

FOIA

Annual Report



The Commerce Department's mission is to help make American businesses more innovative at home and more competitive abroad.



FY 2011



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I. Basic Information Regarding Report

1. Person to be contacted with questions about the report.

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2. Electronic link for access to the Report on the agency Web site.

www.osec.doc.gov/omo/FOIA/FOIAWEBSITE.htm

3. To obtain a copy of the Report in paper form.

Write to the address or contact the person listed above in section I.1.

II. MAKING A FOIA REQUEST

1. Names, addresses, and telephone numbers of all individual agency components that receive FOIA requests.

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The FOIA Officers for the Department are also listed at:

www.osec.doc.gov/omo/FOIA/contactfoia.htm

2. Brief description of why some requests are not granted and an overview of certain general categories of the agency's records to which the FOIA exemptions apply.

A request for records may be denied if the requested record contains information which falls into one or more of the nine FOIA exemptions listed in section III, 3. If the requested record contains both exempt and nonexempt information, the nonexempt portions which may reasonably be segregated from the exempt portions will be released to the requester.

III. Acronyms, Definitions, AND EXEMPTIONS

1. Agency-specific acronyms or terms used in this Report.

OS- Office of the Secretary
BIS- Bureau of Industry and Security
Census- Bureau of the Census

EDA- Economic Development Administration
ESA- Economic and Statistics Administration/Bureau of Economic
Analysis
ITA- International Trade Administration
MBDA- Minority Business Development Agency
NIST- National Institute of Standards and Technology
NOAA- National Oceanic and Atmospheric Administration
NTIA- National Telecommunications and Information
Administration
NTIS- National Technical Information Service
OIG- Office of Inspector General



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PTO- United States Patent and Trademark Office
AGC/Admin.- Assistant General Counsel for Administration

2. Definitions of terms used 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** – a FOIA request is 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



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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.
- l. **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.
- m. **Pending Request or Pending Administrative Appeal** – a request or administrative appeal for which an agency has not taken final action in all respects.
- n. **Perfect 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.
- o. **Processed Request or Processed Administrative Appeal** – a request or administrative appeal for which an agency has taken final action in all respects.



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- p. **Range in Number of Days** – the lowest and highest number of days to process requests or administrative appeals.
 - q. **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. 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



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IV. Exemption 3 Statutes

A. Exemption 3 Statutes Relied upon to Withhold Information for Initial Requests

Statute	Type of Information Withheld	Case Citation	Number of Times Relied upon per Component	Total Number of Times Relied upon by Agency
50 U.S.C. § app. 2411(c) (Export Administration Act of 1979)	Information pertaining to license applications under the Export Administration Act	<u>Wis. Project on Nuclear Arms Control v. Dep't of Commerce</u> , 317 F.3d 275, 284 (D.C. Cir. 2003); <u>Times Publ'g Co. v. U.S. Dep't of Commerce</u> , 236 F.3d 1286, 1292 (11 th Cir. 2001).	OS – 1 BIS – 7	8
35 U.S.C. § 122 (Patent Act)	Applications for patents; certain information pertaining to applications for patents	<u>Irons & Sears v Dann</u> , 606 F.2d 1215, 1219-21 (D.C. Cir. 1979)	OS – 1 PTO – 6	7
13 U.S.C. §§ 8(b), 9(a) (Census Act)	Certain Census data	<u>Baldrige v Shapiro</u> , 455 U.S. 345, 355 (1982)	OS – 1 Census – 34	35
5 U.S.C. app. § 107(a) (Ethics in Govt. Act of 1978)	Financial disclosure information pertaining to certain government employees	<u>Meyerhoff v EPA</u> , 958 F.2d 1498, 1500-02 (9 th Cir. 1992); <u>Concepcion v. FBI</u> , 606 F. Supp.2d 14, 33 (D.D.C. 209), <u>renewed motion for summary judgment granted in part on other grounds</u> , 699F.Supp. 2d 106 (D.D.C. 2010)	NTIA - 1	1



