FOIA
Annual Report

Office of Privacy Open Government

Freedom Of Information Act (FOIA) Program

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

FY 2012

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I. Basic Information Regarding Report

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

    Name: Brenda Dolan
    Title: Departmental FOIA/PA Officer
    Address: U.S. Department of Commerce
                Office of Privacy & Open Government
                Room 6204
                1401 Constitution Avenue, N.W.
                Washington, D.C. 20230
    Telephone: 202-482-3578

    Email: BDolan1@doc.gov

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.

    Brenda Dolan
    Departmental FOIA Officer
    Office of Privacy & Open Government
    Room 6204
    1401 Constitution Avenue, N.W.
    Washington, D.C. 20230
    202-482-3258

Bobbie Parsons
FOIA Officer
Office of the Secretary
Office of Privacy & Open Government
Room 6204
1401 Constitution Avenue, N.W.
Washington, D.C. 20230
202-482-3257

Michael Toland
FOIA Officer
Bureau of the Census
Policy Office
Room 8H027
Washington, D.C. 20233-3700
301-763-6239

Pamela Moulder
FOIA Officer
Bureau of Economic Analysis/Economic and
 Statistics Administration
Office of the Under Secretary for Economic Affairs
Room 4836
1401 Constitution Avenue, N.W.
Washington, D.C. 20230
202-482-5997

Russell Craig
FOIA Officer
Economic Development Administration
Office of the Chief Counsel
Room D-100
1401 Constitution Avenue, N.W.
Washington, D.C. 20230
202-482-4687

Mark Crace
FOIA Officer
Bureau of Export Administration
Office of Administration
Room 6622

1401 Constitution Avenue, N.W.
Washington, D.C. 20230
202-482-8093

Justin Guz
FOIA Officer
International Trade Administration
Office of Organization and Management Support
Room 2202
1401 Constitution Avenue, N.W.
Washington, D.C. 20230
202-482-7937

Clara Colbert
FOIA Officer
Minority Business Development Agency
Room 5092
1401 Constitution Avenue, N.W.
Washington, D.C. 20230
202-482-2419

Catherine Fletcher
FOIA Officer
National Institute of Standards and Technology
Office of the Director for Administration
100 Bureau Drive, Mail Stop 1710
Gaithersburg, Maryland 20899-1710
301-975-4074

Lee Halvorsen
FOIA Officer
National Technical Information Service
Office of Administrative Management
Room 305, 5301 Shawnee Road
Alexandria, Virginia 22312
703-605-6764

Stacy Cheney
FOIA Officer
National Telecommunications & Information Administration
Office of the Chief Counsel

Room 4713
1401 Constitution Avenue, N.W.
Washington, D.C. 20230
202-482-1816

Wendy Schumacher
FOIA Officer
National Oceanic & Atmospheric Administration
NOAA Central FOIA Facility (OFA56)
1305 East-West Highway (SSMC4)
Room 7504
Silver Spring, Maryland 20910
301-713-3540

Kathryn Siehndel
FOIA Officer
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313
571-272-4224

Wade Green, Jr.
FOIA Officer
Office of Inspector General
Acting Counsel to the Inspector General
Room 7892
1401 Constitution Avenue, N.W.
Washington, D.C. 20230
202-482-5992

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.

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.   **Perfected Request** – a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.

o.   **Processed Request or Processed Administrative Appeal** – a request or administrative appeal for which an agency has taken final action in all respects.

p.   **Range in Number of Days** – the lowest and highest number of days to process requests or administrative appeals.

q.   **Time Limits** – the time period in the statute for an agency to respond to a FOIA request (ordinarily 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	Wis. Project on Nuclear Arms Control v. Dep't of Commerce, 317 F.3d 275, 284 (D.C. Cir. 2003); Times Publ'g Co. v. U.S. Dep't of Commerce, 236 F.3d 1286, 1292 (11th Cir. 2001).	OS – 1 BIS – 2	3

