

**DEPARTMENT of COMMERCE  
FOIA ANNUAL REPORT FY10**

**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](http://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/FOIAWEBSITE](http://www.osec.doc.gov/omo/FOIA/FOIAWEBSITE)

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  
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 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.
  - 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

#### IV. EXEMPTION 3 STATUTES

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

<b>Statute</b>	<b>Type of Information Withheld</b>	<b>Case Citation</b>	<b>Number of Times Relied upon per Component</b>	<b>Total Number of Times Relied upon by Agency</b>
50 U.S.C. § 2411(c), Export Administration Act of 1979 § 12 (c)	Information concerning exporting license applications	Export Information Twin Coast Newspapers, Inc. v Dept. of Commerce, No. 78-0978 (D.D.C. Nov. 6, 1979)	OS – 1 BIS – 25	26
35 U.S.C. § 122	Information concerning patent applications	Irons & Sears v Dann, 606 F.2d 1215, 1220 (D.C. Cir.1979)	OS – 1 PTO – 7	8
13 U.S.C. § 9	Information collected by the Bureau of the Census	Baldrige v Shapiro, 455 U.S, 355 (1982)	OS – 1 Census – 17	18
5 U.S.C. appendix 105, Ethics in Govt. Act of 1978	Financial Disclosure Information	Meyerhoff v EPA 958 Fed 2 1497 9 <sup>th</sup> Circuit (1992)	OS – 2	2
15 U.S.C. 7301	Information received in the course of investigations regarding building failures	No Case	NIST - 5	5
13 U.S.C. § 301(g)	Shippers' Export Declarations	Young Conservative Found v Dept. of Commerce, No. 85-3982 (D.D.C. March 25, 1987)	Census – 3	3
41 U.S.C. § 253 423	Proposal not set forth or incorporated by reference in a contract	Hornbostel v Dept. of Interior, 305 F. Supp. 2d 21 (D.D.C. 2003)	OS – 1 Census – 4 NIST - 3 NOAA - 10 PTO - 2	20

16 U.S.C. § 1881(a)	Magnuson-Stevens Fishery Conservation and Management Act – pertains to statistical information contained in fishery management plans.	No Case	NOAA - 12	12
26 U.S.C. § 6103	Prohibits disclosure of tax returns and tax information.	White v IRS, 707F.2d 897 (6 <sup>th</sup> Cir. 1983)	Census - 1	1

## V. FOIA REQUESTS

### A. Received, Processed and Pending FOIA Requests

	Column 1	Column 2	Column 3	Column 4
	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	10	252	243	19
BIS	9	76	83	2
Census	9	329	298	40
EDA	4	51	52	3
ESA	0	13	13	0
ITA	27	66	86	7
MBDA	0	12	11	1
NIST	35	216	202	49
NOAA	74*	652	620	106
NTIA	0	99	87	12

NTIS	0	8	8	0
OIG	1	85	73	13
PTO	6	254	245	15
<b>AGENCY OVERALL</b>	175 **	2113	2021	267

\* In the FY2009 FOIA Annual Report, NOAA reported the number of requests pending at the end of FY09 as “152.” This number was reported incorrectly. The correct figure is “74.” Therefore, the number of requests pending as of the start of FY09 has been amended to “74” in the FY10 report.

\*\* In the FY2009 FOIA Annual Report, the number of requests pending at the end of FY09 was reported as “253.” Due to the amendment in the number of requests pending as of the start of FY10 for NOAA (see footnote above), the number of requests pending as of the start of FY10 for the agency overall has been amended to “175.”

