

# **FREEDOM OF INFORMATION ACT (FOIA) ANNUAL REPORT**

**Fiscal Year 2007**

## **AMERICAN BATTLE MONUMENTS COMMISSION**

### **I. Basic Information Regarding Report**

#### **A. Name, title, address, and telephone number of person(s) to contact with questions about the report.**

Martha Sell  
American Battle Monuments Commission  
2300 Clarendon Blvd, Suite 500  
Arlington, Virginia 22201  
Telephone: 703-696-6897

Michael G. Conley  
American Battle Monuments Commission  
2300 Clarendon Blvd, Suite 500  
Arlington, Virginia 22201  
Telephone: 703-696-6778

#### **B. Electronic address for report on the World Wide Web.**

[www.abmc.gov](http://www.abmc.gov)

#### **C. How to obtain a copy of the report in paper form.**

Contact Ms. Sell or Mr. Conley at the address or telephone numbers listed above.

### **II. How to Make a FOIA Request**

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

Martha R. Sell  
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2300 Clarendon Blvd, Suite 500  
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**2. Brief description of the agency's response time ranges.**

Average processing time in FY 07 was 12 days.

**3. Brief description of why some requests are not granted.**

N/A – no records were denied during FY 07.

**III. Definition of Terms and Acronyms Used in the Report**

**A. Agency-specific acronyms or other terms.**

None

**B. Basic terms, expressed in common terminology.**

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 the requester; 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 (non-expedited) 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 entirety, 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**

##### **List of Exemption 3 statutes relied on by agency during current fiscal year.**

##### **A. Brief description of type(s) of information withheld under each statute.**

No Exemption 3 statutes were used as a basis for denying information in FY 07.

##### **B. Statement of whether a court has upheld the use of each statute. If so, then cite example.**

N/A

## **V. Initial FOIA/PA Access Reports**

### **A. Number of initial requests.**

1. Number of requests pending as of end of preceding fiscal year:   0
2. Number of requests received during current fiscal year:  16
3. Number of requests processed during current fiscal year:  16
4. Number of requests pending as of end of current fiscal year:  0

### **B. Disposition of initial requests.**

1. Number of total grants:  16
2. Number of partial grants:  0
3. Number of denials:  0

### **C. Number of times each FOIA exemption used** (counting each exemption once per request).

1. Exemption 1:  0
2. Exemption 2:  0
3. Exemption 3:  0
4. Exemption 4:  0
5. Exemption 5:  0
6. Exemption 6:  0
7. Exemption 7(A):  0
8. Exemption 7(B):  0
9. Exemption 7(C):  0
10. Exemption 7(D):  0
11. Exemption 7(E):  0
12. Exemption 7(F):  0
13. Exemption 8:  0

