

DEPARTMENT OF HEALTH AND HUMAN SERVICES



Freedom of Information Act Annual Report Fiscal Year 2011

FREEDOM OF INFORMATION ANNUAL REPORT — FY 2011

I. BASIC INFORMATION REGARDING REPORT

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

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Office of the Assistant Secretary for Public Affairs
United States Department of Health and Human Services
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Washington D.C. 20201
(202) 690-7453

- 2. ELECTRONIC ADDRESS FOR THIS REPORT ON THE WORLD WIDE WEB:**
<http://www.hhs.gov/foia/11anlrpt.html>

- 3. ADDRESS FOR PAPER COPIES OF THIS REPORT**

Contact Robert Eckert at the address or telephone number listed above, or the link shown:
<http://www.hhs.gov/foia/request/index.html>

** Copies of the annual reports of a number of individual HHS Operating Divisions can be found by contacting the responsible component shown in Section II below, or by locating a FOIA link at the following websites:

Administration on Aging (AOA):

http://www.aoa.gov/AoARoot/Site_Utilities/FOIA/

Administration for Children and Families (ACF):

http://www.acf.hhs.gov/acf_foia.html

Agency for Healthcare Research and Quality (AHRQ):

<http://www.ahrq.gov/news/foia.htm>

Centers for Disease Control and Prevention (CDC):

<http://www.cdc.gov/od/foia/>

Centers for Medicare & Medicaid Services (CMS):

<http://www.cms.hhs.gov/foia/>

Food and Drug Administration (FDA):

<http://www.fda.gov/RegulatoryInformation/foi/>

Health Resources and Services Administration (HRSA):

<http://www.hrsa.gov/foia/>

Indian Health Service (IHS): <http://www.ihs.gov/AdminMngrResources/FOIA/>

National Institute of Health (NIH): <http://www.nih.gov/icd/od/foia/>

Office of Inspector General (OIG): <http://oig.hhs.gov/foia/>

Office of the Assistant Secretary for Health (OASH): <http://www.psc.gov/foia/>

Substance Abuse and Mental Health Services Administration (SAMHSA):

<http://www.samhsa.gov/foia/>

II. HOW TO MAKE A FOIA REQUEST

Requests may be submitted electronically at: <http://www.hhs.gov/foia/request/index.html>

1. HHS and OPDIV Freedom of Information Officers/FOIA Requester Service Centers

Health and Human Services (HHS)
Freedom of Information Officer
Mary E. Switzer Building, Room 2206
330 C Street, S.W.
Washington, D.C. 20201
Phone: 202-690-7453

Administration for Children and Families (ACF)
Freedom of Information Officer
901 D Street, S.W.
7th Floor West
Aerospace Building
Washington, D.C. 20447
Phone: 202-401-9215

Agency for Healthcare Research and Quality (AHRQ)
Freedom of Information Officer
540 Gaither Road
The Eisenberg Building, Room 3129
Rockville, Maryland 20850
Phone: 301-427-1866

Administration on Aging (AOA)
Freedom of Information Officer
Washington, D.C. 20201
Phone: 202-357-3540

Centers for Disease Control and Prevention (CDC) and/or
Agency for Toxic Substances and Disease Registry (ATSDR)
Freedom of Information Officer
1600 Clifton Road, N.E., MS D-54
Atlanta, Georgia 30333
Phone: (770) 488-6399

Centers for Medicare & Medicaid Services (CMS)
Freedom of Information Officer
North Building, Room N2-20-06
7500 Security Boulevard
Baltimore, Maryland 21244
Phone: 410-786-5353

Food and Drug Administration (FDA)
Freedom of Information Officer
12420 Parklawn Drive, Room 1050
Rockville, Maryland 20850
Phone: 301-796-3900

Health Resources and Services Administration (HRSA)
Freedom of Information Officer
Parklawn Building, Room 14-15
5600 Fishers Lane
Rockville, Maryland 20857
Phone: 301-443-3376

Indian Health Service (IHS)
Freedom of Information Officer
12300 Twinbrook Parkway, Suite 450
Twinbrook II, Metro Plaza Building
Rockville, Maryland 20857
Phone: 301-443-1116

National Institutes of Health (NIH)
Freedom of Information Officer
Building 31, Room 5B35
9000 Rockville Pike
Bethesda, Maryland 20892
Phone: 301-496-5633

Office of Inspector General (OIG)
Freedom of Information Officer
Cohen Building, Suite 1062
330 Independence Ave, S.W.
Washington, D.C. 20201
Phone: 202-619-2541

Office of the Assistant Secretary for Health (OASH)
Freedom of Information Officer
7700 Wisconsin Avenue, Suite 920
Bethesda, MD 20814
Phone: 301-492-4800