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	59	64	3	25	18	3	23	19	0	27	2	0	243
BIS	22	15	14	12	0	2	14	2	0	2	0	0	83
Census	46	37	24	58	45	15	29	0	12	0	0	32	298
EDA	28	12	0	3	0	6	1	0	2	0	0	0	52
ESA	2	0	0	5	0	0	3	0	0	3	0	0	13
ITA	38	7	1	5	9	6	17	0	0	2	0	1	86

MBDA	2	0	0	0	0	4	5	0	0	0	0	0	11
NIST	49	21	6	14	1	8	19	1	0	83	0	0	202
NOAA	420	75	14	30	4	21	23	11	2	1	13	6	620
NTIA	50	8	4	3	3	2	16	0	1	0	0	0	87
NTIS	1	0	1	1	0	0	0	0	0	1	0	4	8
OIG	3	18	9	4	0	24	0	6	5	0	0	4	73
PTO	43	51	7	35	0	8	18	6	72	0	5	0	245
<b>AGENCY OVERALL</b>	<b>763</b>	<b>308</b>	<b>83</b>	<b>195</b>	<b>80</b>	<b>99</b>	<b>168</b>	<b>45</b>	<b>94</b>	<b>119</b>	<b>20</b>	<b>47</b>	<b>2021</b>

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

<b>Component</b>	<b>Description of “Other” Reasons for Denials from Chart B (1) &amp; Number of Times Those Reasons Were Relied upon</b>	<b>TOTAL</b>
	Publicly Available Information	
Census	32	
ITA	1	
NOAA	6	39
	Verification of Identity Not Provided	
	2	
	Request Misdirected	
OIG	2	4
	Statute Based Price Authority	
NTIS	4	4

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

	<b>Ex. 1</b>	<b>Ex. 2</b>	<b>Ex. 3</b>	<b>Ex. 4</b>	<b>Ex. 5</b>	<b>Ex. 6</b>	<b>Ex. 7(A)</b>	<b>Ex. 7(B)</b>	<b>Ex. 7(C)</b>	<b>Ex. 7(D)</b>	<b>Ex. 7(E)</b>	<b>Ex. 7(F)</b>	<b>Ex. 8</b>	<b>Ex. 9</b>

OS	0	11	6	1	27	32	0	1	6	0	1	1	0	0
BIS	2	1	25	5	8	7	4	2	4	1	4	0	0	0
Census	0	6	25	8	8	30	0	0	0	0	0	0	0	0
EDA	0	0	0	2	7	3	0	0	0	0	0	0	0	0
ESA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ITA	0	1	0	4	1	2	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	5	8	2	4	0	0	0	0	0	0	0	0
NOAA	0	5	22	22	51	36	7	3	3	1	3	0	0	0
NTIA	0	1	0	6	13	6	0	0	0	0	0	0	0	0
NTIS	0	0	0	0	1	0	0	0	0	0	0	0	0	0
OIG	1	1	0	1	4	0	4	0	24	0	1	0	0	0
PTO	0	16	9	11	16	22	1	0	1	0	0	0	0	0
<b>AGENCY OVERALL</b>	3	42	92	68	138	142	16	6	38	2	9	1	0	0

**VI. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF  
FOIA REQUESTS**

A. Received, Processed and Pending Administrative Appeals

	Column 1	Column 2	Column 3	Column 4
<b>Bureau</b>	<b>Number of Appeals Pending as of Start of Fiscal Year</b>	<b>Number of Appeals Received in Fiscal Year</b>	<b>Number of Appeals Processed in Fiscal Year</b>	<b>Number of Appeals Pending as of End of Fiscal Year</b>
AGC/Admin.*	60	86	73	73
PTO	0	11	11	0
<b>AGENCY OVERALL</b>	60	97	84	73

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

B. Disposition of Administrative Appeals – All Processed Appeals

	<b>Number Affirmed on Appeal</b>	<b>Number Partially Affirmed &amp; Partially Reversed/Remanded on Appeal</b>	<b>Number Completely Reversed/Remanded on Appeal</b>	<b>Number of Appeals Closed for Other Reasons</b>	<b>TOTAL</b>
AGC/Admin.	16	19	10	28	73
PTO	3	3	0	5	11
<b>AGENCY OVERALL</b>	19	22	10	33	84

