



U.S. DEPARTMENT OF THE TREASURY

FREEDOM OF INFORMATION ACT

ANNUAL REPORT TO THE ATTORNEY GENERAL

FOR FISCAL YEAR 2005

Disclosure Services

February 1, 2006

# **DEPARTMENT OF THE TREASURY**

The Departmental Offices (DO)

Alcohol and Tobacco Tax and Trade Bureau (TTB)

Office of the Comptroller of the Currency (OCC)

Bureau of Engraving and Printing (BEP)

Financial Management Service (FMS)

Internal Revenue Service (IRS)

United States Mint (MINT)

Bureau of the Public Debt (BPD)

Office of Thrift Supervision (OTS)

Treasury Inspector General for Tax Administration (TIGTA)

Financial Crimes Enforcement Network (FinCEN)



U.S. DEPARTMENT OF THE TREASURY  
FREEDOM OF INFORMATION ACT ANNUAL REPORT  
FOR FISCAL YEAR 2005

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I. BASIC INFORMATION REGARDING REPORT.

This is the Fiscal Year 2005 FOIA Report for the Department of the Treasury. For purposes of administering the FOIA, the Department is divided into 10 bureaus. Each bureau is responsible for those records under its control, and each bureau will post its report on its own web site. Disclosure Services prepared the report in collaboration with the bureau FOIA Officers.

**Questions about the report may be directed to:**

Dale Underwood, Acting Departmental Disclosure Officer

Disclosure Services

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

Address:

FOIA Request

Disclosure Services

Department of the Treasury

Washington, DC 20220

**Treasury Department FOIA Home Page:** [www.treas.gov/foia/](http://www.treas.gov/foia/)

Paper copies of this report may be obtained by contacting Disclosure Services or by downloading from the Treasury FOIA website at:

<http://www.treas.gov/foia/reports/index.html>, “FY 2005 FOIA Report to the Attorney General.”

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

The Department of the Treasury’s Guide to Accessing Treasury Records is available at [www.treas.gov/foia/](http://www.treas.gov/foia/), or by contacting Disclosure Services, as described above.

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

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

For a breakdown of each bureau's response times, see Section VII of this report, "Compliance with Time Limits/Status of Pending Requests."

## 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) protecting personal privacy; (2) deliberative process privilege; (3) the records reflected the internal practices involved in investigations or inspections; (4) the records contained confidential taxpayer information and other statutorily protected information; and (5) the records contained contractor confidential and proprietary commercial information. Others: records did not exist; procedural requirements were not followed.

## III. Definition of Terms.

### A. Agency-specific:

BEP	Bureau of Engraving and Printing
BPD	Bureau of the Public Debt
DO	Departmental Offices
FinCEN	Financial Crimes Enforcement Network
FMS	Financial Management Service
IRS	Internal Revenue Service
MINT	United States Mint
OCC	Office of the Comptroller of the Currency
OTS	Office of Thrift Supervision
TIGTA	Treasury Inspector General (Tax Administration)
TTB	Alcohol and Tobacco Tax and Trade Bureau

### 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 (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 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.

STATUTE	TYPE OF INFORMATION	UPHELD BY COURTS
5 U.S.C. 7114	Delineates the rights and duties of a labor organization which is the exclusive representative of the employees in the unit it represents.	<i>Dublin v. Dept. of the Treasury</i> , 555 F. Supp. 408, 412 (N.D. Ga. 1981), <i>aff'd</i> , 697 F.2d 1093 (unpublished table decision); <i>NTEU v. OPM</i> , No. 76-695, slip op at 49 (D.D.C. July 9, 1979)
41 U.S.C. 253b(m)	Technical proposals not incorporated into contracts.	<i>Hornbostel v. Dept. of the Interior</i> , 305 F. Supp. 2d 21 (D.D.C. 2003)
18 U.S.C. 701	Official Badges, identification cards. Prohibits the reproduction of official identification media. Used to withhold copies of the IRS employee identification badges and pocket commissions.	Not litigated
26 U.S.C. 6103	Confidentiality of Returns and Return Information: Prohibits the disclosure of (1) tax returns and return information of 3 <sup>rd</sup> party taxpayers (section 6103(a)); (2) the standards used for selection of returns for examination (section 6103(b)(2)) ; and (3) a requester's own return information if the release would seriously impair federal tax administration (section 6103(e)(7)).	<i>Church of Scientology v. IRS</i> , 484 U.S. 9 (1987); <i>Aronson v. IRS</i> , 973 F.2d 962 (1 <sup>st</sup> Cir. 1992); <i>Stebbins v. Sullivan</i> , No. 90-5361, slip op. at 1 (D.C. Cir. July 22, 1992); <i>Wishart v. Commissioner</i> , C-97-20614-SW (N.D. Cal., decided August 6, 1998); <i>Gillin v. IRS</i> , No. 90-31 (D.N.H. Apr. 15, 1991), <i>aff'd</i> , 980 F.2d 819 (1 <sup>st</sup> Cir. 1992); <i>Casa Investors, Ltd. V. Gibbs</i> , No. 88-2485, 1990 WL 180703 (D.D.C. Oct. 11, 1990); <i>Chamberlain v. Kurtz</i> , 589 F.2d at 827 (5 <sup>th</sup> Cir).
26 U.S.C. 6105	Internal Revenue Code section 6105 protects records provided by foreign governments provided for use in tax administration.	<i>Tax Analysts v. IRS</i> , No. 99-0372, 2002 WL 1791162 (D.D.C. Aug. 6, 2002)

