



SUMMARY OF ANNUAL FOIA REPORTS FOR FISCAL YEAR 2011

Every year, the Office of Information Policy (OIP) compiles a summary of the information contained in the Annual FOIA Reports prepared by each federal agency that is subject to the FOIA. The Annual FOIA Reports contain detailed statistics on agencies' FOIA activities, including the number of FOIA requests and appeals received, processed, and pending. These reports are required to be submitted to the Attorney General each year, no later than February 1st. See 5 U.S.C. § 552(e)(1) (2006 & Supp. IV 2010). For Fiscal Year (FY) 2011, there were ninety-nine agencies subject to the FOIA that submitted an Annual FOIA Report.

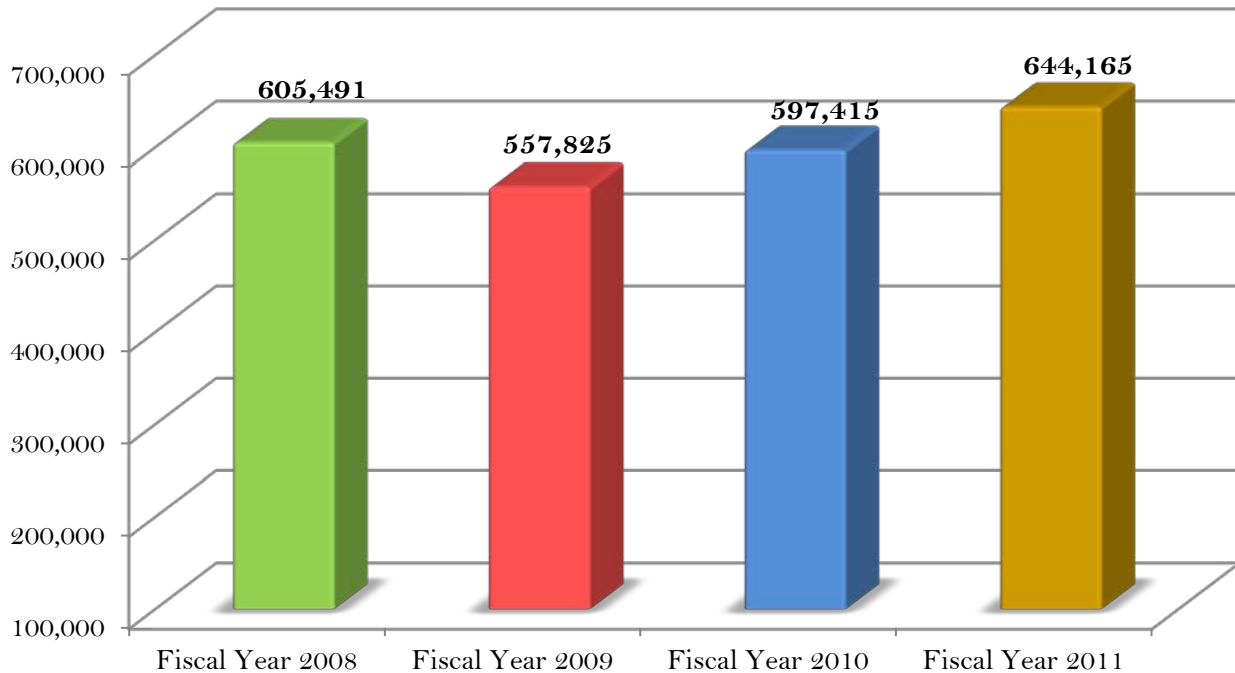
OIP has once again uploaded all of the data from agencies' FY 2011 Annual FOIA Reports to FOIA.gov where it can easily be viewed online, compared with data from previous fiscal years and across agencies, and downloaded in an open (CSV) format. The purpose of this summary is to provide an overall picture of FOIA activity across the government. While earlier summaries contained a snapshot of government data, the existence of FOIA.gov continues to allow OIP to include statistics that were not readily available in past years, as well as a more detailed statistical analysis as more data is added to FOIA.gov. Since not all Annual FOIA Report data prior to FY 2010 is available on FOIA.gov, OIP also compiled various statistics directly from agencies' published Annual FOIA Reports, as well as from previous Annual FOIA Report Summaries, in order to make comparisons and illustrate different data trends over time. Agencies' published Annual FOIA Reports and OIP's Summaries of the Annual FOIA Reports are all available on the [Reports](#) page of [OIP's website](#).

FOIA REQUESTS

Number of Requests Received

The total number of FOIA requests received by all departments and agencies in FY 2011 was 644,165, which is a nearly 8% increase of over 46,000 requests from the 597,415 requests the government received during FY 2010. Notably, the government received more requests during FY 2011 than the previous high of 605,941 requests recorded in FY 2008.

Total Number of Requests Received



Of the fifteen departments, for the second year in a row, DHS reported receiving the largest number of requests with 175,656, which is a 35% increase, or over 45,000 more requests, from the 130,098 requests it received in FY 2010. DOD reported receiving the second highest number of requests with 74,117. HHS and DOJ recorded the third and fourth highest numbers of incoming requests with 67,431 and 63,103, respectively. Finally, VA reported receiving the fifth highest number of requests with 27,655.

Among the other eighty-four agencies, for the second straight year, SSA reported receiving the most requests by a wide margin with 32,456. EEOC received the next highest number of requests with 18,424, and was followed closely by NARA which received 18,129 requests. SEC received the fourth highest number of requests with 11,555, and EPA received the fifth highest with 10,123.

The departments that reported receiving the lowest number of requests during FY 2011 were Commerce, which received 2,202 (a slight increase over the 2,113 requests it received in FY 2010), followed by DOE which received 2,315 requests. After DOE, Education and HUD received the least number of requests with 2,401 and 2,828, respectively. No other federal department received less than 3,000 requests in FY 2011.

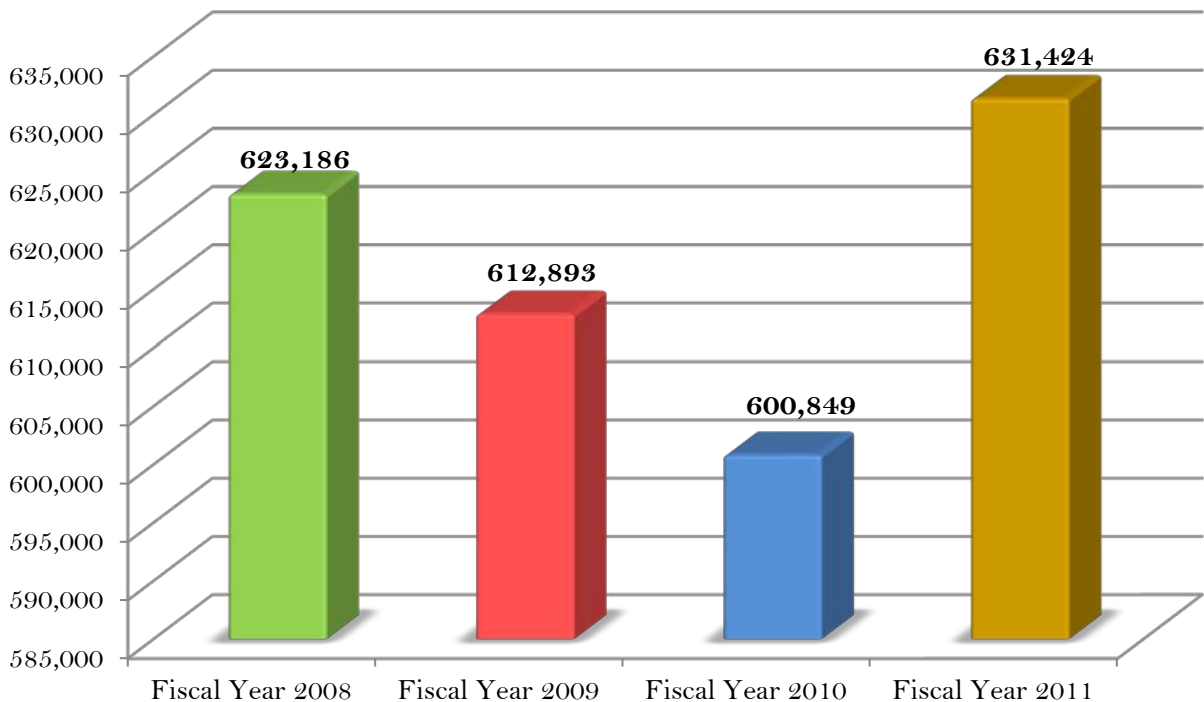
When examining the data for the other eighty-four agencies, only three received less than ten requests in FY 2011: Armed Forces Retirement Home (four requests); Administrative

Conference of the United States (seven requests), and the U.S. African Development Foundation (nine requests). Another seven agencies received less than twenty requests: Farm Credit System Insurance Corporation (eleven requests), Special Inspector General for Iraq Reconstruction (fourteen requests), Inter-American Foundation (sixteen requests), National Capital Planning Commission (seventeen requests) Special Inspector General for Afghanistan Reconstruction (eighteen requests), Selective Service System (eighteen requests), and the Recovery Accountability and Transparency Board (nineteen requests).