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Statute	Type of Information Withheld	Case Citation	Number of Times Relied upon per Component	Total Number of Times Relied upon by Agency
21 U.S.C. § 331(j) (Food, Drug, and Cosmetic Act)	Certain information “concerning any method or process which as a trade secret is entitled to protection”	<u>Anderson v. HHS</u> , 907 F.2d 936, 950-51 (10 th Cir. 1990)	NOAA - 1	1
13 U.S.C. § 301(g) (Collection and Publication of Foreign Commerce Act)	Shippers’ export declarations or successor documents	<u>Afr. Fund v. Mosbacher</u> , No. 92 Civ. 289, 1993 WL 183736, at *5 (S.D.N.Y. May 26, 1993); <u>Young Conservative Found., Inc. v. U.S. Dep’t of Commerce</u> , No. 85-3982, 1987 WL 9244, at *2-3 (D.D.C. Mar. 25, 1987).	Census – 2	2
41 U.S.C. § 253b(m)(1)	Contractor proposals that are in the possession or control of an executive agency and that have not been set forth or incorporated by reference into contracts	<u>Margolin v. NASA</u> , No. 09-CV-00421-LRH-VPC, 2022 WL 1303221, at *6 (D. Nev. Mar. 31, 2011); <u>Hornbostel v U.S. Dep’t of Interior</u> , 305 F. Supp. 2d 21, 30 (D.D.C. 2003), <u>summary affirmance granted</u> , No. 03-5257, 2004 WL 1900562 (D.C. Cir. Aug. 25, 2004).	NIST - 7 NOAA - 6 PTO - 5	18
16 U.S.C. § 1881(a)	Statistical information contained in fishery management plans.	No Case	OS - 1 NOAA - 10	11



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V. FOIA Requests

A. Received, Processed and Pending FOIA Requests

	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
OS	19	261	274	6
BIS	2	29	31	0
Census	40	340	351	29
EDA	*4	67	68	3
ESA	0	10	10	0
ITA	7	71	46	32
MBDA	1	4	2	3
NIST	**48	232	261	19
NOAA	***140	709	670	179
NTIA	****14	83	87	10
NTIS	0	13	13	0
OIG	13	81	93	1
PTO	15	302	303	14



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	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	*****303	2202	2209	296

* In the FY2010 FOIA Annual Report, EDA reported the number of requests pending at the end of FY2010 as “3.” This number was reported incorrectly. The correct number is “4.” Therefore, the number of requests pending as of the start of FY2011 has been amended to “4” in the FY2011 report.

** In the FY2010 FOIA Annual Report, NIST reported the number of requests pending at the end of FY2010 as “49.” This number was reported incorrectly. The correct number is “48.” Therefore, the number of requests pending as of the start of FY2011 has been amended to “48” in the FY2011 report.

*** In the FY2010 FOIA Annual Report, NOAA reported the number of requests pending at the end of FY2010 as “106.” This number was reported incorrectly. The correct number is “140.” Therefore, the number of requests pending as of the start of FY2011 has been amended to “140” in the FY2011 report.

*** In the FY2010 FOIA Annual Report, NTIA reported the number of requests pending at the end of FY2010 as “12.” This number was reported incorrectly. The correct number is “14.” Therefore, the number of requests pending as of the start of FY2011 has been amended to “14” in the FY2011 report.

***** In the FY2010 FOIA Annual Report, the number of requests pending at the end of FY2010 was reported as “267.” Due to the amendment in the number of requests pending as of the start of FY2011 for EDA, NIST, NOAA and NTIA (see footnotes above), the number of requests pending as of the start of FY2011 for the agency overall has been amended to “303.”



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B. (1) 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									TOTAL
				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 *Explain in chart below	
OS	57	63	6	47	19	4	30	16	0	31	1	0	274
BIS	8	4	9	3	3	0	4	0	0	0	0	0	31
Census	46	37	53	71	22	18	35	3	9	3	0	54	351
EDA	38	15	0	7	0	5	3	0	0	0	0	0	68
ESA	2	0	0	7	0	0	1	0	0	0	0	0	10
ITA	7	6	2	17	0	2	3	1	6	1	1	0	46
MBDA	0	1	0	0	0	1	0	0	0	0	0	0	2