31 U.S.C. 5319	Bank Secrecy Act Records: Prohibits the disclosure of records. Generally used to withhold Currency Transaction Reports.	<i>Small v. IRS</i> , 820 F. Supp. 163 (D.N.J. 1992)
Rule 6(e)	Part of the Federal Rules of Criminal Procedure X Grand Jury Secrecy: regulates matters occurring before the Grand Jury. Used to withhold records used in Grand Jury proceedings.	<i>Fund for Constitutional Gov't v. National Archives &amp; Records Service</i> , 656 F. 2 <sup>nd</sup> 856, 867 (D.C. Cir. 1981); <i>Walston v. U.S. Department of Justice</i> , 799 F. Supp. 193, 195 (D.D.C. 1992); <i>Whitney Nat'l Bank v. Karam</i> , 306 F.Supp.2d 678 (S.D. Tex. 2004)
31 U.S.C. § 5318(g)	Office of Thrift Supervision Criminal Referral Form	<i>Lee v. Bankers Trust Co.</i> , 166 F.3d 540 (2d Cir. 2000); <i>Cotton v. PrivateBank and Trust Co.</i> , 235 F. Supp.2d 809 (N.D. Ill. 2002)
12 U.S.C. § 1829b	Currency Transaction Reports, Foreign Bank Account Reports, Currency and Monetary Instrument Reports, Suspicious Activity Reports, and Registration of Money Services Businesses.	Not litigated.
12 U.S.C. 1951-1959	Currency Transaction Reports, Foreign Bank Account Reports, Currency and Monetary Instrument Reports, Suspicious Activity Reports, and Registration of Money Services Businesses.	Not litigated.
31 U.S.C. 5311-5331	Currency Transaction Reports, Foreign Bank Account Reports, Currency and Monetary Instrument Reports, Suspicious Activity Reports, and Registration of Money Services Businesses.	Not litigated.

## V. Initial FOIA/PA Access Requests.

## A. Number of initial requests.

<b>Bureau</b>	<b>Number of Requests Pending as of End of Preceding Year</b>	<b>Number of Requests Received in Current Year</b>	<b>Number of Requests Processed in Current Year</b>	<b>Number of Requests Pending as of End of Current Year</b>
DO	1,708	1,106	1,097	1,717
TTB	74	140	186	28
OCC	14	4,805	4,814	5
BEP	1	90	88	3
FMS	8	355	351	12
IRS	3,534	41,912	42,533	2,913
MINT	9	316	316	9
BPD	0	90	90	0
OTS	26	4,071	4,003	94
TIGTA	47	346	369	24
*FinCEN	119	99	140	78
<b>TOTAL</b>	<b>5,540</b>	<b>53,330</b>	<b>53,987</b>	<b>4,883</b>

\*Note: revised from last year's report

## B. Disposition of initial requests (continued on next page)

<b>Bureau</b>	<b>Total Grants</b>	<b>Total Partial Grants</b>	<b>Total Denials</b>	<b>No Records</b>	<b>Referrals</b>	<b>Request Withdrawn</b>	<b>Fee-Related Reason</b>	<b>Records not Reasonably Described</b>
DO	171	350	19	61	304	35	10	35
TTB	45	21	20	49	5	12	1	0
OCC	4,371	20	18	124	162	40	42	14
BEP	41	36	1	5	0	3	2	0
FMS	92	56	8	128	26	2	1	3
IRS	16,650	2,637	428	11,795	1,054	256	1,720	0
MINT	227	11	1	30	2	1	3	1
BPD	22	18	1	14	19	1	0	8
OTS	3,796	78	18	42	8	59	1	0
TIGTA	27	122	41	94	3	6	4	0
FinCEN	9	17	69	7	7	1	0	0
<b>TOTAL</b>	25,451	3,366	624	12,349	1,590	416	1,784	61

