FREEDOM OF INFORMATION ACT (FOIA) ANNUAL REPORT
FOR THE SOCIAL SECURITY ADMINISTRATION
FOR FISCAL YEAR 2008

I.   BASIC INFORMATION REGARDING REPORT

1.   Provide name, title, address, and telephone number of person(s) to be contacted with questions about the Report.

  Name: Dawn S. Wiggins

  Title: Freedom of Information Officer

  Agency/Component: Social Security Administration (SSA)
  Office of the General Counsel
  Office of Privacy and Disclosure

  Telephone Number: (410) 966-6645
  FAX: (410) 966-4304

  Mailing Address: Social Security Administration (SSA)
  Office of the General Counsel
  Office of Privacy and Disclosure
  3-A-6 Operations Building
  6401 Security Boulevard
  Baltimore, MD 21235-0001

2.   Provide an electronic link for access to the Report on the agency Web site.

  Website: http://www.socialsecurity.gov/foia/

3.   Explain how to obtain a copy of the Report in paper form.

  To obtain a paper copy of this report write to the address shown above, or phone, fax, or e-mail the Office of Privacy and Disclosure. Our e-mail address is foia.pa.officers@ssa.gov.

II.   MAKING A FOIA REQUEST

1.   Provide names, addresses, and telephone numbers of all individual agency components that receive FOIA requests.

  Office of Privacy and Disclosure (OPD), 3-A-6 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235-0001, (410) 966-6645.

Division of Earning Records (DERO), 3-D-10 Metro West, 300 North Green Street, Baltimore, MD 21290-0300, (410) 597-1730.

2. Provide a 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.

    In general, SSA does not disclose classified records, internal personnel rules, information that is confidential by law, trade secrets or confidential financial information, information that is otherwise legally privileged, personal information about living people, or records of investigation.

    The following are some examples specific to SSA:

    - **Exemption 2, Internal Personnel Rules and Practices. We cite this exemption as the basis for withholding records solely related to internal personnel rules and practices, such as certain records or procedures that could cause a breach in security, i.e., instructions for operating terminals, computer access codes, etc.**
    - **Exemption 3, Prohibited by Law. We cite this exemption when disclosure is prohibited by a law that leaves no discretion as to what may be exempt, or that establishes specific criteria for withholding information. The Internal Revenue Code restricts the disclosure of tax return information, such as third-party addresses, employer's names, addresses, and earnings information. 42 U.S.C. 290dd-3 and 290ee-3 restrict the disclosure of information regarding identity, diagnosis, prognosis, or treatment of any patient when such information is maintained in connection with a Federally-assisted drug or alcohol-abuse prevention function.**
    - **Exemption 4, Trade Secrets and Commercial or Financial Information. We cite this exemption to withhold information obtained from outside the Government that relates to "trade secrets and commercial or financial information which, if disclosed, would either cause substantial harm to a person's ability to compete with others in his business or impair the Government's ability to obtain needed information." These records may include detailed information concerning profits, losses, and business costs. This exemption does not apply to SSA program records and is generally used in connection with our procurement records.**
    - **Exemption 5, Interagency or Intra-agency Memorandums. We cite this exemption to withhold memorandums or letters that would not be available by law to a party other than a party in litigation with the agency. We cite this exemption to withhold opinions (such as Office of the General Counsel opinions), recommendations, suggestions, or judgmental analyses by various**

field and central office components of SSA exchanged or developed before we make policy or decisions.

