

BROADCASTING BOARD OF GOVERNORS
Freedom of Information Act Annual Report
Fiscal Year 2009

I. BASIC INFORMATION REGARDING REPORT

1. For questions about this Report contact:

Martha Diaz-Ortiz
FOIA Officer
Broadcasting Board of Governors
Cohen Bldg., Suite 3349
330 Independence Avenue, S.W.
Washington, DC 20237

2. Report may be obtained through the Internet at:

<http://bbg.gov/reports/foia-annual-reports.html>

3. Report may also be obtained by making a request to the address listed above.

II. MAKING A FOIA REQUEST

1. There are no agency components that receive FOIA requests.
2. All federal agencies, including the BBG, are required under the FOIA to provide records upon receiving a written request, except for those documents that are protected from disclosure by the FOIA 's nine exemptions and three exclusions. The most common reasons why some requests are not granted by the BBG are because requesters seek information protected by the following FOIA exemptions:

Exemption (b)(3):	Protects information that is prohibited from disclosure by another federal law.
Exemption (b)(5):	Protects certain inter- and intra-agency memoranda, including those setting forth internal recommendations from staff and those that contain attorney work product.
Exemptions (b)(6) and (b)(7)(C):	Protects information concerning other individuals that, if released, would constitute an invasion of their personal privacy.
Exemptions (b)(7)(A), (b)(7)(D) and (b)(7)(E):	Protects certain records in law-enforcement investigatory files, including records the release of which would interfere with an ongoing proceeding and records that would reveal confidential sources or enable someone to avoid complying with the law.

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

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

- a. BBG - Broadcasting Board of Governors
- b. FOIA - Freedom of Information Act (5 U.S.C. § 552)
- c. FY - Fiscal Year
- d. P.A. - Privacy Act (5 U.S.C. § 552a)

2. Include the following 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. 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.

- 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 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 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.
 - 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. Following are 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

The BBG did rely on any Exemption 3 statutes during the fiscal year covered by this report (FY 2009).

IF SO:

1. Provide a brief description of the types of information withheld under each statute.
2. Indicate whether a court has upheld the use of the statute by providing a citation to a court decision.

Statute	Type of Information Withheld	Case Citation	Number of Times Relied upon per Component	Total Number of Times Relied upon by Agency
5 U.S.C. § 7114(b)(4)(c)	Collective Bargaining	---	1	1
22 U.S.C. § 1461	Deliberative Process	---	1	1

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
AGENCY OVERALL	0	22	20	2

VI. 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
AGENCY OVERALL	0	1	10	10	1

B. Requests for Fee Waiver

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
AGENCY OVERALL	0	1	10	10

VII. FOIA PERSONNEL AND COSTS

	PERSONNEL			COSTS		
	Number of "Full-Time FOIA Employees" (Column 1)	Number of "Equivalent Full-Time FOIA Employees" (Column 2)	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
AGENCY OVERALL	0	4	4	\$32,487.49	\$ 1,158.00	\$33,645.49

VIII. FEES COLLECTED FOR PROCESSING REQUESTS

	Total Amount of Fees Collected	Percentage of Total Costs
AGENCY OVERALL	\$500.00	1.5%

IX. FOIA REGULATIONS

http://www.access.gpo.gov/nara/cfr/waisidx_04/22cfr503_04.html

X. 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
AGENCY OVERALL	2	0

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

	Number of Consultations Received from Other Agencies that Were <u>Pending</u> at Your Agency as of <u>Start</u> of the Fiscal Year	Number of Consultations Received from Other Agencies During the Fiscal Year	Number of Consultations Received from Other Agencies that Were <u>Processed</u> by Your Agency During the Fiscal Year	Number of Consultations Received from Other Agencies that Were <u>Pending</u> at Your Agency as of <u>End</u> of the Fiscal Year
AGENCY OVERALL	0	1	1	0

C. Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency. The NLRB does not have any pending FOIA requests that involve consultations received from other agencies.