Program Support Center (PSC)
Freedom of Information Officer
7700 Wisconsin Avenue, Suite 920
Bethesda, MD 20814
Phone: 301-492-4800

Substance Abuse and Mental Health Services Administration (SAMHSA)
Freedom of Information Officer
1 Choke Cherry Road, Room 8-1042
Rockville, Maryland 20857
Phone: 240-276-2137

2. Brief description of why some requests are not granted: Documents requested were protected by an exemption and release would have caused harm to the interest protected by the exemption. Information withheld may include home addresses and phone numbers, social security numbers, medical records, proprietary business records, investigatory records, that if released may interfere with open investigations, and drafts of documents.

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS:

1. Agency-specific acronyms or other terms:

HHS - U.S. Department of Health and Human Services
OPDIVs - Operating Divisions of HHS
OS - Office of the Secretary, HHS
OASPA - Office of the Assistant Secretary for Public Affairs, HHS
AOA - Administration on Aging
ACF - Administration for Children and Families
AHRQ - Agency for Healthcare Research and Quality
ATSDR - Agency for Toxic Substances and Disease Registry
CDC - Centers for Disease Control and Prevention
FDA - Food and Drug Administration
HRSA - Health Resources and Services Administration
IHS - Indian Health Service
NIH - National Institutes of Health
OIG – Office of the Inspector General
OASH - Office of the Assistant Secretary for Health
PRO - Professional Review Organization
PSC - Program Support Center
SAMHSA - Substance Abuse and Mental Health Services Administration

2. Basic terms (from FOIA UPDATE, Summer 1997):

- 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 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 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 entireties 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** - Median Number – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
- k. **Multi-Track Processing** – a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.
 - (A) **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.
 - (B) **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.

(C) **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.

1. **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. **Perfected Request** – a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.
 - o. **Processed Request or Processed Administrative Appeal** – a request or administrative appeal for which an agency has taken final action in all respects.
 - p. **Range in Number of Days** – the lowest and highest number of days to process requests or administrative appeals.
 - q. **Time Limits** – the time period in the statute for an agency to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).
3. Concise descriptions of the nine FOIA exemptions:
 - a. **Exemption 1:** classified national defense and foreign relations information
 - b. **Exemption 2:** internal agency rules and practices
 - c. **Exemption 3:** information that is prohibited from disclosure by another federal law
 - d. **Exemption 4:** trade secrets and other confidential business information
 - e. **Exemption 5:** inter-agency or intra-agency communications that are protected by legal privileges
 - f. **Exemption 6:** information involving matters of personal privacy
 - g. **Exemption 7:** records or information compiled for law enforcement purposes, to the extent that the production of those records
 - (A) could reasonably be expected to interfere with enforcement proceedings,
 - (B) would deprive a person of a right to a fair trial or an impartial adjudication,
 - (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy,
 - (D) could reasonably be expected to disclose the identity of a confidential source,

- (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or
- (F) could reasonably be expected to endanger the life or physical safety of any individual

h. **Exemption 8:** information relating to the supervision of financial institutions

i. **Exemption 9:** geological information on wells

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IV. EXEMPTION 3 STATUTES

Statute	Type of Information withheld	Case Citation	Component	Number of Times Relied upon per Component	Total number of Times Relied upon by Agency
5 U.S.C. app. § 107(a) (Ethics in Government Act of 1978)	Financial disclosure information pertaining to certain government employees	Meyerhoff v. EPA, 948 F.2d 1498, 1500-02 (9th Cir. 1992)	NIH FDA	1 2	3
21 U.S.C. § 331(j) (Food Drug and Cosmetic Act)	Trade secrets	Anderson v. HHS, 907 F.2d 936, 950-51 (10th Cir. 1998).	FDA	24	24
21 U.S.C. § 350d(a)(b)	Food Registration Documents	None	FDA	5	5
41 U.S.C. § 423(a)(1) Procurement Integrity Act)	Contractor bid or proposal information; source selection information	Legal & Safety Employer Research, Inc. v. U.S. Dep't of the Army, No. Civ. S001748, 2001 WL 34098652, at *3-4 (E.D. Cal. May 4, 2001) (dictum)	CDC	4	4