- **Exemption 6, Invasion of Privacy. We cite this exemption to withhold any personal information if disclosure would constitute a clearly unwarranted invasion of personal privacy. For example, we would invoke this exemption when a requester submits an inquiry on whether his neighbor receives Social Security benefits. Disclosure of this information would not serve the public interest and would constitute an invasion of the neighbor's privacy.**

- **Exemption 7, Investigatory Records. We cite this exemption to withhold records compiled for law enforcement purposes if the production of this information could reasonably be expected to interfere with enforcement proceedings, deprive a person to a fair trail, disclose the identity of a confidential source, disclose investigative techniques or procedures, or endanger the life or physical safety of law enforcement personnel. We apply this exemption to Office of the Investigator General (OIG) reports and information.**

III.   ACRONYMS, DEFINITIONS, AND EXEMPTIONS

1.   Provide any agency-specific acronyms or terms used in this Report.

   SSA- Social Security Administration

   SSN- Social Security number

2.   Include the following 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 full denial or a partial denial of access to records under the FOIA, or any other FOIA determination such as a matter pertaining to fees.

   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 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 that require the agency to use 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 entireties 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.   **Perfected 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. Include the following 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

1.   List all Exemption 3 statutes relied upon to withhold information and the number of times upon which they were relied. For each request, report all statutes upon which the agency relied; however, count each statute only once per request.

Pursuant to 26 U.S.C. 6103, SSA withholds tax information, such as third-party addresses and employer's names and addresses in situations to which section 6103 of the Internal Revenue Code applies. We applied Exemption 3 a total of 61 times for this reporting period.

Statute	Type of Information Withheld	Case Citation	Number of Times Relied upon per Component	Total Number of Times Relied upon by Agency
26 U.S.C. 6103	Tax information, such as third-party addresses and employer's names and addresses	See below	61	61

2. Provide a brief description of the types of information withheld under each statute.

As indicated above, we withheld tax return information, such as, employer's tax identification numbers, mailing addresses, and earnings information.

3. Indicate whether a court has upheld the use of the statute by providing a citation to a court decision.

Several courts, including the Supreme Court, have approved withholding tax information under section 6103. The cases are listed below:

- **Church of Scientology v. IRS, 484 U.S. 9, 15 (1987)(finding that IRS lawfully exercised discretion to withhold street addresses pursuant to 26 U.S.C. section 6103(m)(1));**
- **Aaron v. IRS, 973 F.2d 962, 964-65 (1st Cir. 1992) (finding that IRS lawfully exercised discretion to withhold street addresses pursuant to 26 U.S.C. section 6103(m)(1)); and,**
- **Long v. IRS, 891 F. 2d 222, 224 (9th Cir. 1989) (holding that deletion of taxpayer's identification does not alter confidentiality of section 6103 information).**

The United States Supreme Court and most appellate courts that have considered the withholding of tax return information have held either explicitly or implicitly that section 6103 of the Internal Revenue Code satisfies subpart (B) of exemption 3.

V. FOIA REQUESTS

- For charts in Section V, include all "purported" FOIA requests, both perfected and non-perfected. Non-perfected requests are further reflected in various columns in Chart V, B (1) below.

A.   Received, Processed and Pending FOIA Requests

1.   Provide the numbers of received, processed, and pending requests as described in Columns 1 through 4.

2.   The number in Column 1 must match the number of "Requests Pending as of End of Fiscal Year" from last year's Annual FOIA Report.

3.   The sum of Columns 1 and 2 minus the number in Column 3 must equal the number in Column 4.

	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
AGENCY OVERALL	1,282	34,444[1] [2]	34,666	1,060

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[1] This total reflects a significant decrease due to the recent reporting requirement change on how Privacy Act (PA) requests are reported. SSA receives a voluminous amount of first-party access requests that do not invoke any portion of the FOIA Statute.   Per the new DOJ guidance that states "…agencies shall only include Privacy Act (PA) requests in the Annual FOIA Report if the FOIA is utilized in any way to process the request," we have not included our first-party access requests in this year's report. However, we do not believe this distinction accurately represents our FOIA/PA request workload, as the same access processing professionals respond to both types of requests.

[2] Due to a recent system change that permits requesters to file requests electronically, this total also reflects an increase in the volume of internet requests we received throughout this reporting period.