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

<b>Bureau</b>	<b>Ex. 1</b>	<b>Ex. 2</b>	<b>Ex. 3</b>	<b>Ex. 4</b>	<b>Ex. 5</b>	<b>Ex. 6</b>	<b>Ex. 7(A)</b>	<b>Ex. 7(B)</b>	<b>Ex. 7(C)</b>	<b>Ex. 7(D)</b>	<b>Ex. 7(E)</b>	<b>Ex. 7(F)</b>	<b>Ex. 8</b>	<b>Ex. 9</b>
AGC/ Admin.	2	3	6	6	16	10	2	0	2	1	1	0	0	0
PTO	0	0	0	2	2	4	0	0	1	0	0	0	0	0
<b>Agency</b>	2	3	6	8	18	14	2	0	3	1	1	0	0	0
<b>Overall</b>														

C. (2) Reasons for Denial on Appeal – Reasons Other than Exemptions

	<b>No Records</b>	<b>Records Referred at Initial Request Level</b>	<b>Request Withdrawn</b>	<b>Fee-Related Reason</b>	<b>Records not Reasonably Described</b>	<b>Improper Request for Other Reasons</b>	<b>Not Agency Record</b>	<b>Duplicate Request or Appeal</b>	<b>Request in Litigation</b>	<b>Appeal Based Solely on Denial of Request for Expedited Processing</b>	<b>Other *Explain in chart below</b>
AGC/Admin.	2	0	6	7	0	0	2	5	0	0	6
PTO	3	0	0	0	0	2	0	0	0	0	0
<b>AGENCY OVERALL</b>	5	0	6	7	0	2	2	5	0	0	6

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

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

C. (4) Response Time for Administrative Appeals

<b>Bureau</b>	<b>Median Number of Days</b>	<b>Average Number of Days</b>	<b>Lowest Number of Days</b>	<b>Highest Number of Days</b>
AGC/Admin.	120	302	1	1486
PTO	20	19	13	31
<b>Agency Overall</b>	97	112	1	1486

C. (5) Ten Oldest Pending Administrative Appeals

Bureau		10 <sup>th</sup> Oldest Appeal	9 <sup>th</sup>	8 <sup>th</sup>	7 <sup>th</sup>	6 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	Oldest Appeal
AGC/Admin.	<b>Date of Receipt of Ten Oldest Appeals</b>	12/13/06	11/9/06	9/15/06	8/21/06	7/7/06	12/9/05	9/20/05	8/25/05	4/28/03	3/17/03
AGC/Admin.	<b>Number of Days Pending</b>	991	1015	1054	1073	1104	1254	1312	1330	1938	1968
		10 <sup>th</sup> Oldest Appeal	9 <sup>th</sup>	8 <sup>th</sup>	7 <sup>th</sup>	6 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	Oldest Appeal
PTO	<b>Date of Receipt of Ten Oldest Appeals</b>	0	0	0	0	0	0	0	0	0	0
PTO	<b>Number of Days Pending</b>	0	0	0	0	0	0	0	0	0	0
Agency Overall	<b>Date of Receipt</b>	12/13/06	11/9/06	9/15/06	8/21/06	7/7/06	12/9/05	9/20/05	8/25/05	4/28/03	3/17/03
Agency Overall	<b>Number of Days Pending</b>	991	1015	1054	1073	1104	1254	1312	1330	1938	1968

**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	17	18	1	47	127	164	50	709	0	0	0	0
BIS	15	25	1	181	225	225	225	225	1	3	3	7
Census	18	18	1	125	0	0	0	0	33	39	30	60
EDA	5	4	1	10	31	32	15	71	2	2	2	2
ESA	6	7	1	19	0	0	0	0	0	0	0	0

