



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

**Office of Management and Budget  
Annual Freedom of Information Act (FOIA) Report for FY 2007  
(October 1, 2006 through September 30, 2007)**

**I. Basic Information Regarding Report**

- A. Any questions concerning this report, as well as requests for a copy of the report in paper form, should be addressed to the Office of Management and Budget (OMB), Attn: Dionne Hardy, FOIA Officer, 725 17<sup>th</sup> Street NW, Washington, DC 20503, (202) 395-7214.
- B. Copies of this report, as well as information on how to make a Freedom of Information Act (FOIA) request to OMB, are available at the "FOIA" site on the OMB Home Page at <http://www.whitehouse.gov/omb/foia/index.html>.
- C. To obtain a copy of the report in paper form, see A above.

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

- A. Guidance on how/where to submit a FOIA request can be found on the OMB Home Page mentioned above. As noted in the guidance, all FOIA requests to OMB are received at the address shown on the Home Page.
- B. OMB processed a total of 137 FOIA initial requests during fiscal year 2007 with median response time of 17 working days.
- C. Of the 137 initial requests processed, 43 were granted in total. With respect to the 94 remaining requests, OMB had no documents responsive to the request, some or all of the responsive documents were withheld under one of the FOIA exemptions, or the request was referred to another agency, withdrawn, duplicate, or records were not reasonably described.

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

- A. Agency-specific acronyms or other terms. N/A
- B. Basic terms, expressed in common terminology.
  - 1. 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 the requester; such requests are also treated as FOIA requests. (All requests for access to records,

regardless of which of these laws are cited by the requester, are included in this report.)

2. Initial Request -- a request to a federal agency for access to records under the Freedom of Information Act.
3. 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 Freedom of Information Act, or any other FOIA determination such as a matter pertaining to fees.
4. Processed Request or Appeal -- a request or appeal as to which an agency has taken a final action with respect to the request or the appeal.
5. 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 (see below).
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 which warrants prioritization of his or her request over other requests that were made earlier.
7. Simple request -- a FOIA request that an agency using multi-track processing places in its fastest (nonexpedited) track based on the volume and/or simplicity of records requested.
8. 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.
9. Grant -- an agency decision to disclose all records in full in response to a FOIA request.
10. 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 of the FOIA's exemptions; or a decision to disclose some records in their entireties, but to withhold others in whole or in part.
11. 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 exempt under one or more of the FOIA's exemptions, or for some procedural reason (such as because no record is located in response to a FOIA request).

12. Time limits -- the time period in the Freedom of Information Act for an agency to respond to a FOIA request (ordinarily 20 working days from proper receipt of a "perfected" FOIA request).

13. "Perfected" request -- a FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency or agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.

14. Exemption 3 statute -- a separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection (b)(3).

15. Median number -- the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.

16. 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.

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

List of Exemption 3 statutes relied on by agency during current fiscal year. 0

1. Brief description of type(s) of information withheld under each statute. N/A
2. Statement of whether a court has upheld the use of each statute. If so, then cite example. N/A

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

##### **A. Number of Initial Requests**

1. Number of requests pending as of end of preceding fiscal year 8
2. Number of requests received during current fiscal year 140
3. Number of requests processed during current fiscal year 137
4. Number of requests pending as of end of current fiscal year 11

B. Disposition of initial requests.

1. Number of total grants 43
2. Number of partial grants 17
  
3. Number of denials 14
  - a. number of times each FOIA exemption used  
(counting each exemption once per request)
    - (1) Exemption 1 1
    - (2) Exemption 2 4
    - (3) Exemption 3 0
    - (4) Exemption 4 0
    - (5) Exemption 5 27
    - (6) Exemption 6 5
    - (7) Exemption 7(A) 0
    - (8) Exemption 7(B) 0
    - (9) Exemption 7(C) 0
    - (10) Exemption 7(D) 0
    - (11) Exemption 7(E) 0
    - (12) Exemption 7(F) 0
    - (13) Exemption 8 0
    - (14) Exemption 9 0
  