B. (1) Disposition of FOIA Requests – All Processed Requests

1. Provide the number of request dispositions as described in the columns below. Select only one column to report each request.

2. Report a request in one of the nine "Full Denial Based on Reasons Other than Exemptions" columns <u>only</u> <u>if</u> the request cannot be counted in one of the first three columns.

3. The numbers in the "Total" Column on the right must match the numbers in Section V, A, Column 3 ("Number of Requests Processed in Fiscal Year").

	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									
				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	TOTAL
AGENCY OVERALL	33,389	328	460	274	12	10	50	70	0	0	73	0[3]	34,666

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[3] Although this total reflects a decrease from the total reported last year, we did not process any requests that met the "Other" criteria.

B. (2) Disposition of FOIA Requests – "Other" Reasons for "Full Denials Based
on Reasons Other than Exemptions" from Section V, B (1) Chart

1.   If you utilized the "Other" column in Section V, B (1), provide
below descriptions of the "other" reasons for full denials and the
number of times each reason was relied upon. (The numbers in the
"Total" column must match the numbers in the "Other" column
from Section V, B (1).)

Component	Description of "Other" Reasons for Denials from Chart B (1) & Number of times those Reasons were relied upon	Total
Agency Total	Not Applicable	0

B. (3) Disposition of FOIA Requests – Number of Times Exemptions Applied

1.   For each request, report all exemptions applied; however, count each
exemption only once per request. Example: Given a request in
which Exemption 2 applies to one portion of the request, Exemption
5 applies to three portions of the request, and Exemption 6 applies to
eight portions of the request, count Exemptions 2, 5, and 6 once
each. Do not count Exemption 5 three times and Exemption 6 eight
times.

	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
AGENCY OVERALL	1	221	61	50	212	749	1	0	20	0	0	0	0	0

VI. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS

- If more than one component in the agency adjudicates administrative appeals, provide information for each appellate component, as well as for the agency overall.

  Not Applicable.

A. Received, Processed and Pending Administrative Appeals

    1. Provide the number of administrative appeals received, processed, and pending as described in Columns 1 through 4.

    2. The sum of Columns 1 and 2 minus the number in Column 3 must equal the number in Column 4.

    3. Starting with Fiscal Year 2009, the number in Column 1 must match the number of "Appeals Pending as of End of Fiscal Year" from the previous year's Annual FOIA Report.

Column 1	Column 2	Column 3	Column 4
Number of Appeals Pending as of Start of Fiscal Year	**Number of Appeals Received in Fiscal Year**	**Number of Appeals Processed in Fiscal Year**	**Number of Appeals Pending as of End of Fiscal Year**
23	52	74	1

B. Disposition of Administrative Appeals – All Processed Appeals

    1. Provide the number of administrative appeal adjudications as described in the columns below. (The number in the "Total" column must match the number in Section VI, A, Column 3 ("Number of Appeals Processed in Fiscal Year").

        a. In the "Number of Appeals Closed for Other Reasons" column, report the number of appeals which neither affirmed nor reversed/remanded (either entirely or partially) the FOIA request determination, but rather those which the agency closed for other reasons, (e.g., the request was in litigation,

the appeal was a duplicate appeal, the appeal was premature, etc.)

Number Affirmed on Appeal	Number Partially Affirmed & Partially Reversed/Remanded on Appeal	Number Completely Reversed/Remanded on Appeal	Number of Appeals Closed for Other Reasons	TOTAL
48	11	15	0	74

C. (1)   Reasons for Denial on Appeal – Number of Times Exemptions Applied

- Note: If an administrative appeal results in the denial of information based on exemptions and *also* based on a reason or reasons presented in Charts C (2) and C (3) below, report that appeal in all applicable charts.

1.   For each administrative appeal, report all exemptions applied; however, count each exemption only once per appeal.

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
0	10	5	2	4	55	0	0	3	0	0	0	0	0

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C. (2)   Reasons for Denial on Appeal – Reasons Other than Exemptions

  1.   Provide the number of administrative appeals resulting in denial for reasons other than exemptions, as described
          in the eleven columns below.