ITA	20	12	1	233	0	0	0	0	0	0	0	0
MBDA	16	16	14	19	0	0	0	0	0	0	0	0
NIST	5	26	1	920	0	0	0	0	0	0	0	0
NOAA	9	9	1	20	42	67	21	456	35	80	25	105
NTIA	12	9	1	20	22	28	1	34	0	0	0	0
NTIS	4	4	1	8	0	0	0	0	5	5	5	5
OIG	17	3	1	139	0	0	0	0	0	0	0	0
PTO	8	8	1	30	0	0	0	0	0	0	0	0
<b>AGENCY OVERALL</b>	20	16	1	920	50	30	1	709	20	17	2	105

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	17	1	44	122	156	50	709	0	0	0	0
BIS	19	33	1	181	1	225	225	225	0	0	0	0
Census	22	26	2	125	0	0	0	0	34	41	31	60
EDA	4	4	1	9	31	32	15	71	2	2	2	2
ESA	13	13	7	19	0	0	0	0	0	0	0	0

ITA	20	15	1	233	0	0	0	0	0	0	0	0
MBDA	16	16	14	19	0	0	0	0	0	0	0	0
NIST	11	53	1	758	0	0	0	0	0	0	0	0
NOAA	9	9	1	20	42	68	21	456	35	80	25	105
NTIA	12	9	1	20	22	28	1	34	0	0	0	34
NTIS	5	5	5	5	0	0	0	0	5	5	5	5
OIG	20	47	0	139	0	0	0	0	0	0	0	0
PTO	12	11	1	30	0	0	0	0	0	0	0	0
<b>AGENCY OVERALL</b>	15	20	1	758	50	30	1	709	20	17	2	105

C. Processed Requests – Response Time in Day Increments

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

**Simple Requests**

	<b>1-20 Days</b>	<b>21-40 Days</b>	<b>41-60 Days</b>	<b>61-80 Days</b>	<b>81-100 Days</b>	<b>101-120 Days</b>	<b>121-140 Days</b>	<b>141-160 Days</b>	<b>161-180 Days</b>	<b>181-200 Days</b>	<b>201-300 Days</b>	<b>301-400 Days</b>	<b>401+ Days</b>	<b>TOTAL</b>
OS	129	39	1	0	0	0	0	0	0	0	0	0	0	169
BIS	47	16	7	6	1	1	0	0	1	1	0	0	0	80
Census	214	55	9	2	3	0	1	0	0	0	0	0	0	284
EDA	25	0	0	0	0	0	0	0	0	0	0	0	0	25
ESA	13	0	0	0	0	0	0	0	0	0	0	0	0	13
ITA	41	27	15	1	0	1	0	0	0	0	1	0	0	86

MBDA	2	0	0	0	0	0	0	0	0	0	0	0	0	2
NIST	170	11	6	0	2	1	1	2	1	1	5	0	2	202
NOAA	323	0	0	0	0	0	0	0	0	0	0	0	0	323
NTIA	38	9	0	0	0	0	0	0	0	0	0	0	0	47
NTIS	8	0	0	0	0	0	0	0	0	0	0	0	0	8
OIG	24	2	1	2	1	1	3	0	0	0	0	0	0	34
PTO	44	196	5	0	0	0	0	0	0	0	0	0	0	245
<b>AGENCY OVERALL</b>	1078	355	44	11	7	4	5	2	2	2	6	0	2	1518

### 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	4	5	4	2	6	5	0	0	3	1	2	32
BIS	0	0	0	0	0	0	0	0	0	0	1	0	0	1
Census	0	0	0	0	0	0	0	0	0	0	0	0	0	0
EDA	6	16	2	2	0	0	0	0	0	0	0	0	0	26
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

	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NIST	0	137	64	29	14	11	8	4	4	5	9	6	2	293
NOAA	31	9	0	0	0	0	0	0	0	0	0	0	0	40
NTIA	0	0	0	0	0	0	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	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
<b>AGENCY OVERALL</b>	37	162	70	36	18	13	14	9	4	5	13	7	4	392

