

**U.S. Department of Energy  
2003 Annual Report**

**I. Basic Information Regarding Report.**

A. Abel Lopez, Director  
FOIA/Privacy Act Group, ME-73  
Office of the Executive Secretariat  
U.S. Department of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585  
202-586-5955

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U.S. Department of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585  
202-586-5955

B. The World Wide Web address to obtain an electronic copy of the Freedom of Information Act (FOIA) report is [www.ma.mbe.doe.gov/execsec/foia.htm](http://www.ma.mbe.doe.gov/execsec/foia.htm). The report can then be accessed by clicking **FOIA Annual Reports**.

C. A paper copy of the report can be obtained at the Headquarters Freedom of Information Public Reading Room located in the Forrestal Building, 1000 Independence Avenue, S.W., Washington, DC 20585, or by submitting a request to the FOIA/Privacy Act Group. The hours of the Reading Room at Headquarters are from 9:00 a.m. to 4:00 p.m. weekdays, except federal holidays.

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

The Department of Energy (DOE) FOIA Home Page links to the FOIA Reference Guide, which provides instructions on how to make a FOIA request. A FOIA request also may be submitted electronically through the DOE FOIA Home Page or by facsimile at (202) 586-0575. The FOIA Home Page address is [www.ma.mbe.doe.gov/execsec/foia.htm](http://www.ma.mbe.doe.gov/execsec/foia.htm) and the guide can be accessed by clicking on **Reference Guide**.

- A. Requests may be submitted to:

Abel Lopez, Director  
FOIA/Privacy Act Division  
Office of the Executive Secretariat  
U.S. Department of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585  
202-586-5955

- B. The response time to complete action on FOIA cases ranges from 2 days to 3 years based on the complexity of the request, the need to conduct a classification review of documents that are identified as responsive, or the need to consult and coordinate with other federal agencies on the review of documents.

- C. A requester may not be granted records that are requested because (1) the requester did not agree to pay fees incurred to process a request; (2) the request does not reasonably describe the records sought; or (3) the information requested is exempt from disclosure in accordance with the Attorney General's Memorandum for Heads of Departments and Agencies on the Freedom of Information Act, dated October 12, 2001.

### III. **Definitions of Terms and Acronyms Used in the Report.**

- A. Agency-specific acronyms or other terms are as follows:

*DOE*-- Department of Energy.

*Field Offices*--DOE offices that are not located in the Washington metropolitan area.

- B. Basic terms expressed in common terminology.

1. *Appeal* -- a request to a federal agency asking that it review at a higher administrative level a full denial or partial denial of access to records under the FOIA, or any other FOIA determination such as a matter pertaining to fees.
2. *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.

3. **Complex request** -- a FOIA request that an agency using multi-track processing places in a slower track based on the volume and/or complexity of records requested.
- D. **Denial** -- an agency decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempted under one or more of FOIA exemptions, or for some procedural reason (such as because no record is located in response to a FOIA request).
5. **Exemption 3 statute** -- separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection (b)(3).
  6. **Expedited processing** -- an agency will process a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records that warrants prioritization of his or her request over other requests that were made earlier.
  7. **FOIA/PA request** -- Freedom of Information Act/Privacy Act request. A FOIA request is generally a request for access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning oneself; such requests are also treated as FOIA requests. (All requests for access to records, regardless of which law is cited by the requester, are included in this report.)
  8. **Grant** -- an agency decision to disclose all records in full in response to a FOIA request.
  9. **Initial request** -- a request to a federal agency for access to records under the FOIA.
  10. **Median number** -- the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
  11. **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 in each track are processed on a first-in/first-out basis. A requester who has an urgent need for records may request expedited processing.

12. ***Nondisclosure*** -- an agency procedural reason for not disclosing records, such as “no records exist” or “not an agency record” or “request canceled.”
13. ***Partial grant*** -- an agency decision to disclose a record in part in response to a FOIA request, deleting information determined to be exempt under one or more FOIA exemptions; or a decision to disclose some records in their entirety, but to withhold others in whole or in part.
14. ***Processed request or appeal*** -- a request or appeal for which an agency has taken a final action on the request or the appeal in all respects.
15. ***Segregability review*** -- the act of reviewing a document, removing portions containing information that cannot be released under FOIA exemption(s), and then releasing the edited document to the requester (See “Partial grant.”)
16. ***Simple request*** -- a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the volume and/or simplicity of records requested.
17. ***Time limits*** -- the time period in the FOIA for an agency to respond to a FOIA request (ordinarily 20 working days from receipt of a proper FOIA request).

#### IV. **Exemption 3 Statutes.**

- A. The Exemption 3 statutes relied on by DOE during the current fiscal year and a brief description of type(s) of information withheld under each statute are, as follows:

National Defense Authorization Act for FY 1997, 41 U.S.C. 253(b)(m). Agency withheld technical, management, and cost proposals submitted in response to the requirements of a solicitation for a competitive proposal.

Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 *et seq.* Agency withheld information that is classified as Restricted Data, Formerly Restricted Data, or Uncontrolled Classified Nuclear Information (UCNI).

Procurement Integrity Act, 41 U.S.C. 423. Agency withheld source selection information.

Internal Revenue Code, 26 U.S.C. 6103. Agency withheld federal tax identification number. This was upheld in Church of Scientology of California v. IRS, 484 U.S. 9 (1997)

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B. Statement of whether a court has upheld the use of each statute. If so, then cite example.

V. **Initial FOIA/PA Access Requests.**

A. Numbers of initial requests.

1.	Number of requests pending as of end of preceding fiscal year	1027	
2.	Number of requests received during current fiscal year	2357	
3.	Number of requests processed during current fiscal year		2371
4.	Number of requests pending as of end of current fiscal year		1013

(Enter this number also in Line VII.B.I)

B. Disposition of initial requests.

1.	Number of total grants	1400	
2.	Number of partial grants		342
3.	Number of denials		44

a. Number of times each FOIA exemption used (counting each exemption once per request)

(1)	Exemption 1	19
(2)	Exemption 2	44
(3)	Exemption 3	40
(4)	Exemption 4	78
(5)	Exemption 5	65
(6)	Exemption 6	203
(7)	Exemption 7(A)	4
(8)	Exemption 7(B)	0
(9)	Exemption 7(C)	24
(10)	Exemption 7(D)	1
(11)	Exemption 7(E)	0
(12)	Exemption 7(F)	3
(13)	Exemption 8	0
(14)	Exemption 9	0

4.	Other reasons for nondisclosure (Total).	585	
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a.	no responsive records	170
b.	referred to other agency	55
c.	withdrawn/cancelled	192
d.	no agreement to pay fees	25
e.	not reasonably described	29
f.	not a proper FOIA request	35
g.	not an agency record	19
h.	duplicate request	38
I.	other (specify) - Privacy Act exemptions	22

**VI. Appeals of Initial Denials of FOIA/PA Requests.**

A. Number of appeals.

1.	Number of appeals received during fiscal year	40
2.	Number of appeals processed during fiscal year	47

B. Disposition of appeals.

1.	Number completely upheld	8
2.	Number partially reversed	1
3.	Number completely reversed	1

a. Number of times each FOIA exemption used (counting each exemption once per appeal).

(1)	Exemption 1	0
(2)	Exemption 2	1
(3)	Exemption 3	0
(4)	Exemption 4	0
(5)	Exemption 5	6
(6)	Exemption 6	1
(7)	Exemption 7(A)	0
(8)	Exemption 7(B)	0
(9)	Exemption 7(C)	2
(10)	Exemption 7(D)	0
(11)	Exemption 7(E)	0
(12)	Exemption 7(F)	0
(13)	Exemption 8	0
(14)	Exemption 9	0

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4.	Other reasons for nondisclosure (total).	37
a.	no responsive records	11
b.	referred to other agency	0
c.	withdrawn/cancelled	1
d.	no agreement to pay fees	1
e.	not reasonably described	0
f.	not a proper FOIA request	8
g.	not an agency record	2
h.	duplicate request	0
i.	other (specify) (some records involved search adequacy) 5:	

Remand: 9

## VII. COMPLIANCE WITH TIME LIMITS/STATUS OF PENDING REQUESTS

### A. MEDIAN PROCESSING TIME FOR REQUESTS PROCESSED DURING THE YEAR

	<u>Simple Requests</u>		<u>Complex Requests</u>		<u>Requests Accorded Expedited Processing</u>	
	<b>Number Of Requests Processed</b>	<b>Median Number Of Days To Process</b>	<b>Number Of Requests Processed</b>	<b>Median Number Of Days To Process</b>	<b>Number Of Requests Processed</b>	<b>Median Number Of Days To Process</b>
Rocky Flats	10	985	2	2143	0	0
Golden	11	5	5	44	0	0
South Western Power Administration	9	5	0	0	0	0
Carlsbad 0		3	4	3	265	0
Western Area Power Administration	29	10	2	20	1	5
Oak Ridge	818	164	94	302	0	0
Yucca Mountain	61	10	10	15	0	0
Bonneville Power Administration	32	18.5	0	0	0	0
Richland	0	0	341	13	0	0
Southeastern Power Administration	7	5	0	0	0	0
Idaho	58	10	27	39	0	0
Office of Scientific Technology Information	5	4	0	0	0	0
Savannah River	44	89	0	0	0	0
Chicago	0	0	50	0	0	0
Strategic Petroleum Reserve	2	20	0	0	3	1
Albuquerque	52	9	91	64	0	0



Oakland	0	0	57	44	0	0
Nevada	55	15	5	36	0	0
Morgantown	12	220	14	25	0	0
Ohio	0	0	69	54	0	0
Headquarters	389	162	0	0	0	0
Totals	1597		770		4	

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### B. STATUS OF PENDING REQUESTS