No Records	Records Referred at Initial Request Level	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper Request for Other Reasons	Not Agency Record	Duplicate Request or Appeal	Request in Litigation	Appeal Based Solely on Denial of Request for Expedited Processing	Other *Explain in chart below
5	0	1	2	0	0	0	0	0	0	0

C. (3)   Reasons for Denial on Appeal – "Other" Reasons from Section VI, C (2) Chart

  1. If you utilized the "Other" column in Section VI, C (2), provide below descriptions of the "other" reasons and the
      number of times each reason was relied upon. (The numbers in the "Total" column must match the numbers in the
      "Other" column from Section VI, C (2).)

Description of "Other" Reasons for Denial on Appeal from Chart C (2) & Number of Times Those Reasons Were Relied upon	TOTAL
	0

C. (4) Response Time for Administrative Appeals

1.   Provide the median, average, and range in number of days to respond to administrative appeals.

Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
55	60	15	128

C. (5) Ten Oldest Pending Administrative Appeals

1.   Provide the dates of receipt of the ten oldest pending administrative appeals, and the number of days pending.

	10th Oldest Appeal	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal
Date of Receipt of Ten Oldest Appeals										7/22/08
Number of Days Pending	0	0	0	0	0	0	0	0	0	61

VII. FOIA REQUESTS: RESPONSE TIME FOR PROCESSED AND PENDING REQUESTS

- For charts in Section VII, include response times for only perfected requests. Begin counting days from the date of receipt of the perfected request.
- If using a multi-track processing system, report response times separately for each track, (as exemplified in the charts in this Section). If not using a multi-track processing system, at a minimum, report separately requests which have been granted expedited processing.
- Note: Chart A must reflect the response times for *all* processed perfected requests. Chart B is a sub-set of Chart A and must reflect the response times only for those perfected requests in which information was *granted*, either in full or in part.

A. Processed Requests – Response Time for All Processed Perfected Requests

1. Provide the median, average and range in number of days to process all perfected requests.

	SIMPLE				COMPLEX				EXPEDITED PROCESSING[4]			
	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
AGENCY OVERALL	16	30	1	78	44	60	1	246	0	0	0	0

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[4] SSA grants expedited processing if it involves an imminent threat to a person's life or physical safety; if the request is made by a member of the media to obtain information that the public has an urgent need to know and the records would cover an actual or an alleged Federal Government activity; or if the individual explains in detail that he or she may be denied a legal right, benefit, or remedy without the requested information.

B.	Processed Requests – Response Time for Perfected Requests in Which Information Was Granted

1.	Provide the median, average and range in number of days to process all perfected requests in which information was granted. ("Granted" refers to full grants and partial grants.)

	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
AGENCY OVERALL	17	33	4	79	66	72	2	252	0	0	0	0

C.   Processed Requests – Response Time in Day Increments

      1.   Provide the number of perfected requests processed in each of the thirteen designated time increments (i.e., report the number of requests processed within 20 days in the first column, the number processed within 21-40 days in the second column, etc.)

            a.   If using a multi-track system, create separate charts as presented below to report the information for each track. If not using a multi-track system, at a minimum create a separate chart for requests which have been granted expedited processing.

            b.   Insert the sum of the thirteen columns in the "Total" column to reflect the total number of requests processed for each of the tracks.

Simple 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
AGENCY OVERALL[5]	29,283	2,290	824	129	0	0	0	0	0	0	0	0	0	32,526

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[5] SSA recently developed an automated tool to better track our requests in line with the recently enacted changes to the FOIA. This new tool required significant reprogramming of our system, entitled "eFOIA," and we were unable to fully develop and implement it to track all of FY 2008 FOIA activity in time for this year's report; therefore, all totals are our best estimate.

