

Department of Commerce FOIA Annual Report



The Commerce Department's mission is to help make American businesses more innovative at home and more competitive abroad.



FY 2014



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I. Basic Information Regarding Report

1. Person to be contacted with questions about the report.

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2. Electronic link for access to the Report on the agency Web site.

www.osec.doc.gov/omo/FOIA/FOIAWEBSITE.htm

3. To obtain a copy of the Report in paper form.

Write to the address or contact the person listed above in section I.1.

II. MAKING A FOIA REQUEST

1. Names, addresses, and telephone numbers of all individual agency components that receive FOIA requests.

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The FOIA Officers for the Department are also listed at:

www.osec.doc.gov/omo/FOIA/contactfoia.htm

2. Brief description of why some requests are not granted and an overview of certain general categories of the agency's records to which the FOIA exemptions apply.

A request for records may be denied if the requested record contains information which falls into one or more of the nine FOIA exemptions listed in section III, 3. If the requested record contains both exempt and nonexempt information, the nonexempt portions which may reasonably be segregated from the exempt portions will be released to the requester.

III. Acronyms, Definitions, AND EXEMPTIONS

1. Agency-specific acronyms or terms used in this Report.

OS- Office of the Secretary

BIS- Bureau of Industry and Security

Census- Bureau of the Census

EDA- Economic Development Administration

ESA- Economic and Statistics Administration/Bureau of Economic
Analysis

ITA- International Trade Administration

MBDA- Minority Business Development Agency

NIST- National Institute of Standards and Technology

NOAA- National Oceanic and Atmospheric Administration

NTIA- National Telecommunications and Information
Administration

NTIS- National Technical Information Service

OIG- Office of Inspector General

PTO- United States Patent and Trademark Office

AGC/Admin.- Assistant General Counsel for Administration

2. Definitions of terms used in this Report:

- 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 that are 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.



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- 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. FOIA requests also include requests made by requesters 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 that 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.
1. **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. **Perfect 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 twenty working days from receipt of a perfected FOIA request).
3. 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



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- 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, or (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 for Initial Requests

Statute	Type of Information Withheld	Case Citation	Number of Times Relied upon per Component	Total Number of Times Relied upon by Agency
50 U.S.C. § 2411(c) (Export Administration Act of 1979)	Information pertaining to license applications under the Export Administration Act	<u>Wis. Project on Nuclear Arms Control v. Dep't of Commerce</u> , 317 F.3d 275, 284 (D.C. Cir. 2003); <u>Times Publ'g Co. v. U.S. Dep't of Commerce</u> , 236 F.3d 1286, 1292 (11 th Cir. 2001).	OS – 2 BIS – 27	29
35 U.S.C. § 122 (Patent Act)	Applications for patents; certain information pertaining to applications for patents	<u>Irons & Sears v Dann</u> , 606 F.2d 1215, 1219-21 (D.C. Cir.1979)	OS – 1 PTO – 8	9
13 U.S.C. §§ 9 (Census Act)	Certain Census data	<u>Baldrige v Shapiro</u> , 455 U.S. 345, 355 (1982)	Census – 25	25
13 U.S.C. § 301(g) (Collection and Publication of Foreign Commerce Act)	Shippers' export declarations or successor documents	<u>Afr. Fund v. Mosbacher</u> , No. 92 Civ. 289, 1993 WL 183736, at *5 (S.D.N.Y. May 26, 1993); <u>Young Conservative Found., Inc. v. U.S. Dep't of Commerce</u> , No. 85-3982, 1987 WL 9244, at *2-3 (D.D.C. Mar. 25, 1987).	OS – 2 Census – 30	32