Statute	Type of Information Withheld	Case Citation	Number of Times Relied upon per Component	Total Number of Times Relied upon by Agency
35 U.S.C. § 122 (Patent Act)	Applications for patents; certain information pertaining to applications for patents	Irons & Sears v Dann, 606 F.2d 1215, 1219-21 (D.C. Cir.1979)	PTO – 7	7
13 U.S.C. §§ 8(b), 9(a) (Census Act)	Certain Census data	Baldrige v Shapiro, 455 U.S, 345, 355 (1982)	Census – 24	24
41 U.S.C. § 4233(a)(1) (Procurement Integrity Act)	Contractor bid or proposal information; source selection information	Legal & Safety Employer Research, Inc. v. U.S. Dep't of the Army, No. Civ. S001748, 2001 WL 34098652, at *3-4 (E.D. Cal. May 4, 2001) (dictum).	NTIA – 1	1
13 U.S.C. § 301(g) (Collection and Publication of Foreign Commerce Act)	Shippers' export declarations or successor documents	Afr. Fund v. Mosbacher, No. 92 Civ. 289, 1993 WL 183736, at *5 (S.D.N.Y. May 26, 1993); Young Conservative Found., Inc. v. U.S. Dep't of Commerce, No. 85-3982, 1987 WL 9244, at *2-3 (D.D.C. Mar. 25, 1987).	Census – 16	16

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	Sinkfield v. HUD, No. 10-885, 2012 U.S. Dist. LEXIS 35233, at *13-15 (S.D. Ohio Mar. 15, 2012); Hornbostel v U.S. Dep't of Interior, 305 F. Supp. 2d 21, 30 (D.D.C. 2003), summary affirmance granted, No. 03-5257, 2004 WL 1900562 (D.C. Cir. Aug. 25, 2004).	NIST – 4 NOAA – 2 Census – 6	12
16 U.S.C. § 1881(a)(2) (Registration and Information Management)	Statistical information contained in fishery management plans.	No Case	NOAA – 11	11
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 – 3	3

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. § 470hh (Archaeological Resources Protection Act of 1979)	Information pertaining to the nature and location of certain archaeological resources.	<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, 204 WL 1900562 (D.C. Cir. Aug. 25, 2004)	NOAA – 2	2

V.   FOIA Requests

A.   Received, Processed and Pending FOIA Requests

	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	6	232	201	37
BIS	0	34	33	1
Census	29	283	291	21
EDA	3	32	35	0
ESA	0	5	5	0
ITA	*33	53	61	25
MBDA	3	5	7	1
NIST	19	235	206	48
NOAA	**116	515	465	166
NTIA	10	94	89	15

	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
NTIS	0	14	13	1
OIG	1	50	48	3
PTO	14	255	247	22
AGENCY OVERALL	*** 234	1807	1701	340

* In the FY2011 Annual FOIA Report, ITA reported the number of requests pending at the end of FY2011 as "32." One request from 2011 was re-opened, changing the number to "33." Therefore, the number of requests pending as of the start of FY2011 for ITA has been amended to "33" in the FY2012 Annual FOIA Report.

** In the FY2011 Annual FOIA Report, NOAA reported the number of requests pending at the end of FY2011 as "179." This number was reported incorrectly. The difference of "63" requests is due to requests fulfilled in FY2011, but not documented until FY 2012. The correct number is "116." Therefore, the number of requests pending as of the start of FY2011 for NOAA has been amended to "116" in the FY2012 Annual FOIA Report.

*** In the FY2011 Annual FOIA Report, the agency overall number of requests pending at the end of FY2011 was reported as "296." Due to the amendment in the number of requests pending as of the start of FY2012 for ITA and NOAA (see footnotes above), the agency overall number of requests pending as of the start of FY2011 has been amended to "234."

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

	Number of Full Grants	Number of Partial Grants/ Partial Denials	Number of Full Denials Based on Exemptions	Number of Full Denials Based on Reasons Other than Exemptions									
				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	TOTAL
OS	40	39	6	21	23	6	23	12	0	28	1	2	201
BIS	9	18	3	2	0	1	0	0	0	0	0	0	33
Census	31	49	35	46	8	8	22	6	61	8	0	17	291
EDA	11	11	0	4	0	1	6	2	0	0	0	0	35
ESA	2	0	0	3	0	0	0	0	0	0	0	0	5
ITA	7	12	0	11	2	11	8	1	5	1	0	3	61
MBDA	6	0	0	0	0	1	0	0	0	0	0	0	7
NIST	43	22	6	14	6	2	8	3	4	91	5	2	206
NOAA	187	99	63	36	6	31	23	6	1	1	3	9	465
NTIA	17	23	0	10	6	12	2	15	0	3	1	0	89
NTIS	2	2	0	4	0	3	0	0	0	0	0	2	13
OIG	3	28	6	4	0	1	0	0	0	0	0	6	48
PTO	70	62	6	21	2	6	27	6	40	1	5	1	247
AGENCY OVERALL	428	365	125	176	53	83	119	51	111	133	15	42	1701

