



UNITED STATES DEPARTMENT *of* JUSTICE

Overview of the Annual Freedom of Information Act Report



5 U.S.C. § 552(e)

FOIA requires that “each agency . . . submit to the Attorney General . . . a report which shall cover the preceding fiscal year.”

It also provides that “[t]he Attorney General . . . in consultation with the Director of the Office of Management and Budget (OMB), shall develop reporting and performance guidelines in connection with reports required by this subsection . . . and may establish additional requirements for such reports as the Attorney General determines may be useful.”



The OPEN Government Act of 2007

The OPEN Gov't Act of 2007 amended subsection (e) of the FOIA, adding new reporting requirements to the Annual Report.

Significantly, the Report must provide information for principal components and for the agency overall.



Department of Justice Guidelines

In 2008, OIP issued guidance addressing the new reporting requirements required under the OPEN Government Act, defined the types of requests to include in the Report, added new reporting requirements on backlogs, and clarified the previously existing requirements.



Open Government Directive

Required agency Annual FOIA Reports to be published in an open format, in addition to the regular human-readable format. This machine-readable format facilitates the public's ability to track agency FOIA activities.

DOJ has subsequently required that agencies provide their data in a specified NIEM-XML format for uniformity and uploading onto FOIA.gov.



The DOJ Annual FOIA Report Tool

- DOJ created a tool that assists agencies in compiling the machine-readable version of their Annual FOIA Report. The tool has built-in math and logical checks to assist agencies in compiling their data.
- DOJ recently enhanced the tool to produce the charts for the human-readable versions of agency reports, so agencies will no longer need to compile two separate reports, and we can better ensure consistency between the two versions.
- Agencies are **required** to use the charts produced by the tool for the basis of its human readable report.



DOJ Annual FOIA Report Handbook

In order to centralize into one document all of the legal, procedural, and technical requirements concerning the Annual FOIA Report, the Department recently issued a comprehensive handbook which is to be used by both FOIA professionals who take part in documenting the information that goes into the Annual FOIA Report and those professionals at the agencies that work with DOJ to produce their Annual FOIA Report after the fiscal year.

Available at: www.justice.gov/oip/docs/doj-handbook-for-agency-annual-freedom-of-information-act-reports.pdf.



Overview of Process for Fiscal Year 2013

1. Complete the NIEM-XML version of the Annual FOIA Report;
2. Submit the NIEM-XML version to OIP at DOJ.OIP.FOIA@usdoj.gov by no later than **December 6, 2013**;
3. Make any necessary corrections resulting from the OIP-review process;
4. Use the charts provided by OIP to complete the human-readable version of their Annual FOIA Report; and
5. Post both the open format NIEM-XML and human-readable versions of their Annual FOIA Reports on their websites, and provide the links to OIP for aggregation on the Department'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 the FOIA is not used in any way to process the request.

Do not include PA requests when you search exclusively within PA “system of records” and you do not claim any PA exemptions.

On the other hand, include PA requests when FOIA is utilized in the response.

A search goes beyond PA “system of records,” and so involves a FOIA search, or PA exemptions apply to the request, and so access under the FOIA is then 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.
- 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 | Type of Information Withheld | Case Citation | Number of Times Relied upon per Agency / Component | Total Number of Times Relied upon by Agency |
|----------------|-------------------------------------|----------------------|---|--|
| | | | | |
| | | | | |



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

| | Number of Requests Pending as of Start of Fiscal Year | Number of Requests Received in Fiscal Year | Number of Requests Processed in Fiscal Year | Number of Requests Pending as of End of Fiscal Year |
|-----------------------|--|---|--|--|
| AGENCY OVERALL | | | | |



*Section V.B.2: Disposition of FOIA Requests –
“Other” Reasons for “Full Denials Based on
Reasons Other than Exemptions”*

| Component | Description of “Other” Reasons for Denials from Chart B (1) & Number of Times Those Reasons Were Relied upon | TOTAL |
|------------------|---|--------------|
| Agency | Description # Description # | |



Section V.B.3: Disposition of FOIA Requests – Number of Times Exemptions Applied

Report all exemptions, but count each exemption once/request

| | Ex 1 | Ex 2 | Ex 3 | Ex 4 | Ex 5 | Ex 6 | Ex 7(A) | Ex 7(B) | Ex 7(C) | Ex 7(D) | Ex 7(E) | Ex 7(F) | Ex 8 | Ex 9 |
|---------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|-----------------|-----------------|
| Agency Overall | | | | | | | | | | | | | | |



Section VI.A: Received, Processed & Pending 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 |
|---|--|---|---|
| | | | |



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 – Number of Times Exemptions Applied

Report all exemptions, but count each exemption once/appeal

| 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 |
|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|-----------------|-----------------|
| | | | | | | | | | | | | | |



