

**TENNESSEE VALLEY AUTHORITY**  
**Freedom of Information Act Annual Report**  
October 1, 2007 to September 30, 2008

**I. BASIC INFORMATION REGARDING REPORT**

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

Denise Smith  
FOIA Officer  
Tennessee Valley Authority  
400 W. Summit Hill Drive (WT 7D)  
Knoxville, TN 37902-1401  
(865) 632-6945

2. Electronic address for report on the TVA Website.

[http://www.tva.gov/foia/foia\\_annual08.pdf](http://www.tva.gov/foia/foia_annual08.pdf)

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

Contact Denise Smith at the above address and/or telephone number.

**II. MAKING A FOIA REQUEST**

For basic information about how to make a FOIA request, visit our Website at <http://www.tva.gov/foia>.

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

All FOIA requests to TVA should be directed to Ms. Smith at the address given above.

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

The primary reason for not granting requests for which records were located is that disclosure would result in a clearly unwarranted invasion of personal privacy.

### III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

#### 1. Agency-specific acronyms or other terms.

TVA is the Tennessee Valley Authority

#### 2. 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 generally 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 starting the time, place, fees (if any) and procedures to be followed.
  - o. **Processed Request or Processed Administrative Appeal** - a request or administrative appeal or 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. Description 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

<b>Statute</b>	<b>Type of Information Withheld</b>	<b>Case Citation</b>	<b>Total Number of Times Relied upon by Agency</b>
Federal Property and Administrative Services Act of 1949, as amended, at 41 U.S.C. § 253b(m)	Proposals submitted in response to competitive procurements	Hornbostel v. United States Dep't. of the Interior, 305 F.Supp 2d 21 (D.D.C. 2003)	3
Archeological Resources Protection Act at 16 U.S.C. § 470hh	Information from maps and other documents that identifies the specific location of protected resources	Hornbostel v. United States Dep't. of the Interior, 305 F.Supp 2d 21 (D.D.C. 2003)  Starkey v. United States Dep't of the Interior, 238 F. Supp 2d 1188 (S.D. Cal. 2002)	2
National Historic Preservation Act of 1966, as amended, at 16 U.S.C. § 470a	Information from maps and other documents that identifies the specific location of protected resources	Hornbostel v. United States Dep't. of the Interior, 305 F.Supp 2d 21 (D.D.C. 2003)	1

**V. FOIA REQUESTS**

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

	Number of Requests Pending as of Start of Fiscal Year	Number of Requests Received in Fiscal Year	Number of Requests Processed in Fiscal Year	Number of Requests Pending as of End of Fiscal Year
AGENCY OVERALL	16	143	140	19

**B. (1) Disposition of FOIA Requests - All Processed Requests**

	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 Reasons	Records not Reasonably Described	Improper FOIA Request for Other Reason	Not Agency Record	Duplicate Request	Other	
AGENCY OVERALL	21	80	7	21	0	4	6	1	0	0	0	0	140

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

None

(3) Disposition of FOIA Requests - Number of Times Exemptions Applied

	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
AGENCY OVERALL	0	3	5	6	20	57	0	0	4	1	0	0	0	1

**VI. Administrative Appeals of Initial Determinations of FOIA Requests**

A. Received, Processed and Pending Administrative Appeals

Number of Appeals Pending as of Start of Fiscal Year	Number of Appeals Received in Fiscal Year	Number of Appeals Processed in Fiscal Year	Number of Appeals Pending as of End of Fiscal Year
1	10	8	3

B. Disposition of Administrative Appeals - All Processed Appeals

Number Affirmed on Appeal	Number Partially Affirmed & Partially Reversed/Remanded on Appeal	Number Completely Reversed/Remanded on Appeal	Number of Appeals Closed for Other Reasons	TOTAL
7	1	0	0	8

C. (1) Reasons for Denial on Appeal - Number of Times Exemptions Applied

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
0	2	1	1	5	3	0	0	0	0	0	0	0	0

(2) Reasons for Denial on Appeal - Reasons Other than Exemptions

none

(3) Reasons for Denial on Appeal - "Other" Reasons

none

(4) Response Time for Administrative Appeals

Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
20	19	17	20

(5) Administrative Appeals Pending at Year-end

<b>Date of Receipt of All Pending Appeals at Year-end</b>	9/25/08	9/26/08	9/30/08
<b>Number of Days Pending at Year-end</b>	3	2	1

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

A. Processed Requests - Response Time for All Processed Perfected Requests

	<b>SIMPLE</b>				<b>COMPLEX</b>				<b>EXPEDITED PROCESSING</b>			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
AGENCY OVERALL	7	8	1	19	33	39	20	125	None			

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

	<b>SIMPLE</b>				<b>COMPLEX</b>				<b>EXPEDITED PROCESSING</b>			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
AGENCY OVERALL	8	9	1	19	31	37	20	97	None			