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Statute	Type of Information Withheld	Case Citation	Number of Times Relied upon per Component	Total Number of Times Relied upon by Agency
41 U.S.C. § 253b(m)(1)	Contractor proposals that are in the possession or control of an executive agency and that have not been set forth or incorporated by reference into contracts	<u>Sinkfield v. HUD.</u> No. 10-885, 2012 U.S. Dist. LEXIS 35233, at *13-15 (S.D. Ohio Mar. 15, 2012); <u>Margolin v. NASA.</u> No. 09-CV-00421, 2011 WL 1303221, at *6 (D. Nev. Mar. 31, 2011); <u>Hornbostel v. U.S. Dep't of the Interior.</u> 305F. Supp. 2d 21, 30 (D.D.C. 2003), <u>summary affirmance granted.</u> No. 03-5257, 2004 WL 1900562 (D.C. Cir. Aug. 25, 2004).	NOAA - 3 PTO - 9	12
16 U.S.C. § 1881(a)(2) (Registration and Information Management)	Statistical information contained in fishery management plans.	No Case	NOAA - 7	7
15 U.S.C. § 7301(c), (d) (National Construction Safety Teams)	Safety-related information submitted in the course of investigations regarding building failures.	No Case	NIST - 1	1

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Statute	Type of Information Withheld	Case Citation	Number of Times Relied upon per Component	Total Number of Times Relied upon by Agency
10 U.S.C. § 130(b)	Personally identifiable information pertaining to members of the armed forces assigned to “routinely deployable unit[s]” and certain employees of DOD and DHS	<u>Hall v. CIA</u> , No. 04-00814, 2012 WL 3143839, at * 16 (D.D.C. Aug. 3, 2012); <u>Hiken v. DOD</u> , 521 F. Supp. 2d 1047, 1062 (N.D. Cal. 2007); <u>O’Keefe v. DOC</u> , 463 F. Supp. 2d 317, 325 (E.D.N.Y. 2006); <u>Windel v. United States</u> , No. A02-306, 2005 WL 846206, at *(D. Alaska Apr. 11, 2005)	NOAA – 1	1
Fed. R. Crim. P. 6(e), enacted by Act of July 30, 1977, Pub. L. No. 95-78, 91 Stat. 319	Certain records pertaining to grand jury proceedings.	<u>Sussman v. USMS</u> , 494 F.3d 1106, 1113 (D.C. Cir. 2007); <u>Fund for Constitutional Gov’t v. Nat’l Archives & Records Serv.</u> , 656 F.2d 856, 867-68 (D.C. Cir. 1981); <u>Durham v. U.S. Atty. Gen.</u> , No. 06-843, 2008 WI. 620744, at *2 (E.D. Tex. Mar. 3, 2008); <u>Cozen O’Connor v. U.S. Dep’t of Treasury</u> , 570 F. Supp. 2d 749, 776 (E.D. Pa. 2008)	OIG – 1	1
50 U.S.C. § 2170 (Defense Production Act)	Protects offsets information.	Unknown	BIS - 1	1



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V. FOIA Requests

A. Received, Processed and Pending FOIA Requests

Bureau	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
OS	75	231	191	115
BIS	5	88	80	13
Census	17	407	401	23
EDA	1	40	35	6
ESA	0	6	6	0
ITA	42*	53	21	74
MBDA	0	6	6	0
NIST	34	128	128	34
NOAA	150**	447	425	172
NTIA	15	60	63	12
NTIS	1	8	8	1
OIG	3***	115	104	14
PTO	23****	307	308	22
AGENCY OVERALL	366*****	1896	1776	486

* In the FY2013 Annual FOIA Report, ITA reported the number of requests pending at the end of FY2013 as “43.” This number was reported incorrectly. The difference of “1” request is due to 1 request processed entirely under the Privacy Act in FY2013, but not documented until FY 2014. The correct number is “42.” Therefore, the number of requests pending as of the start of FY2014 for ITA has been amended to “42” in the FY2014 Annual FOIA Report.

**In the FY2013 Annual FOIA Report, NOAA reported the number of requests pending at the end of FY2013 as “139.” This number was reported incorrectly. The difference of “11” requests is due to 11 requests pending from FY 2013 but not reported, which were fulfilled in FY 2014. The correct number is “150.” Therefore, the number of requests pending as of the start of FY2014 for NOAA has been amended to “150” in the FY2014 Annual FOIA Report.



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*** In the FY2013 Annual FOIA Report, OIG reported the number of requests pending at the end of FY2013 as “4.” This number was reported incorrectly. The difference of “1” request is due to requests fulfilled in FY2013, but not documented until FY 2014. The correct number is “3.” Therefore, the number of requests pending as of the start of FY2014 for NOAA has been amended to “3” in the FY2014 Annual FOIA Report.