Number of Requests Processed

In FY 2011, the government overall processed 631,424 FOIA requests, which is over a 5% increase from the 600,849 requests that were processed in the prior fiscal year. Even more significant, this fiscal year marked the most number of requests processed by the government since FY 2008 when agencies were advised to no longer include pure Privacy Act requests in their Annual FOIA Reports. This achievement demonstrates the sustained efforts by agency FOIA personnel to work to meet the demands of increasing numbers of incoming requests.

Total Number of Requests Processed



The five departments that received the most requests in FY 2011 also processed the most requests: DHS (145,631 requests), DOD (75,648 requests), HHS (70,179 requests), DOJ (63,992 requests), and VA (27,891 requests). Moreover, with the exception of DHS which

received over 45,000 more requests this past fiscal year, all of these departments processed more requests than they received.

When examining the Annual FOIA Report data for the other eighty-four agencies, SSA processed the most requests with 32,445. EEOC and NARA processed the next largest amount of requests with 18,297 and 17,182, respectively. SEC processed the fourth highest number of requests with 11,562, and EPA processed the fifth highest with 10,435. As indicated above, for the second fiscal year in a row, these five agencies also received the most requests among all agencies outside of the departments. Additionally, both SEC and EPA made significant efforts in meeting the demands of their incoming requests by processing more requests than they received.

Of all the departments, Commerce reported processing the lowest number of requests during FY 2011 with 2,209, and was followed closely by DOE which processed 2,222 requests. Education, which processed 2,486 requests, and HUD, which processed 2,882 requests, were the only other federal departments to process less than 3,000 requests. As indicated above, these five departments, in the same order, also received the lowest number of requests to process among the departments. Moreover, of these five departments, Commerce, Education, and HUD all processed more requests than they received in FY 2011.

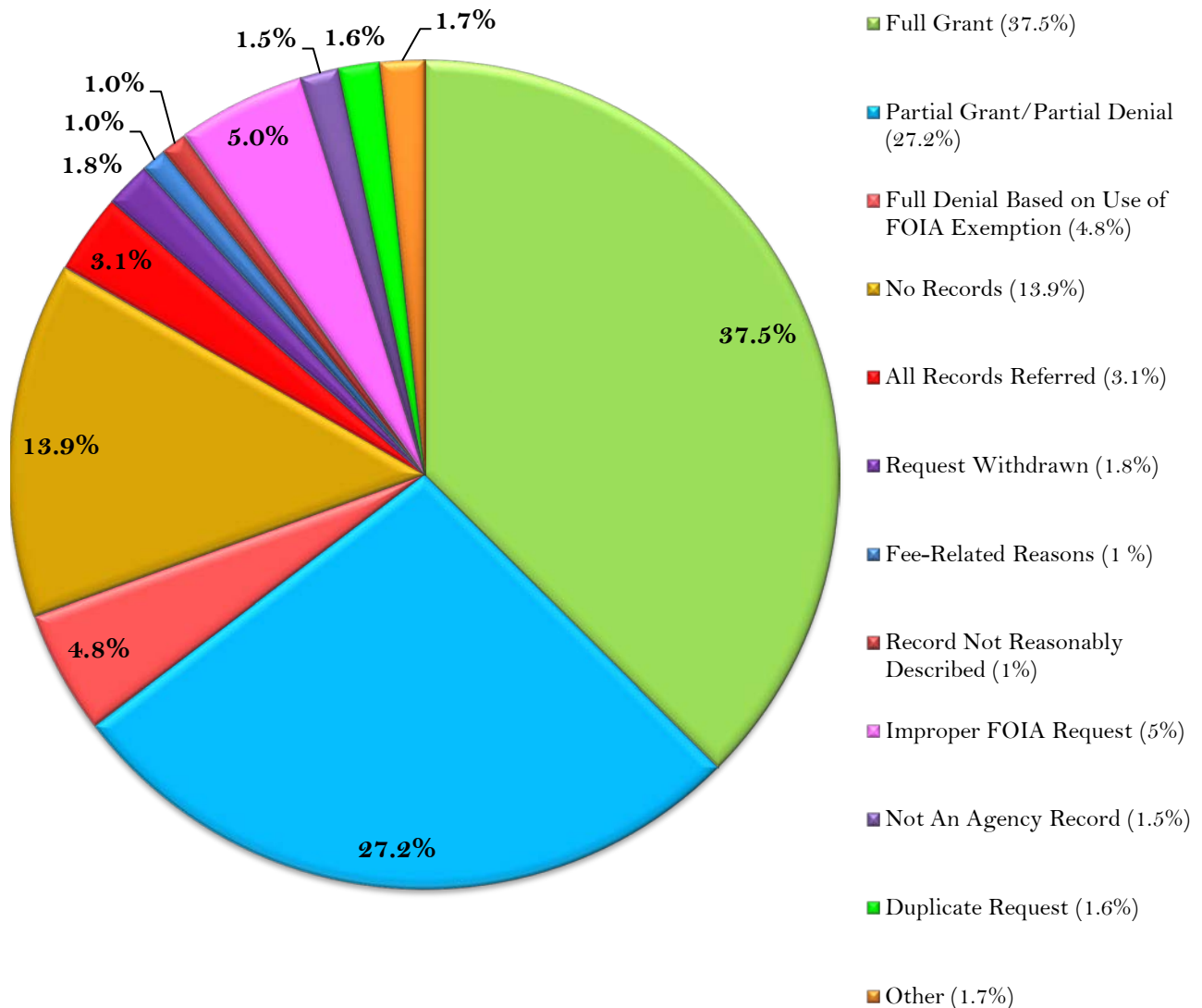
Of the remaining eighty-four agencies, forty-six processed less than one hundred requests in FY 2011. Of these forty-six, the following eleven agencies processed less than twenty requests: Armed Forces Retirement Home (four requests), Administrative Conference of the United States (seven requests), U.S. African Development Foundation (nine requests), Farm Credit System Insurance Corporation (ten requests), Special Inspector General for Iraq Reconstruction (fourteen requests), Inter-American Foundation (sixteen requests), National Capital Planning Commission (seventeen requests), Selective Service System (eighteen requests), Recovery Accountability and Transparency Board (nineteen requests), the Committee for Purchase from People Who Are Blind or Severely Disabled (nineteen requests), and the Council of the Inspectors General on Integrity and Efficiency (nineteen requests). Notably, however, these agencies also received some of the lowest numbers of requests during FY 2011 and all but two processed as many requests as they received. The Farm Credit System Insurance Corporation and the Committee for Purchase from People Who Are Blind or Severely Disabled both processed one less request than they received during FY 2011. The Council of the Inspectors General on Integrity and Efficiency processed four less requests than it received during FY 2011.

Disposition of Requests

Records were located and processed for release in response 69.5% of FOIA requests. The remaining 30.5% of requests were closed for other reasons, such as when no records responsive to the request could be located. The Department of Justice's [2008 guidance on the content of agency Annual FOIA Reports](#) requires agencies to include a breakdown of the

disposition of all requests. For 13.9% of all requests, no records responsive to the request could be located by the agency receiving the request. Another 1% of requests received were closed for fee related reasons, such as when a requester declined to pay estimated fees that were assessed under the FOIA's fee provisions, and less than 2% were withdrawn by the requester. For those requests where responsive records were located, these records were processed for release after a review to determine where any of the FOIA's exemptions should be applied.

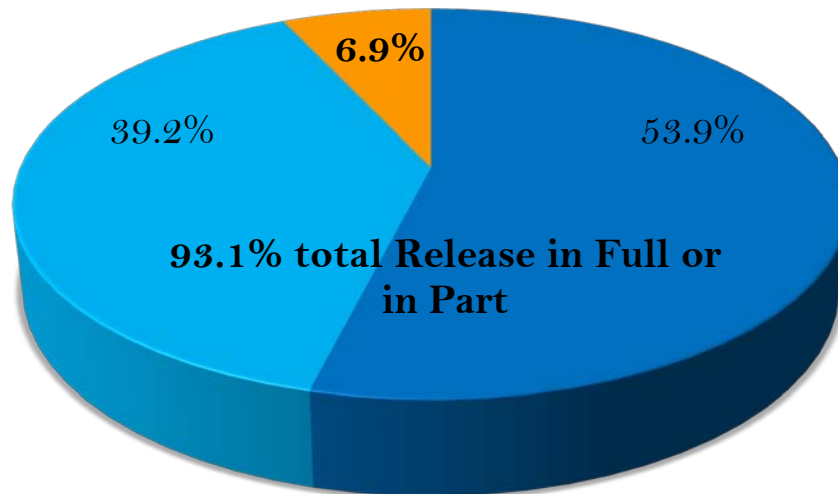
Disposition Of All Processed FOIA Requests



The FOIA includes nine exemptions from disclosure that provide protection for important interests such as national security, personal privacy, and certain law enforcement activities. Of the 631,424 requests that agencies processed during FY 2011, 438,638 were processed for exemption applicability, which means that for these requests the agency reviewed records for potential disclosure. Over 53% (236,474 requests) of these processed requests resulted in a full release of information, and over 93% (408,269 requests) resulted in the release of either some or all of the requested information.