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	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									TOTAL
				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 *Explain in chart below	
NIST	64	66	2	14	1	11	20	3	4	74	0	2	261
NOAA	418	99	17	42	3	44	31	4	1	0	0	11	670
NTIA	21	24	0	5	4	16	13	3	0	1	0	0	87
NTIS	5	0	0	4	2	0	0	1	0	0	0	1	13
OIG	2	45	8	2	3	22	1	1	1	0	0	8	93
PTO	64	55	8	32	22	6	20	4	78	9	5	0	303
AGENCY OVERALL	732	415	105	251	79	129	161	36	99	119	7	76	2209



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B. (2) Disposition of FOIA Requests – “Other” Reasons for “Full Denials Based on Reasons Other than Exemptions” from Section V, B (1) Chart

Component	Description of “Other” Reasons for Denials from Chart B (1) & Number of Times Those Reasons Were Relied upon	TOTAL
Census NOAA	Publicly Available Information 54 1	 55
OIG	Verification of Identity Not Provided 7	 7
OIG	Requester Address Not Provided Upon Request 1	 1
NTIS	Statute Based Fee Authority 1	 1
NIST	Requestor Consolidated Two FOIA Requests into One 1	 1
NIST	NIST FOIA Request Duplicative of FOIA Request Received and Prepared by the Department FOIA Office (NIST Response Consolidated with Department Response) 1	 1
NOAA	No Reply – Administratively Closed Out 10	 10



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B. (3) Disposition of FOIA Requests – Number of Times Exemptions Applied

	Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex. 8	Ex. 9
OS	0	11	4	3	28	47	0	0	9	0	1	0	0	0
BIS	0	0	7	0	3	2	1	0	1	1	0	0	0	0
Census	0	4	36	3	11	31	2	0	5	1	0	0	0	0
EDA	0	1	0	8	3	5	0	1	0	0	0	0	0	0
ESA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ITA	0	0	0	6	2	0	0	0	0	0	0	0	0	0
MBDA	0	0	0	0	0	1	0	0	0	0	0	0	0	0
NIST	0	2	7	33	14	40	0	0	3	0	0	0	0	0
NOAA	0	3	17	22	43	43	8	2	8	1	3	1	0	0
NTIA	0	0	1	13	14	16	0	0	0	0	0	0	0	0
NTIS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OIG	0	0	0	0	4	5	7	0	45	0	1	0	0	0
PTO	0	1	11	21	19	26	0	0	1	0	0	0	0	0
AGENCY OVERALL	0	22	83	109	141	216	18	3	72	3	5	1	0	0



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**VI. ADMINISTRATIVE Appeals of Initial DETERMINATIONS of
FOIA Requests**

A. Received, Processed and Pending Administrative Appeals

Bureau	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
AGC/Admin.*	73	76	102	47
PTO	0	7	6	1
AGENCY OVERALL	73	83	108	48

* Assistant General Counsel for Administration (AGC/Admin.) processes the appeals for all the Department of Commerce components, except for PTO.



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B. Disposition of Administrative Appeals – All Processed Appeals

	Number Affirmed on Appeal	Number Partially Affirmed & Partially Reversed/Remanded on Appeal	Number Completely Reversed/Remanded on Appeal	Number of Appeals Closed for Other Reasons	TOTAL
AGC/Admin.	25	25	23	29	102
PTO	1	1	1	3	6
AGENCY OVERALL	26	26	24	32	108

C. (1) Reasons for Denial on Appeal – Number of Times Exemptions Applied

Bureau	Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex. 8	Ex. 9
AGC / Admin.	2	3	15	5	19	13	3	0	2	0	0	0	0	0
PTO	0	0	0	0	0	1	0	0	0	0	0	0	0	0
Agency Overall	2	3	15	5	19	14	3	0	2	0	0	0	0	0



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C. (2) 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 *Explain in chart below
AGC/Admin.	3	0	6	0	0	3	2	4	3	2	6
PTO	0	0	0	0	0	0	0	0	0	0	0
AGENCY OVERALL	3	0	6	0	0	3	2	4	3	2	6