**** In the FY2013 Annual FOIA Report, PTO reported the number of requests pending at the end of FY2013 as “24.” This number was reported incorrectly. The difference of “1” request is due to requests fulfilled in FY2013, but not documented until FY 2014. The correct number is “23.” Therefore, the number of requests pending as of the start of FY2014 for NOAA has been amended to “23” in the FY2014 Annual FOIA Report.

***** In the FY2013 Annual FOIA Report, the agency overall number of requests pending at the end of FY2013 was reported as “358.” Due to the amendment in the number of requests pending as of the start of FY2013 for ITA, NOAA and OIG (see footnotes above), the agency overall number of requests pending as of the start of FY2013 has been amended to “366.”



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B. (1) Disposition of FOIA Requests – All Processed Requests

Bureau	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 Records	All Records Referred to Another Component or Agency	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper FOIA Request for Other Reason	Not Agency Record	Duplicate Request	Other *Explain in chart below	
OS	25	34	5	19	2	3	5	29	8	37	12	12	191
BIS	29	9	21	8	0	3	2	3	0	0	4	1	80
Census	127	33	50	22	4	13	23	13	68	9	12	27	401
EDA	10	6	0	8	0	4	7	0	0	0	0	0	35
ESA	0	0	0	2	0	2	0	0	1	0	1	0	6
ITA	7	3	0	7	1	2	1	0	0	0	0	0	21
MBDA	0	0	0	5	0	0	0	0	1	0	0	0	6
NIST	39	18	2	20	0	5	20	7	0	10	6	1	128
NOAA	125	89	27	37	1	44	30	22	17	5	16	12	425
NTIA	19	13	0	2	4	7	7	11	0	0	0	0	63
NTIS	3	1	2	1	0	0	0	0	0	0	0	1	8
OIG	9	35	13	6	0	10	2	10	9	8	2	0	104
PTO	94	49	18	51	4	8	8	2	61	3	7	3	306
AGENCY OVERALL	487	290	138	188	16	101	105	97	165	72	60	57	1776

B. (2) Disposition of FOIA Requests – “Other” Reasons for “Full Denials Based on Reasons Other than Exemptions” from Section V, B (1) Chart

Component	Description of “Other” Reasons for Denials from Chart B (1) & Number of Times Those Reasons Were Relied upon	TOTAL
OS Census NOAA BIS	Publicly Available Information 12 25 10 1	48
PTO	For some request processed under both the FOIA and the Privacy Act, the requester failed to provide proof of identification and the request was administratively closed 3	3
Census	Requester Received Documents Outside of FOIA 1	1
NTIS	Statute Based Fee Authority 1	1
Census NIST NOAA	Appeal – Processed at DOC 1 1 1	3
NOAA	Released through litigation 1	1



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B. (3) Disposition of FOIA Requests – Number of Times Exemptions Applied

Bureau	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
OS	0	0	5	4	5	24	0	0	13	0	0	1	0	0
BIS	0	2	28	3	3	4	3	0	6	1	9	0	0	0
Census	0	5	55	5	12	23	1	0	2	0	0	0	0	0
EDA	0	0	0	1	1	4	0	0	0	0	0	0	0	0
ESA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ITA	0	0	0	1	1	1	0	0	1	0	0	0	0	0
MBDA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NIST	0	1	1	5	8	9	0	0	0	0	1	0	0	0
NOAA	0	1	11	33	32	38	5	0	9	2	0	0	0	0
NTIA	0	0	0	6	10	10	0	0	0	0	0	0	0	0
NTIS	0	0	0	3	0	0	0	0	0	0	0	0	0	0
OIG	0	0	1	2	8	12	7	0	30	0	6	0	0	0
PTO	0	0	17	20	18	26	4	0	2	0	4	0	0	0
AGENCY OVERALL	0	9	118	83	98	151	20	0	63	3	20	1	0	0

VI. ADMINISTRATIVE Appeals of Initial DETERMINATIONS of FOIA Requests

A. Received, Processed and Pending Administrative Appeals

Bureau	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
*AGC/Admin.	36	56	55	37
PTO	1	13	14	0
AGENCY OVERALL	37	69	69	37

*Assistant General Counsel for Administration (AGC/Admin.) processes the appeals for all the Department of Commerce components, except for PTO.



