

February 2001

U.S. DEPARTMENT OF AGRICULTURE

Freedom of Information Act Annual Report FY 2000

I. Basic Information Regarding Report

Responsibility for preparing the U.S. Department of Agriculture's Freedom of Information Act Annual Report for fiscal year 1998 rests with USDA's Office of Communications. The report can be accessed from the World Wide Web at:

<http://www.usda.gov/news/foia/main.htm>

A paper copy of the report may be obtained by requesting it. For additional information, contact:

Andrea E. Fowler
Freedom of Information Act Officer
Office of Communications
U.S. Department of Agriculture
Rm. 536-A Whitten Bldg., Ag Stop 1300
Washington, DC 20250-1300
andrea.fowler2@usda.gov
Tel. (202) 720-8164
Fax. (202) 720-7808

II. How to Make a FOIA Request

Anyone may request USDA records under the FOIA by letter, fax, or e-mail. A requester who sends USDA a FOIA request that is understandable and specific about the time frame of the records sought and who has addressed the request to the USDA agency with responsibility for the records has the greatest likelihood of receiving a response within 20 working days of the agency's receipt of the request. Any request that fails to identify the records sought or is sent to the wrong agency must be clarified before an agency can begin a search; in such case, USDA will try to contact the requester for additional information.

The url (universal resource locator) for the U.S. Department of Agriculture's home page is <http://www.usda.gov>. All USDA agencies are linked to the USDA home page. A significant portion of USDA records are maintained in agency files and are described on agency web pages, which are linked to the USDA home page. Potential requesters may want to review agency web pages in order to identify the USDA agency likely to have possession of the records sought.

USDA employs a number of Freedom of Information Act specialists who make every effort to comply with the requirements of the Freedom of Information Act as amended. A list of USDA agency employees responsible for handling FOIA requests can be found at:
<http://www.usda.gov/news/foia/contacts.htm>

III. Definitions of Terms and Acronyms Used in the Report

A. Agency-specific acronyms are as follows:

AMS - Agricultural Marketing Service
APHIS - Animal and Plant Health Inspection Service
CCC - Commodity Credit Corporation
DA - Departmental Administration
FAS - Foreign Agricultural Service
FNCS - Food, Nutrition and Consumer Service
FSA - Farm Service Agency
FSIS - Food Safety and Inspection Service
FS - Forest Service
GIPSA - Grain Inspection, Packers and Stockyards
Administration
NAD - National Appeals Division
NFC - National Finance Center
NRCS - Natural Resources Conservation Service
OBPA - Office of Budget and Program Analysis
OC - Office of Communications
OCFO - Office of the Chief Financial Officer
OCIO - Office of the Chief Information Officer
OCR - Office of Civil Rights
OGC - Office of General Counsel
OIG - Office of the Inspector General
RD - Rural Development
REE - Research, Education, and Economics
RMA - Risk Management Agency

B. Basic terms areas follows:

FOIA/PA request - a Freedom of Information Act/Privacy Act request. A "FOIA request" is generally a request for access to records concerning a third party, an organization or a particular topic of interest. A "Privacy Act" request is a request for records concerning oneself. Requests filed under either law are treated as FOIA requests and are processed as expeditiously as possible.

Initial request - a request to a Federal agency for access to records under the Freedom of Information Act.

Appeal - a request to a Federal agency asking that it review at a higher level of administrative authority any full or partial denial of access to records under the Freedom of Information Act or Privacy Act or any other FOIA determination, such as a proposed fee for access to records.

Processed request - a request or appeal for which an agency has made its final determination or taken its final action.

Multi-track processing - a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous, 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.

Expedited processing - an agency will process a FOIA request on an expedited basis when the requester has shown a compelling need for a specific record. A compelling need is a threat to life or physical safety for an individual or, in the case of the media, urgency to inform the public concerning actual or alleged Federal Government activity.

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.

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.

Grant - an agency decision to disclose all records in full in response to a FOIA request.

