

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 2013



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FOIA ANNUAL REPORT FY2013



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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.osc.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:



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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.



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- 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.
- 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 entireties 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. **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.



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- 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
 - 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 – 4 BIS – 9	13
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 – 3 PTO – 9	12
13 U.S.C. §§ 8(b), 9(a) (Census Act)	Certain Census data	<u>Baldrige v Shapiro</u> , 455 U.S, 345, 355 (1982)	Census – 20	20
41 U.S.C. § 4233(a)(1) (Procurement Integrity Act)	Contractor bid or proposal information; source selection information	<u>Legal & Safety Employer Research, Inc. v. U.S. Dep't of the Army</u> , No. Civ. S001748, 2001 WL 34098652, at *3-4 (E.D. Cal. May 4, 2001) (dictum).	NTIA – 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
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 – 1 Census – 10	11
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>Hornbostel v U.S. Dep't of Interior</u> , 305 F. 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 - 1 PTO - 5	6

Statute	Type of Information Withheld	Case Citation	Number of Times Relied upon per Component	Total Number of Times Relied upon by Agency
16 U.S.C. § 1881(a)(2) (Registration and Information Management)	Statistical information contained in fishery management plans.	No Case	NOAA - 8	8
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 – 2	2
16 U.S.C. Chapter 31 (Marine Mammal Protection Act)	Information pertaining to the “take” of marine mammals in U.S. waters and by U.S. citizens on the high seas, and the importation of marine mammals and marine mammal products into the U.S.	No Case	NOAA – 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
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. 207); <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)	OS - 1 OIG - 1	2
50 U.S.C. § 2170(c) section 705 (Defense Production Act)	Protects offsets information.	Unknown	BIS - 1	1

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	37	234	196	75
BIS	1	42	38	5
Census	21	286	290	17
EDA	0	38	37	1
ESA	0	8	8	0
ITA	25	48	30	43
MBDA	1	2	3	0
NIST	48	207	221	34
NOAA	*151	429	441	139
NTIA	15	116	116	15
NTIS	1	8	8	1
OIG	**6	84	86	4
PTO	22	321	319	24
AGENCY OVERALL	***328	1823	1793	358

* In the FY2012 Annual FOIA Report, NOAA reported the number of requests pending at the end of FY2012 as “166.” This number was reported incorrectly. The difference of “15” requests is due to requests fulfilled in FY2012, but not documented until FY 2013. The correct number is “151.” Therefore, the number of requests pending as of the start of FY2012 for NOAA has been amended to “151” in the FY2013 Annual FOIA Report.

**In the FY2012 Annual FOIA Report, OIG reported the number of requests pending at the end of FY2012 as “3.” This number was reported incorrectly. The difference of “3” requests is due to requests pending which were not counted as pending in FY2012.

*** In the FY2012 Annual FOIA Report, the agency overall number of requests pending at the end of FY2012 was reported as “340.” Due to the amendment in the number of requests pending as of the start of FY2013 for NOAA and OIG (see footnotes above), the agency overall number of requests pending as of the start of FY2013 has been amended to “328.”



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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	34	47	3	24	3	8	20	19	0	24	7	7	196
BIS	11	5	8	6	0	1	5	2	0	0	0	0	38
Census	17	20	31	60	1	71	23	2	27	2	13	23	290
EDA	15	3	1	9	0	1	8	0	0	0	0	0	37
ESA	4	0	0	3	0	0	0	0	1	0	0	0	8
ITA	10	4	0	11	0	2	0	0	3	0	0	0	30
MBDA	0	2	0	1	0	0	0	0	0	0	0	0	3
NIST	51	31	2	22	3	6	12	3	3	75	11	2	221
NOAA	153	81	18	33	7	43	28	21	16	8	20	13	441
NTIA	15	21	0	22	4	11	22	17	0	0	4	0	116
NTIS	4	0	0	2	0	0	1	0	0	0	0	1	8
OIG	5	49	2	8	0	8	1	6	1	0	5	1	86
PTO	91	69	7	36	6	2	23	5	69	5	6	0	319