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B. Disposition of Administrative Appeals – All Processed Appeals

Bureau	Number Affirmed on Appeal	Number Partially Affirmed & Partially Reversed/Remanded on Appeal	Number Completely Reversed/Remanded on Appeal	Number of Appeals Closed for Other Reasons	TOTAL
AGC/Admin.	28	11	4	12	55
PTO	9	2	3	0	14
AGENCY OVERALL	37	13	7	12	69

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

Bureau	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
AGC/ Admin.	0	1	4	3	10	6	1	0	3	1	0	0	0	0
PTO	0	0	0	0	3	0	1	0	1	0	0	0	0	0
AGENCY OVERALL	0	1	4	3	13	6	2	0	4	1	0	0	0	0

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

Bureau	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	Request in Litigation	Appeal Based Solely on Denial of Request for Expedited Processing	Other *Explain in chart below
AGC/Admin.	4	0	11	6	0	0	1	0	6	3	16
PTO	0	0	2	0	0	0	0	0	0	0	0
AGENCY OVERALL	4	0	13	6	0	0	1	0	6	3	16

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
AGC/Admin. – Adequacy of Search – 10 AGC/Admin. - Constructive Denial – 5 AGC/Admin. - Not an Appeal - 1	16



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C. (4) Response Time for Administrative Appeals

Bureau	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
AGC/Admin.	82	164	18	539
PTO	19	18	8	33
AGENCY OVERALL	64	128	8	539

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C. (5) Ten Oldest Pending Administrative Appeals

Bureau		10 th Oldest Appeal	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest Appeal
AGC/Admin.	Date of Receipt of Ten Oldest Appeals	5/20/13	5/2/13	4/29/13	3/26/13	2/1/13	1/28/13	12/7/12	11/30/12	11/2/12	3/22/10
AGC/Admin.	Number of Days Pending	357	369	372	396	433	437	473	478	498	1181
PTO	Date of Receipt of Ten Oldest Appeals	0	0	0	0	0	0	0	0	0	N/A
PTO	Number of Days Pending	0	0	0	0	0	0	0	0	0	N/A
AGENCY OVERALL	Date of Receipt	5/20/13	5/2/13	4/29/13	3/26/13	2/1/13	1/28/13	12/7/12	11/30/12	11/2/12	3/22/10
AGENCY OVERALL	Number of Days Pending	357	369	372	396	433	437	473	478	498	1181



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VII. FOIA REQUESTS: RESPONSE TIME FOR PROCESSED AND PENDING REQUESTS

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

Bureau	SIMPLE				COMPLEX				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
OS	1	5	1	20	105	146	21	535	13	57	1	158
BIS	8	9	1	20	25	33	1	99	10	10	10	10
Census	3	4	0	20	7	16	0	162	1	11	1	308
EDA	10	10	2	20	24	27	21	41	0	0	0	0
ESA	4	4	1	8	0	0	0	0	0	0	0	0
ITA	1	4	1	11	78	119	41	361	0	0	0	0
MBDA	37	38	15	90	0	0	0	0	0	0	0	0
NIST	3	5	0	20	38	81	1	1058	0	0	0	0
NOAA	9	9	1	20	63	111	21	892	0	0	0	0
NTIA	6	9	1	49	30	107	1	576	231	200	10	331
NTIS	18	43	0	148	0	0	0	0	61	61	61	61
OIG	1	15	1	51	29	42	1	164	2	2	1	5
PTO	12	11	0	20	29	32	21	143	9	9	8	10
AGENCY OVERALL	7	8	1	148	45	89	1	1058	2	26	1	331