4. Other reasons for nondisclosure (total) 63
  - a. no records 51
  - b. referrals 4
  - c. request withdrawn 1
  - d. fee-related reason 2
  - e. records not reasonably described 0
  - f. not a proper FOIA request for some other reason 5
  - g. not an agency record 0
  - h. duplicate request 0
  - i. other (specify) 0

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

A. Numbers of appeals.

1. Number of appeals received during fiscal year 12
2. Number of appeals processed during fiscal year 11

B. Disposition of appeals.

1. Number completely upheld 3
2. Number partially reversed 6

3. Number completely reversed 2
- a. number of times each FOIA exemption used  
(counting each exemption once per appeal)
- (1) Exemption 1 1
- (2) Exemption 2 1
- (3) Exemption 3 0
- (4) Exemption 4 0
- (5) Exemption 5 9
- (6) Exemption 6 1
- (7) Exemption 7(A) 0
- (8) Exemption 7(B) 0
- (9) Exemption 7(C) 0
- (10) Exemption 7(D) 0
- (11) Exemption 7(E) 0
- (12) Exemption 7(F) 0
- (13) Exemption 8 0
- (14) Exemption 9 0
4. Other reasons for nondisclosure (total) 0
- a no records 0
- b referrals 0
- c. request withdrawn 0
- d. fee-related reason 0
- e. records not reasonably described 0
- f. not a proper FOIA request for some other reason  
0
- g. not an agency record 0
- h. duplicate request 0
- i. other (specify) 0

## VII. Compliance with Time Limits/Status of Pending Requests

### A. Median processing time for requests processed during the year.

Note: OMB does not use multi-track processing; See Section VIII. D., below.

#### 1. Requests.

- a. number of requests processed 137
- b. median number of work days to process 17

#### 2. Requests accorded expedited processing.

- a. number of requests processed 0
- b. median number of days to process 0

### B. Status of pending requests.

1. Number of requests pending as of end of current fiscal year 11
2. Median number of working days that such requests were pending as of that date 9

Note: The oldest of the 11 requests had been pending at OMB for 22 working days as of the end of FY 2007 (it was under a 10-day extension).

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

A. Comparison of numbers of requests received: 223 (FY 2001) & 87 (FY 2002) & 99 (FY 2003) & 152 (FY 2004) & 169 (FY 2005) & 152 (FY 2006) & 140 (FY 2007).

B. Comparison of numbers of requests processed: 238 (FY 2001) & 82 (FY 2002) & 65 (FY 2003) & 173 (FY 2004) & 218 (FY 2005) & 152 (FY 2006) & 137 (FY 2007).

C. Comparison of median numbers of working days requests were pending as of end of fiscal year: 59 days (FY 2001) & 203 days (FY 2002) & 56 days (FY 2003) & 218 (FY 2004) & 9 days (FY 2005) & 36.5 (FY 2006) & 9 (FY 2007).

D. Other statistics significant to agency: As an aside, OMB, unlike some other agencies, does not have a centralized FOIA process in which requests are handled on a consecutive basis: the processing of one request generally does not delay OMB's ability to respond to other requests. For this reason, when OMB receives a request for expedited processing, (OMB received one (1) such request in FY07), OMB's practice is to inform the requester that OMB does not operate a first-in, first-out system for processing FOIA requests and that, accordingly, OMB will begin the processing of the person's request. (This reply, along with OMB's prompt response to the requests themselves, appears to have addressed the requester's goal in requesting expedited processing.) In addition, for this same reason, OMB does not use multi-track processing.

E. Other narrative statements describing agency 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) See Section XII below.

