



UNITED STATES DEPARTMENT *of* JUSTICE

# Overview of the Annual Freedom of Information Act Report



## 5 U.S.C. § 552(e)

FOIA requires that agencies submit a report to the Attorney General each year that covers the preceding fiscal year.

Statute provides that the Attorney General:

- In consultation with the Director of OMB, shall develop reporting and performance guidelines for these reports, and
- May establish additional requirements for reports that may be useful.



## **Open Government Directive**

Requires agency Annual FOIA Reports to be published in a machine-readable, open format, in addition to the regular human-readable format.

Accordingly, DOJ requires agencies to provide their data in a specified NIEM-XML format for uniformity and uploading onto FOIA.gov.



## **DOJ Annual FOIA Report Tool**

Assists agencies in compiling the machine-readable version of annual report.

Has built-in math and logic checks to assist agencies in compiling their data.

Generates the charts for the human-readable version of the report and the machine-readable NIEM-XML.



## DOJ Annual FOIA Report Tool

Agencies **must** use the charts produced by the tool as the basis of their human readable reports to ensure consistency between the two versions.



# **Annual FOIA Report Handbook**

Legal, procedural, and technical requirements for the Annual FOIA Report.

Additional guidance for FOIA professionals regarding data entry and case management.

[www.justice.gov/oip/docs/doj-handbook-for-agency-annual-freedom-of-information-act-reports.pdf](http://www.justice.gov/oip/docs/doj-handbook-for-agency-annual-freedom-of-information-act-reports.pdf)



# Overview of Process for Fiscal Year 2015

1. Complete the NIEM-XML version of the Annual FOIA Report using DOJ Annual Report Tool;
2. Submit the NIEM-XML version to OIP at [DOJ.OIP.FOIA@usdoj.gov](mailto:DOJ.OIP.FOIA@usdoj.gov) by no later than **December 4, 2015**;
3. Make any necessary corrections resulting from the OIP-review process;



## **Overview of Process for Fiscal Year 2015**

4. Use the charts provided by OIP to complete the human-readable version of your Annual FOIA Report; and
5. Post both the open format NIEM-XML and human-readable versions of your Annual FOIA Reports on your website, and provide the links to OIP for aggregation on DOJ's website.





## Types of Requests

Continue to give incoming requests the potential benefit of access under both the FOIA and the Privacy Act (PA).

However, **do not** include Privacy Act requests in the Annual Report when:

- You do not use the FOIA in any way to process the request.
- You search exclusively within PA “system of records” and you do not claim any PA exemptions.



## Types of Requests

Continue to give incoming requests the potential benefit of access under both the FOIA and the Privacy Act (PA).

Do include PA requests when FOIA applies.  
FOIA applies when:

- A search goes beyond PA “system of records,” and so involves a FOIA search, or
- PA exemptions apply to the records, so access under the FOIA is considered.



## **General Guidance Points for Sections IV – XII**

- Ensure accurate data and reliable systems so that the Report is accurate and meaningful.
- Carefully follow the directions in the DOJ Annual FOIA Report Handbook.



## General Guidance Points for Sections IV – XII

- Count days from receipt of a perfected request; use working days, unless otherwise stated.
- As has been done in the past, Section V of the Report reflects both perfected & non-perfected “purported” requests, whereas Section VII (“Response Time”) reflects perfected requests.



## Section IV: Exemption 3 Statutes

- Statute Citation
- Type of Information Withheld
- Case Citation (if applicable)
- Number of Times Relied upon by Agency/Component
- Total Number of Times Relied upon by Agency

**Guidance:** “Total” must be equal to/greater than total Ex. 3 citations in Section V.B.3



## Section V: Types of Requests

For charts in this Section, include all “purported” FOIA requests, both perfected and non-perfected.



## Section V.A: Received, Processed, & Pending FOIA Requests

1. Number of Requests Pending at Start of FY
2. Number of Requests Received in FY
3. Number of Requests Processed in FY
4. Number of Requests Pending at End of FY

**Guidance:**  $1 + 2 - 3 \text{ (must)} = 4$



## **Section V.B.1: Disposition of FOIA Requests – All Processed Requests**

Dispositions to use when records were located and processed for release:

- Full Grant
- Partial Grant/Partial Denial
- Full Denial Based on Exemptions





## **Section V.B.1: Disposition of FOIA Requests – All Processed Requests**

Whenever possible, use “Full Grant,” “Partial Grant/Partial Denial,” or “Full Denial” dispositions to close a FOIA request.