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

Bureau	SIMPLE				COMPLEX				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
OS	11	10	1	20	105	154	21	535	158	158	158	158
BIS	8	10	1	20	29	42	9	99	10	10	10	10
Census	3	4	0	20	19	34	1	162	2	22	1	308
EDA	13	12	3	20	24	25	21	34	0	0	0	0
ESA	0	0	0	0	0	0	0	0	0	0	0	0
ITA	0	0	0	0	87	124	42	361	0	0	0	0
MBDA	0	0	0	0	0	0	0	0	0	0	0	0
NIST	6	7	0	20	41	109	2	1058	0	0	0	0
NOAA	9	10	1	20	64	117	21	892	0	0	0	0
NTIA	12	15	1	49	136	166	19	576	231	231	149	313
NTIS	18	43	7	148	0	0	0	0	61	61	61	61
OIG	16	17	1	51	35	55	17	164	1	2	1	5
PTO	16	11	1	20	29	33	21	143	9	9	8	10
AGENCY OVERALL	9	10	1	148	48	101	1	1058	3	37	1	313



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C. Processed Requests – Response Time in Day Increments

1. Number of perfected requests processed in each of the thirteen designated time increments.

C. Processed Requests – Response Time in Day Increments - Simple Requests

Bureau	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	TOTAL
OS	89	0	0	0	0	0	0	0	0	0	0	0	0	89
BIS	48	0	0	0	0	0	0	0	0	0	0	0	0	48
Census	276	0	0	0	0	0	0	0	0	0	0	0	0	276
EDA	28	0	0	0	0	0	0	0	0	0	0	0	0	28
ESA	2	0	0	0	0	0	0	0	0	0	0	0	0	2
ITA	3	0	0	0	0	0	0	0	0	0	0	0	0	3
MBDA	2	2	1	0	1	0	0	0	0	0	0	0	0	6
NIST	63	0	0	0	0	0	0	0	0	0	0	0	0	63
NOAA	125	0	0	0	0	0	0	0	0	0	0	0	0	125
NTIA	36	3	1	0	0	0	0	0	0	0	0	0	0	40
NTIS	4	1	0	2	1	0	0	0	0	0	0	0	0	8
OIG	30	7	1	0	0	0	0	0	0	0	0	0	0	38
PTO	261	0	0	0	0	0	0	0	0	0	0	0	0	261
AGENCY OVERALL	967	13	3	2	2	0	0	0	0	0	0	0	0	987



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C. Processed Requests – Response Time in Day Increments - Complex Requests

Bureau	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	TOTAL
OS	0	20	12	9	8	12	3	4	2	1	11	13	4	99
BIS	5	15	6	2	1	0	0	0	0	0	0	0	0	29
Census	64	8	2	2	1	0	0	0	2	0	0	0	0	79
EDA	0	6	1	0	0	0	0	0	0	0	0	0	0	7
ESA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ITA	0	0	8	1	2	1	1	1	0	0	2	2	0	185
MBDA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NIST	17	21	9	3	4	2	3	2	0	0	0	2	2	65
NOAA	0	72	55	27	19	14	14	11	5	3	20	8	12	260
NTIA	13	1	1	0	0	1	0	0	1	0	3	0	1	21
NTIS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OIG	7	15	3	1	1	2	0	1	1	0	0	0	0	31
PTO	0	38	5	1	0	0	0	1	0	0	0	0	0	45
AGENCY OVERALL	106	196	102	46	36	32	21	20	11	4	36	25	19	654



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C. Processed Requests – Response Time in Day Increments - **Requests Granted Expedited Processing**

Bureau	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	TOTAL
OS	2	0	0	0	0	0	0	1	0	0	0	0	0	3
BIS	3	0	0	0	0	0	0	0	0	0	0	0	0	3
Census	43	1	0	0	0	1	0	0	0	0	0	1	0	46
EDA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ESA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ITA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
MBDA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NIST	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NOAA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NTIA	0	0	0	0	0	0	0	1	0	0	0	1	0	2
NTIS	0	0	0	1	0	0	0	0	0	0	0	0	0	1
OIG	4	0	0	0	0	0	0	0	0	0	0	0	0	4
PTO	2	0	0	0	0	0	0	0	0	0	0	0	0	2
AGENCY OVERALL	54	1	0	1	0	1	0	2	0	0	0	2	0	61

D. Pending Requests – All Pending Perfected Requests

1. Number of perfected requests pending as of the end of fiscal year, and the median and average number of days those requests had been pending.