41 U.S.C. § 253b(m)	Technical proposal not incorporated into a final contract	<p>Hornbosel v. U.S. Dep't of the Interior, 305 F. Supp. 2d 21,30 (D.D.C. 2003), summary affirmance granted, No. 03-0527, 2004 WL 1900562 (D.C. Cir., Aug. 25, 2004).</p>	OS	5	55
			CDC	8	
			CMS	30	
			FDA	6	
			OASH	6	
42 U.S.C. § 242m(d)	Identifiable information for certain research and statistical activities	None	CDC	6	6
42 U.S.C. § 262a(h)	Select agent information.	None	OS	1	6
			CDC	5	
42 U.S.C. § 300aa-12(d)(4)(A) (National Childhood Vaccine Injury Act of 1986)	Medical records presented to a special master or the court in National Vaccine Injury Compensation Program	Long V DOJ, No. 06-CV-1086, 2011 WL 113925, at *10 (N.D.N.Y. Mar. 25, 2011)	HRSA	1	1

42 U.S.C § 11137(b)	Adverse reports of health practitioners’ conduct.	None	HRSA	2	2
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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
OS	560	1,396	1,592	364
ACF	317	296	416	197
AHRQ	7	77	81	3
AOA	0	16	16	0
CDC	323	1,128	1,088	363
CMS	5,233	52,116	53,328	4,021
FDA	4,691	9,301	10,602	3,390
HRSA	31	332	330	33
IHS	35	100	104	31
NIH	85	1,198	1,204	79
OIG	18	729	737	10
OASH	158	576	529	205
SAMHSA	154	166	152	168
HHS Total	11,612	67,431	70,179	8,864

B. (1) Disposition of all 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 Reason	Records not Reasonably Described	Improper FOIA Request for Other Reason	Not Agency Record	Duplicate Request	Other "Explained in chart below"	
OS	99	146	28	56	798	17	1	5	77	46	9	310	1,592
ACF	100	158	13	37	24	59	1	5	0	3	16	0	416
AHRQ	15	33	0	23	0	3	0	0	0	2	0	5	81
AOA	0	1	0	15	0	0	0	0	0	0	0	0	16
CDC	213	247	28	275	55	149	33	20	26	4	24	14	1,088
CMS	33,856	789	6,400	7,011	109	750	1,410	494	1,176	59	245	1,029	53,238
FDA	7,473	170	77	707	8	1,386	213	1	93	2	201	271	10,602
HRSA	262	33	3	12	17	1	0	0	0	2	0	0	330
IHS	19	4	4	12	10	12	0	10	0	8	0	25	104
NIH	775	102	11	139	12	113	20	16	6	9	1	0	1,204
OIG	166	180	33	101	16	42	2	5	61	99	12	20	737
OASH	131	138	19	90	71	30	0	20	9	0	0	21	529
SAMHSA	64	82	0	2	1	1	0	0	0	0	2	0	152
HHS Total	43,173	2,083	6,616	8,480	1,121	2,563	1,680	576	1,448	234	510	1,695	70,179

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

Component	Description of “Other” Reasons for Denials from Chart B (1) & Number of Times Those Reasons Were Relied upon	TOTAL
OS	Administrative Closure - Based on Response and Non Response to Continued Interest calls and Correspondence	310
ACF	N/A	0
AHRQ	Referrals to other areas, State and private organizations	5
AOA	N/A	0
CDC	No response to still interested letters.	14
CMS	Administrative Closures based on response/non-response due to continued interest calls and correspondence	1,029
FDA	Available on internet	271
HRSA	N/A	0
IHS	No response to still interested letters.	25
NIH	N/A	0
OIG	No response to still interested letters.	18
	Administrative Closures.	2
OASH	No response to still interested letter	21
SAMHSA	N/A	0
Agency Overall		1,695

B. (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
OS	0	5	6	36	88	126	24	0	64	0	1	3	0	0
ACF	0	0	0	63	16	110	0	0	0	0	0	0	0	0
AHRQ	0	0	0	32	1	25	0	0	0	0	0	0	0	0
AOA	0	0	0	0	0	1	0	0	0	0	0	0	0	0
CDC	0	25	20	120	54	172	2	0	0	0	0	0	0	0
CMS	0	54	30	152	62	4,929	2	2	175	6	26	1	0	0
FDA	0	5	37	114	34	34	118	0	13	6	8	4	0	0
HRSA	0	0	3	38	6	41	0	0	0	0	0	0	0	0
IHS	0	0	0	6	3	6	0	0	0	0	0	0	0	0
NIH	0	4	1	27	24	45	5	0	6	2	1	1	0	0
OIG	0	1	0	63	63	164	29	0	124	1	27	0	0	0
OASH	0	1	6	61	24	123	1	0	33	0	2	0	0	0
SAMHSA	0	0	0	60	0	82	0	0	0	0	0	0	0	0
HHS Total	0	95	103	772	375	5,858	181	2	415	15	65	9	0	0

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
OS	211	191	199	203
CMS	31	125	120	36
HHS Total	242	316	319	239