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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
	Publicly Available Information	
OS	2	
Census	17	
ITA	3	
NOAA	5	27
	Verification of Identity Not Provided	
OIG	6	6
	The Department FOIA Office took the lead on the request and its was reopened separately	
PTO	1	1
	Statute Based Fee Authority	
NTIS	2	2
	No response from requester to visit FOIA Library at NIST facility.	
NIST	2	2
	No Reply – Administratively Closed Out	
NOAA	4	4

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

	Ex.1	Ex.2	Ex.3	Ex.4	Ex.5	Ex.6	Ex.7(A)	Ex.7(B)	Ex.7(C)	Ex.7(D)	Ex.7(E)	Ex.7(F)	Ex.8	Ex.9
OS	0	0	1	7	11	27	3	0	3	0	0	0	0	0
BIS	10	0	2	0	0	2	2	0	2	0	2	0	0	0
Census	0	2	46	13	3	31	1	0	2	0	0	0	0	0
EDA	0	0	0	3	1	7	0	5	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	8	3	6	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	1	7	19	10	9	2	0	0	0	0	0	0	0
NOAA	0	1	15	22	47	53	8	0	11	1	6	1	0	0
NTIA	0	0	1	5	12	14	0	0	0	0	0	0	0	0
NTIS	0	0	0	1	0	1	0	0	0	0	0	0	0	0
OIG	0	0	0	3	5	5	6	0	28	0	0	0	0	0
PTO	0	0	7	22	16	36	0	0	0	0	0	0	0	0
AGENCY OVERALL	10	4	79	103	108	191	22	5	46	1	8	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.	**56	66	86	36
PTO	1	10	10	1
AGENCY OVERALL	57	76	96	37

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

**In the FY2011 Annual FOIA Report, AGC/Admin. reported the number of appeals pending as of the end of FY2011 as "47." This number was reported incorrectly. The correct number pending as of the end of FY2011 should have been "56." Therefore, the number of appeals pending as of the start of FY2012 for AGC/Admin. has been amended to "56" in the FY2012 Annual FOIA Report.

B. Disposition of Administrative Appeals – All Processed Appeals

	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.	10	30	27	19	86
PTO	5	3	1	1	10
AGENCY OVERALL	15	33	28	20	96

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	9	3	17	15	0	0	9	0	2	0	0	0
PTO	0	0	1	1	1	1	0	0	0	0	0	0	0	0
Agency Overall	0	1	10	4	18	16	0	0	9	0	2	0	0	0

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

	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.	12	0	3	2	0	13	4	3	1	1	0
PTO	2	0	0	0	0	0	0	0	0	0	1
AGENCY OVERALL	14	0	3	2	0	13	4	3	1	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
PTO – Untimely – 1	1

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.	111	182	3	876
PTO	20	18	11	21
Agency Overall	78	165	3	876

C. (5) Ten Oldest Pending Administrative Appeals

Bureau		10th Oldest Appeal	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal
AGC/Admin.	**Date of Receipt of Ten Oldest Appeals**	11/1/11	10/11/11	7/7/11	5/3/11	4/14/11	6/8/10	5/13/10	4/29/10	4/21/10	3/22/10
AGC/Admin.	**Number of Days Pending**	239	254	322	369	382	604	622	632	638	660
		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	9/4/12
PTO	**Number of Days Pending**	0	0	0	0	0	0	0	0	0	18
Agency Overall	**Date of Receipt**	11/1/11	10/11/11	7/7/11	5/3/11	4/14/11	6/8/10	5/13/10	4/29/10	4/21/10	3/22/10
Agency Overall	**Number of Days Pending**	239	254	322	369	382	604	622	632	638	660

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

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

	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	14	12	1	30	47	70	26	380	0	0	0	0
BIS	10	15	4	66	0	0	0	0	7	7	7	7
Census	19	18	1	39	18	23	1	239	20	18	8	29
EDA	10	10	2	19	40	43	21	100	0	0	0	0
ESA	1	3	1	6	17	38	29	46	0	0	0	0
ITA	31	84	1	367	158	177	4	424	0	0	0	0
MBDA	9	10	8	16	59	59	59	59	0	0	0	0
NIST	3	19	1	511	0	0	0	0	0	0	0	0
NOAA	52	101	1	222	16	27	1	628	0	0	0	0
NTIA	4	7	1	28	29	110	1	479	4	8	1	25
NTIS	6	9	1	35	0	0	0	0	0	0	0	0
OIG	18	16	0	51	0	0	0	0	0	0	0	0
PTO	11	11	1	29	0	0	0	0	0	0	0	0
AGENCY OVERALL	13	18	1	511	32	76	1	628	8	10	1	29