## IX. Costs/FOIA Staffing

### A. Staffing levels.

1. Number of full-time FOIA personnel 1
2. Number of personnel with part-time or occasional FOIA duties (in total work-years) 1.5
3. Total number of personnel (in work-years) 2.5

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

1. FOIA processing (including appeals) \$150,000
2. Litigation-related activities (estimated) \$80,000
3. Total costs \$230,000
4. Comparison with previous year(s) (including percentage of change) (optional) (See OMB's prior-year reports)

### C. Statement of additional resources needed for FOIA compliance: None

## X. Fees

### A. Total amount of fees collected by agency for processing requests \$100

### B. Percentage of total costs negligible (.00044% of total costs)

## XI. FOIA Regulations (Including Fee Schedule)

(Agencies should provide electronic link for availability in electronic form and attach copy in paper form.)

OMB's FOIA regulations are located at 5 CFR 1303 and can be found at OMB Home Page at <http://www.whitehouse.gov/omb/fedreg/5cfr-part1303.html>.

## XII. Report on FOIA Executive Order Implementation

On December 14, 2005, the President issued Executive Order 13,392 on "Improving Agency Disclosure of Information." As required under the Order, and pursuant to Implementing Guidance from the Department of Justice, this section provides information about OMB's activities under the Order and, in particular, its activities under OMB's FOIA Improvement Plan of June 2006.

OMB's FOIA Improvement Plan concentrated on activities that would ensure that OMB processed FOIA requests and appeals in as timely a manner as possible. As outlined below, OMB was very successful in meeting all of its Improvement Plan goals and milestones. In sum, OMB has implemented its entire FOIA Improvement Plan and

has eliminated its FOIA backlog with there being no overdue FOIA requests pending at OMB as of September 30, 2007 and as of January 1, 2008.

OMB receives relatively few FOIA requests, as compared to other agencies. At the end of FY2007 (September 30, 2007), OMB had 11 pending FOIA requests, the oldest of which had been pending at OMB for 22 days (this request was under a 10-day extension, as were the others that were pending beyond 20 working days.) OMB has subsequently responded to these 11 requests. Moreover, as of January 1, 2008, the oldest pending request had been received by OMB on December 20, 2007 (less than 20 working days earlier).

A. Description of supplementation/modification of agency improvement plan.

Not applicable. OMB has not needed to supplement or modify its agency improvement plan because OMB has met all of its goals and has an up-to-date FOIA inventory.

B. Report on agency implementation of its plan, including its performance in meeting milestones, with respect to each improvement area.

OMB has successfully implemented its FOIA improvement plan and has met all of its goals and milestones in each improvement area of the plan. OMB's plan, as stated in its Report of June 14, 2006, included four improvement areas, each of which has been successfully implemented. The four areas of improvement are:

Area # 1. OMB's Process for Tracking FOIA Requests and Appeals

Area #2. OMB's Responses to Relatively Simple FOIA Requests

Area #3. OMB's Dissemination of Information to the Public through its Website.

Area #4. The Role of OMB's FOIA Officer.

In the first two of the four areas listed above, OMB made further improvements to OMB's process for tracking the status of FOIA requests and appeals in which responsibility is assigned to the lead OMB office for the handing of a FOIA request. In addition, OMB has implemented a system of sending periodic reminders to the relevant OMB lead offices to ensure that FOIA requests are responded to in a timely fashion. As a result, for FY 2007, OMB had no backlog of overdue FOIA requests as of September 30, 2007. Moreover, as of January 1, 2008, OMB's oldest pending FOIA request was received on December 20, 2007.

In the third area of improvement, OMB has expanded the opportunity for members of the public, including FOIA requesters, to obtain publicly-available government information on OMB's Internet Website quickly and easily. For example, OMB's Office of Information and Privacy, through its ROCIS system has made Paperwork Reduction Act related information available publicly on OMB's website, without the need to file a FOIA request for such information.



In the final of the four areas for improvement, OMB filled the vacancy for the FOIA Officer position and has successfully implemented a training/development plan for the FOIA Officer.

The successful implementation of these four improvement areas has resulted in that more efficient processing of FOIA requests and appeals such that OMB's FOIA "pipeline" had no overdue pending FOIA requests at the end of FY 2007 (and as of January 1, 2008).

