

U.S. DEPARTMENT OF AGRICULTURE

Freedom of Information Act Annual Report FY 2005

I. Basic Information Regarding Report

Responsibility for preparing the U.S. Department of Agriculture's Freedom of Information Act Annual Report for fiscal year 2003 rests with USDA's Office of Communications. The report can be accessed from the World Wide Web at:

<http://www.usda.gov/news/foia/main.htm>

A paper copy of the report may be obtained by requesting it. For additional information, contact:

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II. How to Make a FOIA Request

Anyone may request USDA records under the FOIA by letter, fax or e-mail. A requester who sends USDA a FOIA request that is understandable and specific about the time frame of the records sought and who has addressed the request to the USDA agency with responsibility for the records has the greatest likelihood of receiving a response within 20 working days of the agency's receipt of the request. Any request that fails to identify the records sought or is sent to the wrong agency must be clarified before an agency can begin a search; in such case, USDA will try to contact the requester for additional information.

The url (universal resource locator) for the U.S. Department of Agriculture's home page is <http://www.usda.gov>. All USDA agencies are linked to the USDA home page. A significant portion of USDA records are maintained in agency files and are described on agency web pages, which are linked to the USDA home page. Potential requesters may want to review agency web pages in order to identify the USDA agency likely to have possession of the records sought.

USDA employs a number of Freedom of Information Act specialists who make every effort to comply with the requirements of the Freedom of Information Act as amended. A list of USDA agency employees responsible for handling FOIA requests can be found at <http://www.usda.gov/news/foia/contacts.htm>

III. Definitions of Terms and Acronyms Used in the Report

A. Agency-specific acronyms are as follows:

AMS - Agricultural Marketing Service;
APHIS - Animal and Plant Health Inspection Service;
CCC - Commodity Credit Corporation;
DA - Departmental Administration;
FAS - Foreign Agricultural Service;
FNCS - Food, Nutrition and Consumer Service;
FSA - Farm Service Agency;
FSIS - Food Safety and Inspection Service;
FS - Forest Service;
GIPSA - Grain Inspection, Packers and Stockyards Administration;
NAD - National Appeals Division;
NFC - National Finance Center;
NRCS - Natural Resources Conservation Service;
OBPA - Office of Budget and Program Analysis;
OC - Office of Communications;
OCFO - Office of the Chief Financial Officer;
OCIO - Office of the Chief Information Officer;
OCR - Office of Civil Rights;
OGC - Office of General Counsel;
OIG - Office of the Inspector General;
RD - Rural Development;
REE - Research, Education and Economics; and
RMA - Risk Management Agency

B. Basic terms are as follows:

FOIA/PA request - a 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. Requests filed under either law are treated as FOIA requests and are processed as expeditiously as possible.

Initial request - a request to a Federal agency for access to records under the Freedom of Information Act.

Appeal - a request to a Federal agency asking that it review at a higher level of administrative authority any full or

partial denial of access to records under the Freedom of Information Act or Privacy Act or any other FOIA determination, such as a proposed fee for access to records.

Processed request - a request or appeal for which an agency has made its final determination or taken its final action.

Multi-track processing - a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous, 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.

Expedited processing - an agency will process a FOIA request on an expedited basis when the requester has shown a compelling need for a specific record. A compelling need is a threat to life or physical safety for an individual or, in the case of the media, urgency to inform the public concerning actual or alleged Federal Government activity.

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

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.

Grant - an agency decision to disclose all records in full in response to a FOIA request.

Partial grant - an agency decision to disclose part of a record 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 withhold others in whole or in part.

Denial - an agency decision not to release 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 because of a procedural reason, such as no record was located.

Time limits - the time period authorized in the FOIA for an agency to respond to a FOIA request is 20 working days from proper receipt of a "perfected" FOIA request.

"Perfected" request - a FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.

Exemption 3 statute - a separate Federal statute prohibiting the disclosure of certain types of records and authorizing their withholding under FOIA subsection (b)(3).

Median number - the middle, not average, number. For example, of 3, 7 and 14, the median number is 7.