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
AGENCY OVERALL[6]	96	654	726	546	77	13	5	9	4	7	3	0	0	2,140

Requests Granted Expedited Processing

	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
AGENCY OVERALL	0	0	0	0	0	0	0	0	0	0	0	0	0	0

[6]See previous footnote.

D. Pending Requests – All Pending Perfected Requests

1. Provide the number of perfected requests pending as of the end of the fiscal year, and the median and average number of days those requests had been pending. If an agency is unable to determine whether all of its pending requests are perfected, the agency must include <u>all</u> pending requests and include a footnote that it has done so.

	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
AGENCY OVERALL[7]	954	27	27	106	90	90	0	0	0

E. Pending Requests – Ten Oldest Pending Perfected Requests

1. Provide the 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.

	10th Oldest Request and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request and Number of Days Pending
AGENCY OVERALL[8]	2/12/08 187	2/12/08 187	2/10/08 188	2/10/08 188	1/31/08 195	1/31/08 195	1/31/08 195	1/23/08 201	1/16/08 206	11/13/07 252

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[7] See footnote 5.
[8] See footnote 5.

VIII. REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER

- Section VIII now reflects new mandatory reporting requirements and is no longer an optional Section.
- Provide information for <u>adjudicated</u> requests for expedited processing or <u>adjudicated</u> requests for a fee waiver, i.e., requests for expedited processing or requests for a fee waiver which were granted or denied. Do not include requests for expedited processing or requests for a fee waiver which became moot for various reasons and, as a result, were neither granted nor denied.

A.   Requests for Expedited Processing

1.   Include requests for expedited processing made both at the initial request level and, when applicable, at the administrative appeal level.

2.   Calculating days: Count only the days spent adjudicating the request for expedited processing. Count <u>calendar</u> days, not working days.

3.   Note: The response time portion of this new reporting requirement captures the time taken to decide whether to grant or deny a request for expedited processing. This does not cover the FOIA requests which have already been granted expedited status, placed in the "expedited processing" track, and reported elsewhere in this Report. Rather, this new requirement reflects the time taken to make a determination (i.e., adjudicate) whether a request for expedited processing should be granted or denied. The FOIA requires agencies to determine within ten <u>calendar</u> days whether a request satisfies the standards for expedited processing.

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
AGENCY OVERALL	0	42	7	8	42

B.   Requests for Fee Waiver

1.   Include requests for a waiver of fees made both at the initial request level and, when applicable, at the administrative appeal level.

2.   Calculating days: Count only the days spent adjudicating the fee waiver request. Count <u>working</u> days. Do not include additional days that may precede consideration of the fee waiver request, e.g., days the request waits in a processing queue, processing time which precedes commencement of adjudication of fee waiver request, etc.

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
AGENCY OVERALL	38	52[9]	29	40

IX. FOIA PERSONNEL AND COSTS

- Provide the number of "Full-Time FOIA Staff" by adding the number of "Full-Time FOIA Employees" and the number of "Equivalent Full-Time FOIA Employees," as described below. Also provide costs expended by the agency both for processing and litigating FOIA requests.

A. Personnel

1. A "full-time FOIA employee" is a full-time employee who performs FOIA duties 100% of the time. The number of such employees should be reported in Column 1 of the chart below.

2. An "equivalent full-time FOIA employee" is created by adding together the percentages of time dedicated to FOIA duties by employees performing less than full-time FOIA duties. Each time 100% is reached, the time expended is counted as one "equivalent full-time FOIA employee." The number of such "equivalent" employees should be reported in Column 2 of the chart below.

3. Employees performing less than full-time FOIA duties are either a) part-time employees who perform FOIA duties all, or part, of the time, or b) full-time employees who perform FOIA duties less than 100% of the time.