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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	
AGENCY OVERALL	410	332	72	237	24	153	143	75	120	114	66	47	1793



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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	Publicly Available Information 6 13 11	30
OIG	FOIA Misdirected 1	1
Census	The Department FOIA Office took the lead on the request and its was reopened separately 8	8
NTIS	Statute Based Fee Authority 1	1
NIST	Request referrals returned to another agency for direct response to requester, as the requests did not involve NIST 2	2
OS	Responded to outside of FOIA 1	1
Census NOAA	Appeal – Processed at DOC 1 2	3

Census	Response returned by USPS 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	1	1	9	3	18	45	3	0	7	0	1	0	0	0
BIS	0	0	10	3	0	1	0	0	2	0	0	0	0	0
Census	0	2	30	9	4	14	0	0	3	0	0	0	0	0
EDA	0	0	0	2	2	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	3	0	1	0	0	1	0	0	0	0	0
MBDA	0	0	0	0	1	1	0	0	0	0	0	0	0	0
NIST	0	0	2	12	7	25	0	0	2	0	2	0	0	0
NOAA	0	1	10	26	49	48	13	0	9	0	2	0	0	0
NTIA	0	0	1	8	19	15	0	0	0	0	1	0	0	0
NTIS	0	0	0	0	0	0	0	0	0	0	0	0	0	0



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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
OIG	0	0	1	0	10	3	8	12	41	0	2	0	0	0
PTO	0	1	14	22	15	29	1	0	1	0	4	0	0	0
AGENCY OVERALL	1	5	77	88	125	182	25	12	66	0	12	0	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	48	48	36
PTO	1	28	28	1
AGENCY OVERALL	37	76	76	37

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

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.	20	14	4	10	48
PTO	16	8	2	2	28
AGENCY OVERALL	36	22	6	12	76

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.	2	0	10	4	6	6	3	0	6	0	1	0	0	0
PTO	0	0	1	0	7	8	0	0	2	0	3	0	0	0
Agency Overall	2	0	11	4	13	14	3	0	8	0	4	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.	0	0	4	1	0	0	1	0	2	1	1
PTO	0	0	2	0	0	0	0	0	0	0	0
AGENCY OVERALL	0	0	6	1	0	0	1	0	2	1	1

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. – Misdirected - 1	1

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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.	156	219	3	898
PTO	20	18	1	20
Agency Overall	61	145	3	898

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	9/13/12	9/12/12	9/6/12	8/29/12	7/2/12	5/22/12	3/12/12	2/13/12	2/2/12	3/22/10
AGC/Admin.	Number of Days Pending	273	274	278	284	326	355	406	426	433	921



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Bureau		10th Oldest Appeal	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal
PTO	Date of Receipt of Ten Oldest Appeals	0	0	0	0	0	0	0	0	0	9/6/13
PTO	Number of Days Pending	0	0	0	0	0	0	0	0	0	16
Agency Overall	Date of Receipt	9/13/12	9/12/12	9/6/12	8/29/12	7/2/12	5/22/12	3/12/12	2/13/12	2/2/12	3/22/10
Agency Overall	Number of Days Pending	273	274	278	284	326	355	406	426	433	921

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	6	8	1	20	87	117	2	499	147	147	147	147
BIS	7	8	1	20	25	28	8	61	16	16	16	16
Census	4	4	0	19	1	6	0	167	11	10	8	28
EDA	10	10	2	18	33	38	22	86	0	0	0	0
ESA	6	8	2	19	0	0	0	0	0	0	0	0
ITA	1	4	1	19	74	149	10	680	0	0	0	0
MBDA	20	20	20	20	118	118	116	120	0	0	0	0
NIST	1	5	1	20	63	128	21	1114	0	0	0	0
NOAA	9	10	1	20	66	118	21	783	40	40	40	40
NTIA	7	8	1	20	18	89	1	541	143	143	78	208



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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
NTIS	10	10	1	20	43	45	21	63	0	0	0	0
OIG	13	12	1	20	33	45	21	120	13	13	13	13
PTO	14	13	1	20	25	28	21	60	0	0	0	0
AGENCY OVERALL	8	9	1	20	43	90	1	1114	14	40	8	208