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
OS	109	14	13	63	199
CMS	1	0	7	112	120
HHS Total	110	14	20	175	319

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
OS	0	3	5	24	19	34	5	0	7	0	0	0	0	0
CMS	0	0	0	0	1	0	0	0	0	0	0	0	0	0
HHS Total	0	3	5	24	20	34	5	0	7	0	0	0	0	0

C. (2) Reasons for denial on Appeal – Reasons other than exemptions

	No Records	Records Referred at Initial Request Level	Request Withdrawn	Fee-Related Reason	Records Not Reasonably Described	Improper Request For Other Reasons	Not Agency Record	Duplicate Request Or Appeal	Request In Litigation	Appeal Based Solely on Denial of Request For Expedited Processing	Other Explain in Chart Below
OS	14	0	1	4	0	0	0	0	0	3	63
CMS	1	0	89	0	0	3	3	1	1	0	14
HHS Total	15	0	90	4	0	3	3	1	1	3	77

C. (3) Reasons for denial on Appeal – Other:

Description of “Other” Reasons for Denial on Appeal from Chart C (2) &		Number of Times Those Reasons Were Relied upon	TOTAL
OS	Appeal moot	49	63
	Appeal untimely	2	
	Appeal upheld	6	
	Dismissed, appellant lacks standing	1	
	No response from appellant	2	
	Remand	3	
CMS	Administrative closure based on response/non-response due to continued interest calls and correspondence	14	14
HHS Total			77

C. (4) Response time for administrative appeals (See chart)

	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
OS	76	263	1	1,533
CMS	145	189	2	1,892
HHS Overall	76	200	1	1,892

C. (5) Ten Oldest Pending Appeals (See Chart)

		10th Oldest Appeal	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal
OS	Date of Receipt of Ten Oldest Appeals	8/31/2004	8/24/2004	7/29/2004	6/22/2004	6/22/2004	6/3/2004	6/1/2004	4/16/2004	2/24/2004	2/11/2004
	Number of Days Pending	2,586	2,593	2,619	2,656	2,656	2,675	2,677	2,723	2,775	2,788
CMS	Date of Receipt of Ten Oldest Appeals	1/26/2011	1/24/2011	1/20/2011	12/23/2010	12/14/2010	12/10/2010	11/9/2010	11/4/2010	10/20/2010	10/4/2010
	Number of Days Pending	174	176	178	195	202	204	225	228	239	250

		10th Oldest Appeal	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal
HHS Overall	Date of Receipt of Ten Oldest Appeals	8/31/2004	8/24/2004	7/29/2004	6/22/2004	6/22/2004	6/3/2004	6/1/2004	4/10/2004	2/24/2004	2/11/2004
	Number of Days Pending	2,586	2,593	2,619	2,656	2,656	2,675	2,677	2,723	2,775	2,788

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

A. Processed Requests – Response Time for All Perfected Requests¹

	Simple				Complex				Expedited Processing			
	Media n Numbe r of Days	Averag e Numbe r of Days	Lowest Numbe r of Days	Highest Numbe r of Days	Media n Numbe r of Days	Averag e Numbe r of Days	Lowest Numbe r of Days	Highest Numbe r of Days	Media n Numbe r of Days	Averag e Numbe r of Days	Lowest Numbe r of Days	Highest Numbe r of Days
OS²	0	0	0	0	600	185	1	1,619	0	0	0	0
ACF	0	0	1	0	0	0	0	0	0	0	0	0
AHRQ	9	13	1	79	35	47	1	207	0	0	0	0
AOA	2	5	1	11	0	0	0	0	0	0	0	0
CDC	26	44	<1	292	32	73	<1	1,000	0	0	0	0
CMS	8	19	1	535	16	218	1	1,702	100	188	3	556
FDA	9	49	1	1,305	162	248	1	1,760	53	64	31	109
HRSA³	0	0	0	0	15	17	1	344	0	0	0	0
IHS	15	13	3	25	85	96	62	160	0	0	0	0
NIH⁴	14	24	1	459	0	0	0	0	0	0	0	0
OIG	1	3	1	23	14	24	1	170	0	0	0	0
OASH	13	26	1	349	174	263	6	925	0	0	0	0

¹ Some numbers based on estimates.

² Uses single-track log.

³ Uses single-track log.

⁴ Uses single-track log.