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

Statute/Rule	Type of Information Withheld	Case Citation
7 U.S.C. § 136(b)	Information that would reveal the location where restricted use pesticides are applied	None
7 U.S.C. ' 201(c)	Store records for food stamp applications	None
7 U.S.C § 1502(c)	Producer Information	None
7 U.S.C. ' 2018(c)	Electronic Benefit Transactions	None
7 U.S.C. ' 2276	Unaggregated Farm Statistics	None
16 U.S.C. ' 470hh	Archaeological site maps, cultural resource survey maps	None
16 U.S.C. ' 470w-3	Nature & location of historic resources	None
35 U.S.C. ' 205 - 209	Licensing of Patents	None
41 U.S.C. ' 253(b)	Technical Proposals	Hornbostel v. US Dept. of Interior, 305 F.Supp. 2d (DC 2003)
F.R.Cr.P. 6(e)	Grand jury material	<u>Iglesias v. CIA</u> , 525 F. Supp. 547, 556 (D.C. Cir. 1981)

V. INITIAL FOIA/PA ACCESS REQUESTS.

A. NUMBERS OF INITIAL REQUESTS.

	NUMBER OF REQUESTS PENDING AS OF END OF PRECEDING YEAR	NUMBER OF REQUESTS RECEIVED IN CURRENT YEAR	NUMBER OF REQUESTS PROCESSED IN CURRENT YEAR	NUMBER OF REQUESTS PENDING AS OF END OF CURRENT YEAR
AMS	16	128	120	24
APHIS	1273	902	1135	1040
DA	29	52	54	27
FAS	4	40	44	0
FNCS	3	138	137	4
FSA	218	43147	43145	220
FS	423	3608	3664	367
FSIS	160	501	544	117
GIPSA	1	122	113	10
NAD	0	44	44	0
NRCS	17	364	374	7
OBPA	0	7	7	0
OC	15	299	303	11
OCFO	0*	19	19	0
OCIO	0	10	10	0
OCR	7**	46	43	10
OGC	6	13	12	7
OIG	118	186	243	61
REE	7	212	206	13
RMA	7	75	82	0
RD	67	1603	1623	47
TOTALS	2371	51,516	51,922	1965

*Number of pending requests from FY04 Report was 1, but it was withdrawn.

**Number of pending requests from FY04 Report was 6, but agency located once case that was not closed as stated in report.

B. DISPOSITION OF INITIAL REQUESTS.

	NUMBER OF TOTAL GRANTS	NUMBER OF PARTIAL GRANTS	NUMBER OF DENIALS	NO RECORDS	REFERRALS	REQUEST WITHDRAWN	FEE-RELATED REASON	RECORDS NOT REASONABLY DESCRIBED	NOT A PROPER FOIA REQUEST FOR SOME OTHER REASON	NOT AN AGENCY RECORD	DUPLICATE REQUEST	OTHER
AMS	54	29	3	22	0	9	2	0	1	0	0	0
APHIS	49	826	65	90	7	98	0	0	0	0	0	0
DA	26	2	6	13	0	7	0	0	0	0	0	0
FAS	34	0	3	6	1	0	0	0	0	0	0	0
FNCS	65	49	7	9	4	0	2	1	0	0	0	0
FSA	41648	343	455	232	114	41	27	7	7	15	15	241
FS	2347	640	310	246	16	29	21	11	8	8	3	25
FSIS	229	96	19	49	19	78	6	8	11	6	23	0
GIPSA	89	10	1	10	1	2	0	0	0	0	0	0
NAD	15	2	7	15	0	2	0	0	2	0	1	0
NRCS	163	63	76	45	4	7	2	12	0	2	0	0
OBPA	7	0	0	0	0	0	0	0	0	0	0	0
OC	27	0	10	13	253	0	0	0	0	0	0	0
OCFO	13	1	2	1	1	1	0	0	0	0	0	0
OCIO	10	0	0	0	0	0	0	0	0	0	0	0
OCR	6	8	12	7	7	1	2	0	0	0	0	0
OGC	3	4	3	1	0	0	0	1	0	0	0	0
OIG	47	63	30	39	13	27	3	0	4	6	2	9
REE	116	48	4	21	6	2	5	2	2	0	0	0
RMA	28	14	5	11	14	9	0	0	1	0	0	0
RD	1376	79	67	57	1	26	12	3	2	0	0	0
TOTALS	46352	2277	1085	887	461	339	82	45	38	37	44	275

B. DISPOSITION OF INITIAL REQUESTS (Continued)

EXPLANATION OF DISPOSITION OF FOIA/PA INITIAL REQUESTS: OTHER
REASONS FOR NONDISCLOSURE (COLUMN MARKED "OTHER")