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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	15	14	8	20	136	157	24	499	0	0	0	0
BIS	7	8	1	20	31	34	23	61	16	16	16	16
Census	7	7	2	12	15	24	1	167	12	12	1	28
EDA	10	10	2	18	27	33	22	71	0	0	0	0
ESA	12	12	2	15	0	0	0	0	0	0	0	0
ITA	10	10	1	19	40	67	27	306	0	0	0	0
MBDA	0	0	0	0	118	118	116	120	0	0	0	0
NIST	13	11	1	20	71	140	21	1114	0	0	0	0
NOAA	13	11	1	20	72	108	21	783	0	0	0	0
NTIA	15	11	1	19	158	186	18	541	0	0	0	0
NTIS	8	10	1	20	43	45	21	63	0	0	0	0
OIG	3	8	1	18	1	1	1	1	1	1	1	1
PTO	17	15	2	20	24	28	21	60	0	0	0	0
AGENCY OVERALL	15	12	1	20	61	108	1	1114	12	11	1	28



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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	54	0	0	0	0	0	0	0	0	0	0	0	0	54
BIS	19	0	0	0	0	0	0	0	0	0	0	0	0	19
Census	133	0	0	0	0	0	0	0	0	0	0	0	0	133
EDA	16	0	0	0	0	0	0	0	0	0	0	0	0	16
ESA	8	0	0	0	0	0	0	0	0	0	0	0	0	8
ITA	5	0	0	0	0	0	0	0	0	0	0	0	0	5
MBDA	1	0	0	0	0	0	0	0	0	0	0	0	0	1
NIST	149	0	0	0	0	0	0	0	0	0	0	0	0	149
NOAA	129	0	0	0	0	0	0	0	0	0	0	0	0	129
NTIA	83	0	0	0	0	0	0	0	0	0	0	0	0	83
NTIS	3	0	0	0	0	0	0	0	0	0	0	0	0	3
OIG	49	0	0	0	0	0	0	0	0	0	0	0	0	49
PTO	292	0	0	0	0	0	0	0	0	0	0	0	0	292
AGENCY OVERALL	941	0	0	0	0	0	0	0	0	0	0	0	0	941



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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	26	27	12	13	6	13	12	2	1	17	3	3	135
BIS	1	8	0	1	0	0	0	0	0	0	0	0	0	10
Census	136	11	0	1	0	0	0	0	1	0	0	0	0	149
EDA	0	13	6	1	1	0	0	0	0	0	0	0	0	21
ESA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ITA	1	8	2	4	1	1	0	1	0	0	2	2	3	25
MBDA	0	0	0	0	0	2	0	0	0	0	0	0	0	2
NIST	0	20	11	9	7	3	3	2	1	3	3	1	3	66
NOAA	0	88	52	22	19	19	16	9	9	10	18	16	8	286
NTIA	19	3	2	1	0	0	0	2	0	1	1	3	1	33
NTIS	0	1	2	2	0	0	0	0	0	0	0	0	0	5
OIG	0	14	4	7	1	1	1	0	0	0	0	0	0	28
PTO	0	24	3	0	0	0	0	0	0	0	0	0	0	27
AGENCY OVERALL	157	216	109	60	42	32	33	26	13	15	41	25	18	787



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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	0	0	0	0	0	0	0	0	0	0	0	0	0	0
BIS	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Census	7	1	0	0	0	0	0	0	0	0	0	0	0	8
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	1	0	0	0	0	0	0	0	0	0	0	0	1
NTIA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NTIS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OIG	1	0	0	0	0	0	0	0	0	0	0	0	0	1
PTO	0	0	0	0	0	0	0	0	0	0	0	0	0	0
AGENCY OVERALL	9	2	0	0	0	0	0	0	0	0	0	0	0	11