4. The following examples illustrate how to calculate the number of "equivalent full-time FOIA employees."

a. Example #1: Assume three full-time employees with part-time or occasional FOIA duties. If Employee #1 performs FOIA duties 50% of the time, and Employees #2 and #3 each perform FOIA duties 25% of the time, together they perform 100% (50+25+25) FOIA duties. Therefore, the FOIA duties of these three employees are the equivalent of 1 "full-time FOIA employee," because a "full-time FOIA employee" is equal to 100%. This component would report "1" in Column 2 of the chart below.

b. Example #2: Assume six full-time employees with part-time or occasional FOIA duties. If Employees #1, #2, #3 and #4 each perform FOIA duties 50% of the time, Employee #5 performs FOIA duties 75% of the time, and

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[9] We review requests for fee waivers on a case-by-case basis. Only the SSA FOI Officer may waive or reduce a fee (in excess of $7.50). We usually grant a fee waiver when it has been determined that furnishing the information will primarily benefit the general public. We normally grant fee waivers from members of the media and educational and scientific institutions when there is limited search time or duplication involved with the request.

Employee #6 performs FOIA duties 10% of the time, together they perform 285% (50x4 + 75+10) FOIA duties. Because a "full-time FOIA employee" is equal to 100%, the FOIA duties of these six employees are the equivalent of 2.85 "full-time FOIA employees." This component would report "2.85" in Column 2 of the chart below.

  c. <u>Example #3</u>: Assume Employee #1 is a part-time employee who works *twenty* hours/week and performs FOIA duties *half* of his time. As a part-time employee who works twenty hours/week, the most FOIA work Employee #1 could perform is 50%. Because Employee #1 performs FOIA duties only *half* of his already part-time schedule, he performs 25% FOIA duties (i.e., half of the 50% maximum). Assume Employee #2 is a part-time employee who works *thirty-two* hours/week and performs FOIA duties *all* of her time. As a part-time employee who works thirty-two hours/week, the most FOIA work Employee #2 could perform is 80%. Because Employee #2 performs FOIA duties *all* of her time, she performs 80% FOIA duties. Together, the two employees perform 105% (25+80) FOIA duties. Therefore, their combined FOIA duties are the equivalent of 1.05 "full-time FOIA employees," and this component would report "1.05" in Column 2 o f the chart below.

B. Costs

  1. Processing Costs: Add together all costs expended by the agency for processing FOIA requests at the initial request and administrative appeal levels. Include salaries of FOIA personnel, overhead, and any other FOIA-related expenses. (An agency's budget will often be a useful resource for this information.)

  2. Litigation Costs: Add together all costs expended by the agency in litigating FOIA requests. Include salaries of personnel involved in FOIA litigation, litigation overhead, and any other FOIA litigation-related expenses. (As with Processing Costs, an agency's budget will often be a useful resource for this information).

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	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
AGENCY OVERALL	64	59	123[10]	$14,814,363.[11]	$31,455.00	$14,845,818.

X.   FEES COLLECTED FOR PROCESSING REQUESTS

- Report the dollar amount of fees collected from FOIA requesters for processing their requests. Also report the percentage of total processing costs (from the "Processing Costs" column in the Section IX chart) that those fees represent. In calculating the amount of fees collected, include fees received from a FOIA requester for search, review, document duplication, and any other direct costs permitted by agency regulations.

	Total Amount of Fees Collected	Percentage of Total Costs
AGENCY OVERALL	$6,591,000.00[12]	44%

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[10] We reflect a reduction from last year's report as a result of the computation of an equivalent full-time employee as compared to reporting straight part-time employees.

[11] The total reflects a significant decrease from prior reports resulting from the recent change of not including first-party access requests. We previously noted our concerns in footnote 1.

[12] This total includes the costs collected from our first-party access requests. We are unable to extract costs for strictly FOIA in this manner. Most of the fees we collect for earnings records and SSN verifications are based on a separate provision for fee charging in section 1106(c) of the Social Security Act (42 U.S.C. § 1306 (c)), rather than the FOIA fee schedule. Please see footnote 1 for further information.

