



**FREEDOM OF INFORMATION ACT**  
**ANNUAL REPORT TO THE ATTORNEY GENERAL**  
**FOR FISCAL YEAR 2011**



## FREEDOM OF INFORMATION ACT ANNUAL REPORT FOR FISCAL YEAR 2011

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#### I. BASIC INFORMATION REGARDING REPORT.

This is the Fiscal Year 2011 FOIA Report.

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

Paper copies of this report may be obtained from the FOIA links available at:

**II. MAKING A FOIA REQUEST.**

Questions regarding this report may be directed to:

Darryl R. Aaron, FOIA Public Liaison  
Bernard Parker, FOIA Action Officer  
Office of the Clerk of the Board  
1615 M Street, NW  
Washington, DC 20419

Electronic copies of the report are on the Merit Systems Protection Board's ([MSPB](http://www.mspb.gov)) website at [www.mspb.gov](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 MSPB has prepared a [FOIA Guide](#), which is on its website. Paper copies are also available in the MSPB's headquarters library, by calling 202-653-7200, or by emailing [foia@mspb.gov](mailto:foia@mspb.gov). Requesters also will find contact information for the MSPB's [FOIA Liaisons](#) on its website.

1. Names, addresses, telephone numbers, and emails of MSPB offices where FOIA requests can be filed are found below:

**Atlanta Regional Office**

401 W. Peachtree Street, NW  
10th Floor  
Atlanta, GA 30308-3519  
(404) 730-2755  
FAX (404) 730-2767  
[foiaat@mspb.gov](mailto:foiaat@mspb.gov)

**Central Regional Office**

230 South Dearborn Street  
31st Floor  
Chicago, IL 60604-1669  
(312) 353-2923  
FAX (312) 886-4231  
[foiach@mspb.gov](mailto:foiach@mspb.gov)

**Western Regional Office**

201 Mission Street  
Suite 2310  
San Francisco, CA 94105-1831  
(415) 904-2772  
FAX (415) 904-0580  
[foiasf@mspb.gov](mailto:foiasf@mspb.gov)

**Northeastern Regional Office**

1601 Market Street,  
Suite 1700  
Philadelphia, PA 19103  
(215) 597-9960  
FAX (215) 597-3456  
[foiaph@mspb.gov](mailto:foiaph@mspb.gov)

**Dallas Regional Office**

1100 Commerce Street  
Room 620  
Dallas, TX 75242-9979  
(214) 767-0555  
FAX (214) 767-0102  
[foiada@mspb.gov](mailto:foiada@mspb.gov)

**Denver Field Office**

165 South Union  
Boulevard  
Suite 318  
Lakewood, CO 80228-2211  
(303) 969-5101  
FAX (303) 969-5109  
[foiade@mspb.gov](mailto:foiade@mspb.gov)

**New York Field Office**

26 Federal Plaza  
Room 3137-A  
New York, NY 10278-0022  
(212) 264-9372  
FAX (212) 264-1417  
[foiany@mspb.gov](mailto:foiany@mspb.gov)

**Washington DC Regional Office**

1800 Diagonal Road  
Suite 205  
Alexandria, VA 22314-2840  
(703) 756-6250  
FAX (703) 756-7112  
[foiadc@mspb.gov](mailto:foiadc@mspb.gov)

2. Brief description of why some requests are not granted and an overview of certain general categories of the Department's records to which the FOIA exemptions apply.

### III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

1. There are **no** MSPB-specific acronyms or terms used in this Report
  
2. Definition 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 FOIA determination made by the agency at the initial request level.
  
  - 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 or administrative appeals 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 which require the agency to utilize 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. **Perfect 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.
  - n. **Perfect 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 had taken final action in
  - 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

- 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

Statute	Type of Information Withheld	Case Citation	Component	Number of Times Relied upon per Component	Total Number of Times Relied upon per Agency
N/A	N/A	N/A	N/A	N/A	N/A

## V. FOIA REQUESTS

### A. Received, Processed and Pending FOIA Requests.

	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	4	121	113	12





**VI. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS**

A. Received, Processed & Pending Administrative Appeals

	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
Agency	0	8	8	0

B. Disposition of Administrative Appeals - All Processed Appeals

	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
Agency	3	4	1	0	8





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

**A. Processed Requests**

	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	17	9	0	35	42	42	4	81	N/A	N/A	N/A	N/A

**B. Processed Requests - Response Time for Perfected Requests in Which Information was Granted**

	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	17	9	0	35	37	37	11	81	N/A	N/A	N/A	N/A





D. Pending Requests

	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	6	13	14	3	123	118	0	N/A	N/A

E. Pending  
 Requests - Ten  
 Oldest Pending  
 Perfected Requests

Date of Receipt of Ten Oldest Pending	10th Oldest Request and Number of Day Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request and Number of Days Pending
Agency	N/A N/A	9/29/2011 2 days	9/27/2011 4 days	9/23/2011 6 days	9/13/2011 14 days	9/12/2011 15 days	8/29/2011 24 days	8/15/2011 34 days	5/31/2011 87 days	3/29/2011 131 days

**VIII. REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER**

A. Requests for Expedited Processing

	<b>Number Granted</b>	<b>Number Denied</b>	<b>Median Number of Days to Adjudicate</b>	<b>Average Number of Days to Adjudicate</b>	<b>Number Adjudicated Within Ten Calendar Days</b>
Agency	0	0	0	0	0

B. Requests for Fee Waiver

	<b>Number Granted</b>	<b>Number Denied</b>	<b>Median Number of Days to Adjudicate</b>	<b>Average Number of Days to Adjudicate</b>
Agency	0	0	0	0

**IX. FOIA PERSONNEL AND COSTS**

	PERSONNEL			COSTS		
	Number of "Full-Time FOIA Employees"	Number of "Equivalent Full-Time FOIA Employees"	Total Number of "Full-Time FOIA Staff"	Processing Costs	Litigation-Related Costs	Total Costs
Agency Overall	1	8	9	\$316,210	0	\$316,210

**X. FEES COLLECTED FOR PROCESSING REQUESTS**

	<b>Total Amount of Fees Collected</b>	<b>Percentage of Total Costs</b>
Agency	\$297.00	0.09%

**XI. FOIA REGULATIONS**

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

<http://www.mspb.gov/netsearch/viewdocs.aspx?docnumber=278732&version=279052&application=HTML>

**XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS**

A. Backlogs of FOIA Requests and Administrative Appeals

	<b>Number of Backlogged Requests as of End of Fiscal Year</b>	<b>Number of Backlogged Appeals as of End of Fiscal Year</b>
Agency	4	0

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

	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	0	0	0	0



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

	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	400	121	401	113

	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	4	4

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

	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	7	8	7	8

	Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report
Agency	0	0