AGENCY OVERALL	10th Oldest Consultation and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Consultation and Number of Days Pending
Number of Days	0	0	0	0	0	0	0	0	0	0

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

	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
AGENCY OVERALL	10	22	9	20

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

	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
Component A	0	0
Component B	0	0
AGENCY OVERALL	0	0

XI. DISPOSITION OF FOIA REQUESTS

A. All Processed Requests

		AGENCY OVERALL
Number of Full Grants		5
Number of Partial Grants/ Partial Denials		4
Number of Full Denials Based on Exemptions		11
	TOTAL	20
Number of Full Denials Based on Reasons Other than Exemptions	No Records	4
	All Records Referred to Another Component or Agency	0
	Request Withdrawn	1
	Fee-Related Reason	2
	Records not Reasonably Described	0
	Improper FOIA Request for Other Reason	0
	Not Agency Record	1
	Duplicate Request	0
	Other *Explain in chart below	1

B. “Other” Reasons for “Full Denials Based on Reasons Other than Exemptions” from Section V, A Chart.

Component	Description of “Other” Reasons for Denials from Chart A & Number of Times Those Reasons Were Relied upon	TOTAL
0	Requestor did not pursue.	1

C. 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
AGENCY OVERALL	0	0	1	0	3	3	0	0	0	0	0	0	0	0

XII. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS

A. Received, Processed, and Pending Administrative Appeals

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
0	3	3	0

B. Disposition of Administrative Appeals – All Processed Appeals

Number of 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
3	0	0	0	3

C. (1) Reasons for Denial on Appeal – 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
0	0	1	0	1	0	0	0	0	0	0	0	0	0

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

No Records	0
Records Referred at Initial Request Level	0
Request Withdrawn	0
Fee-Related Reason	1
Records no Reasonably Described	0
Improper Request for Other Reasons	0
Not Agency Record	0
Duplicate Request or Appeal	0
Request in Litigation	0
Appeal Based Solely on Denial of Request for Expedited Processing	0
Other *Explain in chart below	1

(3) Reasons for Denial on Appeal – “Other” Reasons from Section XII, C (2) Chart

Description of “Other” Reasons for Denial on Appeal from Chart C (2) & Number of Times Those Reasons Were Relied upon	TOTAL
5 U.S.C. § 7114 (b)(4)(c), collective bargaining	1

(4) Response Time for Administrative Appeals

Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
20	19	15	21

(5) Ten Oldest Pending Administrative Appeals

	10 th Oldest Appeal	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest Appeal
Date of Receipt of Ten Oldest Appeals	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Number of Days Pending	0	0	0	0	0	0	0	0	0	0

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

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

1. Provide the median, average and range in number of days to process all perfected requests.

					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
AGENCY OVERALL	43	61	1	251	0	0	0	0

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

1. Provide the median, average and range in number of days to process all perfected request in which information was granted. (“Granted” refers to full grants and partial grants.)

					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
AGENCY OVERALL	40	52	1	136	0	0	0	0

C. Processed Requests – Response Time in Day Increments

Requests

		AGENCY OVERALL
SIMPLE	Median Number of Days	19
	Average Number of Days	41
	Lowest Number of Days	1
	Highest Number of Days	116
COMPLEX	Median Number of Days	56
	Average Number of Days	100
	Lowest Number of Days	18
	Highest Number of Days	251
EXPEDITED PROCESSING	Median Number of Days	0
	Average Number of Days	0
	Lowest Number of Days	0
	Highest Number of Days	0

Requests Granted Expedited Processing

		AGENCY OVERALL
SIMPLE	Median Number of Days	0
	Average Number of Days	0
	Lowest Number of Days	0
	Highest Number of Days	0
COMPLEX	Median Number of Days	0
	Average Number of Days	0
	Lowest Number of Days	0
	Highest Number of Days	0
EXPEDITED PROCESSING	Median Number of Days	0
	Average Number of Days	0
	Lowest Number of Days	0
	Highest Number of Days	0

D. Pending Requests – All Pending Perfected Requests

					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
AGENCY OVERALL	0	0	0	0	0	0	0	0

E. Pending Requests – Ten Oldest Pending Perfected Requests

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	
	Date of Receipt	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Number of Days Pending	0	0	0	0	0	0	0	0	0	0	0