XI. FOIA REGULATIONS

- Agencies must provide an electronic link to their FOIA regulations, including their fee schedule.

    Website: http://www.socialsecurity.gov/foia/

XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS

A. Backlogs of FOIA Requests and Administrative Appeals

1. Provide below the number of FOIA requests and administrative appeals that were pending beyond the statutory time period as of the end of the fiscal year. (Such requests and appeals are considered "backlogged.")

2. Note: The statutory time period is ordinarily twenty working days from receipt of a perfected request, see 5 U.S.C. § 552(a)(6)(A)(i), but may be extended up to ten additional working days when "unusual circumstances" are present, see id. § 552(a)(6)(B)(i).

	Number of Backlogged Requests as of End of Fiscal Year	Number of Backlogged Appeals as of End of Fiscal Year
AGENCY OVERALL	147	1

3. Discuss/explain the backlog here (optional).

    OPD has a relatively small backlog and despite significant challenges, we have been able to manage its growth over the past year. We hope that through the use of technology, specifically our eFOIA application, we will eliminate it entirely. We believe the delays in processing are due in part to the loss of some highly-skilled personnel over the course of the fiscal year including the Deputy Executive Director, two Division Directors, three senior analysts, and an eFOIA administrator. These positions were not filled until the end of the fiscal year. In addition, OPD has continued to experience difficulties in our migration to our new eFOIA system and future updates to the system are required in order for the system to be fully operational as intended and to improve FOIA processing. Changes from the recently enacted OPEN Government Act also require changes to the system that had not been fully implemented as of the end of the fiscal year. Further, there has been a significant increase in complex cases, which require extensive searches for documents from other components, as well as high-level analysis.

Additionally, since the implementation of our electronic submission process using an internet FOIA request form, we have received a huge surge of new requests. The feature went into production in January 2008, and SSA has thus received over 2,500 internet requests through this channel. This represents a significant workload increase. Further, a system glitch failed to alert us that the requests were received and pending; hundreds of requests were awaiting assignment until discovered by an eFOIA technician. SSA is working on a system fix to this problem. While we do have a "work-around," this glitch helped cause the growth in our backlog.

B.   Consultations on FOIA Requests – Received, Processed, and Pending Consultations

o   The consultation portions of the Annual Report require information about consultations received from other agencies, not sent to other agencies.

1.   Provide the number of consultations received from other agencies, those processed, and those pending as described in Columns 1 through 4.

2.   The number in Column 1 must match the number of "Consultations Received from Other Agencies That Were Pending at Your Agency as of <u>End</u> of the Fiscal Year" from last year's Annual Report.

3.   The sum of Columns 1 and 2 minus the number in Column 3 must equal the number in Column 4.

	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**
AGENCY OVERALL	0	1	1	0

C.   Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency

1.   Provide the dates of receipt of the ten oldest consultations received from other agencies pending at your agency as of the end of the fiscal year.

Agency Overall	10th Oldest Consultation and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Consultation and Number of Days Pending
	Date Number of Days	0	0	0	0	0	0	0	0	0

D. Comparison of Numbers of Requests from Previous and Current Annual Report – Requests Received, Processed, and Backlogged

1. Provide the number of requests received and the number of requests processed during the fiscal year from last year's Annual Report and the number of those received and processed during the fiscal year from the current Annual Report.

2. The numbers in Columns 1 and 2 must match the "Number of Requests Received in Fiscal Year" from Section V, A of the Annual Report from last year and from this year respectively. The numbers in Columns 3 and 4 must match the "Number of Requests Processed in Fiscal Year" from Section V, A of the Annual Report from last year and from this year respectively.