Partial grant - an agency decision to disclose part of a record in response to a FOIA request, deleting information determined to be exempt under one or more of the FOIA's exemptions, or a decision to disclose some records in their entirety but withhold others in whole or in part.

Denial - an agency decision not to release a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempt under one or more of the FOIA's exemptions or because of a procedural reason, such as no record was located.

Time limits - the time period authorized in the FOIA for an agency to respond to a FOIA request is 20 working days from proper receipt of a "perfected" FOIA request.

"Perfected" request - a FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.

Exemption 3 statute - a separate Federal statute

prohibiting the disclosure of certain types of records and
authorizing their withholding under FOIA subsection (b)(3).

Median number - the middle, not average, number. For example, of 3, 7 and 14, the median number is 7.

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

Statute/Rule	Type of Information Withheld	Case Citation
5 U.S.C. §107(a)	Financial disclosure information	None
7 U.S.C. § 499(fb)	Confidential source	None
7 U.S.C. § 2323-2582	Application for plant variety protection	None
7 U.S.C. § 2018(c)	Electronic Benefit Transactions	None
7 U.S.C. § 2020(e)(8)	Names, addresses, phone numbers of food stamp recipients	None
7 U.S.C. § 373 [1373](a)	Tobacco & peanut production information	None
16 U.S.C. § 470hh	Archaeological site maps, cultural resource survey maps	None
16 U.S.C. § 4702-3	Nature & location of historic resources	None
41 U.S.C. § 253b(m)	Unsuccessful contract bid proposals	None
F.R.Cr.P. 6(e)	Grand jury information	<u>Senate of Puerto Rico vs. USDOJ</u> , 823 F.2d 574 (D.C. Cir. 1987)

V. Initial FOIA/PA Requests

A. Number of Initial Requests

1. Number of requests pending at end of FY 99:	1,879
2. Number of requests received during FY 00:	140,239
3. Number of requests processed during FY 00:	139,503
4. Number of requests pending at end of FY 99:	2,615

B. Disposition of Initial Requests

1. Number of total grants:	111,263
2. Number of partial grants:	2,043
3. Number of denials:	1,686

FOIA exemption used:

Exemption 1:	0
Exemption 2:	41
Exemption 3:	58
Exemption 4:	314
Exemption 5:	273
Exemption 6:	1,501
Exemption 7(A):	129
Exemption 7(B):	3
Exemption 7(C):	224
Exemption 7(D):	64
Exemption 7(E):	11
Exemption 7(F):	10
Exemption 8:	0
Exemption 9:	0

4. Other reasons for nondisclosure:

No records:	1,017
Referred elsewhere:	481
Request withdrawn:	165
Fee-related reason:	72
Records not reasonably described:	28
Not a proper FOIA request for some reason:	79
Not an agency record:	46
Duplicate request:	34
Other (specify):	40
- Glomar	
- Third-party requests	
- Burdensome search	
- Open personnel cases	
- Records Not Available	

- Preliminary Injunction

VI. Appeals of Initial Denials

A. Number of Appeals

1. Number of appeals received during FY 00: 227
2. Number of appeals processed during FY 00: 168

B. Disposition of Appeals

1. Number completely upheld: 68
2. Number partially reversed: 42
3. Number completely reversed: 28

FOIA exemption used:

Exemption 1:	0
Exemption 2:	3
Exemption 3:	3
Exemption 4:	8
Exemption 5:	22
Exemption 6:	60
Exemption 7(A):	8
Exemption 7(B):	1
Exemption 7(C):	24
Exemption 7(D):	15
Exemption 7(E):	2
Exemption 7(F):	0
Exemption 8:	0
Exemption 9:	0

4. Other reasons for nondisclosure:

No records:	18
Referred elsewhere:	2
Request withdrawn:	10
Fee-related reason:	5
Records not reasonably described:	0
Not a proper FOIA request for some reason:	2
Not an agency record:	0
Duplicate request:	0
Other (specify):	3
- Inadequate information on initial request	
- Records not available	