Bureau	SIMPLE			COMPLEX			EXPEDITED PROCESSING		
	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
OS	5	8	6	106	129	185	4	102	94
BIS	5	7	8	8	71	74	0	0	0
Census	16	3	5	5	5	6	2	4	4
EDA	4	2	2	2	39	39	0	0	0
ESA	0	0	0	0	0	0	0	0	0
ITA	0	0	0	73	239	327	1	586	586
MBDA	0	0	0	0	0	0	0	0	0
NIST	3	5	5	31	311	388	0	0	0
NOAA	34	8	9	138	95	177	0	0	0
NTIA	1	30	30	9	129	151	2	170	170
NTIS	1	148	148	0	0	0	0	0	0
OIG	7	5	5	3	39	65	1	17	17
PTO	19	8	8	5	19	24	0	0	0
AGENCY OVERALL	95	6	9	380	129	216	10	52	132



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E. Pending Requests – Ten Oldest Pending Perfected Requests

1. Dates of receipt of the ten oldest perfected requests pending as of the end of the fiscal year, and the number of days those requests had been pending.

Bureau	10th Oldest Request & Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request & Number of Days Pending
OS	3/18/13 390	3/7/13 397	3/5/13 398	3/4/13 399	12/3/12 460	11/26/12 465	7/2/12 564	6/15/12 572	11/8/11 729	10/24/11 740
BIS	9/23/14 6	9/22/14 7	9/22/14 7	8/26/14 17	7/7/14 34	6/25/14 68	4/24/14 71	4/9/14 85	4/9/14 85	3/21/14 134
Census	9/15/14 11	9/11/14 13	9/10/14 14	9/10/14 14	9/10/14 14	9/8/14 16	9/4/14 18	9/2/14 20	8/20/14 28	7/3/14 61
EDA	N/A	N/A	N/A	N/A	9/26/14 2	9/26/14 2	9/25/14 3	9/25/14 3	8/28/14 22	7/11/14 56
ESA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ITA	11/9/11 729	9/2/11 775	8/3/11 797	7/14/11 811	7/13/11 812	6/14/11 832	6/8/11 836	5/26/11 844	4/5/11 881	12/29/10 947
MBDA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
NIST	9/24/12 505	9/5/12 518	8/22/12 527	7/30/12 544	4/9/12 622	2/27/12 652	10/31/11 731	10/20/11 735	9/22/09 1254	8/24/07 1774
NOAA	5/3/12 608	4/6/12 627	12/28/11 695	12/1/11 711	9/30/11 747	9/14/11 759	9/7/11 812	6/17/11 820	6/17/11 820	6/17/11 820
NTIA	8/18/14 10	8/17/14 30	7/3/14 58	4/3/14 124	3/25/14 129	3/22/14 131	11/19/13 215	8/14/13 281	6/4/13 331	2/22/13 408
NTIS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	4/20/14 148
OIG	9/25/14 3	9/23/14 5	9/22/14 6	9/16/14 10	9/12/14 12	9/10/14 14	9/5/14 17	8/6/14 38	8/5/14 39	4/10/14 120
PTO	9/15/14 11	9/11/14 13	9/10/14 14	9/9/14 15	9/9/14 15	9/8/14 16	9/3/14 19	9/3/14 19	8/11/14 27	7/7/14 60
AGENCY OVERALL	6/17/11 820	6/17/11 820	6/17/11 820	6/14/11 832	6/8/11 836	5/26/11 844	4/5/11 881	12/29/10 947	9/22/09 1254	8/24/07 1774

VIII. REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER

A. Requests for Expedited Processing

Bureau	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
OS	7	17	3	86	13
BIS	3	5	1	1	8
Census	44	6	1	1	50
EDA	0	0	0	0	0
ESA	0	0	0	0	0
ITA	0	7	11	38	3
MBDA	0	0	0	0	0
NIST	0	0	0	0	0
NOAA	0	46	2	4	42
NTIA	2	3	10	8	4
NTIS	1	1	61	61	0
OIG	5	7	7	7	10
PTO	2	1	10	9	2
AGENCY OVERALL	64	93	2	17	5



