

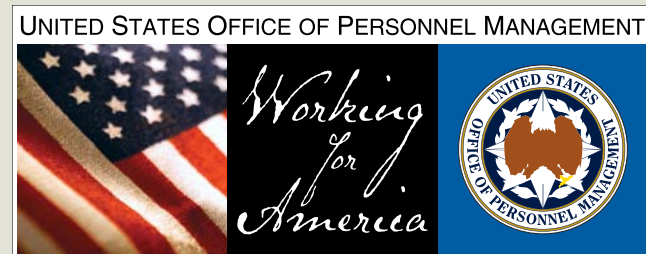


UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

## FREEDOM OF INFORMATION ACT REPORT

**OCTOBER 1, 2007**  
THROUGH  
**SEPTEMBER 30, 2008**

February 2009



# **Annual Freedom of Information Act Report**

## **Fiscal Year 2008**

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

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The electronic address for this report on OPM's World Wide Web site: [www.opm.gov/efoia](http://www.opm.gov/efoia)

A paper copy of this report may be obtained from the address listed above. For all questions regarding this report please contact Margaret Miller at 202-606-FOIA.

### **II. How to Make a FOIA Request**

Our FOIA Reference Guide (located at [www.opm.gov/efoia/foiagide.asp](http://www.opm.gov/efoia/foiagide.asp)) includes information regarding how to make a FOIA request to OPM.

The Office of Personnel Management often withholds personally identifiable “third party” information contained within personal files (SF50) and background investigations (SF86) under the exemption b(6).

### III. Definition of Terms and Acronyms Used in This Report

Agency-specific acronyms

- a. **OPM** – Office of Personnel Management
- b. **CIS** – Center for Information Services

Basic terms, expressed in common terminology

- 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 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 FOIA 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 other 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. FOIAs also include requests made by individuals 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 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** – 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.

- i. **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
  - ii. **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
  - iii. **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 20 working days from receipt of a perfected FOIA request)

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
  - (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**

A. Exemption 3 statutes relied upon to withhold information

OPM did not rely on any Exemption 3 statutes during this reporting period.

**V. FOIA Requests**

A. Received, Processed and Pending FOIA Requests

	<b>Number of requests pending as of start of fiscal year</b>	<b>Number of requests received in fiscal year</b>	<b>Number of requests processed in fiscal year</b>	<b>Number of requests pending as of end of fiscal year</b>
Agency Overall	986	6,236	7,123	99

B. (1) Disposition of 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 Record	All Records Referred to Another Agency	Request Withdrawn	Fee Related Reason	Records Not Reasonably Described	Improper FOIA For Other Reasons	Not Agency Record	Duplicate Request		Other	
6,708	98	40	71		108						98		7,123

B. (2) Disposition of FOIA Requests – Other Reasons for Full Denials Based on Reasons Other than Exemptions

OPM had no “other” Reasons for full denials as explained in Chart B(1)

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
Agency Total	0	4	0	16	10	30	1	0	2	0	0	0	0	0



**VI. Administrative Appeals of Initial Determinations**

A. Received, Processed & Pending Appeals

	<b>Number of appeals pending as of start of fiscal year</b>	<b>Number of appeals received in the fiscal year</b>	<b>Number of appeals processed in fiscal year</b>	<b>Number of appeals pending as of end of fiscal year</b>
Agency Overall	0	35	32	3

A. Disposition of Administrative Appeals – All Processed Appeals

	<b>Number affirmed on appeal</b>	<b>Number partially affirmed, reversed or remanded on appeal</b>	<b>Number completely reversed/remanded on appeal</b>	<b>Number of appeals closed for other reasons</b>
Agency Overall	25	4	3	0