VII. Compliance with Time Limits/Status of Pending Requests**A. Median Processing Time for Requests**

1. Simple requests

- a. Number of requests processed: 121,984
- b. Median number of days to process: 26 days

2. Complex requests

- a. Number of requests processed: 9,051
- b. Median number of days to process: 45 days

3. Requests accorded expedited processing

- a. Number of requests processed: 727
- b. Median number of days to process: 12 days

Records retrieved from a Federal Records Center take several weeks to obtain. Requests that require a notice to submitters of information, allowing them time to comment on the release of responsive records, and USDA's acknowledgment of comments may take several weeks to process. Requests that require an advance payment of fees before processing also take additional time.

B. Status of Pending Requests

- 1. Number of requests pending at end of FY 00: 1,750
- 2. Median number of days requests were pending at end of FY 00: 30 days

VIII. Comparisons With Previous YearsImprove timeliness.

Several USDA agencies have purchased FOIA Tracking & Processing Software. Agency FOIA requests are faxed and e-mailed to component units to speed up processing time.

OIG audit reports are reviewed prior to final release and revised so that no redactions are necessary. Once signed, the reports are quickly published on the Internet.

Agencies are providing public information and frequently requested information through FOIA websites.

Several Agencies updated their internal employee FOIA

guidelines and instructions to the public on how to make FOIA requests. Internal directives stressed the importance of timely responses, and negative consequences were specified as reminders to staff.

The creation of the electronic Purchase Cardholder Information system on the FOIA Web site has helped improve public availability of this information. Numerous requesters were referred to the FOIA Web site which eliminated the need for written FOIA requests.

Reduce backlog.

Several agencies have hired new full and part-time employees to assist in processing requests. One agency hired a student intern to review, clean-out and update their FOIA case files.

One agency has developed a process to screen new requests to determine if they can be answered quickly. Other agencies have established multiple tracking systems, permitting simple requests to be answered quickly and complex requests to be placed in a queue and answered in order of receipt.

Provide training.

The FOIA personnel of most USDA agencies attended training sponsored by the Department of Justice, the USDA Graduate School, or the American Society for Access Professionals. A majority of USDA agencies conducted on-the-job training for agency personnel on processing FOIA requests. Two agencies held National FOIA Training workshops for their field units.

Several agencies provided field locations with copies of the Freedom of Information Act Guide & Privacy Act Overview and the Department of Justice quarterly FOIA Updates to use as reference material. Some field units have added employees with part-time FOIA responsibility. Regional FOIA Offices have scheduled monthly FOIA conference calls as a training tool.

All agency FOIA personnel meet quarterly to share information and establish consistent standards for processing of FOIA requests within the Department.

Add new categories of records.

The establishment of agency web pages expanded the categories of records available to the public.

IX. Costs/FOIA Staffing

A. Staffing Levels

1. Number of full-time FOIA personnel: 55.00
2. Number of personnel with part-time or occasional FOIA duties (in work-years): 478
3. Total number of personnel (Work-years): 533

B. Total Costs

1. FOIA processing: \$7,823,328
2. Litigation-related activities (estimated): \$342,584
3. Total costs: \$8,165,912

C. Statement of Additional Resources Needed

Most agencies expressed the need for more professional staffing, more clerical assistance, and more money to pay for training, national meetings, and to upgrade automated record processing. Several agencies expressed the need for more advanced tracking and document imaging systems.

X. Fees

A. Total fees collected for search, review, duplication and other direct costs permitted by agency regulations: \$117,530

B. Most USDA agencies collected fees that amounted to less than ten percent of total costs.

XI. FOIA Regulations

USDA's regulations implementing the Electronic Freedom of Information Act Amendments of 1996 were published in the Federal Register July 28, 2000, and are available on the World Wide Web at:

<http://www.usda.gov/news/foia/regulation.htm>

USDA's current fee schedule was published in the Federal Register December 31, 1987.

USDA's home page is located at: <http://www.usda.gov>
The web sites of USDA agencies are linked to this home page, and each agency's web site contains explanatory information about FOIA processing.