



*OIP Guidance
May 2008*

2008 Guidelines for Agency Preparation of Annual FOIA Reports

Introduction

The OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524, amended subsection (e) of the Freedom of Information Act (FOIA), which pertains to annual reporting requirements for federal agencies on their administration of the FOIA. As amended, the FOIA now requires that agencies provide additional details regarding response times for both initial requests and administrative appeals, including data on the ten oldest pending requests and appeals. In addition, agencies are now required to report information regarding expedited review and fee waiver requests. Significantly, the information in each agency's Annual FOIA Report must now be expressed both in terms of each principal component of the agency and the agency overall.

Timing

These changes come into effect for the Annual FOIA Reports that will be prepared by federal agencies for the 2008 Fiscal Year. Given the timing of the enactment of the OPEN Government Act of 2007, the Office of Information and Privacy recognizes that some agencies may be unable to capture and report all of the newly required information for the entire 2008 Fiscal Year (October 1, 2007 to September 30, 2008). Agencies should report the required information for no later than the period of July 1, 2008 to September 30, 2008, and for prior months to the extent doing so is feasible. Starting with Fiscal Year 2009, all agencies are expected to be able to include all newly required data in their Annual FOIA Reports.

New Data Elements

The FOIA, as amended, requires that information contained in an agency's Annual FOIA Report be expressed in terms of each principal component and the agency overall. The following additional information must now be included in each agency's Annual FOIA Report:

(1) The number of times each Exemption 3 statute was relied upon to withhold information;

- (2) For requests pending as of the end of the fiscal year, the average number of days that such requests have been pending;
- (3) The average number of days and the range in number of days taken to process requests; (Note: the median number of days to process requests is also still required.)
- (4) The number of requests which were processed in each of the following time periods:
 - up to and including 20 days, and in 20-day increments up to and including 200 days
 - more than 200 days and less than 301 days
 - more than 300 and less than 401 days
 - more than 400 days;
- (5) The median, average, and range in number of days taken to process requests in which information is granted, i.e., when requests are granted in full or in part;
- (6) The median, average, and range in number of days to process administrative appeals;
- (7) The ten oldest pending requests, including the date of receipt of the request and the number of days pending;
- (8) The ten oldest pending administrative appeals, including the date of receipt of the appeal and the number of days pending;
- (9) The number of requests for expedited processing which were granted and denied (adjudicated); the median and average number of days taken to adjudicate, and the number which were adjudicated within ten calendar days;
- (10) The number of requests for a fee waiver which were granted and denied (adjudicated); and the median and average number of days taken to adjudicate; and
- (11) Concise descriptions of the FOIA exemptions and an overview, where appropriate, of certain general categories of agency records to which those exemptions apply.

In addition to the new data required by the OPEN Government Act to be included in Annual FOIA Reports, the Department of Justice, in consultation with the Office of Management and Budget, see 5 U.S.C. § 552(e)(5), has revised the content and format of the Report, including adding further reporting requirements, clarifying others, and defining the type of requests which should be included in the Report.

Types of Requests to Include in Annual FOIA Report

In order to provide a clear report of agency FOIA activities, agencies shall only include Privacy Act (PA) requests in their Annual FOIA Reports if the FOIA is utilized in any way to process the request. In other words, if an agency search extends beyond PA “systems of records,” see 5 U.S.C. § 552a(a)(5) (2006), the search constitutes a FOIA search and the request must be included in this Report. Similarly, if a PA exemption applies to a request,

the agency must then consider whether the FOIA allows access to the records. That request must likewise be included in this Report.

Conversely, when an agency conducts a PA search exclusively (i.e., within a “system of records”) and does not claim a PA exemption for any records located, that request should not be included in this Report.

Agencies should still give incoming requests the potential benefit of access under both the PA and the FOIA. However, if/when the agency determines that the request will be processed completely and exclusively under the PA, that request shall not be included in the Annual FOIA Report.

Guidance Points

- Ensure that the information about the number of FOIA requests and administrative appeals, their status and dispositions, as well as the time spent processing them is accurate in order to provide a meaningful report of such activities in the Annual FOIA Report.
- Provide information in the format presented in this guidance. Complete all fields, entering “0” if there is no data to report.
- If unable to comply with a specific reporting requirement herein, include an explanatory footnote in the Report.
- In order to calculate days, count days from the time at which a perfected request is received, and count working/business days unless otherwise indicated.

Calculating the Median Age and Average Age for Components and for the Agency Overall:

- **Calculation of median for components:** Example #1 -- Given 7 requests with ages 10, 25, 35, 65, 75, 80, and 400 days from the date of receipt, the median age of these requests is 65 days, i.e., the middle number. Example #2 -- Given 6 requests with ages 10, 20, 30, 50, 120, and 200 days from the date of receipt, the median age of these requests is 40 days (the average of the 2 middle numbers).
- **Calculation of median for agency:** Calculate the median of all requests agency-wide. Do not calculate the median of the components’ medians. Example -- Assuming 45 days is the median age of all of Component A’s requests, 85 days is the median age of all of Component B’s requests, and 200 days is the median age of all of Component C’s requests, do not determine the median for the agency overall by selecting the components’ middle number, i.e., 85 days. Rather, compile a comprehensive list of the ages of all requests from each of the components and determine the median from this overall group of numbers.
- **Calculation of average for components:** Given the numbers in above Example #2, the average age is 71.7 days, which is 430 days (the sum) divided by 6 (the number of requests).
- **Calculation of average for agency:** Provide the weighted average. Example -- Component A has 50 requests with an average age of 25 days, Component B has 100 requests with an average age of 60 days, and Component C has 200 requests with an average age of 75 days. For each component, multiply the

number of requests the component has by the average age of those requests, i.e., 50×25 (= 1250 for Component A), 100×60 (= 6000 for Component B), and 200×75 (= 15,000 for Component C). Add these figures ($1250 + 6000 + 15,000$), for a sum of 22,250. Add the number of requests of all components ($50 + 100 + 200$), for a sum of 350 total requests. Divide 22,250 by the 350 total requests, which is 63.6. The average age of requests for this agency is 63.6 days.

