



U.S. Agency for International Development Freedom of Information Act Annual Report Fiscal Year 2011

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I. Basic Information Regarding Report

A. Name, title, address, and telephone number of person to contact with questions about the report.

Sylvia Lankford
FOIA Team Leader
1300 Pennsylvania Avenue, Rm. 2.07C
Washington, D.C. 20523
(202) 712-0879

or

Kimberly Frazier
Public Affairs Specialist
1300 Pennsylvania Avenue, Rm. 2.07C
Washington, D.C. 20523
(202) 712-1218

B. Electronic address for report on the World Wide Web

<http://www.usaid.gov/about/foia>

C. How to obtain a copy of the report in paper form

U.S. Agency for International Development
1300 Pennsylvania Avenue, N.W.
M/MS/IRD, Room 2.07C
Washington, D.C. 20523

II. How to Make a FOIA Request

You may submit FOIA requests in writing, by fax, or by e-mail describing the records you would like to obtain. Include an agreement to pay any FOIA processing fees, your address and telephone number. Please mark your envelope with the notation, "FOIA REQUEST."

You may fax your request. Our fax number is (202) 216-3070. You may e-mail your request to our FOIA Mailbox at foia@usaid.gov. When you e-mail your request please make sure that you include a mailing address.

If you fax your request, you normally do not have to mail us the original copy. However, there are some cases in which we need both the faxed version and the signed original version. You should send both versions if your request is both a FOIA request and a Privacy Act request for records about you. We also need both versions if a third-party (an attorney, for example) requests records about you on your behalf. When a

third-party makes such a request on your behalf, we need an original consent letter signed by you which gives us authorization to release records about you to the third-party.

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

Initial Requests:

U.S. Agency for International Development
FOIA Team – M/MS/IRD
1300 Pennsylvania Ave., Room 2.07C
Ronald Reagan Building
Washington, D.C. 20523-2701

Telephone: 202-712-0960
Facsimile : 202-216-3070
E-mail address: FOIA@usaid.gov

Appeals:

U.S. Agency for International Development
Director, Office of Management Services
Ronald Reagan Building, Room 2.12-010
Washington, D.C. 20523-4601

Telephone: 202-712-4410
Facsimile: 202-216-3369

2. Description of why some requests are not granted.

In some cases, USAID was required to withhold requested information under one or more of the FOIA's exemptions. The number of instances in which USAID used an exemption in Fiscal Year 20109 is listed in Section V.B.3. Exemptions 3 and/or 4 were normally used to protect commercial or financial information provided by contractors and grantees. Exemption 5 was used to protect vital deliberative-process information or attorney-client information. Exemption 6 was used to protect the privacy of individuals named in documents. At times, a request was not fulfilled for an administrative reason such as "no records" or "request withdrawn." For a more complete listing of the various types of administrative reasons, see Section V.B.2.

III. Acronyms, Definitions, and Exemptions

1. Agency-specific acronyms or other terms

USAID – U.S. Agency for International Development

2. Basic terms, expressed in common terminology.

- 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. **Complex Request** - a FOIA request that an agency using multi-track processing places in a slower track based on the volume and/or complexity of records requested.
- e. **Denial** – an agency decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempt under one or more of the FOIA’s exemptions, or for some procedural reason (such as because no record is located in response to a FOIA request).
- f. **Exemption 3 Statute** - a federal statute that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3A) of the FOIA.
- g. **Expedited Processing** – an agency will process a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records which warrants prioritization of his or her request over other requests that were made earlier.
- h. **FOIA/PA Request** - Freedom of Information Act/Privacy Act request. A FOIA request is generally a request for access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning oneself; such requests are also treated as

FOIA requests. (All requests for access to records, regardless of which law is cited by the requester, are included in this report.)

- i. **Grant** – an agency decision to disclose all records in full in response to a FOIA request.
 - j. **Initial Request** – a request to a federal agency for access to records under the Freedom of Information Act.
 - k. **Median Number** – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
 - l. **Multi-track Processing** – a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests in each track are processed on a first-in/first-out basis. A requester who has an urgent need for records may request expedited processing (see below).
 - m. **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.
 - n. **Pending Request or Pending Administrative Appeal** – a request or administrative appeal for which an agency has not taken final action in all respects.
 - o. **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.
 - p. **Processed Request or Processed Administrative Appeal** – a request or administrative appeal for which an agency has taken final action in all respects.
 - q. **Simple Request** – a FOIA request that an agency using multi-track processing places in its fastest (non- expedited) track based on the volume and/or simplicity of records requested.
 - r. **Time Limits** – the time period in the Freedom of Information Act for an agency to respond to a FOIA request (ordinarily 20 working days from proper receipt of a “perfected” FOIA request).
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