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 Reason | Records not Reasonably Described | Improper Request for Other Reasons | Not Agency Record | Duplicate Request or Appeal | In Litigation | Appeal Based Solely on Denial of Request for Exp. Process. | Other *Explain in chart below |
|------------|---|-------------------|--------------------|----------------------------------|------------------------------------|-------------------|-----------------------------|---------------|--|--------------------------------------|
| | | | | | | | | | | |



Section VI.C.(3): Reasons for Denial on Appeal – “Other” Reasons from Section VI.C.(2) Chart

| Description of “Other” Reasons for Denial on Appeal from Chart C (2) & Number of Times Those Reasons Were Relied upon | TOTAL |
|--|--------------|
| <p style="text-align: center;">Description #</p> <p style="text-align: center;">Description #</p> | |



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.
- If using a multi-track system, report for each track separately. At a minimum, report separately requests which have been granted expedited processing.



Section VII: Special Instructions

- Use no more than the three specified tracks to report your requests: simple, complex, and expedited.
- All agencies should have an expedited track.
- Report requests as simple or complex, whichever best characterizes the majority of these requests.



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

| | SIMPLE | | | | COMPLEX | | | | EXPEDITED PROCESSING | | | |
|-----------------------|------------------|------------------|--------------------|---------------------|------------------|------------------|--------------------|---------------------|----------------------|------------------|--------------------|---------------------|
| | Med. No. of Days | Avg. No. of Days | Lowest No. of Days | Highest No. of Days | Med. No. of Days | Avg. No. of Days | Lowest No. of Days | Highest No. of Days | Med. No. of Days | Avg. No. of Days | Lowest No. of Days | Highest No. of Days |
| Agency Overall | | | | | | | | | | | | |



Section VII.B: Processed Requests – Response Time for Perfected Requests Where Information Was Granted

This chart reflects requests where information was *granted*, and is a subset of the previous chart, Chart A, which reflects *all* processed perfected requests.

| | SIMPLE | | | | COMPLEX | | | | EXPEDITED PROCESSING | | | |
|----------------|------------------|------------------|--------------------|---------------------|------------------|------------------|--------------------|---------------------|----------------------|------------------|--------------------|---------------------|
| | Med. No. of Days | Avg. No. of Days | Lowest No. of Days | Highest No. of Days | Med. No. of Days | Avg. No. of Days | Lowest No. of Days | Highest No. of Days | Med. No. of Days | Avg. No. of Days | Lowest No. of Days | Highest No. of Days |
| Agency Overall | | | | | | | | | | | | |



Section VII.C: Processed Requests – Response Time in Day Increments

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 | Tot. |
|---------------------------|---------------------------|----------------------------|----------------------------|----------------------------|-----------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|----------------------|-------------|
| Agency Overall | | | | | | | | | | | | | | |



Section VII.C: Processed Requests – Response Time in Day Increments

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 | Tot. |
|---------------------------|---------------------------|----------------------------|----------------------------|----------------------------|-----------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|----------------------|-------------|
| Agency Overall | | | | | | | | | | | | | | |



Section VII.C: Processed Requests – Response Time in Day Increments

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 | Tot. |
|---------------------------|---------------------------|----------------------------|----------------------------|----------------------------|-----------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|----------------------|-------------|
| Agency Overall | | | | | | | | | | | | | | |



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

| | SIMPLE | | | COMPLEX | | | EXPEDITED PROCESSING | | |
|----------------|-------------|--------------------|------------------|-------------|--------------------|------------------|----------------------|--------------------|------------------|
| | No. Pending | Median No. of Days | Avg. No. of Days | No. Pending | Median No. of Days | Avg. No. of Days | No. Pending | Median No. of Days | Avg. No. of Days |
| Agency Overall | | | | | | | | | |



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

| | 10th Oldest Request & Number of Days Pending | 9th | 8th | 7th | 6th | 5th | 4th | 3rd | 2nd | Oldest Request & Number of Days Pending |
|---------------------------|--|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|--|
| Agency Overall | Date | | | | | | | | | |
| | Number of Days | | | | | | | | | |



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

- Report only requests for expedited processing and requests for fee waiver which you have adjudicated, i.e., granted or denied.
- Do not report the requests which became moot for various reasons and were, thus, neither granted nor denied.
- Section VIII is no longer an optional Section.



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

Request for expedited processing -- Count calendar days starting the day request for expedited processing is received through the day you provide notice to Requester of your determination to grant or deny the request for expedited processing.

Request for a fee waiver -- Count working days from the point when you determine that fees will be assessed through the day you make the determination whether to grant or deny the fee waiver.



