



DEPARTMENT OF THE TREASURY
FREEDOM OF INFORMATION ACT ANNUAL REPORT
FOR FISCAL YEAR 1999

CONTENTS

- I. Basic Information Regarding Report
 - II. How to Make a FOIA Request
 - III. Definition of Terms
 - IV. Exemption 3 Statutes
 - V. Initial FOIA/PA Access Requests
 - VI. Appeals of Initial Denials of FOIA/PA Requests
 - VII. Compliance with Time Limits/Status of Pending Requests
 - VIII. Comparisons with Previous Year(s) (Optional)
 - IX. Costs/FOIA Staffing
 - X. Fees
 - XI. FOIA Regulations
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I. BASIC INFORMATION REGARDING REPORT.

This is the Fiscal Year 1999 FOIA Report for the Department of the Treasury. For purposes of administering the FOIA, the Department is divided into thirteen bureaus. Each bureau is responsible for those records under its control, and each bureau will post its report on its own web site. The office of Disclosure Services prepared the report in collaboration with the bureau FOIA Officers. Please direct any questions you may have to:

Alana Johnson, Departmental Disclosure Officer

Office of Disclosure Services

Ph: 202/622-0930; Fax: 202/622-3895

Mail: FOIA Request, Office of Disclosure Services,

Department of the Treasury, Washington, DC 20220

Treasury Department FOIA Home Page: www.treas.gov/foia

Paper copies of this report may be obtained by contacting the office or by downloading from the Treasury FOIA home page at "FY 99 FOIA Report to the Attorney General."

II. How To Make A FOIA Request for Treasury Department records.

The Department of the Treasury's FOIA Reference Guide is available at www.treas.gov/foia/ by clicking on FOIA Public Guide, or by contacting the office, as described above.

II.A. Names, addresses, and numbers of Treasury bureau FOIA officers.

Departmental Offices (DO)

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 Disclosure Services
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 Address:
 Disclosure (FOIA) Office
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Bureau of Alcohol, Tobacco and Firearms (ATF)

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 Fax: 202/927-8866
 Address:
 FOIA OFFICE
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United States Customs Service (CS)

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Bureau of Engraving & Printing (BEP)

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 Fax: 912/267-3113
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 FOIA OFFICE
 Department of the Treasury
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Financial Management Service (FMS)

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Ph: 202/874-6837
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Address:
Disclosure Branch
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Internal Revenue Service (IRS)

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FOIA Request
P.O. Box 795 - Ben Franklin Station
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United States Mint

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Bureau of the Public Debt (BPD)

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FOIA Request
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Office of Thrift Supervision (OTS)

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***Treasury Inspector General for
Tax Administration (TIGTA)***

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II.B. Brief description of Treasury Department's response-time ranges.

The combined response time range for overall Treasury processing in FY 99 was from 1 to 18 days for simple requests, and from 5 to 1,000+ days for complex and backlogged requests involving historical and investigatory records.

Individual bureau ranges were:

DO:	1 to 1,000
ATF:	1 to 300
BEP:	1 to 22
BPD:	1 to 62
CC:	1 to 18
CS:	1 to 240
FLETC:	1 to 53
FMS:	5 to 30
IRS:	1 to 1,000
MINT:	1 to 15
OTS:	1 to 130
TIGTA:	2 to 330
USSS:	2 to 152

II.C. Brief description of why some requests are not granted.

The most common reasons reported by the bureaus regarding why requests for records could not be granted were: (1) procedural requirements were not followed; (2) the records reflected the internal practices involved in investigations or inspections; (3) the records contained confidential taxpayer information and other statutorily protected information; (4) the records contained contractor confidential and proprietary commercial information; and (5) the records could not be located or did not exist.

Others:

- protecting personal privacy;
- deliberative process-privileged information;
- bank examination-related material;
- thrift examination information.

III. Definition of Terms.

A. Agency-specific:

N/A

B. Basic Terms Used in This Report

1. FOIA/PA request -- 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; such requests are also treated as FOIA requests. (All requests for access to records, regardless of which law is cited by the requester, are included in this report.)

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

3. Appeal -- a request to a federal agency asking that it review at a higher administrative level a full denial or partial denial of access to records under the Freedom of Information Act, or any other FOIA determination such as a matter pertaining to fees.

4. Processed Request or Appeal -- a request or appeal for which an agency has taken a final action on the request or the appeal in all respects.

5. 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 in each track are processed on a first-in/first-out basis. A requester who has an urgent need for records may request expedited processing (see below).