C. (3) Reasons for Denial on Appeal – “Other” Reasons from Section VI, C (2) Chart

Description of “Other” Reasons for Denial on Appeal from Chart C (2) & Number of Times Those Reasons Were Relied upon	TOTAL
Untimely - 6	6



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C. (4) Response Time for Administrative Appeals

Bureau	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
AGC/Admin.	160	355	1	2091
PTO	20	20	18	21
Agency Overall	151	338	1	2091

C. (5) Ten Oldest Pending Administrative Appeals

Bureau		10th Oldest Appeal	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal
AGC/Admin.	Date of Receipt of Ten Oldest Appeals	5/13/10	4/29/10	4/21/10	3/22/10	1/27/10	1/4/10	12/22/09	11/30/09	10/20/09	2/09/09
AGC/Admin.	Number of Days Pending	361	371	377	399	437	454	463	479	508	689
PTO	Date of Receipt of Ten Oldest Appeals	0	0	0	0	0	0	0	0	0	9/15/11



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Bureau		10th Oldest Appeal	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal
PTO	Number of Days Pending	0	0	0	0	0	0	0	0	0	11
Agency Overall	Date of Receipt	5/13/10	4/29/10	4/21/10	3/22/10	1/27/10	1/4/10	12/22/09	11/30/09	10/20/09	2/09/09
Agency Overall	Number of Days Pending	361	371	377	399	437	454	463	479	508	689



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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
OS	22	18	1	67	117	150	74	386	0	0	0	0
BIS	16	19	1	31	101	101	101	102	0	0	0	0
Census	19	23	1	206	0	0	0	0	10	26	2	100
EDA	9	8.7	1	20	28	34	21	114	5	5	5	5
ESA	3	6	1	22	0	0	0	0	0	0	0	0
ITA	64	60	2	160	57	47	26	66	0	0	0	0
MBDA	0	0	0	0	30	40	7	103	0	0	0	0



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	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
NIST	7.5	49	1	1142	0	0	0	0	0	0	0	0
NOAA	21	45	1	981	0	0	0	0	0	0	0	0
NTIA	6	9	1	26	64	151	10	423	1	1	1	1
NTIS	1	3.3	1	22	0	0	0	0	0	0	0	0
OIG	20	19.2	0	54	0	0	0	0	0	0	0	0
PTO	9	9.59	1	30	0	0	0	0	0	0	0	0
AGENCY OVERALL	22	34	1	1142	41	62	7	423	20	16	1	100



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B. Processed Requests – Response Time for Perfected Requests in Which Information Was Granted

	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
OS	20	25	1	67	119	152	74	386	0	0	0	0
BIS	9	7	1	22	101	101	101	101	0	0	0	0
Census	20	32	3	146	0	0	0	0	23	29	8	61
EDA	9	9	1	20	22	31	21	114	5	5	5	5
ESA	1.5	1.5	1	2	0	0	0	0	0	0	0	0
ITA	69	63	2	110	66	66	66	66	0	0	0	0
MBDA	0	0	0	0	30	30	30	30	0	0	0	0
NIST	24.5	90	1	1142	0	0	0	0	0	0	0	0



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	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
NOAA	21	46	1	981	0	0	0	0	0	0	0	0
NTIA	8	10	1	26	185	189	14	399	1	1	1	1
NTIS	1	1	1	2	0	0	0	0	5	5	5	5
OIG	20	19.1	2	54	0	0	0	0	0	0	0	0
PTO	14	13.24	3	30	0	0	0	0	0	0	0	0
AGENCY OVERALL	20	23	1	1142	39	58	14	399	20	13	1	61



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C. Processed Requests – Response Time in Day Increments

1. Number of perfected requests processed in each of the thirteen designated time increments.

Simple Requests

	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
OS	93	75	27	9	0	0	0	0	0	0	0	0	0	204
BIS	22	7	0	0	0	1	0	0	0	0	0	0	0	30
Census	253	65	18	4	8	0	1	1	0	0	1	0	0	351
EDA	45	0	0	0	0	0	0	0	0	0	0	0	0	45
ESA	9	1	0	0	0	0	0	0	0	0	0	0	0	10
ITA	5	5	9	14	4	3	0	1	0	0	0	0	0	41
MBDA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NIST	178	28	11	8	2	4	1	2	0	3	4	3	10	254