14. Exemption 9: \_\_0\_\_

**D. Other reasons for nondisclosure (total): \_\_0\_\_**

1. No records: \_\_0\_\_

2. Referrals: \_\_0\_\_

3. Request withdrawn: \_\_0\_\_

4. Fee-related reason: \_\_0\_\_

5. Records not reasonably described: \_\_0\_\_

6. Not a proper request for some other reasons: \_\_0\_\_

7. Not an agency record: \_\_0\_\_

8. Duplicate request: \_\_0\_\_

9. Other: \_\_0\_\_

**VI. Appeals of Initial Denials of FOIA/PA Requests**

**A. Number of appeals.**

1. Number of appeals received during fiscal year: \_\_0\_\_

2. Number of appeals processed during fiscal year: \_\_0\_\_

**B. Disposition of appeals.**

1. Number completely upheld: \_\_N/A\_\_

2. Number partially reversed: \_\_N/A\_\_

3. Number completely reversed: \_\_N/A\_\_

**C. Number of times each FOIA exemption used (counting each exemption once per appeal).**

1. Exemption 1: \_\_0\_\_

2. Exemption 2: \_\_0\_\_

3. Exemption 3: \_\_0\_\_

4. Exemption 4: \_\_0\_\_

5. Exemption 5: \_\_0\_\_

6. Exemption 6: \_\_0\_\_

7. Exemption 7(A): \_\_0\_\_

8. Exemption 7(B): \_\_0\_\_

9. Exemption 7(C): \_\_0\_\_

10. Exemption 7(D): \_\_0\_\_

11. Exemption 7(E): \_\_0\_\_

12. Exemption 7(F): \_\_0\_\_

13. Exemption 8: \_\_0\_\_

14. Exemption 9: \_\_0\_\_

**D. Other reasons for nondisclosure (total): \_\_0\_\_**

1. No records: \_\_0\_\_

2. Referrals: \_\_0\_\_

3. Request withdrawn: \_\_0\_\_

4. Fee-related reasons: \_\_0\_\_

5. Records not reasonably described: \_\_0\_\_

6. Not a proper FOIA request for some other reason: \_\_0\_\_

7. Not an agency record: \_\_0\_\_

8. Duplicate request: \_\_0\_\_

8. Other: \_\_0\_\_

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

### **A. Median processing time for requests processed during the year.**

1. Simple requests (if multiple tracks used).
  - a. Number of requests:   16
  - b. Median number of days to process:   11
2. Complex requests (specify for any and all tracks used).
  - a. Number of requests processed:   0
  - b. Median numbers of days to process:   N/A
3. Requests accorded expedited processing.
  - a. Number of requests processed:   0
  - b. Median number of days to process:   N/A

**B. Status of pending requests.**

1. Number of requests pending as of end of current fiscal year:   0
2. Median number of days that such requests were pending as of that date:   N/A

**VIII. Expedited processing.**

**Number of requests accorded expedited processing.**

1. Number received:   0
2. Number granted:   N/A

**IX. Costs/FOIA Staffing.**

**A. FOIA Personnel.**

1. Number of full-time FOIA personnel:   0
2. Number of personnel with part-time or occasional FOIA duties (in total work-years):
  - Unknown; not calculated separately by agency
3. Total number of personnel (in work years):
  - Unknown; not calculated separately by agency

**B. Total costs (including staff and all resources).**

1. FOIA processing (including appeals):
  - Unknown; not separately calculated by agency

2. Litigation-relation activities (estimated): \_\_N/A\_\_
3. Total costs:
  - Unknown; not separately calculated by agency
4. (Optional) Comparison with previous year(s) (including percentage of change):
  - Unknown; not separately calculated by agency
5. (Optional) Statement of additional resources needed for FOIA compliance: \_\_N/A\_\_

## **X. Fees**

Total amount of fees collected by agency for processing requests: \_\_\$105.00\_\_

Percentage of total costs:

- Unknown; not separately calculated by agency

## **XI. FOIA Regulations (Including Fee Schedule)**

Commission regulations appear at CFR 36 Part 404 and at [www.abmc.gov](http://www.abmc.gov)

## **XII. REPORT ON EXECUTIVE ORDER 13,392 IMPLEMENTATION.**

On December 14, 2005, the President issued Executive Order 13,392, entitled "Improving Agency Disclosure of Information," which established a "citizen-centered" and "results-oriented" approach to administration of the Freedom of Information Act. The Executive Order required each agency to conduct a review of its FOIA operations, to develop an agency-specific plan to improve its administration of the Act, and to include in its annual FOIA report a description of its progress in meeting the milestones and goals established in its improvement plan.

This section of the annual FOIA report contains the American Battle Monuments Commission's description of its progress in implementing the milestones and goals of the Department's FOIA Improvement Plan, including highlights of each component's achievements.

The reporting period for Section XII is different from that used for the rest of this report, which is based on data compiled for Fiscal Year 2007. The reporting period for this section concerning Executive Order implementation activities includes progress made by components through December 31, 2007.

### **A. Description of supplementation/modification of agency improvement plan.**

The agency FOIA Improvement Plan was not supplemented or modified during Fiscal Year 2007.