Column 1	Column 2	Column 3	Column 4

	NUMBER OF REQUESTS **RECEIVED**		NUMBER OF REQUESTS **PROCESSED**	
	Number Received During Fiscal Year from Last Year's Annual Report	**Number Received During Fiscal Year from Current Annual Report**	**Number Processed During Fiscal Year from Last Year's Annual Report**	**Number Processed During Fiscal Year from Current Annual Report**
AGENCY OVERALL	18,995,845	34,444	18,995,719	34,666[13]

3. Starting with the Annual Report for Fiscal Year 2009, provide the number of backlogged requests as of the end of the fiscal year from the previous Annual

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[13] This total represents a significant decrease totally due to the reporting change as explained in footnote 1. Again, we express concern that the definition of FOIA request used in this report does not accurately reflect our FOIA/PA workload.

Report and the number of backlogged requests as of the end of the fiscal year from the current Annual Report.

    a.   The numbers in Columns 1 and 2 must match the "Number of Backlogged Requests as of End of Fiscal Year" from Section XII, A of the previous Annual Report and of the current Annual Report respectively.

	Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report
AGENCY OVERALL	125	147

    E.   Comparison of Numbers of Administrative Appeals from Previous and Current Annual Report – Appeals Received, Processed, and Backlogged

    1.   Provide the number of administrative appeals received and the number of administrative appeals processed during the fiscal year from last year's Annual Report and the number of those received and processed during the fiscal year from the current Annual Report.

    2.   The numbers in Columns 1 and 2 must match the "Number of Administrative Appeals Received in Fiscal Year" from Section VI, A of the Annual Report from last year and from this year respectively. The numbers in Columns 3 and 4 must match the "Number of Administrative Appeals Processed in Fiscal Year" from Section VI, A of the Annual Report from last year and from this year respectively.

	Column 1	Column 2	Column 3	Column 4
	NUMBER OF APPEALS RECEIVED		**NUMBER OF APPEALS PROCESSED**	
	Number Received During Fiscal Year from Last Year's Annual Report	**Number Received During Fiscal Year from Current Annual Report**	**Number Processed During Fiscal Year from Last Year's Annual Report**	**Number Processed During Fiscal Year from Current Annual Report**
AGENCY OVERALL	73	52	70	74

3.   Starting with the Annual Report for Fiscal Year 2009, provide the number of backlogged administrative appeals as of the end of the fiscal year from the previous Annual Report and the number of backlogged administrative appeals as of the end of the fiscal year from the current Annual Report.

    a.   The numbers in Columns 1 and 2 must match the "Number of Backlogged Appeals as of End of Fiscal Year" from Section XII, A of the previous Annual Report and of the current Annual Report respectively.

	Column 1 **Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report**	Column 2 **Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report**
AGENCY OVERALL	23	1

F.   Discussion of Other FOIA Activities (Optional)

1.   Provide here any further information about the agency's efforts to improve FOIA administration.

As we indicated in the 2007 Annual Report, OPD will continue to make changes to our internal staffing to maximize the effectiveness of our program. We recently hired a new Deputy Executive Director, two new Division Directors, four new higher-level staff members, and one upper-level college intern. We hope these changes to our internal infrastructure will increase production. We also hold weekly old case meetings, as well as weekly management meetings to assess workloads. In 2009, we plan to focus on education and training, not only of our own personnel but our requesters, as well. Not only is an informed requester able to properly direct a request but also narrow the scope to the appropriate level of specificity, resulting in a more effective and less expensive search. We plan to accomplish this through comprehensive Web guidance and links to beneficial resources. Further, specialized training is critical to the success of SSA's FOIA program. Along these lines, we have contacted the Department of Justice (DOJ) to arrange for specialized training for our processing professionals.

OPD is committed to eliminating our backlog and continually seeks alternative ways to accomplish this goal. We are also considering having staff members work compensatory time with added incentives to maximize and encourage participation. Given our FY 2008 actual experience and the increasing challenges we have faced concerning existing staff and the overall increase in incoming complex cases and internet requests, we hope our goals for decreasing the backlog will remain on target in FY 2009.