	Simple				Complex				Expedited Processing			
	Media n Numbe r of Days	Averag e Numbe r of Days	Lowest Numbe r of Days	Highest Numbe r of Days	Media n Numbe r of Days	Averag e Numbe r of Days	Lowest Numbe r of Days	Highest Numbe r of Days	Media n Numbe r of Days	Averag e Numbe r of Days	Lowest Numbe r of Days	Highest Numbe r of Days
SAMHS A	17	34	1	78	34	58	4	135	0	0	0	0
HHS Overall	15	35	<1	1,305	174	112	<1	1,760	60	70	3	556

B. Processed Requests – Response Time for Perfected Requests in Which Information Was Granted⁵

	Simple				Complex				Expedited Processing			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
OS⁶	0	0	0	0	38	162	1	1,309	0	0	0	0
ACF	730	120	1	1,465	515	37	15	1,029	30	22	1	60
AHRQ	10	19	7	79	41	52	1	207	0	0	0	0
AOA	0	4	4	4	0	0	0	0	0	0	0	0
CDC	40	50.5	<1	155	52	88	<1	1,000	0	0	0	0
CMS	10	20	1	519	125	237	2	1,596	54	107	3	460
FDA	9	48.6	1	1,305	164	250	1	1,760	53	64.3	31	109
HRSA⁷	0	0	0	0	15	17	1	344	0	0	0	0
IHS	25	24	15	30	80	75	30	140	0	0	0	0
NIH⁸	14	24	1	459	0	0	0	0	0	0	0	0
OIG	2	5	1	23	23	31	1	170	0	0	0	0
OASH	25	33	1	174	171	276	41	925	0	0	0	0
SAMHSA	6	10	1	45	130	208	58	338	0	0	0	0

⁵ Some numbers based on estimates.

⁶ Uses single-track log.

⁷ Uses single-track log.

⁸ Uses single-track log.

	Simple				Complex				Expedited Processing			
	Media n Num ber of Days	Averag e Numbe r of Days	Lowest Numbe r of Days	Highest Numbe r of Days	Media n Num ber of Days	Averag e Numbe r of Days	Lowest Numbe r of Days	Highest Numbe r of Days	Media n Num ber of Days	Averag e Numbe r of Days	Lowest Numbe r of Days	Highest Numbe r of Days
HHS Overall	275	98	<1	1,465	171	198	<1	1,760	50	63	1	460

C. Processed Requests – Response Time in Day Increments

1. Simple Requests

	1–20 Days	21–40 Days	41– 60 Days	61– 80 Days	81– 100 Days	101– 120 Days	121– 140 Days	141– 160 Days	161– 180 Days	181– 200 Days	201– 300 Days	301– 400 Days	401+ Days	TOTAL
OS⁹	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ACF	6	5	11	18	17	11	28	10	19	20	78	9	154	386
AHRQ	33	1	2	1	0	0	0	0	0	0	0	0	0	37
AOA	16	0	0	0	0	0	0	0	0	0	0	0	0	16
CDC	17	8	8	0	2	0	1	3	0	0	1	0	0	40
CMS	38,244	5,083	1,933	1,113	796	412	260	156	152	84	266	90	52	48,641
FDA	2,423	717	438	392	492	441	244	116	91	81	253	99	220	6,007
HRSA¹⁰	0	0	0	0	0	0	0	0	0	0	0	0	0	0
IHS	14	8	9	11	4	3	3	2	4	0	0	0	0	58
NIH¹¹	788	251	65	30	19	9	11	7	9	5	7	2	1	1,204
OIG	466	2	0	0	0	0	0	0	0	0	0	0	0	468
OASH	235	74	29	28	11	3	4	0	3	0	1	1	0	389
SAMHSA	1	32	17	0	0	0	0	0	0	0	0	0	0	50
HHS Overall	42,243	6,181	2,512	1,593	1,341	879	551	294	278	190	606	201	427	57,296

⁹ Uses single-track log.

¹⁰ Uses single-track log.

¹¹ Uses single-track log.

2. Complex Requests

	1–20 Days	21–40 Days	41– 60 Days	61– 80 Days	81– 100 Days	101– 120 Days	121– 140 Days	141– 160 Days	161– 180 Days	181– 200 Days	201– 300 Days	301– 400 Days	401+ Days	TOTAL
OS	966	80	53	37	19	11	7	8	6	7	22	31	323	1,570
ACF	0	0	12	5	3	7	0	0	0	0	0	0	0	27
AHRQ	13	11	7	8	2	1	0	1	0	0	1	0	0	44
AOA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
CDC	387	215	113	67	49	46	36	33	19	9	18	19	37	1,048
CMS	2,478	187	102	72	72	47	46	42	48	55	177	242	1,095	4,663
FDA	577	309	248	212	251	230	154	101	106	116	295	379	1,538	4,516
HRSA	268	41	15	3	1	1	0	0	0	0	0	1	0	330
IHS	5	2	5	5	1	5	1	5	1	5	3	3	2	43
NIH	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OIG	150	74	21	9	7	1	4	2	1	0	0	0	0	269
OASH	3	4	5	6	5	16	9	11	15	10	16	8	32	140
SAMHSA	28	10	12	1	0	0	0	0	0	0	0	0	1	52
HHS Total	4,875	933	593	425	410	365	257	203	196	202	532	683	3,028	12,702

