

U.S. MERIT SYSTEMS PROTECTION BOARD
1120 Vermont Avenue, NW.
Washington, DC 20419



FREEDOM OF INFORMATION ACT
ANNUAL REPORT

FISCAL YEAR 1999

I. BASIC INFORMATION REGARDING THIS REPORT.

Questions regarding this report may be directed to:

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Records and Information Management
Office of the Clerk of the Board
1120 Vermont Avenue, N.W.
Washington, D.C. 20419

Electronic copies of the Report are on the MSPB Web Site
<http://www.mspb.gov>

Paper copies of the report may be obtained by writing to the above address.

II. HOW TO MAKE A FOIA REQUEST TO THE MSPB.

The Board has prepared a FOIA Guide, which is on its Web Site (<http://www.mspb.gov>). Paper copies are also available in the Board's Headquarters Library, by calling 202-653-7200, or by e-mail: *mspb@mspb.gov*.

A. Names, addresses and telephone numbers of Board offices where FOIA requests can be filed:

Merit Systems Protection Board
Atlanta Regional Office
401 W. Peachtree Street, N.W.
Suite 1050
Atlanta, Georgia 30308-3519
404-730-2751

Merit Systems Protection Board
Central Regional Office
230 South Dearborn Street
31st Floor
Chicago, Illinois 60604-1669
312-353-2923

Merit Systems Protection Board
Dallas Field Office
1100 Commerce Street
Room 6F20
Dallas, Texas 75242-9979
214-767-0555

Merit Systems Protection Board
Denver Field Office
12567 W. Cedar Drive
Suite 100
Lakewood, Colorado 80228
303-969-5101

Merit Systems Protection Board
Northeastern Regional Office
U.S. Customhouse, Room 501
Second and Chestnut Streets
Philadelphia, Pennsylvania 19106-
2987
215-597-9960

Merit Systems Protection Board
New York Field Office
26 Federal Plaza, Room 3137-A
New York, New York 10278-0022
212-264-9372

Merit Systems Protection Board
Boston Field Office
99 Summer Street
Suite 1810
Boston, Massachusetts 02110-1200
617-424-57

Merit Systems Protection Board
Western Regional Office
525 Market Street
Room 2800
San Francisco, California 94105-
2736
415-705-2935

Merit Systems Protection Board
Seattle Field Office
915 Second Avenue
Suite 1840
Seattle, Washington 98174-1056
206-220-7975

Merit Systems Protection Board
Washington Regional Office
5203 Leesburg Pike
Suite 1109
Falls Church, Virginia 22041-3473
703-756-6250

B. MSPB Response Time Ranges for FOIA Requests.

In FY 1999 the Board's goal was to respond within ten workdays of receipt of the request. This goal was met or exceeded in 65% of the processed requests.

C. Why Some FOIA Requests to MSPB Are Not Granted.

The Board does not grant requests when no records exist or where there is a confidentiality clause in settlement agreements that prohibits disclosure of the terms.

III. DEFINITIONS OF TERMS AND ACRONYMS.

A. Agency-specific acronyms or other terms.

PFA--Petition for Appeal
PFR--Petition for Review

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 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 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.
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 (nonexpedited) 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 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, but to withhold others in whole or in part.

11. Denial -- an agency decision not to release any part of a record in response to a FOIA request because the information in the requested records is determined by the agency to be exempt under one or more FOIA exemptions, or for some procedural reason (such as the inability to locate a record 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 that adequately describes the records sought, which has been received by the FOIA officer 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 section (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 is 8.

IV. EXEMPTION 3 STATUTES

- A. Exemption 3 statutes relied on by MSPB during the current fiscal year.0
- B. Statement of whether a court has upheld the use of such statute None

V. INITIAL FOIA/PA ACCESS REQUESTS

- A. Numbers of initial requests.
 1. Number of requests pending as of end of preceding fiscal year2
 2. Number of requests received during current fiscal year.....643

3. Number of request processed during current fiscal year.....623

4. Number of requests pending as of end of current fiscal year.....2

B. Disposition of initial requests.

1. Number of total grants602

2. Number of partial grants10

3. Number of denials.....11

a. number of times each FOIA exemption used counting each exemption once per request)

Exemption 1

Exemption 2

Exemption 3

Exemption 4

Exemption 51

Exemption 68

Exemption 7(A).....1

Exemption 7(B)

Exemption 7(C)1

Exemption 7(D)

Exemption 7(E)

Exemption 7(F)

Exemption 8

Exemption 9

4. Other reasons for nondisclosure (total)

a. no records	32
b. referrals	18
c. request withdrawn.....	0
d. fee-related reason	9
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

VI. Appeals of Initial Denials of FOIA/PA Requests

A. Numbers of appeals.

1. Number of appeals received during fiscal year	4
2. Number of appeals processed during fiscal year	4

B. Disposition of appeals.

1. Number completely upheld.....	3
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	
(2) Exemption 2	

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

4. Other reasons for nondisclosure (total)

- a. no records
- b. referrals
- c. request withdrawn
- d. fee-related reason
- e. records not reasonably described
- f. not a proper FOIA request for some other reason
- g. not an agency record
- h. duplicate request
- i. other (specify)

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 processed623

b. median number of days to process27

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

a. number of requests processed0

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

3. Requests accorded expedited processing.

a. number of requests processed1

b. median number of days to process.....5

B. Status of pending requests.

1. Number of requests pending as of end of current fiscal year0

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

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

A. Comparison of numbers of requests received

611 requests received in FY 1998

643 requests received in FY 1999

B. Comparison of numbers of requests processed

602 requests received in FY 1998

615 requests received in FY 1999

C. Comparison of median numbers of days requests were pending as of the end of the fiscal year N/A

D. Other statistics significant to agency

The median number of days to process requests was significantly reduced from 44 days to 27 days primarily due to the utilization of additional staff members to process requests as volume of receipts increased ebbed and flowed during the year.

E. Other narrative statements describing agency efforts to improve timeliness of FOIA performance and to make records available to the public.

The Board made significant improvements to its web site during FY 1999 in a concerted effort to make more records available to the public. These improvements included a FOIA page and improvements in the tools the public can use to research Board decisions. While the number of requests increased slightly from FY 1998 to FY 1999 the increase would have been greater in the absence of the MSPB web site.

IX. Costs/FOIA Staffing

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)	11
3. Total number of personnel (in work years).....	11

B. Total costs (including staff and all resources)

1. FOIA processing (including appeals).....	\$53,664.00
2. Litigation-related activities (estimate)	0
3. Total costs	\$53,664.00
4. Comparison with previous year(s) (including percentage of change) (optional) 5% increase over FY 1998.	

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

X. Fees

A. Total amount of fees collected by agency for processing requests
\$1252.45

B. Percentage of total costs..... .02%

XI. FOIA Regulations (Including Fee Schedule)

A. Attachment: 5 CFR 1204 (revised 9-21-99)