Finally, during FY 2011, the government overall reported issuing 30,369 full denials based on the use of FOIA exemptions, which accounts for less than 7% of all requests processed for exemption applicability.

Disposition of Fiscal Year 2011 Requests Processed for Exemption Applicability



■ Release in Full (53.9%) ■ Release in Part (39.2%) ■ Denied in Full Based on FOIA Exemptions (6.9%)

During FY 2011, the fifteen departments collectively reported processing 344,530 requests for exemption applicability, which is a 7% increase from the 321,763 requests processed in FY 2010. Eleven of the fifteen departments – USDA, Commerce, DOD, Education, DOE, DHS, HUD, Interior, DOJ, DOT, and Treasury – released records in full or in part in response to over 90% of the requests they processed for exemption applicability. Another three departments – HHS, DOL, and VA – made either a full or partial release of information in response to over 80% of such requests. Significantly, four departments – USDA, HHS, DOJ, and DOT – released records in full in response to over 70% of requests processed for exemption

DOT – released records in full in response to over 70% of requests processed for exemption applicability. Another four departments – DOD, HUD, Interior and Treasury – released records in full in over 60% of these requests.

Excluding the departments, the other eighty-four agencies collectively reported processing 94,108 requests for exemption applicability, which is a 10% increase over the 85,520 requests processed in FY 2010. Of these 94,108 requests, 88,416 or 94% resulted in either a full or partial release of information. The remaining 6% of these requests (5,692 requests) were denied in full based on the use of FOIA exemptions.

Additionally, five agencies – Administrative Conference of the United States, Farm Credit System Insurance Corporation, Federal Mine Safety and Health Review Commission, Office of Navajo and Hopi Indian Relocation, and the Selective Service System – released records in full in response to 100% of requests processed for exemption applicability. Another twenty-three agencies released records in full or in part in response to 100% of these requests.

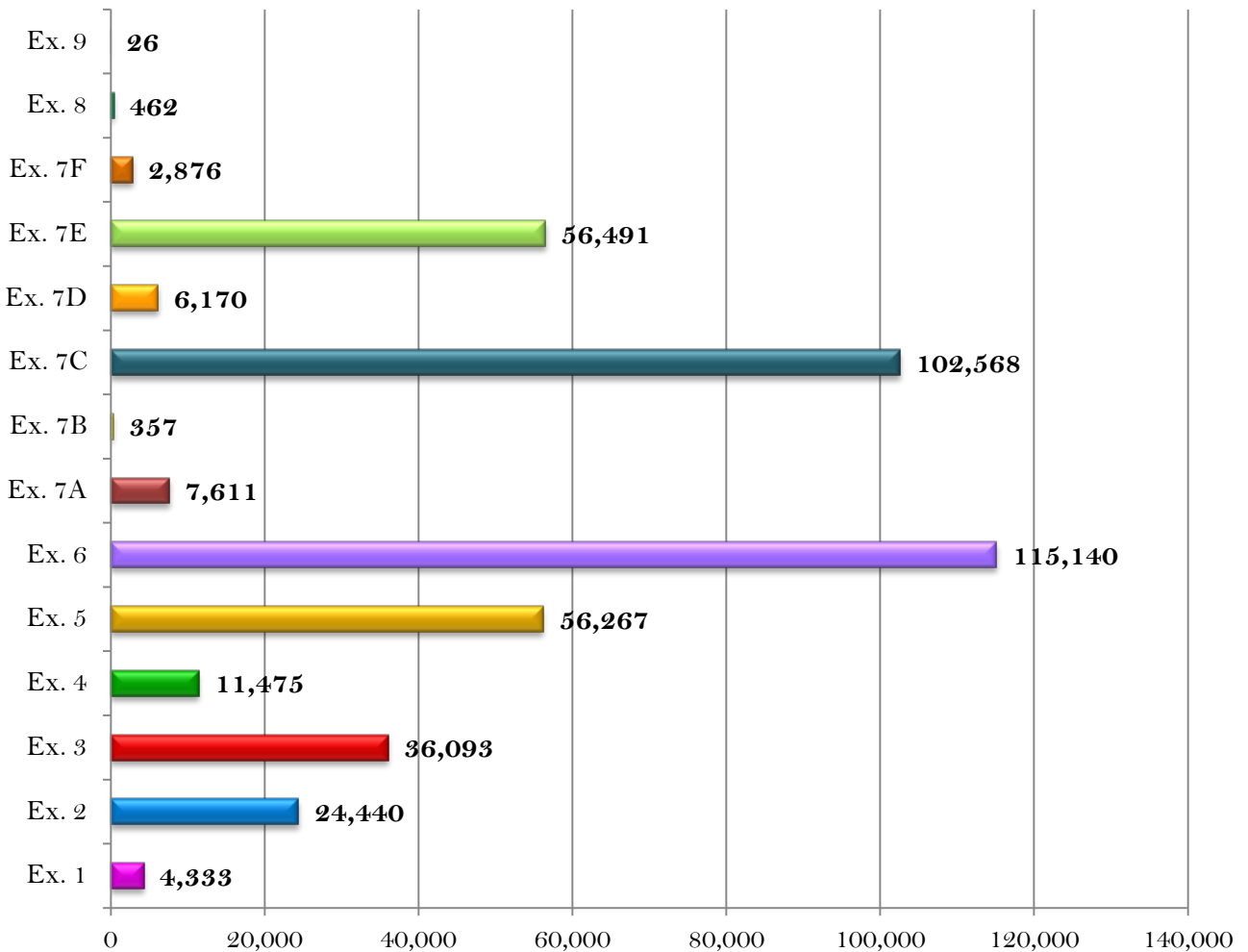
Use of Exemptions

As the Attorney General notes in his [FOIA Guidelines](#), “the disclosure obligation under the FOIA is not absolute.” The statute provides protection for certain information through the nine FOIA exemptions.

The three most cited exemptions changed during FY 2011 when compared to the previous three fiscal years. Although Exemptions 6 and 7C still remain the top two exemptions cited by agencies to protect information, Exemption 5, which is used to protect certain inter- and intra-agency privileged communications, was not among the three most cited exemptions during FY 2011. As further discussed below, the use of Exemption 5 has decreased considerably when compared to Fiscal Years 2009 and 2010.

The most cited exemption by agencies during FY 2011 was Exemption 6 (115,140 citations), which is used to protect matters of personal privacy. Exemption 7C (102,568 citations), which also protects matters of personal privacy, was the next most frequently cited exemption. Finally, Exemption 7E (56,491 citations), which protects certain techniques and procedures used for law enforcement investigations or prosecutions, was the third most cited exemption.

Government Wide Exemption Totals



The least cited FOIA exemption during FY 2011 was Exemption 9 (26 citations), which is used to protect geological and geophysical information concerning wells. Only three departments – USDA, DOD, and Interior – and two agencies – Federal Energy Regulatory Commission and the Overseas Private Investment Corporation – asserted Exemption 9 in their processing of requests during FY 2011. Exemption 7B (357 citations), which concerns information that would deprive a person of a right to a fair trial or an impartial adjudication, was the second least cited exemption during FY 2011. The third least cited exemption was Exemption 8 (462 citations), which concerns information on the supervision of financial institutions.