**Guidance:** Partial Grant/Partial Denial should be used when information is released, even if the “partial denial” is based on a procedural reason.



## **Section V.B.1: Disposition of FOIA Requests – All Processed Requests**

### **Procedural Dispositions:**

- No Records
- All Records Referred
- Request Withdrawn
- Fee-Related Reasons
- Records not Reasonably Described
- Improper FOIA Request
- Not an Agency Record
- Duplicate Request
- Other\*



## **Section V.B.2: Disposition of FOIA Requests – “Other” Reasons**

- Component/Agency
- Description of “Other” Reason
- Number of Times each “Other” Reason Used
- Total Number of “Other” Closures

**Guidance:** Total number must match total number of “other” closures in Section V.B.1 <sup>19</sup>



## **Section V.B.3: Disposition of FOIA Requests – No. of Times Exemptions Applied**

- Total number of times the agency applied each exemption during the fiscal year

**Guidance:** Count each exemption as only applying once for each request



## **Section VI.A: Received, Processed, & Pending Appeals**

1. Number of Appeals Pending at Start of FY
2. Number of Appeals Received in FY
3. Number of Appeals Processed in FY
4. Number of Appeals Pending at End of FY

**Guidance:**  $1 + 2 - 3 \text{ (must)} = 4$



## **Section VI.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 Closed for Other Reasons
- Total



## **Section VI.C.1: Reasons for Denial on Appeal – No. of Times Exemptions Applied**

- Total number of times the agency applied each exemption during the fiscal year on appeal

**Guidance:** Count each exemption as only applying once for each appeal



## **Section VI.C.2: Reasons for Denial on Appeal – Reasons Other than Exemptions**

- No Records
- Records Referred at Initial Request Level
- Request Withdrawn
- Fee-Related Reasons
- Records not Reasonably Described
- Improper FOIA Request
- Not Agency Record
- Duplicate Request /Appeal
- In Litigation
- Appeal Based Solely on Denial of Req. for Exp. Processing
- Other\*





## **Section VI.C.3: Reasons for Denial on Appeal – “Other” Reasons**

- Component/Agency
- Description of “Other” Reason
- Number of Times each “Other” Reason Used
- Total Number of “Other” Closures

**Guidance:** Total number must match total number of “other” closures in Section VI.C.2<sup>25</sup>



## Additional Section VI Charts

Additional information for processing times and ten oldest appeals is also captured in the Report.



## **Section VII: FOIA Requests: Response Time for Processed & Pending Requests**

- Include response times for perfected requests only.
- Begin counting from date of receipt of the perfected request.
- All agencies should have an expedited track.



## **Section VII: FOIA Requests: Response Time for Processed & Pending Requests**

- If using a multi-track system, report for each track separately and use no more than the three designated tracks: simple, complex, expedited.
- If not using multi-track system, must report separately requests which have been granted expedited processing.



## **Sections VII: Special Instructions**

- If not using multi-track processing, report requests in either the simple or complex track, whichever best characterizes the majority of the requests processed.
- For Sections VII.A/VII.B – if agency has no data to report for a specific track, input “N/A” into DOJ tool instead of zero.



## **Section VII.A: Processed Requests – Response Time for All Perfected Requests**

- Simple, Complex, & Expedited Processing Tracks
- For each Track, must report:
  - Median number of days to process
  - Average number of days to process
  - Lowest number of days to process
  - Highest number of days to process



## **Section VII.B: Processed Requests – Response Time for Perfected Requests Where Information was Granted**

- Simple, Complex, & Expedited Processing Tracks
- For each Track, must report:
  - Median number of days to process
  - Average number of days to process
  - Lowest number of days to process
  - Highest number of days to process



## **Section VII.C.1: Processed Requests – Response Time in Day Increments (Simple Track)**

- Total number of requests processed in the simple track, separated into 20 day periods
- 13 periods, from 1-20 days to 400+ days
- Number of requests in each time period added together equals total number of requests in simple track





## **Section VII.C.2: Processed Requests – Response Time in Day Increments (Complex Track)**

- Total number of requests processed in the complex track, separated into 20 day periods
- 13 periods, from 1-20 days to 400+ days
- Number of requests in each time period added together equals total number of requests in complex track



## **Section VII.C.3: Processed Requests – Response Time in Day Increments (Expedited Track)**

- Total number of requests processed in the expedited track, separated into 20 day periods
- 13 periods, from 1-20 days to 400+ days
- Number of requests in each time period added together equals total number of requests in expedited track



## **Sections VII.C: Special Instructions**

- If no data to report in any of the Section VII.C charts, input zero into the DOJ Tool for each of the time periods instead of leaving blank.
- The total number of requests captured in charts VII.C.1, VII.C.2, & VII.C.3 should be equal to or less than the total number of requests processed from Section V.B.1.