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	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
NOAA	339	165	76	35	7	13	8	1	2	2	13	6	3	670
NTIA	30	5	0	0	0	0	0	0	0	0	0	0	0	35
NTIS	11	1	0	0	0	0	0	0	0	0	0	0	0	12
OIG	47	9	1	0	0	0	0	0	0	0	0	0	0	57
PTO	9	294	2	0	0	0	0	0	0	0	0	0	0	305
AGENCY OVERALL	1041	655	144	70	21	21	10	5	2	5	18	9	13	2014



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Complex Requests

	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
OS	0	0	0	0	7	6	4	3	1	2	3	4	0	30
BIS	0	0	0	0	0	1	0	0	0	0	0	0	0	1
Census	0	0	0	0	0	0	0	0	0	0	0	0	0	0
EDA	0	17	3	1	0	1	0	0	0	0	0	0	0	22
ESA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ITA	0	2	2	1	0	0	0	0	0	0	0	0	0	5
MBDA	0	1	0	0	0	0	0	0	0	0	0	0	0	1
NIST	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NOAA	0	0	0	0	0	0	0	0	0	0	0	0	0	0



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	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
NTIA	1	1	5	1	0	1	0	0	0	1	1	0	0	11
NTIS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OIG	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PTO	0	0	0	0	0	0	0	0	0	0	0	0	0	0
AGENCY OVERALL	1	21	10	3	7	9	4	3	1	3	4	4	0	70



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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
OS	2	0	0	0	0	0	0	0	0	0	0	0	0	2
BIS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Census	9	1	0	2	1	0	0	0	0	0	0	0	0	13
EDA	1	0	0	0	0	0	0	0	0	0	0	0	0	1
ESA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ITA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
MBDA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NIST	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NOAA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NTIA	2	0	0	0	0	0	0	0	0	0	0	0	0	2



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	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
NTIS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OIG	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PTO	0	0	0	0	0	0	0	0	0	0	0	0	0	0
AGENCY OVERALL	14	1	0	2	1	0	0	0	0	0	0	0	0	18



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D. Pending Requests – All Pending Perfected Requests

- Number of perfected requests pending as of the end of fiscal year, and the median and average number of days those requests had been pending.

	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
OS	4	16	17	2	140	140	0	0	0
BIS	0	0	0	0	0	0	0	0	0
Census	29	8	18	0	0	0	0	0	0
EDA	3	9	10	0	0	0	0	0	0
ESA	0	0	0	0	0	0	0	0	0
ITA	14	90	93	18	73	85	0	0	0
MBDA	0	0	0	3	77	51	0	0	0
NIST	19	59	262	0	0	0	0	0	0
NOAA	179	55	105	0	0	0	0	0	0
NTIA	0	0	0	10	64	146	0	0	0
NTIS	0	0	0	0	0	0	0	0	0
OIG	1	1	1	0	0	0	0	0	0
PTO	14	11	10.71	0	0	0	0	0	0
AGENCY OVERALL	263	15	20	33	222	300	0	0	0



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E. Pending Requests – Ten Oldest Pending Perfected Requests

1. Dates of receipt of the ten oldest perfected requests pending as of the end of the fiscal year, and the number of days those requests had been pending.

	10 th Oldest Request and Number of Days Pending	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest Request and Number of Days Pending
OS	N/A	N/A	N/A	N/A	9/20/11 8	9/20/11 8	8/20/11 24	8/18/11 30	5/23/11 91	1/3/11 189
BIS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Census	8/23/11 27	8/23/11 27	8/16/11 32	8/16/11 32	8/2/11 42	7/26/11 47	7/2/11 52	6/24/11 70	2/16/11 160	2/8/11 166
EDA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	9/23/11 6	9/20/11 9	9/12/11 15
ESA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ITA	5/10/11 101	4/27/11 110	4/5/11 126	3/15/11 141	1/31/11 171	1/19/11 179	1/4/11 188	12/29/10 192	11/5/10 227	7/23/10 292
MBDA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	9/21/11 7	9/12/11 34	5/5/11 103
NIST	7/20/11 59	5/19/11 94	11/22/10 217	5/11/10 351	9/30/09 496	9/22/09 502	4/27/09 605	3/4/09 643	11/24/08 709	8/24/07 1083
NOAA	7/16/10 306	7/8/10 312	6/21/10 323	6/8/10 332	5/26/10 341	5/20/10 344	4/5/10 377	2/22/10 407	3/4/10 650	3/3/09 651
NTIA	9/19/11 10	8/12/11 15	6/28/11 20	6/21/11 61	6/3/11 64	2/7/11 163	11/2/10 228	8/24/10 267	3/23/10 285	2/4/10 423
NTIS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A