C. (1) Reasons for Denial on Appeal – Number of Times Exemptions Applied

	<b>Ex. 1</b>	<b>Ex. 2</b>	<b>Ex. 3</b>	<b>Ex. 4</b>	<b>Ex. 5</b>	<b>Ex. 6</b>	<b>Ex. 7(a)</b>	<b>Ex. 7(b)</b>	<b>Ex. 7(c)</b>	<b>Ex. 7(d)</b>	<b>Ex. 7(e)</b>	<b>Ex. 7(f)</b>	<b>Ex. 8</b>	<b>Ex. 9</b>
Agency Total	0	2	3	0	9	4	0	0	4	1	2	0	0	0

C. (2) Reasons for Denial on Appeal – Reasons Other than Exemptions

<b>No Record</b>	<b>All Records Referred to Another Agency</b>	<b>Request Withdrawn</b>	<b>Fee Related Reason</b>	<b>Records Not Reasonably Described</b>	<b>Improper FOIA For Other Reasons</b>	<b>Not Agency Record</b>	<b>Duplicate Request</b>	<b>Other</b>
1	9	0	0	0	0	1	9	0

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

OPM had no appeals closed for other reasons

C. (4) Reasons for Denial on Appeal – Response Time for Administrative Appeals

<b>Median number of days</b>	<b>Average number of days</b>	<b>Lowest number of days</b>	<b>Highest number of days</b>
28	45.69	7	205

C. (5) Reasons for Denial on Appeal – Ten Oldest Pending Administrative Appeals

<b>Age</b>	<b>Date</b>	<b>Days Pending</b>
Oldest Appeal Receipt Date	7/10/08	85
2nd Oldest Appeal Receipt Date	8/18/08	43
3rd Oldest Appeal Receipt Date	9/9/08	21
4th Oldest Appeal Receipt Date		
5th Oldest Appeal Receipt Date		
6th Oldest Appeal Receipt Date		
7th Oldest Appeal Receipt Date		
8th Oldest Appeal Receipt Date		
9th Oldest Appeal Receipt Date		
10th Oldest Appeal Receipt Date		

**VII. Response Time for Processed and Pending Requests**

A. Processed Requests – Response Time for All Processed Perfected Requests

	<b>Simple Requests</b>				<b>Complex Requests</b>				<b>Expedited Processing</b>			
	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
Agency Overall	0	0	0	0	1	51	1	3,510	0	0	0	0

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

	Simple Requests				Complex Requests				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
Agency Overall	0	0	0	0	1	14	1	2,398	0	0	0	0

C. Processed Requests – Response Time in Day Increments

<b>Simple Requests</b>	
<b>Number in Days</b>	
1-20 Days	0
21-40 Days	0
41-60 Days	0
61-80 Days	0
81-100 Days	0
101-120 Days	0
121-140 Days	0
141-160 Days	0
161-180 Days	0
181-200 Days	0
201-300 Days	0
301-400 Days	0
401+ Days	0
Total (Simple Requests)	0

**Complex Requests**

<b>Number in Days</b>	
1-20 Days	5,170
21-40 Days	84
41-60 Days	43
61-80 Days	38
81-100 Days	16
101-120 Days	10
121-140 Days	13
141-160 Days	15
161-180 Days	6
181-200 Days	11
201-300 Days	36
301-400 Days	22
401+ Days	72
Total (Complex Requests)	5,536

**Expedited Processing**

<b>Number in Days</b>	
1-20 Days	0
21-40 Days	0
41-60 Days	0
61-80 Days	0
81-100 Days	0
101-120 Days	0
121-140 Days	0
141-160 Days	0
161-180 Days	0
181-200 Days	0
201-300 Days	0
301-400 Days	0
401+ Days	0
Total (Expedited Processing Requests)	0

D. Processed Requests – All Pending Perfected Requests

	<b>Simple Requests</b>			<b>Complex Requests</b>			<b>Expedited Processing</b>		
	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
Agency Overall	0	0	0	99	502	425	0	0	0