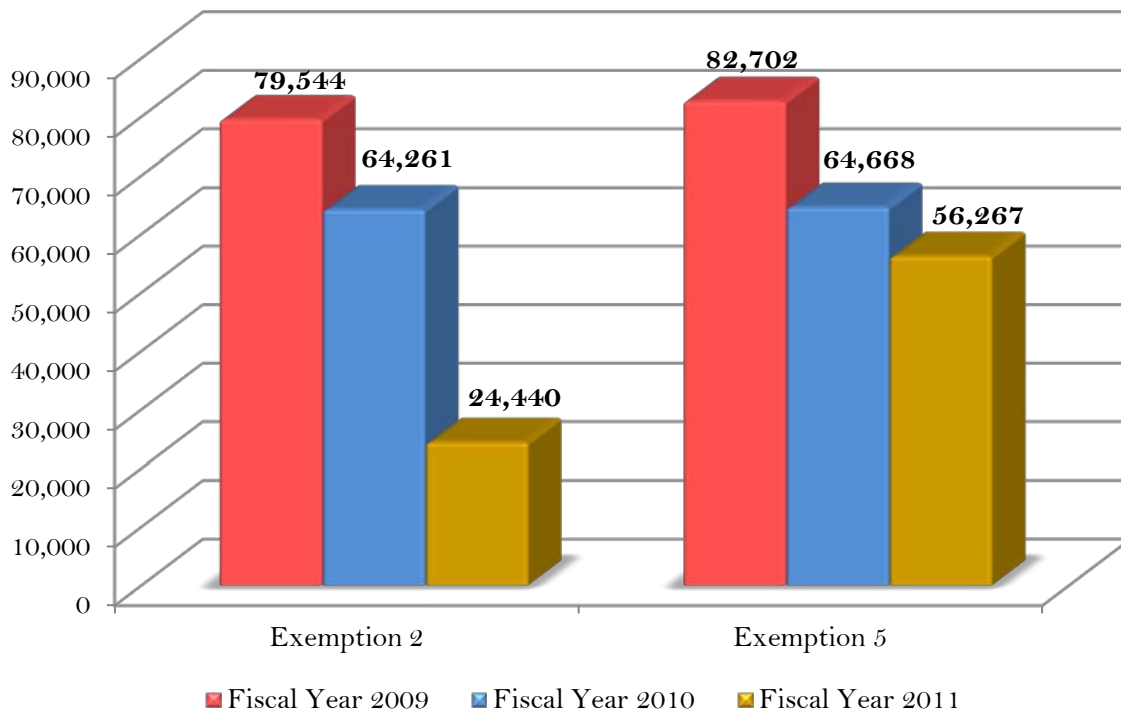
Overall, the use of exemptions across the government decreased during FY 2011 (424,309 total citations) by over 5% when compared to the 448,409 citations reported during FY 2010. Examining the use of each exemption separately, the government collectively reported a decrease in the use of Exemptions 2, 4, 5, 7E, and 8 when compared to the number

of times these exemptions were asserted during FY 2010. Notably, for the second fiscal year in a row, there was a significant drop in the number of times both Exemptions 2 and 5 were invoked.

Exemption 2, which concerns matters that are related solely to internal agency personnel practices, was cited 24,440 times during FY 2011. This represents a 62% decrease in use from the 64,261 times agencies cited Exemption 2 during FY 2010, and a nearly 70% decrease from the 79,544 citations reported in FY 2009. On March 7, 2011, the Supreme Court significantly narrowed the scope of Exemption 2 in *Milner v. Dep't of the Navy*, 131 S. Ct. 1259 (2011). OIP issued extensive [guidance](#) to agencies that summarized the Supreme Court's ruling and outlined the new parameters of Exemption 2. The dramatic decrease in the use of Exemption 2 during FY 2011 is largely attributed to agencies' compliance with the *Milner* decision and OIP's guidance on the proper application of the exemption.

Exemption 5 was asserted 56,267 times to withhold information during FY 2011. This represents a 13% decrease from the 64,668 times Exemption 5 was used during FY 2010, as well as a nearly 32% decrease from the 82,702 times it was cited during FY 2009. Overall, during FY 2011, agencies cited Exemption 5 in less than 13% of all requests that were processed for exemption applicability.

Decrease in Exemption Use

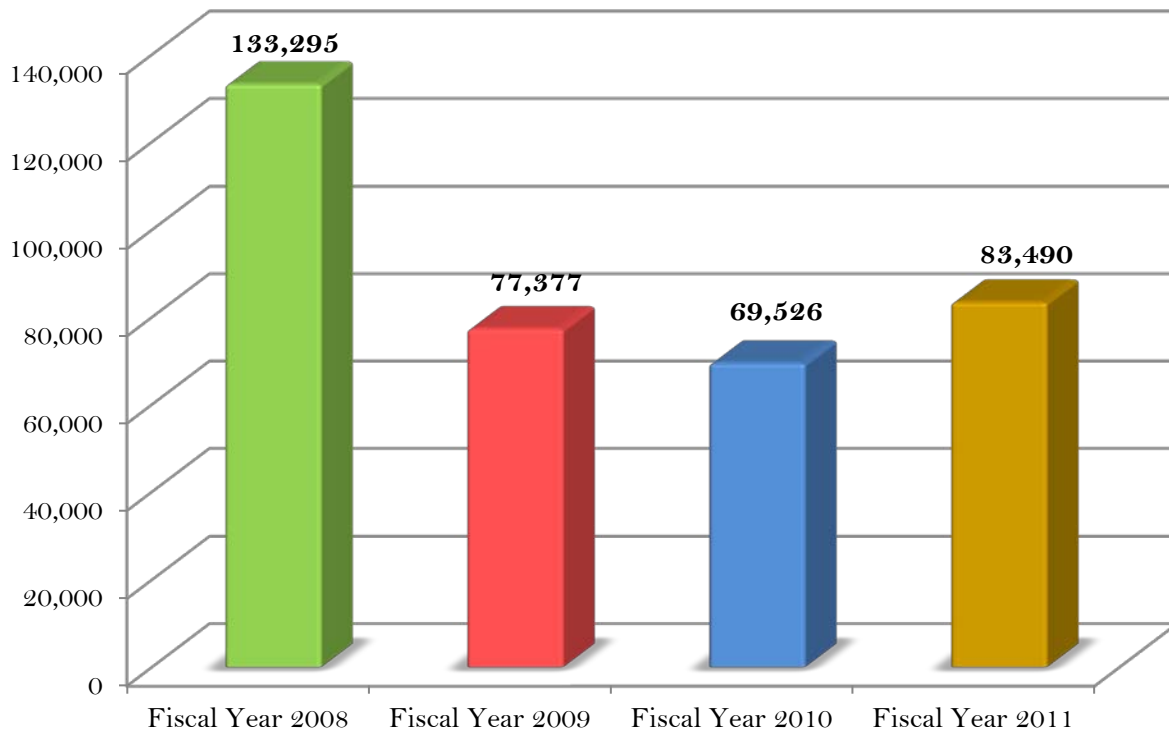


Under Exemption 3 of the FOIA, agencies withhold information pursuant to a variety of nondisclosure statutes. Last year OIP posted a [chart](#) of all the Exemption 3 statutes that agencies reported citing during FY 2010. OIP will soon be posting a similar chart of all the Exemption 3 statutes that were cited during FY 2011 on the [FOIA Resources](#) page of its website.

Backlogged Requests

The total number of backlogged requests reported across the government at the end of FY 2011 was 83,490, a 20% increase from the 69,526 requests that were reported as backlogged at the end of FY 2010.

Number of Backlogged Requests



Although the government's overall backlog of requests increased during FY 2011, the majority of the departments and agencies (66) either decreased their backlog or had no backlog to decrease. Notably, the three agencies with the greatest backlog – DHS (42,417 requests), State (8,078), and NARA (8,011) – accounted for 70% of the total number of backlogged requests across the government. Moreover, the government's overall increase of backlogged requests can largely be attributed to the dramatic increase of requests received by DHS. As discussed above, DHS received nearly 45,000 more requests (a 35% increase) in FY 2011 than it received during FY 2010. Despite the agency's efforts in processing more requests than the prior fiscal year, this substantial increase of incoming requests led to an increase in DHS's

request backlog by over 31,000 requests from 11,383 in FY 2010 to 42,417 in FY 2011. This increase alone is over twice the government's overall backlog increase.

Among the departments, after DHS, State reported the second highest number of backlogged requests with 8,078. However, State achieved an impressive 61% reduction in backlog during FY 2011 when compared to the 20,519 requests it reported as backlogged at the end of FY 2010. DOD reported the third highest backlog among the departments with 7,260, which is also a decrease from the number of backlogged requests (7,657) it reported at the end of FY 2010. The departments with the fewest backlogged requests were HUD (128 requests), Commerce (203 requests), Education (255 requests), and Treasury (333 requests).

Overall, ten of the fifteen departments – USDA, DOD, Education, HHS, HUD, DOJ, State, Interior, Treasury, and DOT – reduced their backlog of requests when compared to the number of backlogged requests reported in FY 2010. Eight of these ten departments reported considerable reductions in their backlog of over 20%. Specifically, State achieved a 61% reduction in its backlog; HHS achieved a 32% reduction; HUD achieved a 30% reduction; DOJ and Interior both reduced their backlogs by 26%; Education reduced its backlog by 25%; and Treasury reduced its backlog by 21%.

Thirty-five of the remaining eighty-four agencies reported having no backlog of requests at the end of FY 2011, which is four more than was reported in FY 2010. An additional twenty-six agencies reported a backlog of twenty or less requests. As indicated above, of the eighty-four agencies outside of the departments, NARA reported having the highest request backlog with 8,011, which is approximately a 13% increase from the 7,064 requests it reported as backlogged at the end of FY 2010. The CIA reported the next highest request backlog with 721, a slight increase over the 715 backlogged requests it reported at the end FY 2010. EPA reported the third highest number of backlogged requests with 326, a slight decrease from the 329 backlogged requests it reported at the end of FY 2010. Only five other agencies – U.S. Consumer Product Safety Commission, USAID, EEOC, OPM, and ODNI – reported having more than one hundred requests in their backlog at the end of FY 2011.