Annual Report Guidance Outline & Template

All agencies must prepare their Annual FOIA Report in accordance with the outline and template presented below, and must report data both for each principal component of the agency and for the agency overall. Instructions and guidance points are included beneath each template heading.

I. BASIC INFORMATION REGARDING REPORT

1. Provide name, title, address, and telephone number of person(s) to be contacted with questions about the Report.
2. Provide an electronic link for access to the Report on the agency Web site.
3. Explain how to obtain a copy of the Report in paper form.

II. MAKING A FOIA REQUEST

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

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

1. Provide any agency-specific acronyms or terms used in this Report.
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 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 entirety 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. **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 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 they were relied upon. For each request, report all statutes relied upon; however, count each statute only once per request.
2. Provide a brief description of the types of information withheld under each statute.
3. Indicate whether a court has upheld the use of the statute by providing a citation to a court decision.

Statute	Type of Information Withheld	Case Citation	Number of Times Relied upon per Component	Total Number of Times Relied upon by Agency
			Component A # Component B #	
			Component A # Component B #	

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
Component A				
Component B				
AGENCY OVERALL				

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 only if 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									TOTAL	
				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		
Comp. A														
Comp. B														
AGENCY OVERALL														

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

- 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
Component A	Description #	
	Description #	
Component B	Description #	
	Description #	

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

- 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
Component A														
Component B														
AGENCY OVERALL														

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.

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

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

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

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

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
Description #	
Description #	

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

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.

	10 th Oldest Appeal	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest Appeal
Date of Receipt of Ten Oldest Appeals	Date									
Number of Days Pending	#									

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			
	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
Component A												
Component B												
AGENCY OVERALL												

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
Component A												
Component B												
AGENCY OVERALL												

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
Comp. A														
Comp. B														
AGENCY OVERALL														

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
Comp. A														
Comp. B														
AGENCY OVERALL														

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
Comp. A														
Comp. B														
AGENCY OVERALL														

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 all 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
Component A									
Component B									
AGENCY OVERALL									

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
Component A	Date									
	Number of Days									
Component B	Date									
	Number of Days									

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

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 adjudicated requests for expedited processing or adjudicated 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 calendar days starting from the day you receive the request for expedited processing through the day you provide notice to the requester of your determination to grant or deny the request for expedited processing.
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 calendar 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
Component A					
Component B					
AGENCY OVERALL					

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: Unlike requests for expedited processing, the period of time to adjudicate a fee waiver request does not necessarily begin with receipt of the fee waiver request itself, nor does it necessarily conclude with a separate letter sent to the requester. As a result, count each working day spent considering whether to grant or deny the request for a fee waiver. 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 the adjudication of the fee waiver request, etc., or any days that succeed the adjudication, such as days spent processing the request after the adjudication is made, etc. (Accordingly, establish a tracking procedure that captures the distinct number of days taken to adjudicate a fee waiver request.)

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
Component A				
Component B				
AGENCY OVERALL				

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 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. Example #3: 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 of 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.)

	Column 1		Column 2			
	PERSONNEL			COSTS		
	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
Component A						
Component B						
AGENCY OVERALL						

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
Component A		
Component B		
AGENCY OVERALL		

XI. FOIA REGULATIONS

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

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
Component A		
Component B		
AGENCY OVERALL		

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

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

- 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 Ending at Your Agency as of End 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
Component A				
Component B				
AGENCY OVERALL				

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.

	10th Oldest Consultation and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Consultation and Number of Days Pending
Component A	Date									
	Number of Days									
Component B	Date									
	Number of Days									

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										

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 <u>RECEIVED</u>		NUMBER OF REQUESTS <u>PROCESSED</u>	
	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
Component A				
Component B				
AGENCY OVERALL				

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 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.

	Column 1	Column 2
	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
Component A		
Component B		
AGENCY OVERALL		

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 <u>RECEIVED</u>		NUMBER OF APPEALS <u>PROCESSED</u>	
	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
Component A				
Component B				
AGENCY OVERALL				

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	Column 2
	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
Component A		
Component B		
AGENCY OVERALL		

F. Discussion of Other FOIA Activities (Optional)

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

Submitting the Annual Report

All agencies are required by the FOIA to submit their Annual FOIA Reports to the Department of Justice by no later than February 1 of each year. The FOIA also requires agencies to make their reports available electronically. The Department of Justice, in turn, is required to make all agency Annual FOIA Reports available at a single access point on the Web.

Upon completion of its Annual FOIA Report, each agency should first forward the Report to the Office of Information and Privacy (OIP) for its review prior to posting it electronically. Reports should be submitted to OIP no later than **January 5th** of each year to permit adequate review time. Once cleared by OIP, the Annual Report can be posted on the agency's FOIA Web site and it will also be included on the Department of Justice's centralized Annual FOIA Report link on the Web. As agencies post their new Report each year, they should maintain their previous Reports on their Web site for a period of at least seven years.

For questions about the Report, contact Bertina Adams at 202-514-3642. (*posted 5/22/2008; supplemented 10/16/2008 (Section VIII)*)

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