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B. Requests for Fee Waiver

Bureau	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
OS	23	8	4	73
BIS	0	0	0	0
Census	7	12	6	7
EDA	0	0	0	0
ESA	0	0	0	0
ITA	0	10	12	34
MBDA	0	0	0	0
NIST	2	9	3	5
NOAA	71	42	3	7
NTIA	4	3	8	11
NTIS	2	0	1	1
OIG	3	5	9	14
PTO	1	0	55	55
AGENCY OVERALL	113	89	5	17

IX. FOIA PERSONNEL AND COSTS

FOIA Personnel And Costs

Bureau	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 & 2)	Processing Costs (At initial request and appeal levels)	Litigation-Related Costs	Total Costs
OS	1	*7.5	*8.5	*734,026.24	**187,032.85	921,059.09
BIS	0	1.15	1.15	98,558.00	0	98,558.00
Census	0	4.0	4.0	489,230.40	0	489,230.40
EDA	0	1	1	128,247.00	0	128,247.00
ESA	0	.2	.2	26,000.00	0	26,000.00
ITA	0	.95	.95	86,616.45	0	86,616.45
MBDA	0	1	1	856.00	0	856.00
NIST	0	2	2	294,381.00	0	294,381.00
NOAA	1	13	14	7,710,862.27	0	7,710,862.27
NTIA	0	1.85	1.85	175,900.00	0	175,900.00
NTIS	0	.1	.1	15,000.00	0	15,000.00
OIG	0	1.365	1.365	201,879.00	0	201,879.00
PTO	2	1.45	3.45	357,000.00	0	357,000.00
AGENCY OVERALL	4	35.565	39.565	10,318,616.36	187,032.85	10,505,649.21

*Includes both processing costs at the initial level for Departmental FOIA Office and processing costs at the appeal level for the AGC/Admin.

**Total of litigation related costs for the Department, excludes PTO.



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X. FEES COLLECTED FOR PROCESSING REQUESTS

Fees Collected For Processing Requests

Bureau	Total Amount of Fees Collected	Percentage of Total Costs
OS	0	0%
BIS	386.83	0.39%
Census	2,802.23	0.57%
EDA	1,001.21	.78%
ESA	0	0%
ITA	4,313.33	4.98%
MBDA	0	0%
NIST	1,849.00	0.63%
NOAA	45,567.73	.059%
NTIA	23,901.48	13.59%
NTIS	308	2.05%
OIG	2,376.62	1.18%
PTO	5,535.40	1.55%
AGENCY OVERALL	88,041.83	.85%

XI. FOIA REGULATIONS

- Electronic link to FOIA regulations, including fee schedule.

http://www.access.gpo.gov/nara/cfr/waisidx_02/15cfr4_02.html

XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS

A. Backlogs of FOIA Requests and Administrative Appeals

Bureau	Number of Backlogged Requests as of End of Fiscal Year	Number of Backlogged Appeals as of End of Fiscal Year
OS	103	*4
BIS	6	*2
Census	2	*4
EDA	2	*0
ESA	0	*0
ITA	68	*1
MBDA	0	*0
NIST	28	*2
NOAA	138	*18
NTIA	9	*0
NTIS	1	*0
OIG	3	*4
PTO	2	0
AGENCY OVERALL	362	35

* Assistant General Counsel for Administration (AGC/Admin.) processes the appeals for all the Department of Commerce components, except for PTO. Data provided by AGC/Admin.



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

Bureau	Number of Consultations Received from Other Agencies that Were <u>Pending</u> at DOC as of <u>Start</u> of Fiscal Year	Number of Consultations <u>Received</u> from Other Agencies During Fiscal Year	Number of Consultations Received from Other Agencies that Were <u>Processed</u> by DOC During Fiscal Year	Number of Consultations Received from Other Agencies that Were <u>Pending</u> at DOC as of <u>End</u> of Fiscal Year
OS	0	2	2	0
BIS	0	7	7	0
Census	0	2	2	0
EDA	0	1	1	0
ESA	0	0	0	0
ITA	6	26	6	26
MBDA	0	0	0	0
NIST	0	7	7	0
NOAA	0	7	6	1
NTIA	0	9	9	0
NTIS	0	1	1	0
OIG	0	0	0	0
PTO	0	1	1	0
AGENCY OVERALL	6	63	42	27

*In the FY2012 Annual FOIA Report, International Trade Administration (ITA) reported “2” consultations pending. One of the ITA reported consultation on last year’s report was actually a referral. Therefore, the number of consultations pending as of the start of FY2013 for ITA has been amended to “1” in the FY2013 Annual FOIA Report.