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	10th Oldest Request and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request and Number of Days Pending
OIG										9/30/11 1
PTO	9/20/11 8	9/19/11 9	9/15/11 11	9/15/11 11	9/14/11 12	9/13/11 13	9/13/11 13	9/12/11 14	9/7/11 17	9/6/11 18

Agency Overall	10th Oldest Request and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request and Number of Days Pending
		4/5/10 377	2/22/10 407	9/30/09 496	9/22/09 502	4/27/09 605	3/4/09 643	3/4/09 650	3/3/09 651	11/24/08 709



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
OS	2	0	5	5	2
BIS	0	0	0	0	0
Census	13	3	3	4	16
EDA	1	0	1	1	1
ESA	0	0	0	0	0
ITA	0	0	0	0	0
MBDA	0	0	0	0	0
NIST	0	0	0	0	0
NOAA	0	0	0	0	0
NTIA	2	1	2	4	3
NTIS	0	0	0	0	0
OIG	0	0	0	0	0
PTO	0	4	2	2	4
AGENCY OVERALL	18	8	13	16	26



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B. Requests for Fee Waiver

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
OS	2	0	8	7
BIS	0	0	0	0
Census	1	7	1	2
EDA	0	1	10	10
ESA	0	0	0	0
ITA	0	0	0	0
MBDA	0	0	0	0
NIST	4	5	1	5
NOAA	0	0	0	0
NTIA	5	7	1	1
NTIS	0	0	0	0
OIG	0	0	0	0
PTO	0	1	4	4
AGENCY OVERALL	12	21	25	29



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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” (The sum of Columns 1 & 2)	Processing Costs (At initial request and appeal levels)	Litigation- Related Costs	Total Costs
OS	3	11	14	*1,095,404.28	**189,785.65	1,285,189.93
BIS	1	1	2	89,033.00	0	89,033.00
Census	0	6.25	6.25	638,492.91	0	638,492.91
EDA	0	1	1	122,213.00	0	122,213.00
ESA	0	1	1	1,650.00	0	1,650.00
ITA	1	.5	1.5	150,000.00	0	150,000.00
MBDA	0	.3	.3	768.02	0	768.02
NIST	0	2	2	250,000.00	0	250,000.00
NOAA	3.25	10	13.25	962,829.45	0	962,829.45
NTIA	1	.5	1.5	130,548.00	0	130,548.00
NTIS	0	.07	.07	14,000.00	0	14,000.00



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	PERSONNEL			COSTS		
	Number of “Full-Time FOIA Employees”	Number of “Equivalent Full-Time FOIA Employees”	Total Number of “Full- Time FOIA Staff” (The sum of Columns 1 & 2)	Processing Costs (At initial request and appeal levels)	Litigation- Related Costs	Total Costs
OIG	0	1.6	1.6	188,485.00	0	188,485.00
PTO	3	.50	3.50	42,095.78	0	42,095.78
AGENCY OVERALL	12.25	35.72	47.97	3,685,519.44	189,785.65	3,875,305.09

*Includes processing costs at the appeal level for the AGC/Admin.