**B. Report on agency implementation of its plan, including its performance in meeting milestones, with respect to each improvement area.**

During 2007, the agency completed one improvement goal; met the projected milestones of a second goal; partially completed the milestones of a third goal; and did not meet the milestone of a fourth goal. Both of the milestones reported as deficient in from 2006 were completed in 2007 as projected.

**Affirmative Disclosure:** The 2007 milestones were met; this remains an ongoing effort within the agency.

**Proactive Disclosure:** The 2006 deficient milestone of placing the Corozal American Cemetery burial database onto the agency Web site was met in 2007 as projected in the agency's July 2007 Update Status Report. Additionally, names of the Korean War and Vietnam War Missing in Action were loaded onto the agency Web site as projected. One 2007 milestone—posting on the agency Web site the database of Medal of Honor recipients buried in ABMC cemeteries or memorialized on Tablets of the Missing—was not met.

**Reference Guide:** The 2006 deficient milestone of publishing a FOIA Reference Guide was completed in 2007.

**Training:** The 2007 milestone—scheduling agency FOIA personnel to attend formal FOIA training courses—was not met.

**C. Identification and discussion of any deficiency in meeting plan milestones.**

**Deficiency**

1. Proactive Disclosure
2. Create and load database of Medal of Honor recipients buried in ABMC cemeteries or memorialized on Tablets of the Missing – June 30, 2007.
3. The list of Medal of Honor recipients buried in ABMC cemeteries or memorialized on Tablets of the Missing was compiled by the target date, but other work priorities prevented the database from being formatted and designed for loading onto the agency Web site.
4. The list of Medal of Honor recipients buried in ABMC cemeteries or memorialized on Tablets of the Missing will be formatted and forwarded to the agency Webmaster by March 31, 2008 for design and loading on the agency Web site. This milestone will be completed by June 30, 2008.

**Deficiency**

1. Training

2. Schedule and attend courses determined to be appropriate to the scope of the ABMC FOIA program – June 30, 2007.
3. Agency FOIA personnel have attended Department of Justice training sessions, but have not had formal course training. One formal course was scheduled for the FOIA Officer, but was cancelled for medical reasons. A list of 2008 FOIA classes offered by the Department of Agriculture Graduate School was obtained in October 2007.
4. The agency FOIA Officer and FOIA Assistant will be scheduled to attend classes at the Department of Agriculture Graduate School. This milestone will be completed by June 30, 2008.

**D. Additional narrative statement regarding other executive order-related activities.** N/A

**E. Concise descriptions of FOIA exemptions.** N/A

**F. Additional Statistics**

1. Ten Oldest Pending FOIA Requests

Calendar Year	2000	2001	2002	2003	2004	2005	2006	2007
Requests	0	0	0	0	0	0	0	0

2. Consultations

a. Number of Consultations Received, Processed and Pending

Consultations received from other agencies during FY 07	Consultations received from other agencies that were processed in FY 07 (includes those received prior to FY 07)	Consultations received from other agencies that were pending on 1 Oct 07 (includes those received prior to FY 07)
0	0	0

b. Ten Oldest Pending Consultations Received from Other Agencies

Calendar Year	1999	2000	2001	2002	2003	2004	2005	2006	2007
Consults Received	0	0	0	0	0	0	0	0	0

**G. Attachment: Agency Improvement Plan**

**American Battle Monuments Commission**  
**Freedom of Information Act Improvement Plan**  
**June 2006**

**A. Nature of ABMC FOIA Operations**

- The American Battle Monuments Commission is a small independent agency of the federal government responsible for the maintenance and operation of America's overseas commemorative military cemeteries and memorials.
- Information and databases relevant to ABMC commemorative sites is available through the agency Web site at [www.abmc.gov](http://www.abmc.gov). The agency also responds annually to thousands of written, telephonic and email requests for general information, no-fee passport authorizations, certificates, photos and lithographs that are received outside the formal Freedom of Information Act program.
- The agency received fewer than 10 FOIA requests each of the last three years.