Ten Oldest Pending Backlogged Requests

A distinct aspect of backlog reduction involves the closing of the oldest pending requests at an agency. Progress continues to be made by the departments and agencies in this effort, but there still remains much to be done in this critical area of backlog reduction. In [guidance](#) posted earlier this year, OIP stressed the importance of closing the ten oldest requests pending at each agency. The guidance explains that the closing of each agency's ten oldest requests will go "a long way towards eliminating the days when requests become caught in a cycle of delay." The importance of agencies closing their

"[Agencies should] renew their focus on their ten oldest requests and the steps that can be taken to ensure that every effort is made to close those requests by the end of the current fiscal year."

OIP Guidance: Closing the Ten Oldest Pending Requests and Consultations
April 4, 2012

oldest requests was again recently emphasized in a [memorandum](#) sent to all agency General Counsels and Chief FOIA Officers from White House Counsel Kathryn Ruemmler and Acting Associate Attorney General Tony West. OIP's [guidance](#) article and the [memorandum](#) are both available on the [OIP Guidance](#) page of OIP's [website](#).

It is important to note that the oldest pending requests at each department or agency are calculated by the number of days the request has been pending as opposed to the date the request was received. Sometimes an agency might suspend or toll the processing of a request, for example when it advises a requester of anticipated fees and is waiting for an agreement to pay those fees. The time a request is suspended is not included in the number of days that request has been pending with the agency.

The ten oldest requests across the entire government date between 1992 and 1993, and are all pending at NARA. As in FY 2010, of the fifteen departments, only DOD reported having pending requests from the 1990s. The oldest pending requests at DOD date from 1995 to 1998. The remaining fourteen departments reported that their oldest pending requests were dated as follows: State – 2/8/01, DOE – 3/12/03, Treasury – 10/30/03, Interior – 9/15/04, DHS – 10/27/04, Labor – 5/31/06, DOT – 9/11/06, HHS – 2/9/07, USDA – 5/22/07, DOJ – 7/18/07, Commerce – 8/24/07, Education – 12/17/08, VA – 3/5/09 and HUD – 1/8/10.

After NARA, there is a significant jump in time among the ten oldest pending requests at the eighty-four remaining agencies. The next oldest request among these agencies was reported to be pending at the CIA and is dated 1/26/01. All of the ten oldest pending requests at the CIA are the next oldest requests across these agencies. After the CIA, the next oldest pending request was reported by ODNI and is dated 12/18/06. Significantly, nineteen agencies did not have a ten oldest request to report at the end of FY 2011 and another eight agencies only reported having one such request. Moreover, thirteen agencies reported that their oldest pending request at the end of FY 2011 had been pending in their backlog for less than twenty days.

Requests for Expedited Processing

In FY 2011, the government overall made a decision to grant or deny expedited processing for a total of 7,706 requests for expedited processing, which is over 21% more than the 6,072 requests where such a determination was made at the end of FY 2010. Departments and agencies combined reported granting a total of 1,951 requests for expedited processing during FY 2011, which is a 46% increase from the 1,336 grants that were reported at the end of FY 2010, and over an 8% increase from the 1,801 grants that were reported at the end of FY 2009. A total of 5,755 requests for expedited processing were denied during FY 2011, which is an increase of over 21% from the 4,736 denials reported at the end of FY 2010, and nearly 31% more than the 3,857 denials reported at the end of FY 2009.

Of the federal departments, for the second year in a row, DOD reported the highest number of granted requests for expedited processing with 757, which is a 165% increase from the 285 requests for expedited processing that DOD granted during FY 2010. Treasury and DOJ granted the second and third most requests for expedited processing with 223 and 203, respectively. Among the other eighty-four agencies, OPM reported granting the most requests for expedited processing with 78, and was followed by the CIA and EPA which granted 27 and 25 requests, respectively.

Across the entire government, the average number of days to adjudicate requests for expedited processing was 8.81 days. Moreover, of the 7,706 requests for which a determination on expedited processing was made during FY 2011, 6,264 or just over 81% were adjudicated within ten calendar days.

Average Processing Time for Simple Requests

The average of the processing times for simple track requests across all departments and agencies that reported data for this field was 23.65 days in FY 2011, which is an improvement over FY 2010's overall average of 28.34 days. Five of the fifteen departments – USDA, DOD, Interior, Treasury, and VA – reported processing their simple track requests within an average of twenty days or less. Additionally, DOJ, DOT, and HUD reported processing simple track requests in less than thirty days. Outside of the departments, another fifty-three agencies that had a separate, simple track for processing requests reported processing their simple requests within an average of twenty days or less. Among the departments, VA and Interior reported the lowest average processing time for simple track requests with averages of 1.48 days and three days, respectively. Conversely, State which reported an average processing time of 155 days for simple track requests had the highest reported average among the departments. From the other eight-four agencies, the Administrative Conference of the United States had the lowest average processing time for simple requests with 1.3 days and the Legal Services Corporation had the highest with an average 223 days.

Average Processing Time for Complex Requests

The average of the processing times for complex track requests across all departments and agencies that reported data for this field was 103.74 days in FY 2011, which is an improvement over FY 2010's overall average of 118.07 days. Government-wide, VA and five other agencies – Committee for Purchase from People Who are Blind or Severely Disabled, Recovery Accountability and Transparency Board, Federal Mine Safety and Health Review Commission, Federal Mediation and Conciliation Service, and Federal Financial Institutions Examination Council – reported processing their complex requests within an average of twenty-days or less. Seven departments – USDA, DOC, DHS, HUD, Interior, Treasury, and DOT – reported an average processing time between twenty-seven and eighty days. VA had the lowest average processing time for complex requests among the departments with 16.3 days and Labor reported the highest with an average of 214.9 days. Among the other agencies that

reported data for this field, the Committee for Purchase from People Who are Blind or Severely Disabled had the lowest average processing time for complex requests with ten days and the Council for Environmental Quality had the highest average with 484.8 days.

Average Processing Time for Expedited Requests

Expedited requests can be either simple or complex in their scope, which causes comparisons to be necessarily imperfect. Still, across the government where data was reported for this field, the average of the processing times for expedited track requests was 55.22 days in FY 2011, which increased from the average in FY 2010 of 38.76 days. Six departments – USDA, Commerce, DOD, Education, HUD, and VA – as well as twenty-five other agencies, reported processing expedited requests within an average of twenty-days or less. From the departments, USDA and VA reported the lowest average processing time for expedited requests with an average of about four days and State reported the highest with an average of 926 days. The remaining departments reported their average number of days for processing expedited requests to be between six (Education) and 169 (DOE) days. Of the other agencies that had data for this field, NASA reported the highest average processing time for expedited requests with 227 days. Notably, however, only three other agencies – USAID, Amtrak, and Chemical Safety and Hazard Investigation Board – reported an average processing time greater than one hundred days. The remaining agencies that had data on the processing of expedited requests reported an average processing time between one (OPM) and 62.5 (USTDA) days.

CONSULTATIONS ON FOIA REQUESTS

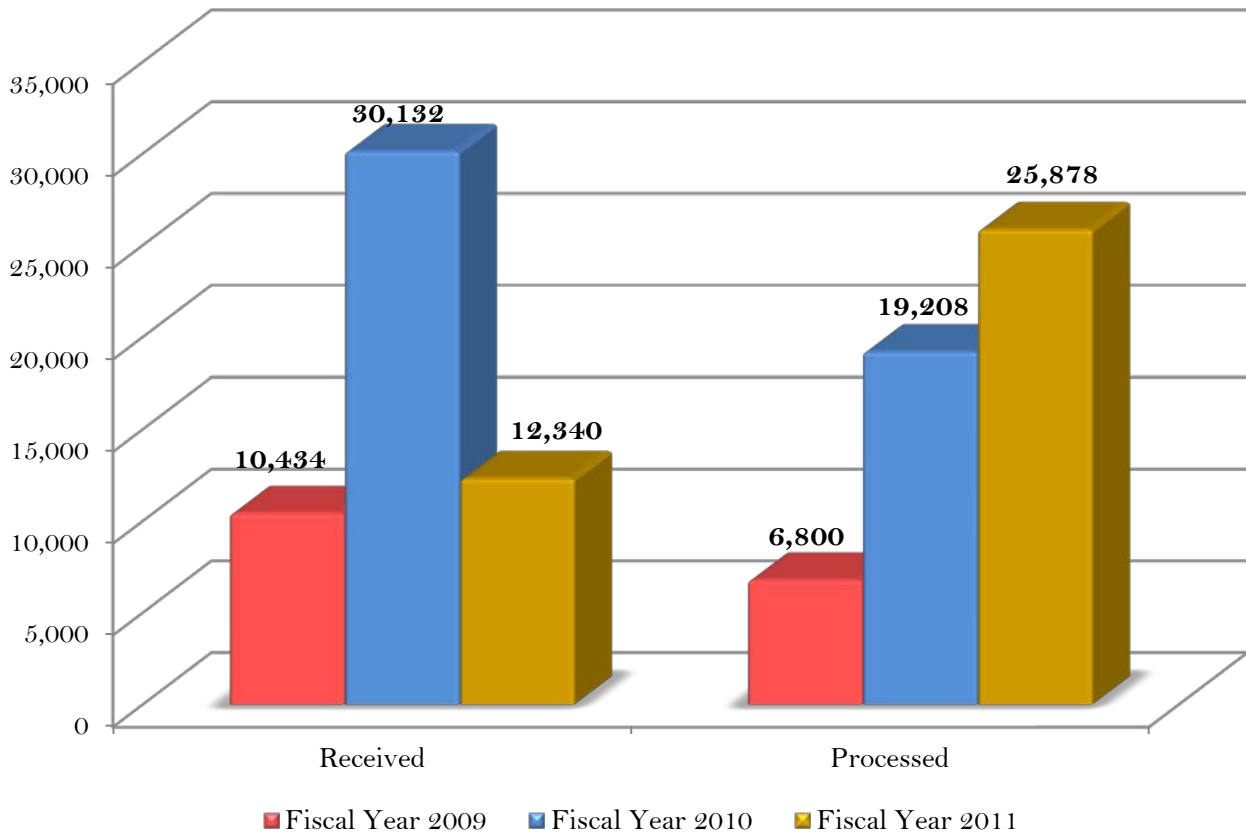
Consultations Received, Processed, and Pending

