

**FEDERAL MEDIATION AND CONCILIATION SERVICE  
FISCAL YEAR 2007 FOIA REPORT**

I. Basic Information Regarding Report

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

Mery Skolochenko  
Program Assistant  
Federal Mediation and Conciliation Service  
2100 K Street, N.W.  
Washington, D.C. 20427  
Telephone No. (202) 606-5444

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

<http://www.fmcs.gov/internet/categoryList.asp?categoryID=252>

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

Send a written request to:

Federal Mediation and Conciliation Service  
Office of the General Counsel  
2100 K Street, N.W.  
Washington, D.C. 20427

II. How to Make a FOIA Request

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

FOIA requests should be sent to: Federal Mediation and Conciliation Service, Office of the General Counsel, 2100 K Street, N.W., Washington, D.C., 20427. The telephone number for the Office of General Counsel is (202) 606-5444. The formal rules for the making of FOIA requests to the Federal Mediation and Conciliation Service are set forth in Chapter 12 of Volume 29 of the Code of Federal Regulations. This multiple-volume set is available in all law libraries and federal depository libraries. These regulations also can be accessed at: <http://www.fmcs.gov/internet/categoryList.asp?categoryID=252> on the World Wide Web.

B. Brief description of the agency's response-time ranges.

Under the FOIA, all federal agencies are required to respond to a FOIA request within twenty business days, excluding Saturdays, Sundays, and legal holidays. This period does not begin until the request is actually received by the FOIA office of the component that maintains the records sought. An agency is not required to send out the releasable documents by the last business day; it can send you a letter informing you of its decision and then send out the documents within a reasonable time afterward.

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

The FOIA provides access to all federal agency records (or portions of those records), except for those records that are withheld under any of nine exemptions or three exclusions (reasons for which an agency may withhold records from a requester). The exemptions authorize federal agencies to withhold information covering: (1) classified national defense and foreign relations information; (2) internal agency rules and practices; (3) information that is prohibited from disclosure by another federal law; (4) trade secrets and other confidential business information; (5) inter-agency or intra-agency communications that are protected by legal privileges; (6) information involving matters of personal privacy; (7) certain types of information compiled for law enforcement purposes; (8) information relating to the supervision of financial institutions; and (9) geological information on wells. The three exclusions, which are rarely used, pertain to especially sensitive law enforcement and national security matters.

### III. Definitions of Terms and Acronyms Used in the Report

A. Agency-specific acronyms or other terms.

1. FMCS --Federal Mediation and Conciliation Service.

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. 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 (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

Not applicable.

#### V. Initial FOIA/PA Access Requests

##### A. Numbers of initial requests.

1. Number of requests pending as of end of preceding fiscal year  
1

2. Number of requests received during current fiscal year  
91

3. Number of requests processed during current fiscal year  
91

4. Number of requests pending as of end of current fiscal year  
1

(Enter this number also in Line VII.B.1.)

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

1. Number of total grants 62

2. Number of partial grants 2

3. Number of denials 0

a. 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 1

(5) Exemption 5 1

(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

4. Other reasons for nondisclosure (total) 27

a. no records 23

b. referrals 1

c. request withdrawn 1

d. fee-related reason 0

e. records not reasonably described 0

f. not a proper FOIA request for some other reason  
0

g. not an agency record 2

h. duplicate request 0

i. other (specify) 0

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

- This should include all access requests, whether first-party or third-party.
- Both large and small agencies should provide information in the format presented below.
- Agencies may additionally use chart format for breakdown by multiple agency components.