**Litigation related costs for the AGC/Admin.



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X. FEES COLLECTED FOR PROCESSING REQUESTS

	Total Amount of Fees Collected	Percentage of Total Costs
OS	198.00	.02%
BIS	2,980.40	3.35%
Census	1,298.30	.20%
EDA	1,720.84	1.41%
ESA	0	0
ITA	66.05	0.4
MBDA	0	0
NIST	9,970.79	.0399%
NOAA	25,395.48	2.64%
NTIA	3273.28	2.51%
NTIS	128.76	.92%
OIG	0	0
PTO	4,545.05	10.8%
AGENCY OVERALL	49,576.95	1.35%

XI. FOIA REGULATIONS

- Electronic link to FOIA regulations, including fee schedule.

http://www.access.gpo.gov/nara/cfr/waisidx_02/15cfr4_02.html



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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
OS	6	*5
BIS	0	6*
Census	9	14*
EDA	0	0*
ESA	0	0*
ITA	27	1*
MBDA	2	0*
NIST	16	6*
NOAA	135	10*
NTIA	8	2*
NTIS	0	0*
OIG	0	3*
PTO	0	0
AGENCY OVERALL	203	47

* Assistant General Counsel for Administration (AGC/Admin.) processes the appeals for all the Department of Commerce components, except for PTO. Data provided by AGC/Admin.



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B. Consultations on FOIA Requests – Received, Processed, and Pending Consultations

	Number of Consultations Received from Other Agencies that Were <u>Pending</u> at DOC as of <u>Start</u> of the Fiscal Year	Number of Consultations <u>Received</u> from Other Agencies During the Fiscal Year	Number of Consultations Received from Other Agencies that Were <u>Processed</u> by DOC During the Fiscal Year	Number of Consultations Received from Other Agencies that Were <u>Pending</u> at DOC as of <u>End</u> of the Fiscal Year
OS	1	0	1	0
BIS	0	7	7	0
Census	0	2	2	0
EDA	0	0	0	0
ESA	0	0	0	0
ITA	0	10	5	5
MBDA	0	0	0	0
NIST	0	3	3	0
NOAA	0	9	7	2
NTIA	0	1	1	0
NTIS	0	0	0	0
OIG	2	3	5	0
PTO	0	0	0	0
AGENCY OVERALL	3	35	31	7



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C. Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at DOC

	10 th Oldest Consultation and Number of Days Pending	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest Consultation and Number of Days Pending
OS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
BIS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Census	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
EDA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ESA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ITA	N/A	N/A	N/A	N/A	N/A	9/13/11 14	8/2/11 43	5/10/11 99	4/27/11 110	3/18/11 133
MBDA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
NIST	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
NOAA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	8/22/11 49	3/14/11 137
NTIA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
NTIS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
OIG	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
PTO	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Agency Overall	10 th Oldest Consultation and Number of Days Pending	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest Consultation and Number of Days Pending
	N/A	N/A	N/A	9/13/11 14	8/22/11 28	8/2/11 43	5/10/11 99	4/27/11 110	3/18/11 133	3/14/11 137



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D. Comparison of Numbers of Requests from Previous and Current Annual Report – Requests Received, Processed, and Backlogged

	NUMBER OF REQUESTS <u>RECEIVED</u>		NUMBER OF REQUESTS <u>PROCESSED</u>	
	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
OS	252	261	243	274
BIS	76	29	83	31
Census	329	340	298	351
EDA	51	67	52	68
ESA	13	10	13	10
ITA	66	71	86	46
MBDA	12	4	11	2
NIST	216	232	202	261
NOAA	652	709	620	670
NTIA	99	83	87	87
NTIS	8	13	8	13
OIG	85	81	73	93
PTO	254	302	245	303
AGENCY OVERALL	2113	2202	2021	2209



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	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
OS	12	6
BIS	1	0
Census	20	9
EDA	2	0
ESA	0	0
ITA	4	27
MBDA	0	2
NIST	39	16
NOAA	106	135
NTIA	10	8
NTIS	0	0
OIG	1	0
PTO	0	0
AGENCY OVERALL	195	203



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

	NUMBER OF APPEALS <u>RECEIVED</u>		NUMBER OF APPEALS <u>PROCESSED</u>	
	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
AGC/Admin.	86	76	73	102
PTO	11	7	11	6
AGENCY OVERALL	97	83	84	108

	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
AGC/Admin.	73	47
PTO	0	0
AGENCY OVERALL	73	47