

FREEDOM OF INFORMATION ACT (FOIA) ANNUAL REPORT

FY 2007

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

I. Basic Information Regarding Report

A. Name, title, address, and telephone number of person(s) to be contacted with questions about the report.

Ms. Stephanie Lesko, FOIA Administrator
Committee for Purchase From People Who Are Blind or Severely Disabled
1421 Jefferson Davis Highway, Suite 10800
Arlington, VA 22202-3259
Telephone: 703-603-2146

B. Electronic address for report on the World Wide Web.

<http://www.abilityone.gov/jwod/library/foia.html>

C. How to obtain a copy of the report in paper form.

Contact Ms. Lesko at the address or telephone number listed above.

II. How to Make a FOIA Request

A. Names, addresses, and telephone numbers of all individual agency components and offices that receive FOIA requests.

Mr. Patrick Rowe, Acting Executive Director and Chief FOIA Officer
Committee for Purchase From People Who Are Blind or Severely Disabled
1421 Jefferson Davis Highway, Suite 10800
Arlington, VA 22202-3259
Telephone: 703-603-7740

B. Brief description of the agency's response-time ranges.

Average processing time in FY 2007 was 25 working days.

C. Brief description of why some requests are not granted.

The Committee for Purchase From People Who Are Blind or Severely Disabled (Committee) denied information the following amount of times in FY 2007: once under FOIA Exemption 3 (statute), four times under FOIA Exemption 4 (privileged, confidential, commercial or financial information), three times under FOIA Exemption 5 (pre-decisional, deliberative process information), and four times under FOIA Exemption 6 (personal privacy). The Committee did not disclose information in response to 96 requests for the following reasons: no records (9), referrals (4), withdrawn (3), records not reasonably described (2), not an agency record (6), duplicate request (2), and handled as public affairs information requests instead of FOIA requests (70).

III. Definitions of Terms and Acronyms Used in the Report

A. Agency-specific acronyms or other terms.

None

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 the appeal in all respects.

5. Multi-track processing -- a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests in each track are processed on a first-in/first out basis. A requester who has an urgent need for records may request expedited processing (see below).

6. Expedited processing -- an agency will process a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records which warrants prioritization of his or her request over other requests that were made earlier.

7. Simple request -- a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the volume and/or simplicity of records requested.

8. Complex request -- a FOIA request that an agency using multi-track processing places in a slower track based on the volume and/or complexity of records requested.
9. Grant -- an agency decision to disclose all records in full in response to a FOIA request.
10. Partial grant -- an agency decision to disclose a record in part in response to a FOIA request, deleting information determined to be exempt under one or more of the FOIA's exemptions; or a decision to disclose some records in their entirety, but to withhold others in whole or in part.
11. Denial -- an agency decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempt under one or more of the FOIA's exemptions, or for some procedural reason (such as because no record is located in response to a FOIA request).
12. Time limits -- the time period in the Freedom of Information Act for an agency to respond to a FOIA request (ordinarily 20 working days from proper receipt of a "perfected" FOIA request).
13. "Perfected" request -- a FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency or agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.
14. Exemption 3 statute -- a separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection (b)(3).
15. Median number -- the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
16. Average number -- the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.

IV. Exemption 3 Statutes

A. List of Exemption 3 statutes relied on by agency during current fiscal year.

1. Brief description of type(s) of information withheld under each statute.

One Exemption 3 statute was used as a basis for denying information in FY 2007. The information withheld was in regards to the Health Insurance Portability and Accountability Act (HIPAA) of 1996, Public Law 104-191, as supplemented by Title XI, 42 U.S.C. 1301 et seq., which provides that a person shall not knowingly disclose individually identifiable health information to another person. In the case of the medical and personal health information contained within the responsive documents, disclosure of this information is prohibited. HIPAA also contains a prohibition that a person shall not knowingly obtain individually identifiable health information relating to an individual. In this instance, that also would apply to medical and personal health information contained in the response.