At the end of FY 2011, departments and agencies collectively reported receiving 12,340 consultations, a 59% decrease from the 30,132 consultations received during FY 2010. Notably, the fifteen departments combined received a total of 10,996 consultations, which accounts for nearly 90% of all consultations received across the government. For the second consecutive year, State reported receiving the most consultations among the departments with 7,535, which represents 61% of all consultations received during FY 2011. DOD received the second most consultations among the departments with 1,796, followed by DHS with 405, DOJ with 379, DOE with 300, and Treasury with 296. Labor, which received 132 consultations, was the only other department to receive more than one hundred consultations during FY 2011. Two of the departments – Education and HUD – reported receiving no consultations during FY 2011.

Among the other eighty-four agencies, for the third year in a row, the CIA reported receiving the most consultations with 1,147. The number of consultations received by the CIA accounts for 85% of the 1,344 consultations received by all non-department agencies during FY 2011. EPA reported receiving the second highest number of consultations with 48, followed by FDIC which received 22, and OMB which received 21. None of the remaining agencies received

more than twenty consultations during FY 2011, and fifty-six reported receiving no consultations.

Consultations



Having received fewer consultations during FY 2011, both departments and agencies made substantial efforts towards increasing the number of consultations they processed and reducing their backlogs of pending consultations. During FY 2011, the government overall processed 25,878 consultations, which is a considerable increase of nearly 35% when compared to the 19,208 consultations that were processed during FY 2010. Six of the fifteen departments – USDA, DOD, DHS, DOJ, Labor, and State – were able to reduce their backlog of pending consultations by processing more consultations than they received. Additionally, HHS reported processing all twenty of the consultations it received during FY 2011. State alone reported processing 20,961 consultations during FY 2011, which accounts for 85% percent of the 24,512 consultations processed by the departments and nearly 81% of the 25,878 consultations processed across the government. After State, DOD processed the most consultations with 1,863, and was followed by DHS which processed 433 and DOJ which processed 385.

Among the other eighty-four agencies, CIA processed the most consultations with 1,168, and was followed by EPA which processed sixty consultations and FDIC which processed twenty-two. Notably, the CIA, EPA, and ODNI reported processing more consultations than they received during FY 2011. Although both the CIA and EPA reported having pending consultations at the end of FY 2011 (CIA with 239 and EPA with fifteen), only seven other agencies reported having any pending consultations and none of these agencies had more than ten.

Across the government, the number of pending consultations at the end of FY 2011 was 3,438, a significant 80% decrease from the 17,036 consultations that were reported pending at the end of FY 2010. The two departments with the highest number of pending consultations at the end of FY 2011 – State (1,867) and DOD (1,053) – accounted for 85% of all the consultations pending at the end of FY 2011. However, both these departments significantly reduced their number of pending consultations with State achieving an impressive 88% reduction from the 15,293 consultations it reported pending at the end of FY 2010. The CIA, which reported 239 consultations pending at the end of FY 2011, was the only other agency in the government to have more than one hundred pending consultations. Thirteen departments and agencies had less than ten pending consultations, and another five had between fifteen and ninety-five. The remaining seventy-eight departments and agencies reported no pending consultations at the end of FY 2011.

Ten Oldest Pending Consultations

In [guidance](#) posted earlier this year, OIP stressed the importance of closing the ten oldest consultations pending at each agency, and called on departments and agencies to “assess the steps needed to respond on any pending consultations, identify any barriers to doing so, and devise strategies that will allow for the consultations to be finished prior to the close of the fiscal year.” The guidance noted that “[i]f those agencies in receipt of consultations from other agencies can commit to closing their ten oldest pending consultations each year, that in turn will facilitate the closing of the oldest requests themselves.” The full [guidance](#) article is available on the [OIP Guidance](#) page of OIP's [website](#).

The ten oldest pending consultations across the entire government at the end of FY 2011 dated between 1999 and 2000, and were all pending at DOD. The oldest consultation pending at DOD was dated 3/4/99. After DOD, State reported the oldest pending consultation among the departments, which was dated 4/22/05. State's ten oldest pending consultations range between 2005 and 2006. After State, DOE reported the next oldest pending consultation among the departments, which was dated 12/5/06. DOE's ten oldest pending consultations range between 2006 and 2010. Nine other departments – USDA, Commerce, DOJ, DHS, Interior, Labor, DOT, Treasury, and VA – also reported having a ten oldest pending consultation at the end of FY 2011. The dates of the ten oldest pending consultations at these departments range between 2008 and 2011.

Among the other eighty-four agencies at the end of FY 2011, CIA reported having the oldest pending consultations, which were dated between 2003 and 2006. CIA's oldest pending consultation was dated 11/24/03 and its remaining ten oldest consultations make up the ten oldest pending consultations across all non-department agencies. After the CIA, the next oldest pending consultation was reported by EPA and was dated 12/20/06. Only seven other non-department agencies reported a ten oldest pending consultation and these consultations dated between 2010 and 2011.

ADMINISTRATIVE APPEALS

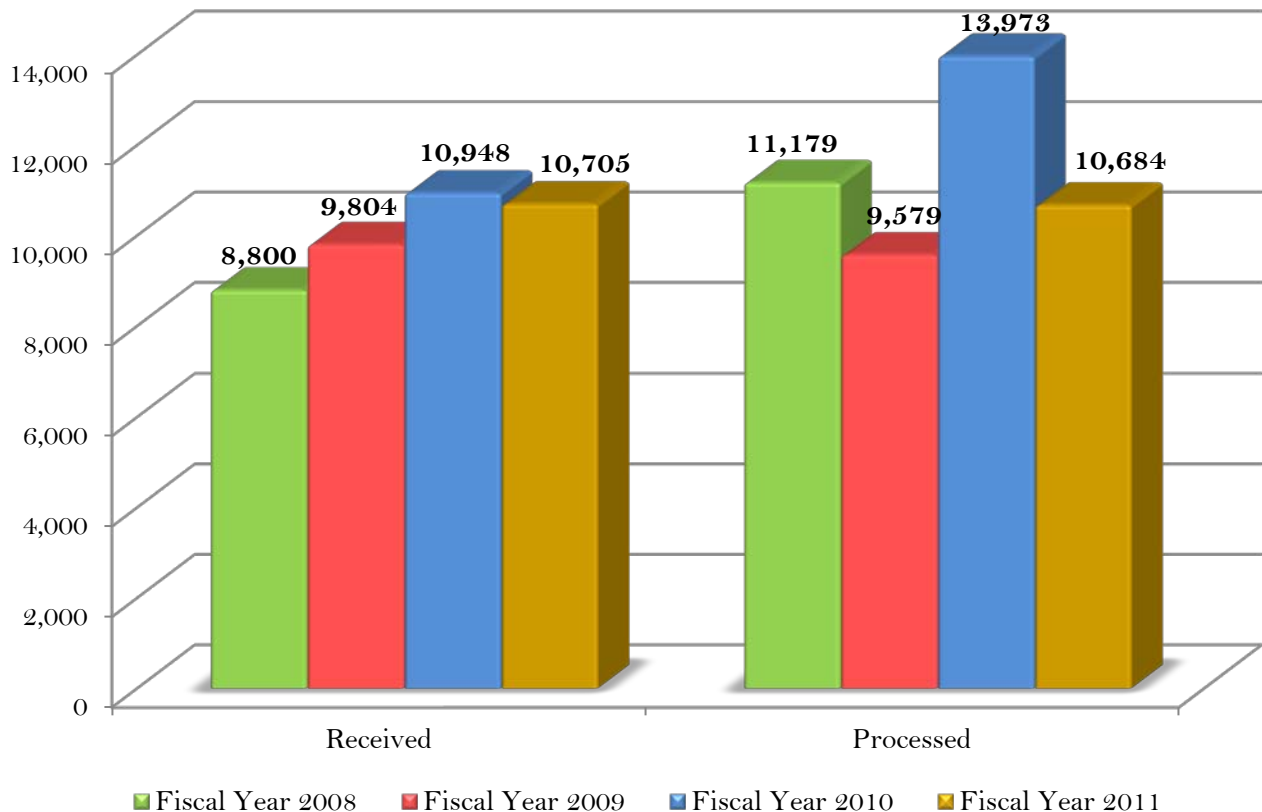
Number of Administrative Appeals Received and Processed

During FY 2011, the government overall received 10,705 administrative appeals, a slight decrease of around 2% compared to the 10,948 appeals that were received during FY 2010.