E. Pending Requests – Ten Oldest Pending Perfected Requests

<b>Age</b>	<b>Date</b>	<b>Days Pending</b>
Oldest Request	8/28/2001	2,591
2nd Oldest Request	9/23/2002	2,200
3 <sup>rd</sup> Oldest Request	6/4/2003	1,946
4th Oldest Request	9/10/2003	1,946
5th Oldest Request	6/17/2004	1,567
6th Oldest Request	1/5/2005	1,365
7th Oldest Request	1/27/2005	1,343
8th Oldest Request	2/16/2005	1,323
9th Oldest Request	8/9/2006	784
10th Oldest Request	9/5/2006	757

**VIII. Requests for Expedited Processing and Requests for Fee Waiver**

A. Requests for Expedited Processing

	<b>Number granted</b>	<b>Number denied</b>	<b>Median number of days to adjudicate</b>	<b>Average number of days to adjudicate</b>	<b>Number Adjudicated Within 10 Calendar Days</b>
Agency Overall	0	0	0	0	0



B. Requests for Fee Waiver

	<b>Number granted</b>	<b>Number denied</b>	<b>Median number of days to adjudicate</b>	<b>Average number of days to adjudicate</b>
Agency Overall	0	0	0	0

IX. FOIA Personnel and Costs

	<b>Personnel</b>			<b>Cost</b>		
	Number of full-time employees	Number of Equivalent FTE employees	Total Number of Full-Time Staff	Processing costs	Litigation-related costs	Total costs
Agency Overall	9	2.6	11.6	\$2,066,779.30	\$18,000	\$2,084,779

**X. Fees Collected for Processing Requests**

	<b>Total Fees Collected</b>	<b>Percentage of Total Cost</b>
Agency Overall	\$11,961.49	< 1%

**XI. FOIA Regulations**

OPM's regulations (5 CFR 294) are available through: [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html)

Our fee schedule is explained in our FOIA reference guide at: [www.opm.gov/efoia](http://www.opm.gov/efoia)

**XII. Backlogs, Consultations, and Comparisons**

A. Backlogs of FOIA Requests and Administrative Appeals

	<b>Number backlogged requests as of end of fiscal year</b>	<b>Number backlogged appeals as of end of fiscal year</b>
Agency Overall	93	3

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

	<b>Number consultations pending as of the Beginning of FY</b>	<b>Number consultations received During Current FY</b>	<b>Number consultation processed During FY</b>	<b>Number consultations pending at the End of FY</b>
Agency Overall	0	6	5	1

C. 10 Oldest Consultations Received from Other Agencies and Pending at OPM

<b>Age</b>	<b>Date</b>	<b>Days Pending</b>
Oldest Consultation	9/4/2008	27
2nd Oldest Consultation		
3 <sup>rd</sup> Oldest Consultation		
4th Oldest Consultation		
5th Oldest Consultation		
6th Oldest Consultation		
7th Oldest Consultation		
8th Oldest Consultation		
9th Oldest Consultation		
10th Oldest Consultation		

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

	<b>NUMBER OF REQUESTS RECEIVED</b>		<b>NUMBER OF REQUESTS PROCESSED</b>	
	Number Received During FY from Previous Annual Report	Number Received During FY from Current Annual Report	Number Processed During FY from Previous Annual Report	Number Processed During FY from Current Annual Report
Agency Overall	986	6,236	941	7,078

	<b>Number of Backlogged Requests as of End of FY from Previous Annual Report</b>	<b>Number of Backlogged Requests as of End of FY from Current Annual Report</b>
Agency Overall	986	93

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

	<b>NUMBER OF APPEALS RECEIVED</b>		<b>NUMBER OF APPEALS PROCESSED</b>	
	Number Received During FY from Previous Annual Report	Number Received During FY from Current Annual Report	Number Processed During FY from Previous Annual Report	Number Processed During FY from Current Annual Report
Agency Overall	22	35	22	32

	<b>Number of Backlogged Appeals as of End of FY from Previous Annual Report</b>	<b>Number of Backlogged Appeals as of End of FY from Current Annual Report</b>
Agency Overall	0	3



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