

HHS 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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Washington D.C. 20201
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2. ELECTRONIC ADDRESS FOR THIS REPORT ON THE WORLD WIDE WEB:

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/](http://www.aoa.gov/AoARoot/Site%20Utilities/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 Public Health and Science (OPHS): <http://www.psc.gov/foia/>

Substance Abuse and Mental Health Services Administration:

<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

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

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

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 Public Health and Science (OPHS)
Freedom of Information Officer
Room 17-66, Parklawn Building
5600 Fishers Lane
Rockville, MD 20857
Phone: 301-443-5252

Agency for Healthcare Research and Quality (AHRQ)
Freedom of Information Officer
540 Gaither Road
The Eisenberg Building, Room 2222
Rockville, Maryland 20850
Phone: 301-427-1866

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: 404-498-1580

Food and Drug Administration (FDA)
Freedom of Information Officer
Parklawn Building, Room 6-30
5600 Fishers Lane
Rockville, Maryland 20857
Phone: 301-827-6567

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

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

OPHS - Office of Public Health and Science

PHS - Public Health Service

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 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** - 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.

- 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. **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

IV. EXEMPTION 3 STATUTES

Statute	Type of Information Withheld	Case Citation	Number of Times Relied upon per Component	Total Number of Times Relied upon by Agency
42 U.S.C. 242m(d)	Identifiable information for certain research and statistical activities	None	6	6
42 U.S.C. 262a(h)	Select agent information.	N	5	5
41 U.S.C. 253b(m)	Technical proposal not incorporated into a final contract	Hornbostel 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).	8	8
41 U.S.C. § 423(a)(1) (Procurement Integrity Act)	Contractor bid or proposal information; source selection information	Hornbostel 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).	4	4

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				
ACF				
AOA				
CMS				
OIG				
OPHS/PSC				
AHRQ				
CDC	323	1,128	1,088	363
FDA				
HRSA				
IHS				
NIH				
SAMHSA				
HHS Total				

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 “Explain in chart below”	
CDC	213	247	28	275	55	146	33	20	26	4	24	14	1372

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

	Description of “Other” Reasons for Denials from Chart B (1) & Number of Times Those Reasons Were Relied upon	TOTAL
CDC	No response to still interested letters.	14

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
CDC	0	25	20	120	54	172	2	0	0	0	0	0	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
	0	0	0	0

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
	0	0	0	0	0

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	0	0	0	0	0	0	0	0	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
	0	0	0	0	0	0	0	0	0	0	0

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
	0	0

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
	0	0	0	0

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

		10 th Oldest Appeal	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest Appeal
	Date of Receipt of Ten Oldest Appeals										

VII. FOIA REQUESTS: Response Time for All Processed Perfected Requests

A. Processed Requests – Response Time for Perfected Requests in Which Information Was Granted

	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
CDC	26	44	<1	292	32	73	<1	1000	0	0	0	0

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

	Simple				Complex				Expedited Processing			
	Media n Numb er of Days	Averag e Numbe r of Days	Lowest Numbe r of Days	Highest Numbe r of Days	Median Numbe r of Days	Averag e Numbe r of Days	Lowest Numbe r of Days	Highest Numbe r of Days	Median Numbe r of Days	Averag e Numbe r of Days	Lowest Numbe r of Days	Highest Numbe r of Days
CDC	40	50.5	<1	155	52	88	<1	1000	0	0	0	0

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
CDC	17	8	8	0	2	0	1	3	0	0	1	0	0	40

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
CDC	387	215	113	67	49	46	36	33	19	9	18	19	37	1048

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
CDC	0	0	0	0	0	0	0	0	0	0	0	0	0	0

D. Pending Requests – All Pending Perfected Requests

	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
CDC	6	279	335	347	110	166	1	608	608

E. Pending Requests – Ten Oldest Pending Perfected Requests

	10th Oldest Request and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request and Number of Days Pending
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
CDC Number of Days Pending	743	747	758	762	799	861	866	901	943	1066

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
CDC	0	15	8	10	15

B. Requests for Fee Waiver

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
CDC	3	15	41	45

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
CDC	12	0	0	\$1,148,880	\$0	\$1,148,880

X. FEES COLLECTED FOR PROCESSING REQUESTS

	Total Amount of Fees Collected	Percentage of Total Costs
CDC	\$24,232.77	2.11%

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
CDC	287	0

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
CDC	0	0	0	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	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request and Number of Days Pending
CDC	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

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
CDC	1,207	1,128	1,372	1,088

(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
CDC	245	287

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
	0	0	0	0

(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
	0	0