2. Statement of whether a court has upheld the use of each statute. If so, then cite example.

N/A

V. Initial FOIA/PA Access Requests

A. Numbers of initial requests.

1. Number of requests pending as of end of preceding fiscal year ___4___
2. Number of requests received during current fiscal year ___129___
3. Number of requests processed during current fiscal year ___123___
4. Number of requests pending as of end of current fiscal year ___10___

B. Disposition of initial requests.

1. Number of total grants ___16___
2. Number of partial grants ___11___
3. Number of denials ___0___

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

- (1) Exemption 1 ___0___
- (2) Exemption 2 ___0___
- (3) Exemption 3 ___1___
- (4) Exemption 4 ___4___
- (5) Exemption 5 ___3___
- (6) Exemption 6 ___4___
- (7) Exemption 7(A) ___0___
- (8) Exemption 7(B) ___0___
- (9) Exemption 7(C) ___0___
- (10) Exemption 7(D) ___0___
- (11) Exemption 7(E) ___0___
- (12) Exemption 7(F) ___0___
- (13) Exemption 8 ___0___
- (14) Exemption 9 ___0___
4. Other reasons for nondisclosure (total) ___96___
 - a. no records ___9___
 - b. referrals ___4___

- c. request withdrawn ____3____
- d. fee-related reason ____0____
- e. records not reasonably described ____2____
- f. not a proper FOIA request for some other reason ____0____
- g. not an agency record ____6____
- h. duplicate request ____2____
- i. other (specify) ____70____ (non-disclosed under the FOIA; we removed these requests from the FOIA queue since they could be fully disclosed as public affairs information requests)

VI. Appeals of Initial Denials of FOIA/PA Requests

A. Numbers of appeals.

- 1. Number of appeals received during fiscal year ____2____
- 2. Number of appeals processed during fiscal year ____2____

B. Disposition of appeals.

- 1. Number completely upheld ____1____
- 2. Number partially reversed ____0____
- 3. Number completely reversed ____0____

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

- (1) Exemption 1 ____0____
- (2) Exemption 2 ____0____
- (3) Exemption 3 ____0____
- (4) Exemption 4 ____1____
- (5) Exemption 5 ____0____
- (6) Exemption 6 ____0____
- (7) Exemption 7(A) ____0____
- (8) Exemption 7(B) ____0____
- (9) Exemption 7(C) ____0____
- (10) Exemption 7(D) ____0____
- (11) Exemption 7(E) ____0____

(12) Exemption 7(F) ___0___

(13) Exemption 8 ___0___

(14) Exemption 9 ___0___

4. Other reasons for nondisclosure (total) ___1___

a. no records ___0___

b. referrals ___0___

c. request withdrawn ___1___

d. fee-related reason ___0___

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___

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 processed ___0___

b. median number of days to process ___0___

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

a. number of requests processed ___123___

b. median number of days to process ___12___

3. Requests accorded expedited processing.

a. number of requests processed ___0___

b. median number of days to process ___0___

B. Status of pending requests.

1. Number of requests pending as of end of current fiscal year ___10___

2. Median number of days that such requests were pending as of that date ___20.5___

VIII. Expedited processing.

A. Number of requests accorded expedited processing.

1. Number received ___ 0 ___
2. Number granted ___ 0 ___

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) ___ 1 ___
3. Total number of personnel (in work-years) ___ 1 ___

B. Total costs (including staff and all resources).

1. FOIA processing (including appeals) ___ Unknown: not separately calculated by agency ___
2. Litigation-related activities (estimated) ___ 0 ___
3. Total costs ___ \$0 ___
4. (Optional) Comparison with previous year(s) (including percentage of change) ___ Unknown: not separately calculated by agency ___

C. (Optional) Statement of additional resources needed for FOIA compliance ___ Unknown: not separately calculated by agency ___

X. Fees

- A. Total amount of fees collected by agency for processing requests ___ \$2,078.56 ___
- B. Percentage of total costs ___ Unknown: not separately calculated by agency ___

XI. FOIA Regulations (Including Fee Schedule)

The Committee's regulations appear at 41 Part CFR 51-8 and are available online:
http://www.abilityone.gov/jwod/library/JWOD_Regulations.html

XII. Report on Executive Order 13392 Implementation

On December 14, 2005, the President issued Executive Order 13392, *Improving Agency Disclosure of Information*, which established a "citizen-centered" and "results-oriented" approach to administration of the Freedom of Information Act. This Executive Order required each agency to conduct a review of its FOIA operations, develop an agency-specific plan to improve its administration of the Act, and include in its annual FOIA report a description of its progress in meeting the milestones and goals established in its improvement plan.

This section of the annual FOIA report contains the Committee's description of its progress in implementing the milestones and goals of its FOIA Improvement Plan, including highlights of the Committee's achievements. On October 16, 2007, the Department of Justice issued supplemental guidance on processing this section; the Committee has adhered to those guidelines, as delineated in the remainder of this report. Accordingly, the reporting period for Sections I-XI refers to Fiscal Year 2007 data, whereas the reporting period for Section XII refers to Calendar Year 2007.

