

**DEPARTMENT of COMMERCE  
FOIA ANNUAL REPORT FY08**

**I. BASIC INFORMATION REGARDING 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](http://www.osec.doc.gov/omo/FOIA/FOIAWEBSITE)

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

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. § 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 – 5 BIS – 18 OIG - 1	24
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 – 25	26
13 U.S.C. § 9	Information collected by the Bureau of the Census	Baldrige v Shapiro, 455 U.S, 355 (1982)	OS – 1 Census – 60	61

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 – 1	1
26 U.S.C. § 6103	Employer Identification Number	Anderson v DOJ, 95-1880, 1999, U.S. Dist. Lexis 5048 (D.D.C. April 12, 1999)	EDA – 1	1
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 – 4	4
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)	Census - 1 NOAA - 4	5
16 U.S.C. § 1881(a)	Magnuson-Stevens Fishery Conservation and Management Act – pertains to statistical information contained in fishery management plans which has been submitted by fisheries under section 1853(a)(5)	No Case	NOAA -5	5

## 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	16	227	223	20
BIS	2*	67	58	11
Census	6**	194	196	4
EDA	1	64	64	1
ESA	0	9	9	0
ITA	0	111	111	0
MBDA	0	28	28	0
NIST	18****	180	176	22
NOAA	143	605	576	172
NTIA	1	6	7	0
NTIS	1	15	16	0
OIG	4	46	46	4
PTO	13	384	375	22
<b>AGENCY OVERALL</b>	205	1936	1885	256

\* One BIS FOIA request was improperly recorded in the FY 2007 FOIA Log. The request had been withdrawn on 7/26/07. Therefore, there were 2 pending requests (rather than 3 as previously reported) that carried over from 2007 into 2008.

\*\* The Census FY 2007 FOIA report indicated 8 requests pending at the end of FY2007. However, 2 of those requests were Privacy Act requests that in no way utilized the FOIA. Therefore, those 2 requests are not included in the FY 2008 FOIA report numbers.

\*\*\* The National Institute of Standards and Technology FY2007 FOIA report indicated 22 requests pending at the end of FY2007. However, 4 of those requests had been completed in FY2007 and were erroneously reported as pending.

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	45	37	4	98	14	6	9	7	0	0	0	3	223
BIS	19	13	10	8	1	1	6	0	0	0	0	0	58
Census	19	36	58	16	21	8	6	2	4	1	0	25	196
EDA	16	12	0	26	1	8	0	0	0	1	0	0	64
ESA	2	2	0	5	0	0	0	0	0	0	0	0	9
ITA	44	11	3	20	0	5	25	1	1	0	0	1	111

MBDA	28	0	0	0	0	0	0	0	0	0	0	0	28
NIST	23	13	1	9	3	6	9	2	0	102	0	8	176
NOAA	358	91	10	34	5	28	28	0	2	0	14	6	576
NTIA	3	0	0	2	0	0	2	0	0	0	0	0	7
NTIS	6	1	0	4	0	0	0	0	0	0	0	5	16
OIG	3	13	4	2	3	20	0	0	0	0	0	1	46
PTO	88	109	20	51	6	6	30	3	61	1	0	0	375
AGENCY OVERALL	654	338	110	275	54	88	115	15	68	105	14	49	1885

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>
OS	Publicly Available Information 3	3
Census	Publicly Available Information 25	25
ITA	No Address Provided 1	1
NIST	Request Apparently Misdirected. Contacted Requester, No response. 4  Publicly Available Information 4	8
NOAA	Publicly Available Information 6	6
NTIS	Statute Based Price Authority 5	5
OIG	Request Apparently Misdirected. Contacted Requester, No response. 1	1

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	1	4	8	7	15	24	0	0	1	0	0	1	0	0
BIS	2	1	18	2	3	0	1	0	3	1	2	0	1	0
Census	0	6	65	20	5	19	1	0	0	0	1	0	0	0
EDA	0	0	1	2	7	8	0	0	0	0	0	0	0	0
ESA	0	0	0	1	2	1	0	0	0	0	0	0	0	0
ITA	0	0	0	5	4	5	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	1	0	4	3	6	0	0	0	0	0	0	0	0
NOAA	0	6	9	18	62	32	6	1	7	2	2	0	0	0
NTIA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NTIS	0	0	0	0	1	0	0	0	0	0	0	0	0	0
OIG	0	5	1	2	5	6	4	0	6	0	3	0	0	0
PTO	0	36	25	32	17	39	2	0	2	0	0	0	0	0

<b>AGENCY OVERALL</b>	3	59	127	93	124	140	14	1	19	3	8	1	1	0
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**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.*	80	53	46	87
PTO	0	17	17	0
<b>AGENCY OVERALL</b>	80	70	63	87