Among the departments, DOJ continued to receive the largest number of appeals with 3,258. DHS and DOD received the second and third most appeals with 1,917 and 1,066, respectively. The total number of appeals received by these three departments alone (6,241) accounts for nearly 72% of all appeals received by the departments, and just over 58% of all appeals received by the entire government.

When examining the number of appeals received by the other eighty-four agencies, EEOC reported receiving the most appeals during FY 2011 with 598, which is a 91% increase from 313 appeals it received during FY 2010. EPA received the next highest number of appeals with 215, and was followed closely by the CIA which received 212 appeals. Only two other agencies – SEC and USPS – reported receiving more than one hundred appeals during FY 2011. By contrast, twenty-six agencies reported receiving no appeals and another thirty-four agencies reported receiving between one and ten.

Administrative Appeals



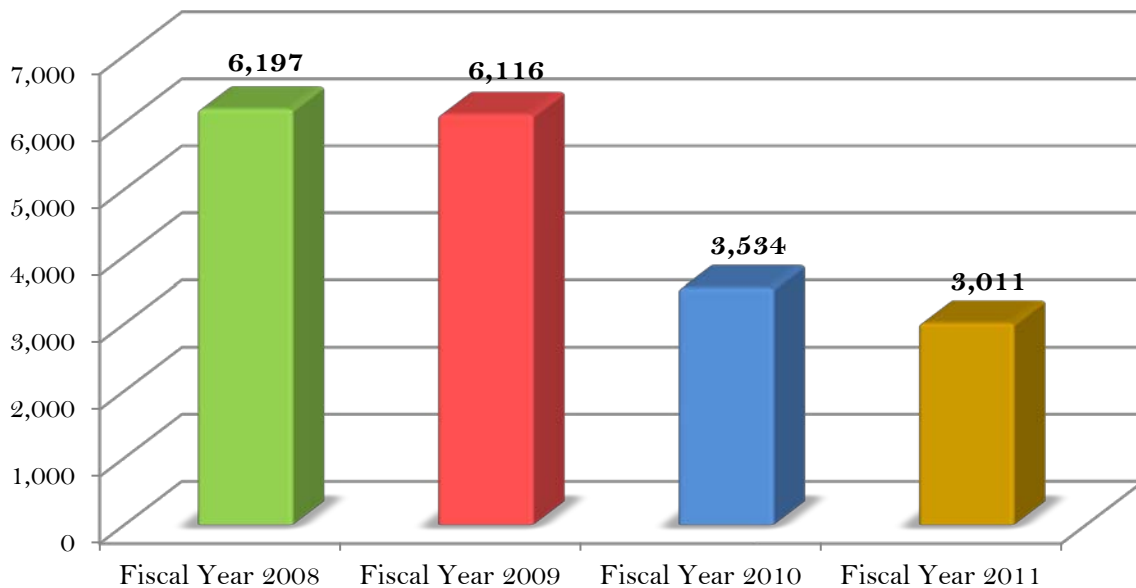
The government overall processed 10,684 appeals during FY 2011, which is a 23% decrease when compared to the 13,973 appeals that were processed during FY 2010. When reviewing just the departments, DOJ processed the most appeals with 3,362, and was followed by DHS which processed 1,933 and DOD which processed 907. The total number of appeals processed by these three departments (6,202) accounts for 71% of the appeals processed by all departments (8,699) and 58% of all appeals processed across the government (10,684).

Among the other eighty-four agencies, EEOC processed the most administrative appeals with 602. CIA reported processing the second most appeals with 255, and was followed by EPA which processed 208 appeals. Only three other agencies – SEC, USPS, and SSA – processed one hundred or more appeals during FY 2011.

Backlog Reduction for Administrative Appeals

For the fourth fiscal year in a row, the government's overall backlog of administrative appeals decreased. At the end of FY 2011, the government overall reported 3,011 backlogged appeals, which is almost 15% less than the 3,534 appeals that were reported as backlogged at the end of FY 2010.

Number of Backlogged Administrative Appeals



All the departments reported having some backlog of administrative appeals at the end of FY 2011. HUD reported having the lowest appeals backlog with only two. DOE and Education reported the second and third lowest backlog with eight and thirty-nine, respectively. Notably, nine departments – Commerce, HHS, DHS, HUD, DOJ, Labor, State, Interior, and Transportation – reported a lower backlog of appeals at the end of FY 2011 when compared to the prior fiscal year. For the second year in a row, DHS dramatically decreased its backlog of appeals from 601 appeals at the end of FY 2010 to 327 at the end of FY 2011. The reduction of 274 backlogged appeals at DHS alone accounts for 52% of the total backlog reduction (523 appeals) across the government.

With regard to the other eighty-four agencies, the numbers of backlogged appeals reported is significantly smaller than what was reported by the departments. Overall, sixty-one agencies reported that they had no backlogged appeals at the end of FY 2011. Of the agencies that reported having a backlog of appeals, eighteen reported a backlog of less than ten appeals. Only three agencies reported having more than twenty appeals in their backlog, with the CIA reporting 199 backlogged appeals, EPA reporting sixty-four, and USAID reporting twenty-two.

Ten Oldest Pending Administrative Appeals

The oldest pending administrative appeals across the entire government date between 1995 and 1998, and are all pending at either DOD or the CIA. The oldest appeal pending at the

end of FY 2011 was at the CIA and was dated 4/26/95. The CIA also reported having three other appeals dated in 1995, which represent the four oldest appeals in the government. After these four appeals, the next five oldest appeals at the end of FY 2011 were pending at DOD, with the oldest being dated 1/23/97. The tenth oldest appeal in the government was reported pending at the CIA and is dated 9/8/98.

The fifteen departments reported that their oldest pending appeals were dated as follows: DOD – 1/23/97, USDA – 4/22/01, HHS – 2/11/04, State – 8/16/05, Interior – 10/7/05, DHS – 9/20/06, Treasury – 4/6/07, Labor – 5/22/07, DOT – 7/30/08, VA – 8/18/08, Commerce – 2/9/09, Education – 5/5/09, HUD – 1/8/10, DOE – 7/19/10, and DOJ – 3/2/11. With regard to the other eighty-four agencies, after the CIA, EPA had the next oldest pending appeal which is dated 11/20/02.

Across the government, fifty-seven agencies reported having no pending administrative appeals at the end of FY 2011. HUD and another fifteen agencies reported having three or less pending administrative appeals. Moreover, nine agencies reported that their oldest pending appeal at the end of FY 2011 had been pending for less than forty-five days.

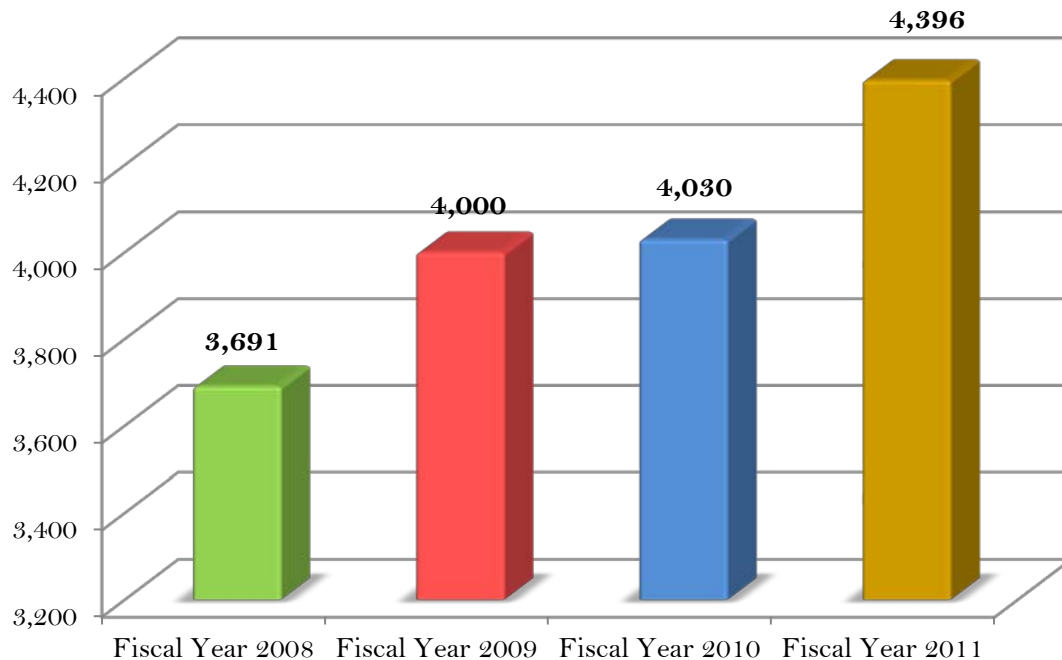
Processing Time for Administrative Appeals

The average processing time for adjudicating appeals across the government was 81.01 days. Among the departments, Treasury reported the lowest average processing time with 25.27 days. The next lowest processing times belonged to HUD (28 days) and DOE (29 days), which both reported processing their appeals in an average of less than thirty days. For the second year in a row, Interior reported the highest average processing time for appeals among the departments with 727 days. Of the remaining agencies that processed appeals, twenty-three reported an average processing time of twenty days or less, with another seventeen reporting an average of thirty days or less. Outside of the departments, USAID reported the highest average processing time for adjudicating appeals with 504.33 days.