A. Description of supplementation/modification of agency improvement plan (if applicable)

Not applicable

B. Report on agency implementation of its plan, including its performance in meeting milestones, with respect to each improvement area

The Committee has met the majority of its June 2006 goals and milestones which were to be completed for this reporting period. As itemized in its plan, the Committee concentrated its efforts in the following improvement areas: backlog reduction/elimination, improvement of agency's FOIA reference site, and overall FOIA web site improvement.

In regards to CY 2007's first improvement area, **backlog reduction/elimination**, the Committee reached and then greatly surpassed its backlog reduction goals in February 2007. The overall backlog reduction goal set by the Committee was to reduce the backlog of pending initial requests by twenty-five percent by January 14, 2007. (Background: By the end of the FY 2006 the Committee had in fact already far exceeded its goal, decreasing its backlog by 85 percent. In the succeeding months, the Committee continued to reduce its backlog of initial requests by another 11 percent, for a total reduction of 96 percent in the number of pending initial requests.) Although the Committee had far exceeded all the backlog reduction goals established in its plan for initial requests, the Committee diligently decreased the last four percent of its backlog even further – this first backlog was eliminated by February 2007, ten months ahead of its target date of December 31, 2007. Thereafter, the Committee hoped to be able to return to its pre-2005 no-backlog status, but unfortunately a large number of time-intensive FOIAs came into the agency and caused another, albeit smaller, backlog. This is discussed more fully in Section C.

The Committee continued to make requesters aware of the processing delay, in an effort to have helpful customer service. The FOIA Administrator sent letters or emails acknowledging receipt of requests within ten days of receipt. She included her name, telephone number, and email

address so FOIA requesters knew who was processing the request and who to contact directly. In informing requesters that the Committee received their requests, she explained that the Committee processes FOIAs in the order in which they are received and she relayed the number of FOIA requests that were ahead of theirs so requesters had realistic expectations of when to expect a response. As a result of these acknowledgement letters, some requesters began using email and the telephone as a quick and convenient means of communication. Equally important, this outreach effort successfully resulted in the FOIA Administrator being able to talk through requests to fully understand what information the requester wants. Often this resulted in her handling many FOIA requests in a public affairs capacity, rather than her adding the FOIA requests to the FOIA queue, since oftentimes requested information was already publicly available.

The second improvement area, **agency's FOIA reference guide**, showed success. Prior to CY 2007 the Committee did not have a FOIA reference guide; therefore the FOIA Administrator sought to create one. She researched other federal agencies' FOIA reference guides and created content to provide FOIA requesters specific aid. She incorporated such documents as the Freedom of Information Act, the Privacy Act, 1996 Amendments, relevant Executive Orders, Committee's regulations, and previous Committee FOIA annual reports, and has been writing a *Frequently Asked Questions* document. The reference guide, which will be updated throughout the next calendar year, is online at <http://www.abilityone.gov/jwod/library/foia.html>. The FOIA Administrator has also been assembling applicable information, including previous responses and examples on usage of FOIA exemptions, to create and write an internal staff standard operating procedures manual.

The third improvement area, **overall FOIA Web site improvement**, was also a success. In an effort to keep apprised of DoJ guidance in this area, the FOIA Administrator attended the two 2007 DoJ FOIA seminars on behalf of the Chief FOIA Officer, General Counsel, and FOIA Public Liaison. In addition, the FOIA staff has kept apprised of any DOJ guidance through emails received at its new FOIA@abilityone.gov email account.

On a monthly basis, the FOIA Administrator reviewed the web site, and if needed, requested that the Information Technology Team make any required improvements, to include the proactive posting agency information that is in the public domain. The FOIA Administrator also collaborated with the Committee's webmaster to post agency memos and new or revised policy statements online. As a result, the Committee posts memos and policy statements within two weeks of final signature. The FOIA Administrator ensured that staff members identified additional agency information that is in the public domain and is of broad interest, so that it could be added to the web site. If questions arose as to the legality of posting information, the FOIA Administrator and the General Counsel had an open relationship where she could obtain legal review and clearance to ensure that records are, in fact, in the public domain and thus appropriate for posting. The FOIA Administrator also worked with the webmaster to post information, such as the changes in Chief FOIA Officer and General Counsel, as both of the former occupants of those positions retired from federal service during CY 2007. Moreover, the FOIA Administrator ensured that the posted information was accessible to people who are blind or visually impaired; and on a monthly basis she reviewed the Committee's FOIA web site links and information for timeliness, thoroughness and accessibility.