**B. Areas Selected for Review**

- Affirmative disclosure
- Proactive disclosure
- Reference Guide
- Electronic processing
- Acknowledgments
- Training
- Centralization / decentralization

**C. Review Results**

- ABMC FOIA program officials considered the 27 potential improvement areas listed in Executive Order 13392 Implementation Guidance. Twenty of the potential improvements areas were determined to be acceptable in current practice based on performance evaluation or not warranted for review by the small number of requests the agency receives.
- Of the seven areas selected for closer review, three—electronic processing, acknowledgments, and centralization/decentralization—also were determined to be acceptable or not warranted.

**D. Areas Selected for Improvement**

- Affirmative disclosure
- Proactive disclosure
- Reference Guide
- Training

## E. Improvement Area Details

### ▪ **Affirmative Disclosure**

- Objective: Evaluate additional agency records and documents to determine those which should be placed on the agency Web site for direct public access.
- Steps:
  1. Survey staff directorates for applicable records and documents
  2. Scan applicable records and documents as PDF files
  3. Place records and documents on FOIA pages of agency Web site
- Milestones:
  - Step 1 – December 31, 2006
  - Step 2 – March 31, 2007
  - Step 3 – June 30, 2007
  - Step 4 – Ongoing review and posting of agency records and documents
- Means of Measurement:
  - Assessment of Step completion by Milestone dates
  - Annual review of records and documents created during the previous year

### ▪ **Proactive Disclosure**

- Objective: Add to the Web site searchable databases of burials at Corozal American Cemetery; names of the missing from the Korean and Vietnam Wars listed on the Honolulu Memorial; and Medal of Honor recipients buried in ABMC cemeteries or memorialized on Tablets of the Missing.
- Steps:
  1. Create and load database of Corozal American Cemetery burials
  2. Create and load database of names of the missing from the Korean and Vietnam Wars listed on the Honolulu Memorial
  3. Create and load database of Medal of Honor recipients buried in ABMC cemeteries or memorialized on Tablets of the Missing
- Milestones:
  - Step 1 – December 31, 2006
  - Step 2 – March 31, 2007
  - Step 3 – June 30, 2007
- Means of Measurement: Assessment of Step completion by Milestone dates

### ▪ **Reference Guide**

- Objective: Write and post on agency Web site a FOIA Reference Guide to increase public awareness of FOIA processing.

- Steps:
  1. Benchmark other federal agency examples of FOIA Reference Guides
  2. Write a FOIA Reference Guide tailored to the scope of the ABMC FOIA program and incorporating best practices of other agencies
  3. Publish the Reference Guide for distribution to the public and post it to the agency Web site
  
- Milestones:
  - Step 1 – July 31, 2006
  - Step 2 – September 30, 2006
  - Step 3 – December 31, 2006
  
- Means of Measurement:
  - Assessment of Step completion by Milestone dates
  - Annual review of Reference Guide for currency
  
- **Training**
  - Objective: Obtain appropriate FOIA training for the agency's Chief FOIA Officer and FOIA Public Liaison.
  
  - Steps:
    1. Research availability of appropriate government-wide FOIA courses
    2. Schedule and attend courses determined to be appropriate to the scope of the ABMC FOIA program
  
  - Milestones:
    - Step 1 – September 30, 2006
    - Step 2 – June 30, 2007
  
  - Means of Measurement:
    - Assessment of Step completion by Milestone dates
    - Annual review of training requirements

## **F. Estimated Completion Dates**

- **Areas to be completed by December 31, 2006**
  - Reference Guide
  - Proactive disclosure (partial)
  
- **Areas to be completed by December 31, 2007**
  - Affirmative disclosure
  - Proactive disclosure
  - Training
  
- **Areas to be completed after December 31, 2007**
  - None – some annual reviews and adjustments will be ongoing