and Current Annual Report—Appeals Received, Processed, and Backlogged

	NUMBER OF APPEALS RECEIVED		NUMBER OF APPEALS PROCESSED	
	NUMBER RECEIVED DURING FISCAL YEAR FROM LAST YEAR'S ANNUAL REPORT	NUMBER RECEIVED DURING FISCAL YEAR FROM CURRENT ANNUAL REPORT	NUMBER PROCESSED DURING FISCAL YEAR FROM LAST YEAR'S ANNUAL REPORT	NUMBER PROCESSED DURING FISCAL YEAR FROM CURRENT ANNUAL REPORT
Agency Overall	0	2	0	2

	NUMBER OF BACKLOGGED APPEALS AS OF END OF THE FISCAL YEAR FROM PREVIOUS ANNUAL REPORT	NUMBER OF BACKLOGGED APPEALS AS OF END OF THE FISCAL YEAR FROM CURRENT ANNUAL REPORT
Agency Overall	0	0



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U.S. Copyright Office
101 Independence Avenue SE
Washington, DC 20559-6000
www.copyright.gov