As a result of this and further overall web upgrades that will be occurring agency-wide during 2008, the Committee is increasing its quantity and scope of information accessible on its web site. Furthermore, as a result of this improvement area, more hardcopy memos have been located and subsequently posted online. Including a variety of subject areas, these memos and policy statements can be found online at <http://www.abilityone.gov/jwod/library/policy.html>.

C. Identification and discussion of any deficiency in meeting plan milestones

1. FOIA Improvement Plan area to which the deficient milestone relates.

Backlog Reduction/Elimination

2. Deficient milestone and the original target date from the FOIA Improvement Plan.

Backlog reduction of 100% by 12/31/07 was not met due to unanticipated requests. Since they were unanticipated, the Committee had no reason to anticipate them when it set its original plan.

3. Steps taken to correct the deficiency and the dates by which the steps were completed.

The 25% and 50% milestones were met, but in an effort to decrease the backlog to meet the 100% milestone, in November-December 2007 the FOIA Administrator contacted requesters to determine their interest in pursuing their requests and discussed the scope of requests involving voluminous responsive records. In collaboration with the General Counsel and FOIA Public Liaison, the FOIA Administrator ensured responses were sent through the response approval process as expeditiously as possible. Currently, as a result, the newly-formed CY 2007 backlog has been reduced by 50%, such that only four FOIA requests from the CY 2007 backlog are now in backlog status.

4. Future remedial steps and the dates by which the steps will be completed.

The completion date for meeting the 100% milestone will be June 1, 2008. For the two August 10, 2007 requests the two September 6, 2007 requests, the FOIA Administrator expects to release documents by June 1, 2008. The four backlogged FOIAs are currently “in progress” – for two requests, the FOIA Administrator is awaiting documentation from staff members who are currently searching their email accounts to forward to the FOIA Administrator the responsive emails for her to process, and for the other two she has already begun the file search in the agency’s file room and had begun pulling the necessary files to cull through the papers to find the responsive documents.

To ensure that the Committee handles FOIA requests as efficiently as possible, the FOIA Administrator continues to weekly update the Chief FOIA Officer, General Counsel, and FOIA Public Liaison regarding the status of the agency’s FOIA queue. This communication vehicle continues to have positive results, yielding collaboration with senior management and realignment of job duty priorities for the FOIA Administrator, who has other job responsibilities in addition to FOIA ones.

Coincidentally, although the Committee has a backlog of four FOIA requests now for CY 2007, the Committee is fully on target in terms of its report it submitted to DoJ on November 1, 2007,

FOIA Backlog Reduction Goals for FY08, FY09, and FY10, which was in response to DoJ's September 7, 2007 memorandum stating that any agency that has a request or appeal pending beyond the statutory time period as of the end of Fiscal Year 2007 is required to establish and publish these goals.

Accordingly, the Committee established the goals with respect to the numbers of FOIA requests and administrative appeals to be processed, and requests/appeals it expects to be pending beyond the statutory time during FY 2008. In the November report the Committee estimated it would have 10 pending requests at the beginning of FY 2008, which is coincidentally exactly the number the Committee had. The Committee is fully on target with the number of appeals outstanding, as well, with zero in the queue.

D. Additional narrative statements regarding other executive order-related activities (if applicable)

Not applicable

E. Concise descriptions of FOIA exemptions

The nine exemptions to the FOIA authorize federal agencies to withhold information covering: (1) classified national defense and foreign relations information; (2) internal agency rules and practices; (3) information that is prohibited from disclosure by another federal law; (4) trade secrets and other confidential business information; (5) inter-agency or intra-agency communications that are protected by legal privileges; (6) information involving matters of personal privacy; (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; (8) information relating to the supervision of financial institutions; and (9) geological information on wells.

F. Additional Statistics:

1. Ten oldest pending FOIA requests, as of January 1, 2008, by date agency received

Calendar Year	2000	2001	2002	2003	2004	2005	2006	2007
Requests								June 4* Aug. 10 Aug. 10 Sept. 6 Sept. 6 Dec. 21

*currently in clarification state while waiting for confirmation that requester will pay fees

2. Consultations

a.) Number of consultations received, processed, and pending

Consultations Received From Other Agencies During FY07	Consultations Received From Other Agencies That Were Processed by Committee During FY07	Consultations Received From Other Agencies That Were Pending at Committee as of October 1, 2007
0	0	0

b.) Ten oldest pending consultations received from other agencies

Calendar Year	1999	2000	2001	2002	2003	2004	2005	2006	2007
Consults Received	0	0	0	0	0	0	0	0	0

G. Attachment: Agency improvement plan:

The FOIA Improvement Plan for the Committee is attached.