C. Identification and discussion of any deficiency in meeting plan milestones (if applicable)

Not applicable. As noted above, OMB has met all of its goals and milestones in each improvement area of its plan.

D. Additional narrative statement regarding other executive order-related activities (optional)

See OMB's response to Section B above.

E. Concise descriptions of FOIA exemptions

A concise description of FOIA exemptions is as follows:

- (b)(1) – information that would impair the national security
- (b)(2) – internal agency rules and practices
- (b)(3) – exemptions provided by another statute
- (b)(4) – confidential business information and trade secrets
- (b)(5) – deliberative, predecisional information and attorney-client and attorney work-product information
- (b)(6) – information that would constitute an unwarranted invasion of personal privacy
- (b)(7) – law enforcement information
- (b)(8) – information regarding financial institution supervision
- (b)(9) – information pertaining to wells

While the FOIA statute provides a total of nine exemptions that agencies may rely on when responding to FOIA requests, the nature of OMB’s position within the Executive Branch causes OMB to rely more frequently on one of the exemptions rather than the others. OMB’s mission is to assist the President in the discharge of his budgetary, management, and other executive responsibilities. As such, OMB works primarily with other Executive Branch staff in the accomplishment of that mission, in contrast with agencies that have operational responsibilities in carrying out programs. Accordingly, the bulk of records OMB creates and receives consist of those that analyze various policy or legal issues, identify available options, evaluate their relative merits, and make recommendations. Those documents that are deliberative and pre-decisional are typically withheld under FOIA exemption (b)(5).

In addition, like other agencies, OMB also utilizes, where appropriate, FOIA exemption (b)(2) for internal agency rules and practices and (b)(6) for information the disclosure of which would constitute an unwarranted invasion of personal privacy. Much less frequently, OMB also has occasion to utilize FOIA exemptions (b)(1), (b)(3), and (b)(4), which are described above.

F. Additional Statistics

1. Ten Oldest Pending FOIA Requests

Using the template provided below, please list in the appropriate column labeled by year, each of your ten oldest pending requests as of January 1, 2008. Please list the requests by the date it was received by your agency.

As reflected in the chart below, as of January 1, 2008, OMB had only one pending FOIA request. That request was received on December 20, 2007.

| Calendar Year                    | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007              |
|----------------------------------|------|------|------|------|------|------|------|-------------------|
| Pending Requests (Date Received) | None | None | None | None | None | None | None | One (December 20) |

2. Consultations

a.) Number of Consultations Received, Processed, and Pending

Please provide the number of consultations received, processed, and currently pending, in the appropriate column below.

|  |  |  |
|--|--|--|
| Consultations Received From Other Agencies During FY07 | Consultations Received From Other Agencies That Were Processed by Your Agency During FY07<br>(includes those received prior to FY07) | Consultations Received From Other Agencies That Were Pending at Your Agency as of October 1, 2007<br>(includes those received prior to FY07) |
| 12   | 10   | 2<br><br>(Note: These two consultations were completed before January 1, 2008.)  |

b.) Ten Oldest Pending Consultations Received From Other Agencies

Using the template provided below, please list in the appropriate column labeled by year, each ten oldest pending consultations received from other agencies as of January 1, 2008.

As reflected in the chart below, as of January 1, 2008, OMB had no pending FOIA consultations from other agencies.

|                             |      |      |      |      |      |      |      |      |      |
|-----------------------------|------|------|------|------|------|------|------|------|------|
| Calendar Year               | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 |
| Pending Consults (Received) | None | None | None | None | None | None | None | None | None |

G. Attachment: Agency Improvement Plan (in current form)

The current version of OMB's FOIA Improvement Plan can be located on the Web at [http://www.whitehouse.gov/omb/foia/report\\_re\\_eo13392.pdf](http://www.whitehouse.gov/omb/foia/report_re_eo13392.pdf)