**Requests Granted Expedited Processing**

	<b>1-20 Days</b>	<b>21-40 Days</b>	<b>41-60 Days</b>	<b>61-80 Days</b>	<b>81-100 Days</b>	<b>101-120 Days</b>	<b>121-140 Days</b>	<b>141-160 Days</b>	<b>161-180 Days</b>	<b>181-200 Days</b>	<b>201-300 Days</b>	<b>301-400 Days</b>	<b>401+ Days</b>	<b>TOTAL</b>
OS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
BIS	2	0	0	0	0	0	0	0	0	0	0	0	0	2
Census	5	6	3	0	0	0	0	0	0	0	0	0	0	14
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	2	0	1	0	1	0	0	0	0	0	0	0	4
NTIA	0	0	0	0	0	0	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	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
<b>AGENCY OVERALL</b>	8	8	3	1	0	1	0	0	0	0	0	0	0	21

D. Pending Requests – All Pending Perfected Requests

1. 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	19	16	18	6	127	133	0	0	0
BIS	1	15	15	1	60	60	0	0	0
Census	39	17	27	0	0	0	1	156	156
EDA	1	1	1	2	81	81	0	0	0
ESA	0	0	0	0	0	0	0	0	0
ITA	7	25	32	0	0	0	0	0	0
MBDA	1	14	14	0	0	0	0	0	0
NIST	49	154	258	0	0	0	0	0	0
NOAA	0	0	0	103	87	125	3	88	94

NTIA	0	0	0	12	125	115	0	0	0
NTIS	0	0	0	0	0	0	0	0	0
OIG	13	6	9	0	0	0	0	0	0
PTO	15	4	5	0	0	0	0	0	0
<b>AGENCY OVERALL</b>	145	12	26	124	38	85	4	96	104

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.

	<b>10<sup>th</sup> Oldest Request and Number of Days Pending</b>	<b>9<sup>th</sup></b>	<b>8<sup>th</sup></b>	<b>7<sup>th</sup></b>	<b>6<sup>th</sup></b>	<b>5<sup>th</sup></b>	<b>4<sup>th</sup></b>	<b>3<sup>rd</sup></b>	<b>2<sup>nd</sup></b>	<b>Oldest Request and Number of Days Pending</b>
OS	8/18/10 30	8/18/10 30	8/16/10 32	8/16/10 32	8/5/10 39	6/28/10 66	5/10/10 100	2/23/10 154	12/7/09 206	10/22/09 237
BIS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	9/12/10 15	7/7/10 60
Census	8/13/10 33	8/3/10 41	7/30/10 43	7/12/10 57	6/28/10 66	6/24/10 68	6/14/10 76	6/4/10 82	6/2/10 84	2/19/10 156
EDA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	9/29/10 1	8/11/10 35	6/10/10 78
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	9/20/10 8	9/16/10 10	9/10/10 13	8/25/10 25	7/23/10 48	7/6/10 61	7/1/10 63
MBDA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	9/13/10 14
NIST	11/28/08 459	11/24/08 461	7/8/08 554	6/24/08 564	4/21/08 608	8/24/07 833	3/5/07 942	2/9/07 955	3/24/06 1192	1/6/06 1246
NOAA	10/16/09 240	9/23/09 256	6/29/09 316	6/17/09 324	6/8/09 331	5/21/09 342	4/14/09 369	3/04/09 398	3/3/09 399	10/31/07 731
NTIA	4/15/10 118	4/14/10 119	4/14/10 119	4/7/10 124	4/5/10 126	3/24/10 134	3/9/10 145	3/9/10 145	2/4/10 167	1/27/10 173
NTIS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
OIG	9/27/10 3	9/23/10 5	9/23/10 5	9/20/10 8	9/13/10 14	9/10/10 15	9/9/10 16	9/9/10 16	9/7/10 18	8/17/10 31

	9/27/10	9/23/10	9/21/10	9/20/10	9/17/10	9/16/10	9/14/10	9/1/10	8/30/10	8/30/10
PTO	3	5	7	8	9	10	12	15	19	19

Agency Overall	10 <sup>th</sup> Oldest Request and Number of Days Pending	9 <sup>th</sup>	8 <sup>th</sup>	7 <sup>th</sup>	6 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	Oldest Request and Number of Days Pending
		11/28/08	7/8/08	6/24/08	4/21/08	10/31/07	8/24/07	3/5/07	2/9/07	3/24/06
	461	554	564	608	731	833	942	955	1192	1246