3. Requests Granted Expedited Processing

	1–20 Days	21–40 Days	41–60 Days	61–80 Days	81– 100 Days	101– 120 Days	121– 140 Days	141– 160 Days	161– 180 Days	181– 200 Days	201– 300 Days	301– 400 Days	401+ Days	TOTAL
OS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ACF	0	0	0	0	0	0	0	0	0	0	0	0	0	0
AHRQ	0	0	0	0	0	0	0	0	0	0	0	0	0	0
AOA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
CDC	0	0	0	0	0	0	0	0	0	0	0	0	0	0
CMS	4	3	1	4	0	0	1	0	0	0	3	5	3	24
FDA	0	0	0	0	1	0	1	0	0	0	1	0	0	3
HRSA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
IHS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NIH	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OIG	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OASH	0	0	0	0	0	0	0	0	0	0	0	0	0	0
SAMHSA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
HHS Total	4	3	1	4	1	0	2	0	0	0	4	5	3	27

D. Pending Requests – All Pending Perfected Requests¹²

	Simple			Complex			Expedited Processing		
	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days
OS¹³	0	0	0	364	250	366	0	0	0
ACF	249	524	284	0	0	0	2	98	98
AHRQ	2	4	4	4	32	30	0	0	0
AOA	0	0	0	0	0	0	0	0	0
CDC	6	279	335	347	110	166	1	608	608
CMS	1,783	10	19	2,229	123	150	9	108	152
FDA	252	179	217	3,145	32	109	2	191	227
HRSA¹⁴	0	0	0	34	11	12	0	0	0
IHS	25	36	56	41	245	380	0	0	0
NIH¹⁵	79	16	53	0	0	0	0	0	0
OIG	2	1	8	8	14	41	0	0	0
OASH	30	13	116	219	174	202	0	0	0
SAMHSA	25	17	34	80	34	58	0	0	0
HHS Total	2,453	275	215	6,471	123	198	14	166	225

¹² Some numbers based on estimates.

¹³ Uses single-track log.

¹⁴ Uses single-track log.

¹⁵ Uses single-track log.

E. Pending Requests – Ten Oldest Pending Perfected Requests

	Date of Receipt	10 th Oldest Request and Number of Days Pending	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest Request and Number of Days Pending
	Date of Receipt	Number of Days Pending	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest Request and Number of Days Pending
OS	Date of Receipt	4/19/2007	3/6/2007	2/9/2007	1/24/2007	9/28/2006	11/14/2005	7/18/2005	4/25/2005	3/28/2005	4/19/2007
	Number of Days Pending	1,625	1,669	1,694	1,710	1,828	2,146	2,265	2349	2,377	2,429
ACF	Date of Receipt	8/27/2008	8/12/2008	6/12/2008	6/12/2008	5/16/2008	5/9/2008	5/2/2008	4/9/2008	3/13/2008	1/4/2008
	Number of Days Pending	829	853	928	928	969	981	989	995	1,025	1,049
AHRQ	Date of Receipt	N/A	N/A	N/A	N/A	9/26/2011	9/26/2011	8/30/2011	8/18/2011	8/12/2011	8/9/2011
	Number of Days Pending	0	0	0	0	4	4	22	30	34	37
AOA	Date of Receipt	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Number of Days Pending	0	0	0	0	0	0	0	0	0	0

	Date of Receipt	10th Oldest Request and Number of Days Pending									Oldest Request and Number of Days Pending
	Date of Receipt	Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	
CDC	Date of Receipt	10/15/2008	10/8/2008	9/23/2008	9/17/2008	7/25/2008	4/28/2008	4/21/2008	3/3/2008	12/31/2007	7/3/2007
	Number of Days Pending	743	747	758	762	799	861	866	901	943	1,066
CMS	Date of Receipt	1/25/2010	1/25/2010	1/20/2010	1/19/2010	1/19/2010	1/15/2010	1/14/2010	1/12/2010	1/6/2010	1/5/2010
	Number of Days Pending	422	422	425	426	426	427	428	430	434	435
FDA	Date of Receipt	3/5/2008	1/3/2008	11/30/2007	9/7/2007	5/8/2007	4/18/2007	3/20/2007	2/27/2007	2/7/2007	3/16/2006
	Number of Days Pending	899	941	963	1,020	1,105	1,119	1,140	1,155	1,168	1,392
HRSA	Date of Receipt	9/15/2011	9/14/2011	9/14/2011	9/13/2011	9/13/2011	9/12/2011	9/12/2011	9/12/2011	8/16/2011	6/1/2010
	Number of Days Pending	11	12	12	13	13	14	14	14	32	344
IHS	Date of Receipt	7/28/2011	6/16/2011	6/11/2011	1/24/2011	1/24/2011	11/5/2010	9/16/2010	8/2/2010	8/2/2010	12/7/2009