\* 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.	8	7	5	26	46
PTO	15	0	0	2	17
<b>AGENCY OVERALL</b>	23	7	5	28	63

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.	0	1	0	1	3	1	0	0	0	0	1	0	0	0
PTO	0	2	0	0	3	1	0	0	0	0	0	0	0	0
<b>Agency</b>	0	3	0	1	6	2	0	0	0	0	0	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.	5	0	5	7	0	3	1	2	0	0	0
PTO	7	0	0	2	2	2	0	0	0	0	0
<b>AGENCY OVERALL</b>	12	0	5	9	2	5	1	2	0	0	0

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>
0	0

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.	193	313	45	1275
PTO	12	15	4	20
<b>Agency Overall</b>	100	189	4	1275

C. (5) Ten Oldest Pending Administrative Appeals

AGC/Admin.	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
<b>Date of Receipt of Ten Oldest Appeals</b>	5/9/05	3/22/05	3/11/05	1/14/05	11/16/04	10/12/04	6/18/04	3/30/04	3/22/04	3/17/03
<b>Number of Days Pending</b>	858	887	894	933	972	997	1074	1131	1137	1493
PTO	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
<b>Date of Receipt of Ten Oldest Appeals</b>	0	0	0	0	0	0	0	0	0	0
<b>Number of Days Pending</b>	0	0	0	0	0	0	0	0	0	0
Agency Overall										
<b>Date of Receipt</b>	5/9/05	3/22/05	3/11/05	1/14/05	11/16/04	10/12/04	6/18/04	3/30/04	3/22/04	3/17/03
<b>Number of Days Pending</b>	858	887	894	933	972	997	1074	1131	1137	1493

**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	10	12	1	48	136	151	50	366	0	0	0	0
BIS	9	11	1	31	46	46	19	73	14	14	14	14
Census	16	16	1	97	0	0	0	0	14	14	4	24
EDA	6	4	1	15	16	19	12	58	0	0	0	0
ESA	7	17	1	35	0	0	0	0	0	0	0	0

ITA	42	16	1	64	0	0	0	0	0	0	0	0
MBDA	13	14	8	20	0	0	0	0	0	0	0	0
NIST	33	22	1	466	0	0	0	0	0	0	0	0
NOAA	9	10	1	20	57	55	21	684	8	10	5	22
NTIA	22	18	5	35	0	0	0	0	0	0	0	0
NTIS	11	10	5	14	0	0	0	0	2	1	1	3
OIG	9	43	1	571	0	0	0	0	0	0	0	0
PTO	9	11	1	318	0	0	0	0	20	20	20	20
<b>AGENCY OVERALL</b>	10	13	1	571	69	109	12	684	9	7	1	24

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	18	16	1	48	143	160	56	366	0	0	0	0
BIS	12	13	1	31	0	0	0	0	0	0	0	0
Census	19	24	3	97	0	0	0	0	0	0	0	0
EDA	6	5	1	15	16	19	12	58	0	0	0	0
ESA	12	16	3	35	0	0	0	0	0	0	0	0

ITA	11	13	1	64	0	0	0	0	0	0	0	0
MBDA	13	14	8	20	0	0	0	0	0	0	0	0
NIST	29	48	1	240	0	0	0	0	0	0	0	0
NOAA	9	8	1	20	57	79	21	646	8	10	5	22
NTIA	5	13	5	22	0	0	0	0	0	0	0	0
NTIS	12	11	8	14	0	0	0	0	1	1	1	3
OIG	22	110	4	571	0	0	0	0	0	0	0	0
PTO	11	14	1	318	0	0	0	0	20	20	20	20
<b>AGENCY OVERALL</b>	15	19	1	571	85	125	12	646	5	7	1	22

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	160	25	4	0	0	0	0	0	0	0	0	0	0	189
BIS	48	6	0	0	0	0	0	0	0	0	0	0	0	54
Census	152	29	3	2	2	0	0	0	0	0	0	0	0	188
EDA	53	0	0	0	0	0	0	0	0	0	0	0	0	53
ESA	7	2	0	0	0	0	0	0	0	0	0	0	0	9
ITA	52	21	4	1	0	0	0	0	0	0	0	0	0	78

MBDA	28	0	0	0	0	0	0	0	0	0	0	0	0	28
NIST	133	16	4	9	5	0	1	2	0	1	2	0	1	174
NOAA	274	0	0	0	0	0	0	0	0	0	0	0	0	274
NTIA	3	4	0	0	0	0	0	0	0	0	0	0	0	7
NTIS	11	0	0	0	0	0	0	0	0	0	0	0	0	11
OIG	37	2	1	0	2	0	0	1	0	0	0	2	1	46
PTO	246	17	1	1	1	0	0	0	0	0	0	1	0	267
<b>AGENCY OVERALL</b>	1204	122	17	13	10	0	1	3	0	1	2	3	2	1378