### A. Numbers of appeals.

1. Number of appeals received during fiscal year  
2

2. Number of appeals processed during fiscal year  
2

### B. Disposition of appeals.

1. Number completely upheld 0

2. Number partially reversed 1

3. Number completely reversed 0

a. 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   1  

(5) Exemption 5   1  

(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  

4. Other reasons for nondisclosure (total)   1  

a. no records   1  

b. referrals   0  

c. request withdrawn   0  

d. fee-related reason   0  

e. records not reasonably described   0  

f. not a proper FOIA request for some other reason  
  0  

g. not an agency record   0  

h. duplicate request   0  

i. other (specify)   0

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

- If an agency believes that "average time" is a better measure of its performance, it should include that as well.
- For decentralized agencies, calculating an agency-wide median may be difficult; a reasonable estimate may be used instead.
- Both large and small agencies should provide information in the format presented below.
- Agencies may additionally use chart format for breakdown by multiple agency components.
- Agencies should count days from the time at which a request is "perfected."
- Agencies should separately report each track of a multi-track system, as well as an "expedited processing" track, and may report any other type of request at their option.
- Example for calculation of median: Given 7 requests completed during the fiscal year, aged 10, 25, 35, 65, 75, 80, and 400 days from date of perfection to date of completion, the total number of requests completed during the fiscal year would be 7 and the median age of the completed requests would be 65 days.
- Example for calculation of median: If there were 6 pending cases aged 10, 20, 30, 50, 120, and 200 days from date of perfection to date of completion, the total number of requests completed would be 6 and the median age would be 40 days (the average of the 2 middle numbers).

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

#### 1. Simple requests (if multiple tracks used).

a. number of requests processed \_\_\_\_\_

b. median number of days to process \_\_\_\_\_

#### 2. Complex requests (specify for any and all tracks used).

a. number of requests processed 85

b. median number of days to process 8



3. Requests accorded expedited processing.

a. number of requests processed 6

b. median number of days to process 1

B. Status of pending requests.

- Agencies using multiple tracks may provide numbers for each track, as well as totals.

1. Number of requests pending as of end of current fiscal year  
1

(Enter this number from Line V.A.4.)

2. Median number of days that such requests were pending as of that date 8

VIII. Comparisons with Previous Year(s) (Optional)

- Agencies should state comparisons both in total numbers and in percentage of change.
- Note that the agency's annual report for 1997 covers a partial calendar year.

A. Comparison of numbers of requests received \_\_\_\_\_

B. Comparison of numbers of requests processed \_\_\_\_\_

C. Comparison of median numbers of days requests were pending as of end of fiscal year \_\_\_\_\_

D. Other statistics significant to agency \_\_\_\_\_

E. Other narrative statements describing agency efforts to improve timeliness of FOIA performance and to make records available to the public (e.g., backlog-reduction efforts; specification of average number of hours per processed request; training activities; public availability of new categories of records)  
\_\_\_\_\_

IX. Costs/FOIA Staffing

- Both large and small agencies should provide information in the format presented below.
- Agencies may additionally use chart format for breakdown by multiple agency components.

A. Staffing levels.

1. Number of full-time FOIA personnel   0
2. Number of personnel with part-time or occasional FOIA duties (in total work-years)   0.45
3. Total number of personnel (in work-years)   0.45

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

1. FOIA processing (including appeals)  \$39,000
2. Litigation-related activities (estimated)   0
3. Total costs  \$39,000
4. Comparison with previous year(s) (including percentage of change) (optional) \_\_\_\_\_

C. Statement of additional resources needed for FOIA compliance (optional)

\_\_\_\_\_

X. Fees

- This includes charges for search, review, document duplication, and any other direct costs permitted under agency regulations.

A. Total amount of fees collected by agency for processing requests  
 \$445.90 

B. Percentage of total costs   1.1%

## XI. FOIA Regulations (Including Fee Schedule)

FMCS's regulations can be accessed at:

<http://www.fmcs.gov/internet/categoryList.asp?categoryID=252>. A copy of the regulations is attached.

## XII. Report on Executive Order 13,392 Implementation

This section of the annual FOIA report contains the Federal Mediation and Conciliation Service description of its progress in implementing the milestones and goals of the Service FOIA Improvement Plan for FY 2007 and through January 15, 2008.

### A. Description of supplementation/modification of agency improvement plan (if applicable).

Not applicable.

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

1. **Milestones completed:** Revise Agency web page by establishing new Reading Room to reduce the number and types of FOIA requests and facilitate access to a wide variety of FOIA – requested/related documents including FOIA and Agency Annual Reports, F-7 Notices, FAQ's, regulations, work stoppages reports, mission statements, strategic plans and Congressional submissions; establish and post FOIA requestor center.
2. **Milestone completed:** Develop and post Reading Room voluntary, anonymous customer satisfaction feedback form and monitor thereafter.
3. **Milestone substantially completed:** Revise FOIA Regulations pertaining to fees and publish in Federal Register (awaiting approval by OMB); develop and post in Reading Room.
4. **Milestone completed:** Train Agency personnel in FOIA requirements; develop FOIA processing checklist.
5. **Milestone substantially completed:** Revise current fee assessment and incorporate into Agency FOIA regulations; revised fees have been published as proposed rule revisions in the Federal Register and are awaiting OMB approval.