Component	Number of Times	Reason(s)
AMS	0	
APHIS	0	
DA	0	
FAS	0	
FNCS	0	
FSA	241	Transferred to other field offices that maintained responsive records
FS	25	Non-response to clarification request
FSIS	0	
GIPSA	0	
NAD	0	
NRCS	0	
OBPA	0	
OC	0	
OCFO	0	
OCIO	0	
OCR	0	
OGC	0	
OIG	9	No authorization letter for release of information, no written consent of person, no authorization of affidavit, no responsive records for non-selection
REE	0	
RMA	0	
RD	0	

B. DISPOSITION OF INITIAL REQUESTS (Continued)
EXEMPTIONS CLAIMED UNDER THE FREEDOM OF INFORMATION ACT

	(1)	(2)	(3)	(4)	(5)	(6)	(7)(A)	(7)(B)	(7)(C)	(7)(D)	(7)(E)	(7)(F)	(8)	(9)
AMS	0	2	0	20	9	24	7	0	4	0	2	0	0	0
APHIS	0	5	11	26	47	400	65	0	333	1	0	3	0	0
DA	0	0	0	4	0	4	0	0	0	0	0	0	0	0
FAS	0	0	0	3	1	1	0	0	0	0	0	0	0	0
FNCS	0	0	4	5	3	37	2	21	24	12	8	0	0	0
FSA	0	15	0	12	30	373	8	0	17	0	0	0	0	0
FS	0	10	25	78	137	236	15	7	72	1	5	2	0	0
FSIS	0	35	0	67	14	81	3	0	60	0	0	0	0	0
GIPSA	0	0	0	2	2	4	1	0	0	3	1	0	0	0
NAD	0	0	0	0	0	3	0	0	0	0	0	0	0	0
NRCS	0	4	0	30	11	85	3	4	0	0	0	0	0	0
OBPA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OC	0	0	0	0	3	7	0	0	0	0	0	0	0	0
OCFO	0	0	0	0	2	0	0	0	0	0	0	0	0	0
OCIO	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OCR	0	2	0	0	2	3	5	0	10	0	0	0	0	0
OGC	0	0	0	1	6	1	0	0	1	0	0	0	0	0
OIG	0	5	3	10	27	58	26	0	53	0	14	0	0	0
REE	0	0	3	20	6	30	0	0	0	0	0	0	0	0
RMA	0	0	1	6	3	14	1	0	3	0	1	0	0	0
RD	0	3	0	76	31	66	7	0	10	0	0	0	0	0
Total	0	81	47	360	333	1427	143	32	587	17	31	5	0	0

VI. Appeals of Initial Denials

	Appeals Received FY 2005	Appeals Processed FY 2005	Appeals Upheld	Appeals Partly Reversed	Appeals Completely Reversed	(b)(1) Upheld on Appeal	(b)(2) Upheld on Appeal	(b)(3) Upheld on Appeal	(b)(4) Upheld on Appeal
AMS	10	6	0	4	0	0	0	1	3
APHIS	7	1	1	0	0	0	0	0	0
DA	0	0	0	0	0	0	0	0	0
FAS	0	0	0	0	0	0	0	0	0
FNCS	11	3	1	1	0	0	1	2	0
FSA	55	43	5	17	12	0	1	0	0
FS	69	61	10	20	10	0	1	1	1
FSIS	8	9	1	0	1	0	0	0	0
GIPS	1	3	3	0	0	0	0	0	1
NAD	1	1	0	0	1	0	0	0	0
NRCS	13	11	3	2	2	0	0	0	1
OBPA	0	0	0	0	0	0	0	0	0
OC	4	0	0	0	0	0	0	0	0
OCFO	0	0	0	0	0	0	0	0	0
OCIO	0	0	0	0	0	0	0	0	0
OCR	2	3	1	1	1	0	0	0	0
OGC	15	5	3	2	0	0	1	0	0
OIG	15	5	3	2	0	0	1	0	0
REE	0	0	0	0	0	0	0	0	0
RMA	0	2	1	1	0	0	0	0	2
RD	18	9	0	4	2	0	0	0	2
Total	229	162	32	54	29	0	5	4	10