### 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	1	5	4	3	2	2	2	0	7	1	0	27
BIS	1	0	0	1	0	0	0	0	0	0	0	0	0	2
Census	0	0	0	0	0	0	0	0	0	0	0	0	0	0
EDA	11	0	1	0	0	0	0	0	0	0	0	0	0	12
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	0	0	0	0	0	0	0	0	0	0	0	0	0
NOAA	0	72	76	21	24	13	12	7	8	7	22	10	7	279
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>	12	72	78	27	28	16	14	9	10	7	29	11	7	320

**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	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Census	1	1	0	0	0	0	0	0	0	0	0	0	0	2
EDA	0	0	0	0	0	0	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	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	5	2	0	0	0	0	0	0	0	0	0	0	0	7
NTIA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NTIS	5	0	0	0	0	0	0	0	0	0	0	0	0	5
OIG	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PTO	1	0	0	0	0	0	0	0	0	0	0	0	0	1
<b>AGENCY OVERALL</b>	13	3	0	0	0	0	0	0	0	0	0	0	0	16

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	6	15	14	14	147	182	0	0	0
BIS	10	20	24	1	207	207	0	0	0
Census	4	2	7	0	0	0	0	0	0
EDA	0	0	0	1	18	18	0	0	0
ESA	0	0	0	0	0	0	0	0	0
ITA	0	0	0	0	0	0	0	0	0
MBDA	0	0	0	0	0	0	0	0	0
NIST	22	68	198	0	0	0	0	0	0
NOAA	0	0	0	172	231	253	0	0	0

NTIA	0	0	0	0	0	0	0	0	0
NTIS	0	0	0	0	0	0	0	0	0
OIG	3	30	48	0	0	0	1	55	55
PTO	22	3	4	0	0	0	0	0	0
<b>AGENCY OVERALL</b>	67	15	77	188	34	82	1	55	55

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	4/2/08 126	3/24/08 133	3/5/08 145	2/29/08 149	2/6/08 165	2/1/08 168	8/23/07 279	7/30/07 294	5/3/07 355	3/14/07 391
BIS	9/10/08 14	9/10/08 14	9/4/08 18	9/3/08 19	8/28/08 22	8/27/08 23	8/27/08 23	7/18/08 55	7/18/08 55	12/3/07 207
Census	0	0	0	0	0	0	9/30/08 0	9/30/08 0	9/23/08 5	8/22/08 26
EDA	0	0	0	0	0	0	0	0	0	9/5/08 18
ESA	0	0	0	0	0	0	0	0	0	0
ITA	0	0	0	0	0	0	0	0	0	0
MBDA	0	0	0	0	0	0	0	0	0	0
NIST	4/21/08 113	1/9/08 184	10/4/07 248	8/24/07 276	8/8/07 288	3/22/07 385	3/5/07 398	3/24/06 635	1/6/06 688	1/6/06 688
NOAA	4/4/07 366	1/24/07 420	12/8/06 453	10/20/06 487	7/20/06 552	4/26/06 613	4/17/06 618	2/21/06 657	2/6/06 667	1/11/06 684
NTIA	0	0	0	0	0	0	0	0	0	0
NTIS	0	0	0	0	0	0	0	0	0	0
OIG	0	0	0	0	0	0	9/8/08 16	9/2/08 20	7/14/08 55	5/5/08 103

	9/26/08	9/26/08	9/25/08	9/25/08	9/24/08	9/24/08	9/19/08	9/15/08	9/11/08	9/11/08
PTO	2	2	3	3	4	4	7	11	13	13

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
		10/20/06	7/20/06	4/26/06	4/17/06	3/24/06	2/21/06	2/6/06	1/11/06	1/6/06
	487	552	613	618	635	657	667	684	688	688

## 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	1	10	10	1
BIS	1	0	1	1	1
Census	2	0	1	1	2
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	7	1	3	4	7
NTIA	0	3	22	48	1
NTIS	5	0	1	1	5

OIG	1	0	1	1	1
PTO	1	3	7	6	4
<b>AGENCY OVERALL</b>	17	8	5	10	22

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	0	10	10
BIS	1	2	16	34
Census	1	0	1	1
EDA	2	0	1	1
ESA	0	0	0	0
ITA	0	0	0	0
MBDA	0	0	0	0
NIST	0	1	45	45
NOAA	50	5	28	14
NTIA	3	1	22	18