D. Pending Requests – All Pending Perfected Requests

- 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	0	0	0	74	93	112	1	147	147
BIS	3	14	12	2	45	45	0	0	0
Census	5	2	2	8	8	34	4	2	61
EDA	0	0	0	1	23	23	0	0	0
ESA	0	0	0	0	0	0	0	0	0
ITA	0	0	0	42	164	253	1	349	349
MBDA	0	0	0	0	0	0	0	0	0
NIST	10	7	7	24	259	373	0	0	0
NOAA	31	4	7	108	116	183	0	0	0
NTIA	1	4	4	10	26	104	2	143	143
NTIS	1	10	10	0	0	0	0	0	0
OIG	1	1	1	3	58	55	0	0	0
PTO	21	9	7	3	117	124	0	0	0
AGENCY OVERALL	73	6	7	275	117	180	8	78	114

E. Pending Requests – Ten Oldest Pending Perfected Requests

- 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.**



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Bureau	10th Oldest Request and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request and Number of Days Pending
OS	11/28/12 212	11/14/12 220	11/13/12 221	11/5/12 227	8/13/12 279	7/2/12 313	6/15/12 321	3/30/12 378	11/8/11 478	10/24/11 489
BIS	N/A	N/A	N/A	N/A	N/A	9/25/13 4	9/11/13 14	9/6/13 17	9/4/13 19	3/5/13 34
Census	9/5/13 17	8/27/13 23	8/27/13 23	8/15/13 31	8/14/13 32	7/24/13 47	7/9/13 58	2/11/13 161	2/11/13 161	7/22/12 302
EDA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	8/27/13 23
ESA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ITA	11/9/11 475	9/2/11 521	8/3/11 543	7/14/11 557	7/13/11 558	6/14/11 579	6/8/11 582	5/26/11 590	4/5/11 627	12/29/10 693
MBDA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
NIST	8/22/12 274	8/6/12 286	7/30/12 290	4/9/12 305	2/27/12 335	10/31/11 393	10/20/11 414	5/11/10 784	9/22/09 973	8/24/07 1580
NOAA	9/29/11 499	9/14/11 510	9/7/11 515	6/29/11 563	6/17/11 571	6/17/11 571	6/17/11 571	6/17/11 571	2/18/11 663	6/8/10 841
NTIA	9/4/13 18	8/14/13 19	8/14/13 26	8/14/13 27	6/4/13 78	2/22/13 152	2/12/13 153	2/8/13 157	12/3/12 208	10/17/11 493
NTIS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	9/16/13 10
OIG	N/A	N/A	N/A	N/A	N/A	N/A	9/25/13 3	9/20/13 6	8/22/13 33	6/17/13 73
PTO	9/16/13 10	9/16/13 10	9/16/13 10	9/12/13 12	9/12/13 12	9/11/13 13	9/10/13 14	7/2/13 23	4/15/13 117	10/24/12 233

Bureau	10 th Oldest Request and Number of Days Pending	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest Request and Number of Days Pending
Agency Overall	6/14/11 579	6/8/11 582	5/26/11 590	4/5/11 627	2/18/11 663	12/29/10 693	6/8/10 784	5/11/10 841	9/22/09 973	8/24/07 1580

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	1	0	16	16	0
BIS	1	0	1	1	1
Census	12	3	2	2	15
EDA	0	0	0	0	0
ESA	0	0	0	0	0
ITA	0	7	12	25	3
MBDA	0	0	0	0	0
NIST	0	0	0	0	0
NOAA	1	23	6	10	23
NTIA	2	7	8	7	9
NTIS	0	0	0	0	0
OIG	1	1	6	7	2
PTO	0	4	2	3	4
AGENCY OVERALL	18	45	6	9	57



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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	0	1	130	130
BIS	0	0	0	0
Census	7	15	2	7
EDA	2	0	1	1
ESA	0	0	0	0
ITA	1	10	25	42
MBDA	0	0	2	60
NIST	2	2	5	6
NOAA	69	32	4	10
NTIA	2	13	7	8
NTIS	0	0	0	0
OIG	1	2	4	6
PTO	1	0	21	21
AGENCY OVERALL	85	75	5	12