## VIII. REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER

### A. Requests for Expedited Processing

	<b>Number Granted</b>	<b>Number Denied</b>	<b>Median Number of Days to Adjudicate</b>	<b>Average Number of Days to Adjudicate</b>	<b>Number Adjudicated Within Ten Calendar Days</b>
OS	0	0	0	0	0
BIS	2	0	1	5	2
Census	8	13	10	10	13
EDA	0	0	0	0	0
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	4	2	27	37	1
NTIA	0	1	1	1	1
NTIS	0	0	0	0	0

OIG	0	0	0	0	0
PTO	0	5	1	2	4
<b>AGENCY OVERALL</b>	14	21	10	12	21

B. Requests for Fee Waiver

	<b>Number Granted</b>	<b>Number Denied</b>	<b>Median Number of Days to Adjudicate</b>	<b>Average Number of Days to Adjudicate</b>
OS	1	2	10	10
BIS	0	0	0	0
Census	7	7	4	5
EDA	1	1	2	2
ESA	0	0	0	0
ITA	0	1	2	1
MBDA	0	0	0	0
NIST	0	5	5	7
NOAA	5	8	15	14
NTIA	0	0	0	0

NTIS	0	0	0	0
OIG	0	0	0	0
PTO	2	3	0	1
<b>AGENCY OVERALL</b>	16	27	5	10

**IX. FOIA PERSONNEL AND COSTS**

Column 1      Column 2

	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	8.1	11.1	412,638.89*		412,638.89*
BIS	1	1	2	97,291.00	N/A	97,291.00
Census	N/A	5	5	505,919.15	N/A	505,919.15
EDA	N/A	1	1	137,288.00	N/A	137,288.00
ESA	N/A	1	1	1,650.00	N/A	1,650.00
ITA	1	.50	1.50	150,000.00	N/A	150,000.00
MBDA	N/A	.15	.15	21,038.35	N/A	21,038.35
NIST	N/A	2	2	148,516.00	29,690.51	178,206.51

NOAA	3	10	13	1,167,376.00	16,397.50	1,183,773.50
NTIA	1	N/A	1	63,393.00	N/A	63,393.00
NTIS	N/A	.05	.05	11,000.00	N/A	11,000.00
OIG	0	1	1	130,770.00	N/A	130,770.00
PTO	3	.50	3.50	326,343.00**	N/A	326,343.00**
<b>AGENCY OVERALL</b>	12	30.3	42.3	3,173,223.30	46,088.01	3,219,311.31

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

\*\* Includes processing costs at the appeal level for PTO.

**X. FEES COLLECTED FOR PROCESSING REQUESTS**

	<b>Total Amount of Fees Collected</b>	<b>Percentage of Total Costs</b>
OS	5, 873.32	.014%
BIS	6,655.01	6.84%
Census	0	0%
EDA	1,163.00	0.85%
ESA	150.00	9.09%
ITA	0	0
MBDA	0	0
NIST	37,572.58	25.30%
NOAA	17,868.68	1.53%
NTIA	5043.99	7.96%
NTIS	0	0
OIG	0	0

PTO	5,368.09	1.64%
<b>AGENCY OVERALL</b>	79,694.67	2.51%

## XI. FOIA REGULATIONS

- Electronic link to FOIA regulations, including fee schedule.