NTIS	3	0	1	1
OIG	0	0	0	0
PTO	2	4	10	11
<b>AGENCY OVERALL</b>	63	13	10	13

**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	0	3	313,642.43*	0	313,642.43
BIS	1	.35	1.35	117,181.00	0	117,181.00
Census	0	3.5	3.5	289,000.00	0	289,000.00
EDA	0	.25	.25	3,005.44	0	3,005.44
ESA	0	.1	.1	1,500.00	0	1,500.00
ITA	.50	0	.50	45,349.00	45,992.38	91,341.38
MBDA	0	2.5	2.5	15,689.50	0	15,689.50
NIST	0	1	1	84,500.00	0	84,500.00

NOAA	2	10	12	216,178.00	0	216,178.00
NTIA	1	0	1	175,000.00	46,275.88	221,275.88
NTIS	0	.05	.05	10,000.00	1,000.00	11,000.00
OIG	0	1.05	1.05	152,004.00	0	152,004.00
PTO	3	0	3	250,000.00**	27,541.48	277,541.48
<b>AGENCY OVERALL</b>	10.5	18.8	29.3	1,673,049.37	120,809.74	1,793,859.11

\*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	243.36	.08%
BIS	2,851.53	.02%
Census	465.00	.001%
EDA	1,439.23	47.9%
ESA	0	0
ITA	1,922.00	4.21%
MBDA	0	0
NIST	24,165.78	28%
NOAA	49,067.05	23%
NTIA	0	0
NTIS	0	0
OIG	0	0

PTO	9,816.77	3.9%
<b>AGENCY OVERALL</b>	89,970.72	.05%

## 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	15	15*
BIS	6	6*
Census	1	5*
EDA	0	0*
ESA	0	1*
ITA	0	7*
MBDA	0	0*

NIST	17	9*
NOAA	102	42*
NTIA	0	2*
NTIS	0	0*
OIG	2	0*
PTO	0	0
<b>AGENCY OVERALL</b>	143	87

\* 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 Your Agency 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 Your Agency During the Fiscal Year	Number of Consultations Received from Other Agencies that Were <u>Pending</u> at Your Agency as of <u>End</u> of the Fiscal Year
OS	0	2	2	0
BIS	0	18	13	5
Census	0	0	0	0
EDA	0	0	0	0
ESA	0	0	0	0
ITA	0	19	19	0
MBDA	0	0	0	0
NIST	0	3	3	0
NOAA	0	0	0	0
NTIA	0	1	1	0
NTIS	0	1	1	0
OIG	0	0	0	0
PTO	0	20	20	0

<b>AGENCY OVERALL</b>	0	64	59	5
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C. Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency

	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	0	0	0	0	0	0	0	0	0	0
BIS	0	0	0	0	0	8/28/08 22	8/27/08 23	8/27/08 23	7/18/08 55	7/18/08 55
Census	0	0	0	0	0	0	0	0	0	0
EDA	0	0	0	0	0	0	0	0	0	0
ESA	0	0	0	0	0	0	0	0	0	0
ITA	0	0	0	0	0	0	0	0	0	0
MBDA	0	0	0	0	0	0	0	0	0	0
NIST	0	0	0	0	0	0	0	0	0	0

NOAA	0	0	0	0	0	0	0	0	0	0
NTIA	0	0	0	0	0	0	0	0	0	0
NTIS	0	0	0	0	0	0	0	0	0	0
OIG	0	0	0	0	0	0	0	0	0	0
PTO	0	0	0	0	0	0	0	0	0	0

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						8/28/08	8/27/08	8/27/08	7/18/08
Number of Days		0	0	0	0	22	23	23	55	55

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	243	227	229	223
BIS	60	67	60	58
Census	222	194	225	196
EDA	28	64	31	64
ESA	6	9	6	9
ITA	124	111	126	111
MBDA	7	28	7	28
NIST	121	180	116	176
NOAA	560	605	668	576
NTIA	34	6	34	7

NTIS	16	15	15	16
OIG	48	46	46	46
PTO	381	384	384	375
<b>AGENCY OVERALL</b>	1850*	1936	1947*	1885

\* The agency overall number of FOIA requests received on the FY 2007 FOIA Annual report was 1852 and agency overall processed was 1949. Two FOIA requests were received and processed by the Technology Administration in FY2007, which are not recorded on this chart. The Technology Administration was abolished in FY2007 and the remaining functions were incorporated into NIST and ITA.

	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	14	15
BIS	1	6
Census	1	1
EDA	0	0
ESA	0	0
ITA	0	0

MBDA	0	0
NIST	15	17
NOAA	143	102
NTIA	0	0
NTIS	1	0
OIG	4	2
PTO	1	0
<b>AGENCY OVERALL</b>	<b>180</b>	<b>143</b>

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.	38	53	37	46
PTO	22	17	22	17
<b>AGENCY OVERALL</b>	60	70	59	63

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.	80	87
PTO	0	0
<b>AGENCY OVERALL</b>	80	87