	Date of Receipt	10 th Oldest Request and Number of Days Pending	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest Request and Number of Days Pending
	Number of Days Pending										
	Number of Days Pending	46	73	81	170	170	229	273	303	303	473
NIH	Date of Receipt	5/6/2011	4/8/2011	3/22/2011	2/2/2011	1/18/2011	12/13/2010	10/13/2010	6/7/2010	4/7/2010	5/6/2011
	Number of Days Pending	103	123	136	169	178	203	244	333	375	1,031
OIG	Date of Receipt	9/20/2011	9/19/2011	9/19/2011	9/19/2011	9/9/2011	9/9/2011	8/23/2011	7/8/2011	6/2/2011	9/20/2011
	Number of Days Pending	6	9	9	9	11	11	28	60	86	128
OASH	Date of Receipt	11/24/2009	11/18/2009	11/16/2009	11/12/2009	9/15/2009	6/16/2009	1/5/2009	11/21/2008	10/28/2008	11/24/2009
	Number of Days Pending	483	487	489	491	533	598	714	745	763	782
SAMHSA	Date of Receipt	10/26/2010	10/12/2010	9/18/2010	7/23/2010	7/14/2010	5/12/2010	5/8/2010	4/11/2010	3/10/2010	10/26/2010

	Date of Receipt	10th Oldest Request and Number of Days Pending									Oldest Request and Number of Days Pending
	Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd		
	Number of Days Pending	231	241	275	313	319	359	360	380	400	412
Agency Overall	Date of Receipt	2/9/2007	2/7/2007	1/24/2007	9/28/2006	3/16/2006	11/14/2005	7/18/2005	4/25/2005	3/28/2005	2/9/2007
	Number of Days Pending	1,694	1,696	1,706	1,828	1,948	2,146	2,265	2,349	2,377	2,429

VIII. REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER

A. Requests for Expedited Processing

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
OS	0	8	5	2	8
ACF	2	0	45	45	0
AHRQ	0	0	0	0	0
AOA	0	0	0	0	0
CDC	0	15	8	10	15
CMS	19	0	1	4	17
FDA	3	92	13	21	38
HRSA	0	5	8	8	8
IHS	0	0	0	0	0
NIH	0	0	0	0	0
OIG	0	0	0	0	0
OASH	0	0	0	0	0
SAMHSA	0	0	0	0	0
HHS Total	24	163	13	22	78

B. Requests for Fee Waiver

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
OS	0	0	0	0
ACF	0	1	45	45
AHRQ	6	0	11	58
AOA	0	0	0	0
CDC	3	15	41	45
CMS	7	0	1	1
FDA	254	11	11	20
HRSA	1	4	7	7
IHS	0	0	0	0
NIH	1	3	26	25
OIG	0	1	1	1
OASH	0	0	0	0
SAMHSA	0	0	0	0
HHS Total	272	35	26	25

IX. FOIA PERSONNEL AND COSTS

	Personnel			Costs		
	Number of “Full-Time FOIA Employees”	Number of “Equivalent Full-Time FOIA Employees”	Total Number of Full- Time FOIA Staff	Processing Costs	Litigation- Related Costs	Total Costs
OS	12	0	12	\$874,842.00	\$28,598.00	\$903,440.00
ACF	4	1	5	\$443,333.00	\$0.00	\$443,333.00
AHRQ	1	0	1	\$54,903.00	\$0.00	\$54,903.00
AOA	0	0.04	.004	\$2,576.00	\$0.00	\$2,576.00
CDC	12	0	0	\$1,148,880.00	\$0.00	\$114,8880.00
CMS	19	61	80	\$4,821,716.00	\$57,470.00	\$4,879,186.00
FDA	85	42	127	\$33,003,128.00	\$130,226.00	\$33,133,354.00
HRSA	3	1.5	4.5	\$487,951.00	\$0.00	\$487,951.00
IHS	1	2	3	\$369,945.00	\$0.00	\$369,945.00
NIH	15	13	28	\$3,138,120.00	\$20,981.00	\$3,159,101.00
OIG	3	2	5	\$100,688.00	\$0.00	\$100,688.00
OASH	5	2	7	\$1,203,071.00	\$2,500.00	\$120,5571.00
SAMHSA	1	0	1	\$99,191.00	\$0.00	\$99,191.00
HHS Total	161	123.83	284.83	\$45,748,344.22	\$239,775.00	\$45,988,119.22