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" (The sum of Columns 1 & 2)	Processing Costs (At initial request and appeal levels)	Litigation-Related Costs	Total Costs
OS	1	5.65	6.65	*836,553.31	**181,804.48	1,018,357.79
BIS	0	1	1	82,359.00	0	82,359.00
Census	0	4.5	4.5	469,809.28	0	469,809.28
EDA	0	1	1	128,725.00	0	128,725.00
ESA	0	.2	.2	26,000.00	0	26,000.00
ITA	0	0.83	0.83	71,640.70	0	71,640.70
MBDA	0	.3	.3	230.00	0	230.00
NIST	0	2	2	282,031.00	0	282,031.00
NOAA	1	13	14	4,535,718.68	0	4,535,718.68
NTIA	0	1.75	1.75	175,825.00	0	175,825.00
NTIS	0	.07	.07	14,000.00	0	14,000.00
OIG	0	1	1	128,392.28	0	128,392.28
PTO	2	1.45	3.45	332,900.00	0	332,900.00
AGENCY OVERALL	4	32.75	36.75	7,084,184.25	181,804.48	7,265,988.73

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



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

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	276.22	0.34%
Census	1,200.50	0.26%
EDA	1,479.31	1.15%
ESA	0	0%
ITA	5,465.18	7.63%
MBDA	0	0%
NIST	4,550.00	1.61%
NOAA	20,859.42	0.46%
NTIA	3,443.06	1.96%
NTIS	0	0%
OIG	21.76	0.2%
PTO	5,911.00	1.78%
AGENCY OVERALL	43,206.45	0.61%

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	57	*2
BIS	1	*3
Census	3	*4
EDA	0	*1
ESA	0	*0
ITA	38	*1
MBDA	0	*0
NIST	24	*4
NOAA	103	*16
NTIA	8	*3
NTIS	8	*0
OIG	2	*0
PTO	2	0
AGENCY OVERALL	246	34

* 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 the Fiscal Year	Number of Consultations <u>Received</u> from Other Agencies During the Fiscal Year	Number of Consultations Received from Other Agencies that Were <u>Processed</u> by DOC During the Fiscal Year	Number of Consultations Received from Other Agencies that Were <u>Pending</u> at DOC as of <u>End</u> of the Fiscal Year
OS	0	3	3	0
BIS	0	2	2	0
Census	0	2	2	0
EDA	0	1	1	0
ESA	0	0	0	0
ITA	*1	10	5	6
MBDA	0	0	0	0
NIST	1	2	3	0
NOAA	1	11	12	0
NTIA	1	2	3	0
NTIS	0	0	0	0
OIG	0	0	0	0
PTO	0	0	0	0
AGENCY OVERALL	**4	33	31	6

*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	N/A	N/A	N/A	N/A	8/22/13 28	8/12/13 36	7/26/13 47	6/14/13 76	5/29/13 89	3/22/13 135
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	N/A
NTIA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	9/20/12 6
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



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Agency Overall	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
	N/A	N/A	N/A	N/A	N/A	N/A	9/20/12 6	6/22/12 69	5/22/12 91	8/2/11 293

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	232	234	201	196
BIS	34	42	33	38
Census	283	286	291	290
EDA	32	38	35	37
ESA	5	8	5	8
ITA	53	48	61	30
MBDA	5	2	7	3
NIST	235	207	206	221
NOAA	515	429	*480	441
NTIA	94	116	89	116
NTIS	14	8	13	8
OIG	50	84	48	86
PTO	255	321	247	319
AGENCY OVERALL	1807	1823	**1716	1793

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* 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.”

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	28	57
BIS	1	1
Census	3	3
EDA	0	0
ESA	0	0
ITA	23	38
MBDA	1	0
NIST	34	24
NOAA	*113	103
NTIA	8	8
NTIS	1	0
OIG	0	2
PTO	0	2
AGENCY OVERALL	**212	238



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*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.”

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.	66	48	86	48
PTO	10	28	10	28
AGENCY OVERALL	76	76	96	76

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	5	2
BIS	7	3
Census	3	4
EDA	0	1
ESA	1	0
ITA	1	1
MBDA	0	0
NIST	5	4



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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
NOAA	8	16
NTIA	1	3
NTIS	0	0
OIG	2	0
PTO	0	0
AGENCY OVERALL	33	34