C. Processed Requests - Response Time in Day Increments

	<b>SIMPLE REQUESTS</b>							
	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	TOTAL
AGENCY OVERALL	89	0	0	0	0	0	0	89

	<b>COMPLEX REQUESTS</b>							
	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	TOTAL
AGENCY OVERALL	0	21	14	3	1	0	1	40

D. Pending Requests – All Pending Perfected Requests

	<b>SIMPLE</b>			<b>COMPLEX</b>			<b>EXPEDITED PROCESSING</b>		
	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days
AGENCY OVERALL	7	13	9	9	44	96	0	0	0

E. Pending Requests – Ten Oldest Pending Perfected Requests

	10 <sup>th</sup> Oldest Request and Number of Days Pending	9 <sup>th</sup>	8 <sup>th</sup>	7 <sup>th</sup>	6 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	Oldest Request and Number of Days Pending
AGENCY OVERALL	9/17/08 9 days	9/02/08 20 days	8/28/08 22 days	8/25/08 25 days	8/19/08 29 days	8/15/08 31 days	5/01/08 106 days	4/24/08 110 days	4/01/08 128 days	4/01/08 128 days

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

A. Requests for Expedited Processing

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

B. Request for Fee Waiver

	<b>Number Granted</b>	<b>Number Denied</b>	<b>Median Number of Days to Adjudicate</b>	<b>Average Number of Days to Adjudicate</b>
AGENCY OVERALL	2	2	0	0

**IX. FOIA PERSONNEL AND COSTS**

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 is reported in Column 1 of the following chart.
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 is reported in Column 2 of the following chart.
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 Employee #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 per week and performs FOIA duties *half* of his time. As a part-time employee who works twenty hours per 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 per week and performs FOIA duties *all* of her time. As a part-time employee who works thirty-two hours per 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:** All costs expended by the agency for processing FOIA requests at the initial request and administrative appeal levels. Costs shown include the salaries of all FOIA personnel, overhead, and any other FOIA-related expenses.
2. **Litigation Costs:** All costs expended by the agency in litigating FOIA requests. Costs shown include the salaries of personnel involved in FOIA litigation, litigation overhead, and any other FOIA litigation-related expenses.

	<b>Number of “Full-Time FOIA Employees”</b>	<b>Number of “Equivalent Full-Time FOIA Employees”</b>	<b>Total Number of “Full-Time FOIA Staff”</b>	<b>Processing Costs</b>	<b>Litigation-Related Costs</b>	<b>Total Costs</b>
AGENCY OVERALL	1	.4	1.4	\$186,425	0	\$186,425

**X. FEES COLLECTED FOR PROCESSING REQUESTS**

- The following chart shows the total dollar amount of fees collected from FOIA requesters for processing their requests. Also shown is the percentage of total processing costs that those fees represent. Included are all fees received from a FOIA requester for search, review, and document duplication and any other direct costs permitted by agency regulations.

	<b>Total Amount of Fees Collected</b>	<b>Percentage of Total Costs</b>
AGENCY OVERALL	\$2,617.15	1.4%

**XI. FOIA REGULATIONS**

- TVA’s FOIA regulations may be found at the following link.

[http://www.tva.com/foia/foia\\_regulations.htm](http://www.tva.com/foia/foia_regulations.htm)

**XII. BACKLOGS, CONSULTATION, AND COMPARISONS**

A. Backlogs of FOIA Requests and Administrative Appeals

	<b>Number of Backlogged Requests as of End of Fiscal Year</b>	<b>Number of Backlogged Appeals as of End of Fiscal Year</b>
AGENCY OVERALL	0	0

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

	<b>Number of Consultations Received from Other Agencies that Were <u>Pending</u> at the <u>Start</u> of the Fiscal Year</b>	<b>Number of Consultations <u>Received</u> from Other Agencies During the Fiscal Year</b>	<b>Number of Consultations Received from Other Agencies that Were <u>Processed</u> During the Fiscal Year</b>	<b>Number of Consultations Received from Other Agencies that Were <u>Pending</u> at the <u>End</u> of the Fiscal Year</b>
AGENCY OVERALL	0	1	1	0

C. Consultations on FOIA Requests – Ten Oldest Consultations Received From Other Agencies and Pending at this Agency

None

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

	<b>NUMBER OF REQUESTS RECEIVED</b>		<b>NUMBER OF REQUESTS PROCESSED</b>	
	Number Received During Fiscal Year from Last Year’s Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year’s Annual Report	Number Processed During Fiscal Year from Current Annual Report
AGENCY OVERALL	163	143	160	140

	<b>Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report</b>	<b>Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report</b>
AGENCY OVERALL	0	0

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

	<b>NUMBER OF APPEALS RECEIVED</b>		<b>NUMBER OF APPEALS PROCESSED</b>	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
AGENCY OVERALL	5	10	4	8

	<b>Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report</b>	<b>Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report</b>
AGENCY OVERALL	0	0