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

	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	16	14	1	25	63	84	26	380	0	0	0	0
BIS	10	13	4	66	0	0	0	0	7	7	7	7
Census	12	16	5	32	20	29	3	239	16	19	13	29
EDA	10	10	2	19	25	29	21	47	0	0	0	0
ESA	1	1	1	1	46	46	46	46	0	0	0	0
ITA	31	92	1	367	347	340	237	434	0	0	0	0
MBDA	9	10	8	16	0	0	0	0	0	0	0	0
NIST	23	45	1	511	0	0	0	0	0	0	0	0
NOAA	14	23	1	188	53	108	1	628	0	0	0	0
NTIA	10	12	1	28	56	140	5	479	5	5	5	5
NTIS	11	16	1	35	0	0	0	0	0	0	0	0
OIG	19	17	1	51	0	0	0	0	0	0	0	0
PTO	14	13	1	29	0	0	0	0	0	0	0	0
AGENCY OVERALL	15	23	1	511	42	91	1	628	15	16	5	29

C.   Processed Requests – Response Time in Day Increments

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

Simple Requests

	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	91	2	0	0	0	0	0	0	0	0	0	0	0	93
BIS	28	4	0	1	0	0	0	0	0	0	0	0	0	33
Census	91	57	0	0	0	0	0	0	0	0	0	0	0	148
EDA	19	0	0	0	0	0	0	0	0	0	0	0	0	19
ESA	3	0	0	0	0	0	0	0	0	0	0	0	0	3
ITA	8	7	1	1	2	2	1	0	1	0	3	1	0	27
MBDA	7	0	0	0	0	0	0	0	0	0	0	0	0	7
NIST	159	28	5	6	1	3	0	1	1	0	0	1	1	206
NOAA	106	33	17	4	4	3	2	1	0	2	1	0	0	173
NTIA	23	4	0	0	0	0	0	0	0	0	0	0	0	27
NTIS	11	2	0	0	0	0	0	0	0	0	0	0	0	13
OIG	36	4	2	0	0	0	0	0	0	0	0	0	0	42
PTO	242	5	0	0	0	0	0	0	0	0	0	0	0	247
AGENCY OVERALL	824	146	25	12	7	8	3	2	2	2	4	2	1	1038

Complex Requests

	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	42	28	17	7	6	1	0	2	0	4	1	0	108
BIS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Census	93	34	13	0	1	0	0	1	0	0	1	0	0	143
EDA	0	8	6	1	1	0	0	0	0	0	0	0	0	16
ESA	0	1	1	0	0	0	0	0	0	0	0	0	0	2
ITA	3	4	1	3	1	1	1	2	1	2	8	5	2	34
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	61	66	28	27	18	13	8	12	5	8	22	11	13	292
NTIA	5	3	2	0	0	0	0	0	1	0	1	0	0	12
NTIS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OIG	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PTO	0	0	0	0	0	0	0	0	0	0	0	0	0	0
AGENCY OVERALL	162	158	79	48	28	20	10	15	9	10	36	17	15	607

Requests Granted Expedited Processing

	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	2	1	0	0	0	0	0	0	0	0	0	0	0	3
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	1	0	0	0	0	0	0	0	0	0	0	0	0	1
NTIS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OIG	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PTO	0	0	0	0	0	0	0	0	0	0	0	0	0	0
AGENCY OVERALL	4	1	0	0	0	0	0	0	0	0	0	0	0	5

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.

	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	3	4	7	34	50	73	0	0	0
BIS	1	34	34	0	0	0	0	0	0
Census	10	10	9	10	13	22	1	8	8
EDA	0	0	0	0	0	0	0	0	0
ESA	0	0	0	0	0	0	0	0	0
ITA	7	307	243	17	225	205	1	98	98
MBDA	0	0	0	1	59	59	0	0	0
NIST	48	47	172	0	0	0	0	0	0
NOAA	52	47	62	114	137	191	0	0	0
NTIA	7	10	8	8	268	252	0	0	0
NTIS	0	0	0	1	137	137	0	0	0
OIG	1	19	19	0	0	0	0	0	0
PTO	22	11	10	0	0	0	0	0	0
AGENCY OVERALL	153	21	89	185	101	164	2	53	53

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.