### C. Identification and discussion of any deficiency in meeting plan milestones (if applicable)

1. FOIA Improvement Plan area to which the deficient milestones relates.

Revised FOIA regulations related to fees.

2. Deficient milestone and the original target date from the FOIA Improvement Plan.

Implement and post on FMCS website by October 30, 2007 revised FOIA regulations related to fees.

3. Steps taken to correct the deficiency and the dates by which the steps were completed.

Sixty day (August 3, 2007) and Thirty day (November 5, 2007) notices of proposed revisions to FOIA rules regarding fees published in the Federal Register.

4. Future remedial steps and the dates by which the steps will be completed.

Revisions to FOIA rules regarding fees currently pending before OMB for approval. Anticipated action by OMB prior to October 1, 2008. Implementation and posting of proposed FOIA rules to follow within 60 days of OMB approval.

D. Additional narrative statements regarding other executive order-related activities (optional).

Not applicable.

E. Concise descriptions of FOIA exemptions.

FMCS has relied upon the mediation privilege recognized under Exemptions 4 and 5 to withhold all written and oral confidential communications made in connection with or during a mediation conducted by a neutral Agency mediator.

F. Additional Statistics.

1. Ten Oldest Pending FOIA Requests

Using the template provided below, please list in the appropriate column labeled by year, each of your ten oldest pending requests as of January 1, 2008. Please list the requests by the date it was received by your agency. (An illustrative example is provided in the template.)

Calendar Year	2000	2001	2002	2003	2004	2005	2006	2007
Requests	0	0	0	0	0	0	0	None

2. Consultations

a.) Number of Consultations Received, Processed, and Pending

Please provide the number of consultations received, processed, and currently pending, in the appropriate column below. (An illustrative example is provided in the template.)

Consultations Received From Other Agencies During FY07	Consultations Received From Other Agencies That Were Processed by Your Agency During FY07 (includes those received prior to FY07)	Consultations Received From Other Agencies That Were Pending at Your Agency as of October 1, 2007 (includes those received prior to FY07)
0	0	0

b.) Ten Oldest Pending Consultations Received From Other Agencies

Using the template provided below, please list in the appropriate column labeled by year, each of your ten oldest pending consultations received from other agencies as of January 1, 2008. Please list the consultations by the date it was received by your agency. (An example is provided in the template.)

Calendar Year	1999	2000	2001	2002	2003	2004	2005	2006	2007
Consults Received	0	0	0	0	0	0	0	0	None

G. Attach a copy of the current version of your agency's FOIA Improvement Plan.

A copy of the current plan is attached.

## ANNUAL REPORT SUBMISSION PROCEDURE

Agencies should prepare their annual FOIA reports in this format beginning with their annual reports covering the period October 1, 1997 to September 30, 1998. Congress changed the annual reporting period from a calendar year to a fiscal year as of fiscal year 1998 -- which leaves a nine-month reporting period for calendar year 1997 reports to Congress under the old timetable and reporting requirements. *See FOIA Update*, Winter 1997, at 6 (advising that new reporting requirements and timetable apply to neither 1996 nor 1997 annual reports).

Under the Electronic FOIA amendments, agencies are given four months to prepare their annual reports after the conclusion of each fiscal year. The amendments provide that by February 1 of each year (beginning February 1, 1999), each agency must complete its annual FOIA report and submit it to the Department of Justice. *See* 5 U.S.C. § 552(e)(1). The Department of Justice, in turn, will make all annual reports available "at a single electronic access point" and notify Congress that this is done. 5 U.S.C. § 552(e)(3). The statute strongly compels all agencies to make their annual reports available to the public electronically, through placement on their own World Wide Web sites. *See* 5 U.S.C. § 552(e)(2); *see also* H.R. Rep. No. 104-795, at 28 (1996). To facilitate this process, each agency should simply send a copy of its annual report to the Office of Information and Privacy by no later than February 1 of each year, with an indication of its location on the World Wide Web. (Any agency unable to do so should contact OIP in advance.) The Department of Justice will establish and maintain a World Wide Web site devoted to the compilation of all annual FOIA reports as of February 1999.