VI. Appeals of Initial Denials (continued):

	(b)(5) Upheld on Appeal	(b)(6) Upheld on Appeal	(b)(7)(A) Upheld on Appeal	(b)(7)(B) Upheld on Appeal	(b)(7)(C) Upheld on Appeal	(b)(7)(D) Upheld on Appeal	(b)(7)(E) Upheld on Appeal	(b)(7)(F) Upheld on Appeal	(b)(8) Upheld on Appeal	(b)(9) Upheld on Appeal
AMS	0	0	0	0	0	0	0	0	0	0
APHIS	0	1	0	0	0	0	0	0	0	0
DA	0	0	0	0	0	0	0	0	0	0
FAS	0	0	0	0	0	0	0	0	0	0
FNCS	0	2	0	0	2	1	2	0	0	0
FSA	0	21	0	0	0	1	0	0	0	0
FS	13	11	1	0	6	0	0	0	0	0
FSIS	0	1	0	0	0	0	0	0	0	0
GIPSA	1	0	1	0	0	1	0	0	0	0
NAD	0	0	0	0	0	0	0	0	0	0
NRCS	0	4	1	1	0	0	0	0	0	0
OBPA	0	0	0	0	0	0	0	0	0	0
OC	0	0	0	0	0	0	0	0	0	0
OCFO	0	0	0	0	0	0	0	0	0	0
OCIO	0	0	0	0	0	0	0	0	0	0
OCR	1	0	0	0	2	0	0	0	0	0
OGC	1	0	0	0	0	0	0	0	0	0
OIG	2	3	1	0	3	1	0	0	0	0
REE	0	0	0	0	0	0	0	0	0	0
RMA	0	0	0	0	0	0	0	0	0	0
RD	0	0	0	0	2	0	0	0	0	0
Total	18	43	4	1	15	4	2	0	0	0

VI. Appeals of Initial Denials (continued):

	Other reasons for Non-disclosure	No Records	Referred elsewhere	Request Withdrawn	Fee-related reason	Records not Reasonably Described	Not a Proper FOIA Request	Not an agency record	Duplicate Request	Other
AMS	2	2	0	0	0	0	0	0	0	0
APHIS	0	0	0	0	0	0	0	0	0	0
DA	0	0	0	0	0	0	0	0	0	0
FAS	0	0	0	0	0	0	0	0	0	0
FNCS	1	1	0	0	0	0	0	0	0	0
FSA	9	1	2	3	0	0	2	0	0	1
FS	21	16	0	1	1	0	0	0	0	2
FSIS	7	0	0	4	0	0	2	0	1	0
GIPSA	0	0	0	0	0	0	0	0	0	0
NAD	0	0	0	0	0	0	0	0	0	0
NRCS	4	2	0	1	0	1	0	0	0	0
OBPA	0	0	0	0	0	0	0	0	0	0
OC	0	0	0	0	0	0	0	0	0	0
OCFO	0	0	0	0	0	0	0	0	0	0
OCIO	0	0	0	0	0	0	0	0	0	0
OCR	0	0	0	0	0	0	0	0	0	0
OGC	0	0	0	0	0	0	0	0	0	0
OIG	0	0	0	0	0	0	0	0	0	0
REE	0	0	0	0	0	0	0	0	0	0
RMA	0	0	0	0	0	0	0	0	0	0
RD	3	0	0	3	0	0	0	0	0	0
Total	47	22	2	12	1	1	4	0	1	3

Other Reasons - Appeals received after appeal deadline.

VII. Compliance with Time Limits/Status of Pending Requests

A. MEDIAN PROCESSING TIME FOR REQUESTS PROCESSED DURING THE YEAR

	<u>Simple Requests</u>		<u>Complex Requests</u>		<u>Requests Accorded Expedited Processing</u>	
	Number Of Requests Processed	Median Number Of Days To Process	Number Of Requests Processed	Median Number Of Days To Process	Number Of Requests Processed	Median Number Of Days To Process
AMS	120	22	0	0	0	0
APHIS	922	90	193	1277	20	40
DA	53	29	0	0	1	7
FAS	44	14	0	0	0	0
FNCS	137	15	0	0	0	0
FSA	41743	2	1155	10	247	1
FS	1426	18	2196	18	42	14
FSIS	544	26	0	0	0	0
GIPSA	113	8	0	0	0	0
NAD	44	8	0	0	0	0
NRCS	358	18	12	16	4	9
OBPA	7	2	0	0	0	0
OC	303	24	0	0	0	0
OCFO	0	0	19	16	0	0
OCIO	10	10	0	0	0	0
OCR	0	0	43	28	0	0
OGC	0	0	12	34	0	0
OIG	178	4	58	102	7	3
REE	87	15	115	15	4	15
RMA	57	20	25	40	0	0
RD	0	0	1623	12	0	0
TOTAL	46,146		5451		325	