Section VIII.A: Requests for Expedited Processing

Count calendar days, not working days

| | Number Granted | Number Denied | Median Number of Days to Adjudicate | Average Number of Days to Adjudicate | Number Adjudicated Within Ten Calendar Days |
|---------------------------|---------------------------|--------------------------|--|---|--|
| AGENCY OVERALL | | | | | |



Section VIII.B: Requests for Fee Waiver

Count working days.

| | Number Granted | Number Denied | Median Number of Days to Adjudicate | Average Number of Days to Adjudicate |
|---------------------------|---------------------------|--------------------------|--|---|
| AGENCY OVERALL | | | | |



Section IX: FOIA Personnel & Costs

| | PERSONNEL | | | COSTS | | |
|-------------------|---|---|---|--|---------------------------------|----------------|
| | Number of “Full-Time FOIA Employees” | Number of “Equivalent Full-Time FOIA Employees” | Total Number of “Full-Time FOIA Staff” (Sum of Columns 1 and 2) | Processing Costs (At initial request and appeal levels) | Litigation- Related Costs | Total Costs |
| Agency Overall | | | | | | |



Section IX: Personnel

“Full-time FOIA employee”: Performs FOIA duties 100% of the time.

“Equivalent full-time FOIA employee”: Created by adding the percentages of time spent on FOIA duties by employees doing less than full-time FOIA duties.

Employees performing less than full-time FOIA duties are either:

- a. Part-time employees who perform FOIA duties all or part of the time, OR
- b. Full-time employees who perform FOIA duties less than 100% of the time.



Section IX: Costs

Processing Costs

- Costs for processing at both the initial and administrative appeal levels
- Agency budget will often be useful resource for this information

Litigation Costs

- Agency budget will often be useful resource for this information



Section X: Fees Collected for Processing Requests

| | Total Amount of Fees Collected | Percentage of Total Processing Costs |
|-----------------------|---------------------------------------|---|
| AGENCY OVERALL | | |



Section XII.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 |
|-----------------------|---|--|
| AGENCY OVERALL | | |



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

Report consultations received from other agencies, not sent to other agencies

| | Number Received that Were <u>Pending</u> at Your Agency as of <u>Start</u> of the Fiscal Year | Number <u>Received</u> During the Fiscal Year | Number Received that Were <u>Processed</u> by Your Agency During the Fiscal Year | Number Received that Were <u>Pending</u> at Your Agency as of <u>End</u> of the Fiscal Year |
|-----------------------|--|--|---|--|
| AGENCY OVERALL | | | | |



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

| | 10th Oldest Consult. & Number of Days Pending | 9th | 8th | 7th | 6th | 5th | 4th | 3rd | 2nd | Oldest Consult. & Number of Days Pending |
|---------------------------|---|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|---|
| Agency Overall | Date | | | | | | | | | |
| | Number of Days | | | | | | | | | |



Section XII.D.(1): Comparison of Numbers of Requests Received and Processed (Previous Annual Report vs. Current Annual Report)

| | 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 |
| Agency Overall | | | | |



*Section XII.D.(2): Comparison of Numbers of
Requests Backlogged
(Previous Annual Report vs. Current Annual Report)*

| | 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 |
|---------------------------|---|--|
| AGENCY OVERALL | | |



*Section XII.E.(1): Comparison of Numbers of
Administrative Appeals Received and
Processed
(Previous Annual Report vs. Current Annual Report)*

| | 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 |
| Agency Overall | | | | |



Section XII.E.(2): Comparison of Numbers of Administrative Appeals Backlogged (Previous Annual Report vs. Current Annual Report)

| | Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report | Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report |
|-----------------------|--|---|
| AGENCY OVERALL | | |



Submitting the NIEM-XML to OIP

- Agencies must submit the NIEM-XML version of their Report to OIP by **December 6, 2013**.
- OIP's Annual FOIA Report Team will review the submission, and advise agencies of any outstanding issues. Once the NIEM-XML file has been approved, OIP will provide agencies with the charts to be used for Sections IV through XII of their human-readable report, by directly exporting the data from the agency's NIEM-XML.
- Agencies will then only need to add the charts to the first three sections of the human-readable report outlined in the Annual FOIA Report Handbook, 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.

II. Making a FOIA Request

- Provide components' contact information for receipt of requests.
- Describe why some requests are not granted & describe the general categories of exempt records at the agency
- Provide an electronic link to the agency's FOIA regulations, including the fee schedule.

III. Acronyms, Definitions & Exemptions

- Include agency acronyms and definitions of terms used in the Report
- Include concise descriptions of the Exemptions



Posting the Report

Once cleared by OIP, agencies shall post both versions of their Annual Report on their FOIA website and send OIP the links to the Reports. The Reports will also be posted on the DOJ's centralized Annual FOIA Report link. Data in the open format will be uploaded onto FOIA.gov.

Maintain previous Reports on agency website for at least seven years.