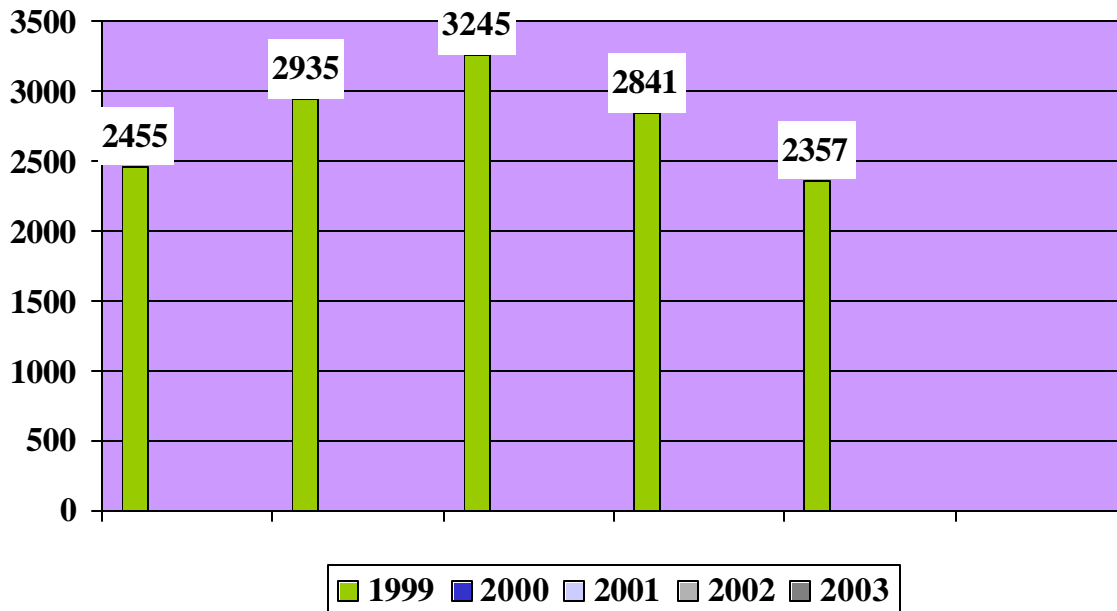
	NUMBER OF REQUESTS PENDING AS OF END OF <u>FISCAL YEAR</u>	MEDIAN NUMBER OF DAYS <u>PENDING</u>
Rocky Flats	19	1180
Golden	4	22.5
South Western Power Administration	0	0
Carlsbad 0		0
Western Area Power Administration	2	0
Oak Ridge	620	466
Yucca Mountain	3	4
Bonneville Power Administration	2	30
Richland	30	5
Southeastern Power Administration	0	0
Idaho	7	11
Office of Scientific Technology Information	0	0
Savannah River	9	34
Chicago	6	16
Strategic Petroleum Reserve	1	1095
Albuquerque	63	46
Oakland	18	20
Nevada	2	2
Morgantown	2	0
Ohio	9	0

Headquarters	216	260
Totals	1013	

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**VIII. Comparisons with Previous Year(s).**

**Five Year Comparison of Previous Years  
1999-2000-2001-2002 2003 Requests Received**



**D. Other statistics significant to components:**

The agency received eight requests for expedited processing; four requests for expedited processing were granted.

- E. Other narrative statements describing component efforts to improve timeliness of FOIA performance and to make records available to the public (e.g., backlog reduction efforts; specification of average number of hours per processed request; training activities; public availability of new categories of records):

The Headquarters FOIA/PA Group exceeded its goal to reduce its FOIA backlog by 2% in FY 2003.

Placed 76,000 pages in the Headquarters Electronic FOIA Reading Room.

Convened two FOIA and Privacy Act training conferences for Department FOIA contacts at Headquarters and Field Offices. The training conference participants also included other DOE and contractor personnel with FOIA responsibilities, and representatives from seven other federal agencies.

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A compilation of Privacy Act Systems of Records of the DOE was published in the Federal Register.

**IX. Costs/FOIA Staffing.**

- A. Staffing levels.

1.	Number of full-time FOIA personnel	26
2.	Number of personnel with part-time or occasional FOIA duties (in total work years)	49
3.	Total number of personnel (in work-years)	75

- B. Total costs (including staff and all resources).

1.	FOIA processing (including appeals)	\$3,086,454.71
2.	Litigation-related activities (estimated)	<u>259,276.55</u>
3.	Total costs	\$3,345,731.26

**X. Fees.**

- A. Total amount of fees collected by agency for processing requests. \$18,905.81  
 B. Percentage of total costs. .006%

**XI. FOIA Regulations (including Fee Schedule).**

To obtain the DOE FOIA regulation, go to [www.ma.mbe.doe.gov/execsec/foia.htm](http://www.ma.mbe.doe.gov/execsec/foia.htm) and click on **Federal Register and look for U.S. Code and C.F.R.**