STAFFING LEVELS

Nearly 4,400 “full-time FOIA staff” were devoted to the administration of the FOIA throughout the federal government during FY 2011, which is over a 9% increase from the 4,030 “full-time FOIA staff” reported at the end of FY 2010. This marks the second year in which FOIA staffing levels have increased. FOIA staff includes both full-time FOIA professionals and the cumulative percentages of the time spent on FOIA by personnel who work on FOIA as a part of their duties.

Number of "Full-Time FOIA Staff" Across the Government



Among the departments, DOD reported the greatest number of full-time FOIA staff, with just over 1,035, which is an increase of 237 staff members from the 798 full-time FOIA staff it reported at the end of FY 2010. DOJ reported the next highest number of full-time FOIA staff with nearly 529, which is an increase of fifteen staff members when compared to the 514 reported at the end of FY 2010. Both DHS and USDA, which reported the third and fourth most FOIA staff, reported using more than 300 full-time FOIA staff during FY 2011. The departments that reported the fewest full-time FOIA staff were Education, with just under twenty-six, HUD with thirty-three, and Commerce with nearly forty-eight. Notably, the total number of full-time FOIA staff reported by the fifteen departments (3,701) accounts for just over 84% of the total number of full-time FOIA staff across the government.

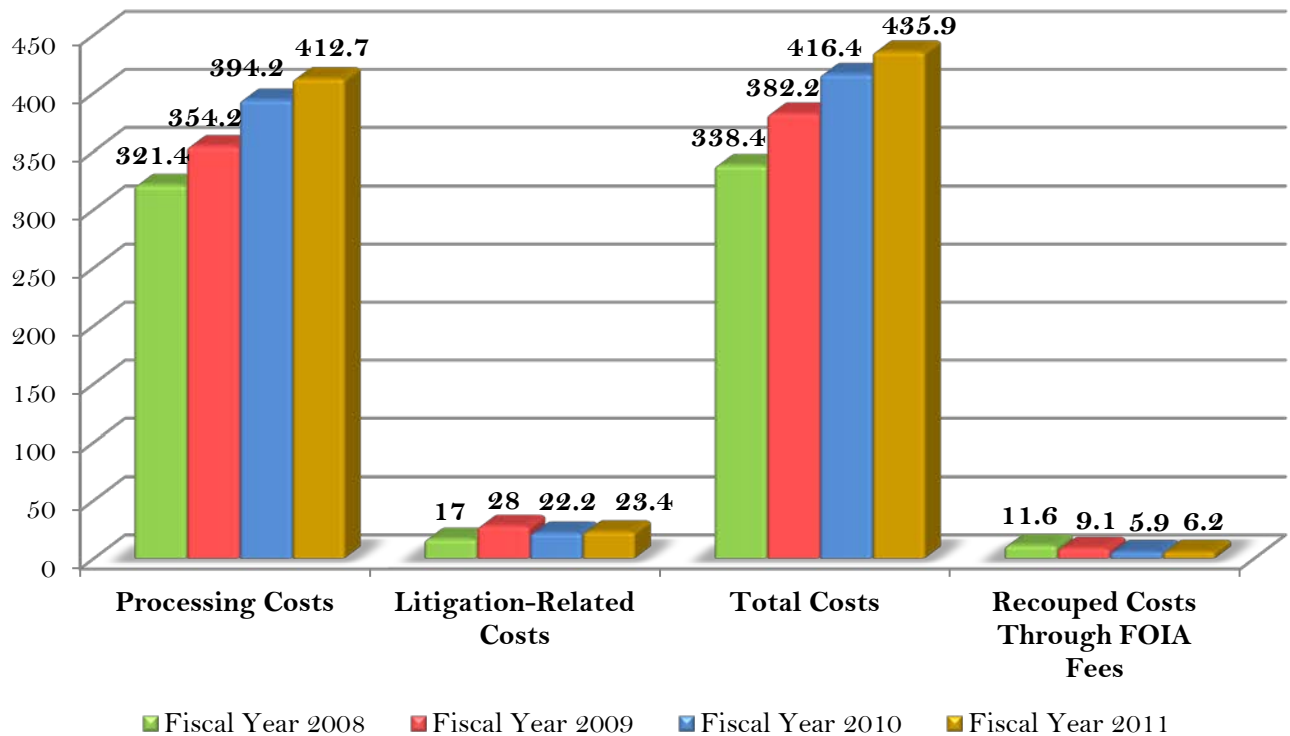
Examining the other eighty-four agencies, sixty-two reported using fewer than five full-time FOIA staff during FY 2011. EPA was the only agency that reported having more than one hundred full-time FOIA staff. SSA and the CIA reported the next highest numbers of full-time FOIA staff with approximately eighty-three and fifty-two, respectively. After the CIA, no other agency reported using more than fifty full-time FOIA staff.

COSTS

In FY 2011, the total cost of all FOIA related activities across the government was an estimated \$435,858,605.80, which is a 5% increase of nearly \$20 million from the amount

reported at the end of FY 2010. Nearly 95% (\$412,647,829.53) of this total cost was attributed to the actual processing of FOIA requests and appeals, and just over 5% (\$23,359,047.03) was reported to have been spent on litigation-related activities. During FY 2011, the government overall collected \$6,193,011.86 in FOIA fees, which amounts to just over 1% of the total costs related to the government's FOIA activities.

Approximate Cost of all FOIA Related Activities (in millions of dollars)



For the second year in a row, the department with the highest reported total costs was DOD, which spent nearly \$94 million on FOIA-related activities. DOJ and HHS reported the second and third highest total costs among the departments, with nearly \$65 million and \$46 million, respectively. Four departments – Education, HUD, Commerce, and DOE – reported spending less than \$10 million each on FOIA-related activities. Of the departments, only HHS reported recouping more than \$1 million of these costs through FOIA fees.

Among the other eighty-four agencies, nineteen reported spending over \$1 million on FOIA-related activities during FY 2011. Of these nineteen agencies, only two spent more than \$6 million, with EPA reporting the highest total costs of over \$17 million, followed by the CIA which reported spending just over \$12 million. Ten agencies – OPM, NASA, FCC, FDIC, GSA, EEOC, NARA, USPS, SSA, and SEC – spent between \$2 million and \$6 million. The remaining

seven agencies that spent more than \$1 million dollars on FOIA-related activities were the Nuclear Regulatory Commission and the U.S. Consumer Product Safety Commission (just over \$1.7 million each), the Small Business Administration (nearly \$1.7 million), the Board of Governors of the Federal Reserve System (over \$1.6 million), the National Transportation Safety Board (nearly \$1.5 million), and USAID and the Pension Benefit Guaranty Corporation (over \$1.2 million each). Finally, sixteen agencies reported spending less than \$100,000 and another twenty-five reported spending \$20,000 or less.

CONCLUSION

During FY 2011, in the face of ever-increasing numbers of incoming requests, agencies processed more than the previous year and released records in full or in part in over 93% of cases where records were processed for disclosure. Moreover, the government overall improved the average processing time for simple track requests. While the overall backlog of requests did increase, the majority of departments and agencies decreased their backlog or had no backlog at all at the end of the fiscal year. Departments and agencies also continued to decrease their backlogs of administrative appeals, and significantly reduced the number of pending consultations from the prior fiscal year. Agencies will need to continue to focus on closing their ten oldest requests and consultations each year. While the oldest pending requests and consultations are concentrated at a few agencies, it is important that all agencies address this critical FOIA milestone each year.

In the above summary, OIP has highlighted a variety of key data and statistics to present an overall summary of the government's FOIA activity in FY 2011, particularly as compared to the data reported in past fiscal years. The data that OIP used to create this summary can be found on FOIA.gov, in past Annual FOIA Report Summaries available on the [Reports](#) page of [OIP's website](#), or from agencies' Annual FOIA Reports, which are all also available on the [Reports](#) page.