[www.osec.doc.gov/omo/FOIA/ereadingroom.htm#laws](http://www.osec.doc.gov/omo/FOIA/ereadingroom.htm#laws)

## XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS

### A. Backlogs of FOIA Requests and Administrative Appeals

	<b>Number of Backlogged Requests as of End of Fiscal Year</b>	<b>Number of Backlogged Appeals as of End of Fiscal Year</b>
OS	12	8*
BIS	1	9*
Census	20	14*
EDA	2	0*
ESA	0	1*
ITA	4	1*
MBDA	0	0*

NIST	39	8*
NOAA	106	30*
NTIA	10	1*
NTIS	0	0*
OIG	1	1*
PTO	0	0
<b>AGENCY OVERALL</b>	195	73

\* 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.

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

	Column 1	Column 2	Column 3	Column 4
	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	0	1	0	1
BIS	2	17	19	0
Census	0	1	1	0
EDA	0	0	0	0
ESA	0	1	1	0
ITA	11	5	16	0
MBDA	0	0	0	0
NIST	0	5	5	0
NOAA	0	0	0	0
NTIA	0	2	2	0
NTIS	0	0	0	0
OIG	0	5	3	2
PTO	0	0	0	0

<b>AGENCY OVERALL</b>	13	37	47	3
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C. Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at DOC

	10 <sup>th</sup> Oldest Consultation and Number of Days Pending	9 <sup>th</sup>	8 <sup>th</sup>	7 <sup>th</sup>	6 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	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	9/27/10 3
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	N/A	N/A	N/A	N/A	N/A
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								
NTIA	N/A	N/A								
NTIS	N/A	N/A								
OIG	N/A	9/15/10 13	9/15/10 13							
PTO	N/A	N/A								

Agency Overall	10 <sup>th</sup> Oldest Consultation and Number of Days Pending	9 <sup>th</sup>	8 <sup>th</sup>	7 <sup>th</sup>	6 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	Oldest Consultation and Number of Days Pending
	Date								9/27/10	9/15/10
Number of Days		N/A	N/A	N/A	N/A	N/A	N/A	3	13	13

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

	Column 1	Column 2	Column 3	Column 4
	<b>NUMBER OF REQUESTS <u>RECEIVED</u></b>		<b>NUMBER OF REQUESTS <u>PROCESSED</u></b>	
	<b>Number Received During Fiscal Year from Last Year's Annual Report</b>	<b>Number Received During Fiscal Year from Current Annual Report</b>	<b>Number Processed During Fiscal Year from Last Year's Annual Report</b>	<b>Number Processed During Fiscal Year from Current Annual Report</b>
OS	235	252	245	243
BIS	89	76	91	83
Census	234	329	229	298
EDA	37	51	34	52
ESA	12	13	12	13
ITA	141	66	114	86
MBDA	10	12	10	11
NIST	170	216	157	202
NOAA	688	652	708	620
NTIA	45	99	45	87

NTIS	21	8	21	8
OIG	48	85	51	73
PTO	361	254	375	245
<b>AGENCY OVERALL</b>	2091	2113	2092	2021

	Column 1	Column 2
	<b>Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report</b>	<b>Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report</b>
OS	6	12
BIS	8	1
Census	1	20
EDA	0	2
ESA	0	0
ITA	16	4
MBDA	0	0

NIST	29	39
NOAA	98	106
NTIA	0	10
NTIS	0	0
OIG	1	1
PTO	0	0
<b>AGENCY OVERALL</b>	159	195

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

	Column 1	Column 2	Column 3	Column 4
	<b>NUMBER OF APPEALS <u>RECEIVED</u></b>		<b>NUMBER OF APPEALS <u>PROCESSED</u></b>	
	<b>Number Received During Fiscal Year from Last Year's Annual Report</b>	<b>Number Received During Fiscal Year from Current Annual Report</b>	<b>Number Processed During Fiscal Year from Last Year's Annual Report</b>	<b>Number Processed During Fiscal Year from Current Annual Report</b>
AGC/Admin.	68	86	95	73
PTO	15	11	15	11
<b>AGENCY OVERALL</b>	83	97	110	84

Column 1

Column 2

	<b>Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report</b>	<b>Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report</b>
AGC/Admin.	60	73
PTO	0	0
<b>AGENCY OVERALL</b>	60	73