	10th Oldest Request and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request and Number of Days Pending
OS	6/8/12 79	5/1/12 105	4/24/12 110	3/30/12 127	3/26/12 131	3/1/12 148	1/4/12 187	12/20/11 197	11/8/11 225	10/24/11 236
BIS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	8/13/12 34
Census	9/14/12 10	9/14/12 10	9/14/12 10	9/12/12 12	9/11/12 13	9/6/12 16	9/4/12 18	8/7/12 37	7/20/12 49	7/17/12 55
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	7/14/11 307	7/13/11 308	6/14/11 328	6/8/11 332	5/26/11 340	5/26/11 340	5/25/11 341	4/5/11 377	1/4/11 440	12/29/10 443
MBDA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	6/26/12 59
NIST	2/1/12 163	12/28/11 194	10/31/11 231	10/20/11 238	5/11/10 601	9/22/09 752	4/27/09 855	3/4/09 893	11/24/08 959	8/24/07 1333
NOAA	10/6/10 500	9/1/10 523	9/1/10 523	7/23/10 550	7/16/10 555	7/8/10 561	6/21/10 572	6/8/10 581	5/26/10 589	5/20/10 593
NTIA	9/10/12 15	8/24/12 28	8/2/12 33	5/24/12 36	10/17/11 241	8/11/11 266	7/28/11 271	6/3/11 315	2/7/11 378	11/2/10 479
NTIS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	5/16/12 137
OIG	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	7/30/12 19

	10th Oldest Request and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request and Number of Days Pending
PTO	9/13/12 11	9/13/12 11	9/10/12 14	9/10/12 14	9/6/12 16	9/6/12 16	9/6/12 16	9/5/12 17	9/5/12 17	8/24/12 24

Agency Overall	10th Oldest Request and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request and Number of Days Pending
	6/21/10 572	6/8/10 581	5/26/10 589	5/20/10 593	5/11/10 601	9/22/09 752	4/27/09 855	3/4/09 893	11/24/08 959	8/24/07 1333

VIII. REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER

A.   Requests for Expedited Processing

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
OS	0	2	10	10	2
BIS	1	0	1	1	1
Census	4	4	6	5	8
EDA	0	0	0	0	0
ESA	0	0	0	0	0
ITA	1	4	10	20	3
MBDA	0	0	0	0	0
NIST	0	0	0	0	0
NOAA	0	8	3	4	8
NTIA	2	2	8	8	4
NTIS	0	0	0	0	0
OIG	0	0	0	0	0
PTO	0	6	1	4	5
AGENCY OVERALL	8	26	6	8	31

B.   Requests for Fee Waiver

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
OS	4	0	8	8
BIS	0	0	0	0
Census	1	11	12	12
EDA	0	0	0	0
ESA	0	0	0	0
ITA	7	11	41	155
MBDA	0	1	12	12
NIST	3	4	23	3
NOAA	71	16	8	4
NTIA	4	3	6	6
NTIS	0	1	1	1
OIG	0	0	0	0
PTO	2	0	24	24
AGENCY OVERALL	92	47	4	27

IX.   FOIA PERSONNEL AND COSTS

	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	7.53	8.53	*1,177,934.86	**129,309.27	1,307,244.13
BIS	0	1	1	96,936.32	0	96,936.32
Census	0	5.25	5.25	532,653.87	0	532,653.87
EDA	0	1	1	125,803.00	0	125,803.00
ESA	0	1	1	1,650.00	0	1,650.00
ITA	0	1.1	1.1	150,000.00	0	150,000.00
MBDA	0	1	1	768.02	0	768.02
NIST	0	2	2	270,000.00	0	270,000.00
NOAA	1.5	10	11.5	835,659.00	0	835,659.00
NTIA	0	1.50	1.50	84,155.00	0	84,155.00
NTIS	0	.07	.07	14,000.00	0	14,000.00
OIG	0	1	1	106,000.00	0	106,000.00
PTO	3	.5	3.5	355,000.00	0	355,000.00
AGENCY OVERALL	5.5	32.95	38.45	3,750,560.07	129,309.27	3,879,869.34

*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 OS, BIS, Census, NIST, and NOAA.