B. STATUS OF PENDING REQUESTS

	NUMBER OF REQUESTSPENDINGS AS OF END OF FISCAL YEAR	MEDIAN NUMBER OF DAYS PENDING	
AMS	24	24	
APHIS	1040	182	
DA	27	215	
FAS	0	0	
FNCS	4	15	
FSA	220	12	
FS	367	16	
FSIS	117	95	
GIPSA	10	20	
NAD	0	0	
NRCS	7	9	
OBPA	0	0	
OC	11	38	
OCFO	0	0	
OCIO	0	0	
OCR	10	60	
OGC	7	120	
OIG	61	227	
REE	13	15	
RMA	0	0	
RD	47	18	
TOTAL	1965		

VIII. Comparisons With Previous Years

Improve timeliness.

Agencies are continuing to provide public information and frequently requested information through their agency FOIA websites.

Expedited processing.

Agencies received a total of 940 requests for expedited processing and granted a total of 325 requesters expedited processing.

Reduce backlog.

Several agencies have increased contact with requesters in order to clarify and/or narrow requests.

Several agencies have established electronic tracking systems which have been successful in reducing processing time.

Provide training.

The FOIA personnel of most USDA agencies attended training sponsored by the Department of Justice, the USDA Graduate School, or the American Society for Access Professionals. Most of the agencies provided on-the-job FOIA training for agency personnel, and three of the largest agencies held agency-wide FOIA/PA meetings that included field units.

Several agencies provided field locations with copies of the Freedom of Information Act Guide & Privacy Act Overview and the Department of Justice quarterly FOIA Updates to use as reference material.

All agency FOIA personnel continue to meet quarterly to share information and establish consistent standards for processing of FOIA requests within the Department.

IX. Costs/FOIA Staffing

A. Staffing Levels

	Staffing Levels			Total Costs (Including Staff and All Resources)		
	Number of Full Time Personnel	Number of Personnel With PartTime or Occasional FOIA Duties (In Total Workyears)	Total Number Of Personnel (In Work-Years)	FOIA Processing (Including Appeals) (Estimated)	Litigation-Related Activities (Estimated)	Total
AMS	1	2.5	3.5	281,722	0	281,722
APHIS	19	0	19	1,863,037	0	1,863,037
DA	0	.2	.2	25,500	0	25,500
FAS	0	2	2	160,000	0	160,000
FNCS	1	4.375	5.375	98,710	12,641	111,351
FSA	11	24	35	2,407,423	17,959	2,425,382
FS	24	79	103	2,654,182	65,380	2,719,562
FSIS	7	2	9	565,911	0	565,911
GIPSA	0	.41	.41	47,085	0	47,085
NAD	0	.33	.33	4,710	0	4,710
NRCS	1	18	19	133,200	0	133,200
OBPA	0	.05	.05	2,000	0	2,000
OC	1	0	1	132,000	0	132,000
OCFO	0	.10	.10	10,000	0	10,000
OCIO	0	.2	.2	23,280	0	23,280
OCR	1	0	1	91,574	0	91,574
OGC	0	5.5	5.5	500,000	250,000	750,000
OIG	1	2.16	3.16	238,665	3,462	242,127
REE	1	.5	1.5	137,083	0	137,083
RMA	1	.46	1.46	142,253	0	142,253
RD	4	4.5	8.5	344,013	16,430	360,443
TOTAL	73	146.3	219.3	9,862,348	365,872	10,228,220

X. Fees

	Total Fees collected	Percentage of Total costs	
Total	104,408.31	1.0%	

XI. FOIA Regulations

USDA's regulations implementing the Electronic Freedom of Information Act Amendments of 1996 were published in the Federal Register July 28, 2000, and are available on the World Wide Web at:

<http://www.usda.gov/News&Information;/FOIA Information/USDA FOIA Regulations>

USDA's current fee schedule was published in the Federal Register December 31, 1987.

USDA's home page is located at <http://www.usda.gov>. The web sites of USDA agencies are linked to this home page, and each agency's web site contains explanatory information about FOIA processing.