## B. Disposition of Initial Requests (continued from previous page)

Bureau	Not a Proper FOIA Request	Not an Agency Record	Duplicate	Lack of ID or 3 <sup>rd</sup> Party Authorization	No Response from Requester	Mail Returned	Litigation	Info on Internet
DO	10	8	0	0	72	18	2	2
TTB	7	24	1	0	1	0	0	0
OCC	2	5	7	0	9	0	0	0
BEP	0	0	0	0	0	0	0	0
FMS	6	4	8	17	0	0	0	0
IRS	6,274	0	1,719	0	0	0	0	0
MINT	4	0	0	36	0	0	0	0
BPD	1	3	1	2	0	0	0	0
OTS	0	0	1	0	0	0	0	0
TIGTA	57	10	5	0	0	0	0	0
FinCEN	0	0	2	0	28	0	0	0
<b>TOTAL</b>	6,361	54	1,744	55	110	18	2	2

## a. Number of times each FOIA exemption used:

<b>Bureau</b>	<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>	<b>(5)</b>	<b>(6)</b>	<b>(7)(A)</b>	<b>(7)(B)</b>	<b>(7)(C)</b>	<b>(7)(D)</b>	<b>(7)(E)</b>	<b>(7)(F)</b>	<b>(8)</b>	<b>(9)</b>
DO	13	35	138	141	99	208	11	0	39	0	1	0	0	0
TTB	0	2	16	44	7	16	2	0	3	1	0	0	0	0
OCC	0	1	0	18	19	16	5	0	0	0	0	0	24	0
BEP	0	1	0	26	2	6	0	0	1	0	0	0	0	0
FMS	0	2	26	4	1	35	0	0	0	0	0	0	0	0
IRS	0	176	2,489	33	463	557	658	2	851	66	1,070	12	0	0
MINT	0	2	1	3	3	9	0	0	4	0	0	0	0	0
BPD	0	2	0	10	2	13	0	0	0	0	0	0	0	0
OTS	0	5	0	78	24	59	2	1	6	1	4	0	55	0
TIGTA	0	19	61	0	33	3	9	0	153	13	10	5	0	0
FinCEN	0	0	85	0	0	1	0	0	0	0	2	0	0	0
<b>TOTAL</b>	13	245	2,816	357	653	923	687	3	1,057	81	1,087	17	79	0

## VI. Appeals of initial denials of FOIA/PA requests (continued on next page)

<b><u>Bureau</u></b>	<b><u>Number of Appeals Received in Current Year</u></b>	<b><u>Number of Appeals Processed in Current Year</u></b>	<b><u>Number of Appeals Completely Upheld in Current Year</u></b>	<b><u>Number of Appeals Partially Reversed in Current Year</u></b>	<b><u>Number of Appeals Completely Reversed</u></b>
DO	9	31	11	1	2
TTB	2	1	0	1	0
OCC	8	1	0	0	0
BEP	3	3	2	1	0
FMS	5	5	0	0	1
IRS	244	324	283	23	9
MINT	4	1	0	0	1
BPD	3	3	0	0	0
OTS	12	12	4	6	1
TIGTA	35	30	19	7	0
FinCEN	2	2	2	0	0
<b>TOTAL</b>	327	413	321	39	14

## 4. Other reasons for non-disclosure on appeals (Continued from previous page)

<u>Bureau</u>	<u>No Records</u>	<u>Referrals</u>	<u>With- drawn</u>	<u>Fee- Related</u>	<u>Records Not reasonably Described</u>	<u>Not a Proper FOIA or Appeal</u>	<u>Not an Agency Record</u>	<u>Duplicate Request</u>
DO	16	0	0	1	0	0	0	0
TTB	0	0	0	0	0	0	0	0
OCC	1	0	0	0	0	0	0	0
BEP	0	0	0	0	0	0	0	0
FMS	4	0	0	0	0	0	0	0
IRS	0	1	1	0	0	0	0	7
Mint	0	0	0	0	0	0	0	0
BPD	3	0	0	0	0	0	0	0
OTS	0	1	0	0	0	0	0	0
TIGTA	3	0	0	0	0	0	0	1
FinCEN	0	0	0	0	0	0	0	0
<b>TOTAL</b>	27	2	1	1	0	0	0	8



## a. Number of times each FOIA exemption was used in an appeal

<b>Bureau</b>	<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>	<b>(5)</b>	<b>(6)</b>	<b>(7)(A)</b>	<b>(7)(B)</b>	<b>(7)(C)</b>	<b>(7)(D)</b>	<b>(7)(E)</b>	<b>(7)(F)</b>	<b>(8)</b>	<b>(9)</b>
DO	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TTB	0	1	0	0	1	1	1	0	1	0	0	0	0	0
OCC	0	0	0	0	0	0	0	0	0	0	0	0	0	0
BEP	0	1	0	2	0	0	0	0	0	0	0	0	0	0
FMS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
IRS	0	4	67	0	23	27	5	0	33	12	27	6	0	1
MINT	0	0	0	0	0	0	0	0	0	0	0	0	0	0
BPD	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OTS	0	4	0	7	6	1	0	0	1	0	0	0	9	0
TIGTA	0	0	5	0	2	0	1	0	7	1	0	0	0	0
FinCEN	0	0	2	0	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	0	10	74	9	32	29	7	0	42	13	27	6	9	1