** In the FY2012 Annual FOIA Report, the agency overall number of consultations pending at the end of FY2012 was reported as “5.” Due to the amendment in the number of consultations pending as of the start of FY2013 for ITA (see footnote above), the agency overall number of consultations pending as of the start of FY2013 has been amended to “4.”

C. Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at DOC

Bureau	10 th Oldest Consultation and Number of Days Pending	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest Consultation and Number of Days Pending
OS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
BIS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Census	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
EDA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ESA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ITA	4/29/14 108	4/17/14 116	12/19/13 197	12/19/13 197	12/19/13 197	11/15/13 220	8/22/13 279	8/12/13 287	7/26/13 298	5/29/13 339
MBDA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
NIST	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
NOAA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	9/16/14 10
NTIA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
NTIS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
OIG	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
PTO	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
AGENCY OVERALL	4/29/14 108	4/17/14 116	12/19/13 197	12/19/13 197	12/19/13 197	11/15/13 220	8/22/13 279	8/12/13 287	7/26/13 298	5/29/13 339



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

Bureau	NUMBER OF REQUESTS <u>RECEIVED</u>		NUMBER OF REQUESTS <u>PROCESSED</u>	
	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
OS	234	231	196	191
BIS	42	88	38	80
Census	286	407	290	401
EDA	38	40	37	35
ESA	8	6	8	6
ITA	48	53	30	21
MBDA	2	6	3	6
NIST	207	128	221	128
NOAA	429	447	441	425
NTIA	116	60	116	63
NTIS	8	8	8	8
OIG	84	115	86	104
PTO	321	307	319	308
AGENCY OVERALL	1823	1896	1793	1776

* In the FY2012 Annual FOIA Report, NOAA reported the number of requests processed during the Fiscal Year as “465.” This number was reported incorrectly. The difference of “15” requests is due to requests fulfilled in FY2012, but not documented until FY2013. Therefore, the number of requests processed as of the end of FY2012 for NOAA was actually “480.”

** In the FY2012 Annual FOIA Report, the agency overall number of requests processed during the Fiscal Year as “1701.” Due to the amendment in the number of requests processed for NOAA in FY2012 (see footnote above), the agency overall number of requests processed during FY2012 for the agency overall was actually “1716.”

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Bureau	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
OS	57	103
BIS	1	6
Census	3	2
EDA	0	2
ESA	0	0
ITA	38	68
MBDA	0	0
NIST	24	28
NOAA	103	138
NTIA	8	9
NTIS	0	1
OIG	2	3
PTO	2	2
AGENCY OVERALL	238	362

*In the FY2012 Annual FOIA Report, NOAA reported the number of requests backlogged at the end of FY 2011 as “128.” This number was reported incorrectly. The difference of “15” requests is due to requests fulfilled in FY 2012, but not documented until FY2013. Therefore, the number of requests backlogged as of the end of FY2012 for NOAA was actually “113.”

** In the FY2012 Annual FOIA Report, the agency overall number of requests backlogged at the end of FY2012 was reported as “227.” Due to the amendment in the number of requests backlogged as of the end of FY2012 for NOAA (see footnote above), the agency overall number of requests backlogged as of the end of FY2012 for the agency overall was actually “212.”



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

Bureau	NUMBER OF APPEALS <u>RECEIVED</u>		NUMBER OF APPEALS <u>PROCESSED</u>	
	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
AGC/Admin.	48	56	48	55
PTO	28	13	28	14
AGENCY OVERALL	76	69	76	69

Bureau	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
OS	2	4
BIS	3	2
Census	4	4
EDA	1	0
ESA	0	0
ITA	1	1
MBDA	0	0
NIST	4	2
NOAA	16	18
NTIA	3	0
NTIS	0	0
OIG	0	4
PTO	0	0
AGENCY OVERALL	34	35