X. FEES COLLECTED FOR PROCESSING REQUESTS

	Total Amount of Fees Collected	Percentage of Total Costs
OS	\$0.00	0.00%
ACF¹⁶	\$0.00	0.00%
AHRQ	\$175.00	0.32%
AOA	\$0.00	0.00%
CDC	\$24,232.77	2.11%
CMS	\$606,801.39	12.58%
FDA	\$452,246.57	1.37%
HRSA	\$4,029.00	0.83%
IHS	\$0.00	0.00%
NIH	\$47,108.00	1.50%
OIG	\$15,317.00	15.21%
OASH	\$1,469.00	0.12%
SAMHSA	\$1,026.00	1.03%
HHS Total	\$1,152,404.73	2.52%

¹⁶ The ACF has temporarily suspended fee collections.

XI. FOIA REGULATIONS

<http://www.hhs.gov/foia/45cfr5.html>

XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS

A. Backlogs of FOIA Requests and Administrative Appeals

	Number of Backlogged Requests as of End of Fiscal Year	Number of Backlogged Appeals as of End of Fiscal Year
OS	309	68
ACF	160	0
AHRQ	0	0
AOA	0	0
CDC	287	0
CMS	2,008	36
FDA	3,421	0
HRSA	2	0
IHS	34	0
NIH	25	0
OIG	4	0
OASH	165	0
SAMHSA	114	0
HHS Total	6,529	104

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

	Number of Consultations Received from Other Agencies that Were Pending at Your Agency as of Start of the Fiscal Year	Number of Consultations Received from Other Agencies During the Fiscal Year	Number of Consultations Received from Other Agencies that Were Processed by Your Agency During the Fiscal Year	Number of Consultations Received from Other Agencies that Were Pending at Your Agency as of End of the Fiscal Year
OS	0	0	0	0
ACF	0	0	0	0
AHRQ	0	0	0	0
AOA	0	0	0	0
CDC	0	0	0	0
CMS	0	0	0	0
FDA	0	12	12	0
HRSA	0	0	0	0
IHS	0	0	0	0
NIH	0	4	4	0
OIG	0	0	0	0
OASH	0	4	4	0
SAMHSA	0	0	0	0
HHS Total	0	20	20	0

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

	10th Oldest Request and Number of Days Pending									Oldest Request and Number of Days Pending
	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd		
OS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ACF	0	0	0	0	0	0	0	0	0	0
AHRQ	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
AOA	0	0	0	0	0	0	0	0	0	0
CDC	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
CMS	0	0	0	0	0	0	0	0	0	0
FDA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
HRSA	0	0	0	0	0	0	0	0	0	0
IHS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
NIH	0	0	0	0	0	0	0	0	0	0
OIG	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
OASH	0	0	0	0	0	0	0	0	0	0
SAMHSA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
HHS Total	0	0	0	0	0	0	0	0	0	0

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

(1) Requests Received and Processed

	Number of Requests Received		Number of Requests Processed	
	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
OS	2,144	1,396	2,306	1,592
ACF	1,133	296	1,538	416
AHRQ	57	77	61	81
AOA	27	16	27	16
CDC	1,207	1,128	1,372	1,088
CMS	46,586	52,116	51,665	53,328
FDA	9,690	9,301	9,879	10,602
HRSA	369	332	369	330
IHS	98	100	94	104
NIH	1,253	1,198	1,282	1,204
OIG	563	729	569	737
OASH	496	576	555	529
SAMHSA	216	166	143	152
HHS Total	63,839	67,431	69,860	70,179

(2) Requests Backlogged

	Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report
OS	525	309
ACF	299	160
AHRQ	1	0
AOA	0	0
CDC	245	287
CMS	3,486	2,008
FDA	4,691	3,421
HRSA	2	2
IHS	35	34
NIH	37	25
OIG	11	4
OASH	129	165
SAMHSA	91	114
HHS Total	9,552	6,529

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

(1) Appeals Received, Processed

	Number of Appeals Received		Number of Appeals Processed	
	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
OS	168	191	244	199
CMS	26	125	145	120
HHS Total	194	316	369	319

(2) Appeals Backlogged

	Number of Backlogged Administrative Appeals as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Administrative Appeals as of End of the Fiscal Year from Current Annual Report
OS	198	68
CMS	31	36
HHS Total	229	104