## **Section VII.D: Pending Requests – All Pending Perfected Requests**

- Simple, Complex, & Expedited Processing Tracks
- For each Track, must report:
  - Number of requests pending
  - Median number of days pending
  - Average number of days pending



## **Section VII.D: Special Instructions**

- If no requests pending in a particular track at the end of the fiscal year, input zero for “Number” pending and “N/A” for median and average number of days pending in DOJ Tool.
- If the agency has perfected requests pending at the end of the fiscal year, this chart must contain data.



## Section VII.E: Pending Requests – Ten Oldest Pending Perfected Requests

- Ten oldest pending perfected requests at agency/component
- Date each request was received and number of days pending as of the end of the fiscal year

**Guidance:** If there is data in Section VII.D, then data must be reported in this section



## **Section VII.E: Special Instructions**

- If no requests to list in this chart, or fewer than ten to report, input “N/A” into the “Date of Receipt” field and input zero for the “Number of Days Pending.”
- If one of the requests listed in this chart for your agency has been tolled, contact OIP when creating your NIEM-XML.



## **Section VIII: Requests for Expedited Processing & Requests for Fee Waiver**

- Report only requests for expedited processing and requests for fee waiver which the agency **adjudicated** during the fiscal year, i.e. granted or denied.
- Do not report requests which became moot for various reasons and were thus, neither granted or denied.





## Section VIII.A: Requests for Expedited Processing

- Expedited Processing – count calendar days starting the day the request for expedition is received through the day you provide notice to the Requester of your determination to grant or deny the request.



## **Section VIII.A: Requests for Expedited Processing**

- Number of Requests Granted
- Number of Requests Denied
- Median Number of Days to Adjudicate
- Average Number of Days to Adjudicate
- Number Adjudicated within 10 Calendar Days



## Section VIII.B: Requests for Fee Waiver

- Fee Waiver – count working days from the day you determine that fees will be assessed, if a fee waiver was requested, through the day you make the determination whether to grant or deny the fee waiver.
- If no fees are assessed, request for fee waivers are moot & should not be counted.



## **Section VIII.B: Requests for Fee Wavier**

- Number of Requests for Fee Waiver Granted
- Number of Requests Fee Wavier Denied
- Median Number of Days to Adjudicate Request
- Average Number of Days to Adjudicate Request



## Section VIII Special Instructions

- If no requests for either expedited processing or fee waiver were adjudicated during the fiscal year, then the “Median” or “Average” number of days to adjudicate in either Section VIII.A or VIII.B should be reported as N/A instead of zero in the DOJ Tool.



## **Section IX: FOIA Personnel & Costs**

1. Number of “Full-Time” FOIA Employees
2. Number of “Equivalent Full-Time FOIA Employees”
3. Total Number of “Full-Time” FOIA Staff
4. Processing Costs
5. Litigation-Related Costs
6. Total Costs

**Guidance:**  $1 + 2 = 3$

$4 + 5 = 6$



## **Section IX Special Instructions**

- “Equivalent full-time FOIA employee” – total sum of time spent on FOIA duties by employees who are not assigned to FOIA for 100% of their responsibilities.
- If an agency processed FOIA requests during the fiscal year, some type of personnel data must be captured and reported in the DOJ Tool.



## **Section IX Special Instructions**

- **Processing Costs** – Administrative cost for processing both initial requests and administrative appeals.
- If an agency processed FOIA requests during the fiscal year, processing costs data must be captured and reported in DOJ Tool.
- Agency budgets will be helpful resources to determine processing and litigation costs.