X.   FEES COLLECTED FOR PROCESSING REQUESTS

	Total Amount of Fees Collected	Percentage of Total Costs
OS	248.16	.02%
BIS	1,066.16	1.10%
Census	4,554.04	0.85%
EDA	1,198.87	.95%
ESA	0	0
ITA	611.54	.41%
MBDA	0	0
NIST	1,809.00	.67%
NOAA	17,149.39	2.05%
NTIA	7133.00	8.48%
NTIS	4,276.43	30.55%
OIG	2,145.98	2.02%
PTO	2,174.36	.61%
AGENCY OVERALL	42,366.93	1.13%

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

	Number of Backlogged Requests as of End of Fiscal Year	**Number of Backlogged Appeals as of End of Fiscal Year**
OS	28	*5
BIS	1	*7
Census	3	*3
EDA	0	*0
ESA	0	*1
ITA	23	*1
MBDA	1	*0
NIST	34	*5
NOAA	128	*8
NTIA	8	*1
NTIS	1	*0
OIG	0	*2
PTO	0	0
AGENCY OVERALL	227	33

* 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.

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

	Number of Consultations Received from Other Agencies that Were **Pending** at DOC as of **Start** of the Fiscal Year	Number of Consultations **Received** from Other Agencies During the Fiscal Year	Number of Consultations Received from Other Agencies that Were **Processed** by DOC During the Fiscal Year	Number of Consultations Received from Other Agencies that Were **Pending** at DOC as of **End** of the Fiscal Year
OS	0	5	5	0
BIS	0	0	0	0
Census	0	3	3	0
EDA	0	0	0	0
ESA	0	0	0	0
ITA	5	12	15	2
MBDA	0	0	0	0
NIST	0	16	15	1
NOAA	2	2	3	1
NTIA	0	2	1	1
NTIS	0	0	0	0
OIG	0	0	0	0
PTO	0	0	0	0
AGENCY OVERALL	7	40	42	5

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

	10th Oldest Consultation and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	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	N/A	N/A	N/A	N/A	5/22/12 91	8/2/11 293
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	6/22/12 69
NOAA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	9/1/10 605
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

	10th Oldest Consultation and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Consultation and Number of Days Pending
Agency Overall	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	9/1/10 605

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

	NUMBER OF REQUESTS RECEIVED		NUMBER OF REQUESTS PROCESSED	
	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	261	232	274	201
BIS	29	34	31	33
Census	340	283	351	291
EDA	67	32	68	35
ESA	10	5	10	5
ITA	71	53	46	61
MBDA	4	5	2	7
NIST	232	235	261	206
NOAA	709	515	*670	465
NTIA	83	94	87	89
NTIS	13	14	13	13
OIG	81	50	93	48
PTO	302	255	303	247
AGENCY OVERALL	2202	1807	**2209	1701

* In the FY2011 Annual FOIA Report, NOAA reported the number of requests processed during the Fiscal Year as "670." This number was reported incorrectly. The difference of "63" requests is due to requests fulfilled in FY2011, but not documented until FY2012. Therefore, the number of requests processed as of the end of FY2011 for NOAA was actually "733."

** In the FY2011 Annual FOIA Report, the agency overall number of requests processed during the Fiscal Year as "2209." Due to the amendment in the number of requests processed for NOAA in FY2011 (see footnote above), the agency overall number of requests processed during FY2011 for the agency overall was actually "2272."

	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**

	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	6	28
BIS	0	1
Census	9	3
EDA	0	0
ESA	0	0
ITA	27	23
MBDA	2	1
NIST	16	34
NOAA	*135	128
NTIA	8	8
NTIS	0	1
OIG	0	0
PTO	0	0
AGENCY OVERALL	**203	227

*In the FY2011 Annual FOIA Report, NOAA reported the number of requests backlogged at the end of FY 2011 as "135." This number was reported incorrectly. The difference of "63" requests is due to requests fulfilled in FY 2011, but not documented until FY2012. Therefore, the number of requests backlogged as of the end of FY2011 for NOAA was actually "72."

** In the FY2011 Annual FOIA Report, the agency overall number of requests backlogged at the end of FY2011 was reported as "203." Due to the amendment in the number of requests backlogged as of the end of FY2011 for NOAA (see footnote above), the agency overall number of requests backlogged as of the end of FY2011 for the agency overall was actually "140."

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

	NUMBER OF APPEALS RECEIVED		NUMBER OF APPEALS PROCESSED	
	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.	76	66	102	86
PTO	7	10	6	10
AGENCY OVERALL	83	76	108	96

	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	5
BIS	6	7
Census	14	3
EDA	0	0
ESA	0	1
ITA	1	1
MBDA	0	0
NIST	6	5
NOAA	10	8
NTIA	2	1
NTIS	0	0
OIG	3	2
PTO	0	0
AGENCY OVERALL	47	33