## VII. Compliance with time limits/status of pending requests

## A. Median Time for Processing Requests

\* Simple request limited to the Office of Tax Policy

Bureau	<u>Simple Requests</u>		<u>Complex Requests</u>		<u>Requests Accorded Expedited Processing</u>	
	Number of Requests Processed	Median Number of Days to Process	Number of Requests Processed	Median Number of Days to Process	Number of Requests Processed	Median Number of Days to Process
DO*	307	2	790	251	0	0
TTB	168	86	17	93	1	1
OCC	4,635	2	179	73	0	0
BEP	76	3	12	31	0	0
FMS	0	0	351	9.5	0	0
IRS	0	0	42,533	21	0	0
MINT	0	0	316	15	0	0
BPD	0	0	90	3	0	0
OTS	0	0	4,003	12	0	0
TIGTA	208	4	161	30	0	0
FinCEN	18	6	122	95	0	0
<b>TOTAL</b>	5,412	N/A	48,574	N/A	1	N/A

## B. Status of pending requests

<b>Bureaus</b>	<b>Number of Requests Pending as of End of Fiscal Year</b>	<b>Median Number of Days Pending</b>
DO	1,717	648
TTB	28	49
OCC	5	44
BEP	3	42
FMS	12	24
IRS	2,913	22
Mint	9	338
BPD	0	0
OTS	94	94
TIGTA	24	19
FinCEN	78	270
<b>TOTAL</b>	4,883	N/A

## VIII. Additional Information/Explanation.

The Department of the Treasury received six (6) requests for expedited processing and processed one (1) request on an expedited basis. The median number of days to process this request was one (1) day.

In DO, the Office of Tax Policy has identified the need for additional resources which will improve the FOIA program within that office by conducting searches in a more timely manner and supporting other aspects of FOIA processing.

FinCEN will continue to customize its electronic tracking database, review ways to shorten the turn-around response time on searches conducted, and provide supportive resources as needed in an effort to fully comply with E-FOIA mandates to further improve timeliness of FOIA performance and reduce the backlog.

TTB is currently in the review stage of preparing a FOIA directive and a system of procedures for the TTB FOIA program that are more specific to its requirements. TTB has also identified the need for another full time employee with FOIA background and a part-time employee for supporting the search and review functions of the FOIA program.

## IX. Costs/FOIA Staffing

Bureaus	Staffing Levels			Total Costs (staff and resources combined)		
	Number of Full Time Personnel	Number of Personnel with Part Time or Occasional FOIA Duties (in Total Work-Years)	Total Number of Personnel (in Work-Years)	FOIA Processing (including appeals)	Litigation-related activities	Total Costs
DO	4	18.46	22.46	548,542.84	30,738.00	579,280.84
TTB	1	.54	1.54	117,853.12	0	117,853.12
OCC	7	1	8	626,690.00	0	626,690.00
BEP	1	.40	1.40	160,722.00	0	160,722.00
FMS	0	.60	.60	57,554.23	0	57,554.23
IRS	4	81	85	10,312,722.00	698,611.00	11,011,333.00
MINT	1	0	1	100,163.00	0	100,163.00
BPD	1	.20	1.20	120,000.00	0	120,000.00
OTS	2	1.6	3.60	258,521.00	0	258,521.00
TIGTA	4.15*	.45	4.60	513,831.00**	3,534.00	517,365.00
FinCEN	1	.10	1.10	104,000.00	0	104,000.00
<b>TOTAL</b>	<b>26.15</b>	<b>104.35</b>	<b>130.50</b>	<b>12,920,599.19</b>	<b>732,883.00</b>	<b>13,653,482.19</b>

\*The use of a partial staff year is based on the loss of 3 full-time employees and gain of 3 full-time employees during the fiscal year.

\*\*This figure includes the cost (\$86,000) to implement automated FOIA processing with the purchase of FOIAXpress, including installation, maintenance, and license fees for the fiscal year.

## X. FOIA Fees

FOIA Fees		
	Total Fees collected	Percentage of Total Costs
<b>TOTAL</b>	<b>\$520,021.15</b>	<b>3.81%</b>

## XI. Treasury Department FOIA Implementing Regulations.

The Department's FOIA regulations can be found at 31 CFR Part 1, Subpart A. The regulations can be accessed at: [www.treas.gov/foia/foiaregs.pdf](http://www.treas.gov/foia/foiaregs.pdf).