6. Expedited processing -- an agency will process a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records which warrants prioritization of his or her request over other requests that were made earlier.

7. Simple request -- a FOIA request that an agency using multi-track processing places in its fastest (nonexpedited) track based on the volume and/or simplicity of records requested.

8. Complex request -- a FOIA request that an agency using multi-track processing places in a slower track based on the volume and/or complexity of records requested.
9. Grant -- an agency decision to disclose all records in full in response to a FOIA request.
10. Partial grant -- an agency decision to disclose a record in part in response to a FOIA request, deleting information determined to be exempt under one or more of the FOIA's exemptions; or a decision to disclose some records in their entireties, but to withhold others in whole or in part.
11. Denial -- an agency decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempt under one or more of the FOIA's exemptions, or for some procedural reason (such as because no record is located in response to a FOIA request).
12. Time limits -- the time period in the Freedom of Information Act for an agency to respond to a FOIA request (ordinarily 20 working days from proper receipt of a "perfected" FOIA request).
13. "Perfected" request -- a FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency or agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.
14. Exemption 3 statute -- a separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection b) (3).
15. Median number -- the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
16. Average number -- the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.

- IV. Exemption 3 statutes relied on by the Department during current fiscal year. Provide a brief description of types(s) of information withheld under each statute and a statement of whether a court has upheld the use of each statute. If so, cite the example.

STATUTE	TYPE OF INFORMATION	UPHELD BY COURTS
18 U.S.C. 701	Official identification records	Not decided by the courts.
18 U.S.C. 2510-2550	Wiretap information	<i>Delviscovo v. FBI</i> , 903 F.Supp. 1 (D.D.C. 1995), summary affirmance granted, No. 95-5388 (D.C. Cir. Jan. 24, 1997)
26 U.S.C. 6103, 6103(a)	Federal taxpayer information and National Firearms Act Registry information.	All courts have upheld the confidentiality of §6103; see <i>Church of Scientology v. IRS</i> , 484 U.S. 9 (1987)
26 U.S.C. 7213	Unauthorized disclosure of taxpayer information	<i>Chamberlain v. Alexander</i> , 419 F.Supp. 235 (S.D. Ala. 1976)
31 U.S.C. 5319	Currency transaction reports under the Bank Secrecy Act	<i>Small v. IRS</i> , 820 F.Supp. 163 (D.N.J. 1992)
41 U.S.C. 253(b), 423	Contractor proposals	Public Law 104-201; not litigated
Rule 6(e) F.R. Crim.P.	Grand Jury information	<i>Washington Post Co. v. U.S. Department of Justice</i> , 863 F.2d 96 (D.C. Cir. 1988)
Tax Treaty Clauses	Tax information provided by foreign governments	Treaties were ratified by the U.S. Senate; not decided by the courts.

V. Initial FOIA/PA Access Requests.

A. Number of initial requests.

1. Pending 10/01/98: 6,639
2. Received FY 99: 55,743
3. Processed FY 99: 57,325*
4. Pending 9/30/99: 5,057

*Due to differences in data collection among the 13 bureaus, this figure differs slightly (by 117) from the sum of the figures reported in Sec. B (1-4), below.

B. Disposition of initial requests.

1. Total grants: 33,320
2. Partial grants: 6,233
3. Denials: 1,127

a. number of times each FOIA exemption used:

(b)(1) <u>15</u>	(b)(6) <u>1,035</u>	(b)(7)(E) <u>113</u>
(b)(2) <u>1,042</u>	(b)(7)(A) <u>217*</u>	(b)(7)(F) <u>12</u>
(b)(3) <u>3,595</u>	(b)(7)(B) <u>3</u>	(b)(8) <u>51</u>
(b)(4) <u>654</u>	(b)(7)(C) <u>1,341</u>	(b)(9) <u>0</u>
(b)(5) <u>1,056</u>	(b)(7)(D) <u>320</u>	

*IRS' data collection system did not capture Exemption 7 subsections for this report.
The IRS cited Exemption 7 a total of 2,910 times.

4. Other reasons for nondisclosure (total): 16,762
- a. no records 5,522
 - b. referrals 2,585
 - c. withdrawn 813
 - d. fee-related 256
 - e. records not reasonably described 288
 - f. not a proper FOIA request 5,918
 - g. not an agency record 135
 - h. duplicate 109
 - i. appealed prior to determination 3
 - j. imperfect 240
 - k. closed without determination 845
 - l. failure to verify identity 45
 - m. records still under review 19
 - n. Glomar response 1
 - o. no forwarding address 7

VI. Appeals of initial denials.

A. Number of Appeals.

- 1. Received FY 98: 2,005
- 2. Processed FY 98: 2,037*

*Includes appeals from previous years that were closed this period.