## Section X: Fees Collected for Processing Requests

- Total Amount of Fees Collected
- Percentage of Total Processing Costs  
(calculated by taking amount of fees collected divided by processing costs)

**Guidance:** When inputting both processing costs & amount of fees collected, DOJ Tool will auto-calculate percentage of total costs



## **Section XII.A: Backlogs of FOIA Requests and Administrative Appeals**

- Number of Backlogged Requests as of End of FY
- Number of Backlogged Appeals as of End of FY

**Guidance:** Data must be less than or equal to # pending at end of FY in Section V.A (requests) & in Section VI.A (appeals)



## Section XII.B: Consultations on FOIA Requests – Received, Processed, and Pending Consultations

1. Number of Consultations Pending at Start of FY
2. Number of Consultations Received in FY
3. Number of Consultations Processed in FY
4. Number of Consultations Pending at End of FY

**Guidance:**  $1 + 2 - 3 \text{ (must)} = 4$



## Section XII.B Special Instructions

- Count only consultations received at agency, not those consultations that were sent by your agency to another agency.



## **Section XII.C: Consultations on FOIA Requests – Ten Oldest Pending Consultations**

- Ten oldest pending consultations at agency/component
- Date each consultation was received and number of days pending as of the end of the fiscal year

**Guidance:** Chart must contain data if Section XII.B lists consultations pending at end of FY<sup>53</sup>



## **Section XII.D.1: Comparison of Nos. of Requests Received and Processed (Previous to Current Annual Report)**

- Number of requests received/processed during FY from last year's Annual Report
- Number of requests received/processed during FY from current Annual Report

**Guidance:** Numbers for previous FY should come directly from previous Annual Report



## **Section XII.D.2: Comparison of Nos. of Requests Backlogged (Previous to Current Annual Report)**

- Number of requests backlogged as of end of FY from last year's Annual Report
- Number of requests backlogged as of end of FY from current Annual Report

**Guidance:** Numbers for previous FY should come directly from previous Annual Report <sup>55</sup>



## **Section XII.E.1: Comparison of Nos. of Appeals Received and Processed (Previous to Current Annual Report)**

- Number of appeals received/processed during FY from last year's Annual Report
- Number of appeals received/processed during FY from current Annual Report

**Guidance:** Numbers for previous FY should come directly from previous Annual Report 56





## **Section XII.E.2: Comparison of Nos. of Appeals Backlogged (Previous to Current Annual Report)**

- Number of appeals backlogged as of end of FY from last year's Annual Report
- Number of appeals backlogged as of end of FY from current Annual Report

**Guidance:** Numbers for previous FY should come directly from previous Annual Report 57



## **Submission of Data & Review by OIP**

- Agencies must submit the NIEM-XML version of their Report to OIP by **December 4, 2015**.
- Members of OIP's Compliance Team will review the submission and advise agencies of any outstanding issues prior to clearing.



## **Submission of Data & Review by OIP**

- Once the report has been approved, OIP will provide agencies with the charts for Sections IV through XII of their human-readable report and the final XML file.
- Agencies will then add the first three sections of the human-readable report outlined in the Annual FOIA Report Handbook to the charts, and provide the relevant information for those sections.



# **Completing the Human-Readable Version: Adding Sections I – III of the Report**

## **I. Basic Information Regarding Report**

- Provide the standard basic information.



# **Completing the Human-Readable Version: Adding Sections I – III of the Report**

## **II. Making a FOIA Request**

- Components' contact information for receiving requests.
- Description of why some requests are not granted & the general categories of exempt records at the agency.
- Electronic link to the agency's FOIA regulations, including the fee schedule.



# **Completing the Human-Readable Version: Adding Sections I – III of the Report**

## **III. Acronyms, Definitions & Exemptions**

- Agency acronyms and definitions of terms used in the Report.
- Concise descriptions of the Exemptions.



## Posting the Report

Once cleared by OIP, agencies must post both versions of their Annual Report on their FOIA website and send OIP the links to the Reports.

The links will be posted on OIP's website and data made available on FOIA.gov.

Agencies must maintain previous Reports on their websites for at least seven years.



## **Questions on the Annual Report?**

If you have any questions regarding this presentation, the Annual FOIA Report Handbook, or on the completion of your Annual Report, please contact OIP's Compliance Team.

Phone: (202) 514-FOIA (3642)

Email: [DOJ.OIP.FOIA@usdoj.gov](mailto:DOJ.OIP.FOIA@usdoj.gov)





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Questions?