B. Disposition of appeals.

- 1. Number completely upheld: 397 (full denial)
- 2. Number partially reversed: 259 (partial denial)
- 3. Number completely reversed: 108 (full release)

a. number of times each exemption used:

(b)(1) <u> 0 </u>	(b)(6) <u> 63 </u>	(b)(7)(E) <u> 73 </u>
(b)(2) <u> 100 </u>	(b)(7)(A) <u> 33 </u>	(b)(7)(F) <u> 7 </u>
(b)(3) <u> 102 </u>	(b)(7)(B) <u> 0 </u>	(b)(8) <u> 5 </u>
(b)(4) <u> 50 </u>	(b)(7)(C) <u> 145 </u>	(b)(9) <u> 0 </u>
(b)(5) <u> 50 </u>	(b)(7)(D) <u> 30 </u>	

4. Other reasons for non-disclosure (total): 1,415

- a. no records 64
- b. referrals 53
- c. withdrawn 782
- d. fee-related 18
- e. records not reasonably described 9
- f. not a proper request/appeal 446
- g. not an agency record 5
- h. duplicate 2
- i. filed suit prior to appeal response 35
- j. failure to amend scope 1

VII. Compliance with Time Limits/Status of Pending Requests.

A. Median time for processing requests.

1. Simple Requests (if multiple tracks used).

- a. number of requests processed (only 3 bureaus reported data) 7,198
- b. median number of days to process by bureau:
 - DO/Office of Tax Policy 11
 - FMS 19
 - OTS 4

2. Complex Requests (for any and all tracks used).

a. number of requests processed (all bureaus): 38,513

b. median numbers of days to process by bureau:

DO: 237

Regional Complaint Centers: 44

ATF: 10

BEP: 6

BPD: 7

CC: 18*

CS: 39

FLETC: 11

FMS: All requests were Simple requests; see above.

IRS: 22

MINT: 15

OTS: 21

TIGTA: 11

USSS: 76

*This figure represents the “average” and not the median number.

3. Requests accorded expedited processing. Only the Customs Service reported data.

a. number of requests processed: 11

b. median number of days to process: 15

B. Status of pending requests.

The OCC had 0 requests pending, and half of Treasury's bureaus had 15 requests or less pending on Sept. 30, 1999.

1. Number of requests pending at end of FY 99 (all bureaus): 5,057
2. Median number of days that requests were pending:

DO: 874

Office of Tax Policy only: 61

Regional Complaint Centers: 11

ATF: 7

BEP: 6

BPD: 35

CC: 0

CS: 38

FLETC: 9

FMS: 7

IRS: 35

MINT: 97

OTS: Simple Requests: 11; Complex Requests: 28

TIGTA: This bureau was unable to compute data for this section.

USSS: 150

VIII. Comparisons with Previous Years. (Optional)

The Department does not have comparative data to include in this report.

IX. Costs/FOIA Staffing.

A. Staffing levels.

1. Full time FOIA personnel: 64.5
2. Personnel with part-time or occasional FOIA duties
(in total work-years): 116.25 FTE
3. Total personnel (in work years): 180.75 FTE

B. Total costs (staff and resources combined).

1. FOIA processing (including appeals): \$ 10,804,419.13*
2. Litigation-related activities: \$ 1,096,543
3. Total Costs: \$ 11,900,962.13

*Both the U.S. Customs Service and the Internal Revenue Service reported significantly lower FOIA costs this year due to reorganization and better use of resources.

C. Statement of additional resources needed for FOIA compliance:

The Federal Law Enforcement Training Center stated its requirement for another FTE to perform disclosure activities.

X. Fees.

- A. Total fees collected FY 98: \$ 463,684.60
- B. Percentage of total costs: 3.9%

(Fee schedule is pursuant to 31 CFR Part 1, §1.7.)

XI. Treasury Department FOIA Implementing Regulations.

Treasury FOIA regulations are codified at 31 CFR Part 1, Subpart A, and can be obtained by contacting Disclosure Services (see Sec. I of this report) or by accessing the Internet at: www.access.gpo.gov/nara/cfr. Click on "Retrieve CFR Sections by Citation" and enter the Title 31 citation above.

A proposed rule revising the Department's FOIA regulations was published at 64 FR 24454 on May 6, 1999.