Statute	Type of Information Withheld	Case Citation	Total Number of Times Relied upon by Agency
26 U.S. C. § 6103	Certain tax return information and certain tax convention information	<u>Church of Scientology v. IRS</u> , 484 U.S. 9,15 (1987); <u>Pac. Fisheries, Inc. v. IRS</u> , No. 09-35618, 2010 WL 3611645, at *w (9 th Cir. September 15, 2010) (unpublished disposition)	61
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>Margolin v. NASA</u> , No. 09CV-00421-LRH-VPC, 2011 WL 1303221, at *6(D. New.Mar. 31, 2011); <u>Hornbostel v. United States Dep't of the 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).	6
5 U.S.C. app. § 7(b)	Information pertaining to an anonymous source	N	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
Agency Overall	302*	296	342	256

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									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	
74	145	16	40	2	32	5	1	5	1	10	11	342

*FY-10 Report included all requests not only FOIA's (e.g. Privacy Act).

B. (2) Disposition of FOIA Requests - "Other" Reasons for "Full Denials Based on Reasons Other than Exemptions"

Description of "Other" Reasons for Denials from Chart B (1) & Number of Times Those Reasons Were Relied upon	Total
1) No response from requester	4
2) Company no longer exist	1
3) Records have reached destruction	3
4) Future award request	1
5) Cases not located	2

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

	(b)(1)	(b)(2)	(b)(3)	(b)(4)	(b)(5)	(b)(6)	(b)(7)(A)	(b)(7)(B)	(b)(7)(C)	(b)(7)(D)	(b)(7)(E)	(b)(7)(F)	(b)(8)	(b)(9)
Agency Total	3	6	69	106	20	85	3	0	3	3	2	2	0	0

VI. 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
13*	13	3	23

*The FY-10 Report reflected the two cases that were closed, but not yet closed in the database.

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
0	1	0	2	3

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

(b)(1)	(b)(2)	(b)(3)	(b)(4)	(b)(5)	(b)(6)	(b)(7)(A)	(b)(7)(B)	(b)(7)(C)	(b)(7)(D)	(b)(7)(E)	(b)(7)(F)	(b)(8)	(b)(9)
0	0	0	0	1	0	0	0	0	0	0	0	0	0

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

No Record	Records Referred at Initial Request Level	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper Request for Other Reasons	Not Agency Record	Duplicated Request or Appeal	Request in Litigation	Appeal Based Solely on Denial of Request for Expedited Processing	Other *Explain in chart below	Total
0	0	2	0	0	0	0	0	0	0	0	2

C. (3) Reasons for Denial on Appeal - "Other" Reasons

Description of "Other" Reasons for Denial on Appeal from Char C(2) & Number of Times Those Reasons Were Relied upon	Total

C. (4) Response Time for Administrative Appeals

Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
714	504.33	75	724

C. (5) Ten Oldest Pending Administrative Appeals

	10th Oldest Appeal	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal
Date	08/05/2010	02/18/2010	01/22/2010	09/09/2009	08/07/2009	07/10/2009	06/30/2009	02/12/2009	11/14/2008	02/01/2008
Days Pending	290	408	426	517	539	559	566	662	721	920

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
Agency Overall	83	147.66	<1	731	226	307.42	<1	1399	64	139.4	12	302

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
Agency Overall	96	170.24	6	731	216	290.46	6	1327	157	157	12	302

C. Processed Requests - Response Time in Day Increments

Simple Request

	<1 Day	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
Agency Overall	3	17	11	7	4	7	1	2	3	2	1	8	13	6	85

Complex Request

	<1 Day	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
Agency Overall	1	23	29	10	10	10	11	8	3	7	6	30	21	83	252

Requests Granted Expedited Processing

	<1 Day	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
Agency Overall	0	1	0	1	1	0	0	0	0	0	0	1	1	0	5

D. Pending Requests - All Pending Perfected Requests

	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
Agency Overall	46	127.5	166.91	188	249	324.18	5	135	192.8

E. Pending Requests - Ten Oldest Perfected Requests

Agency Overall	10 th Oldest Request and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request and Number of Days Pending
	05/01/2008 857	04/28/2008 860	04/24/2008 862	04/21/2008 865	03/27/2008 882	01/03/2008 940	02/12/2007 1163	10/05/2006 1249	09/01/2006 1272	02/03/2006 1419

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
Agency Overall	9	3	8	4.8	7

B. Requests for Fee Waiver

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
Agency Overall	6	1	<1	18

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"	Processing Costs	Litigation-Related Costs	Total Costs
Agency Overall	11	2	13	\$1,192,789.43	\$25,000	\$1,217,789.43

X. Fees Collected for Processing Requests

	Total Amount of Fees Collected	Percentage of Total Costs
Agency Overall	\$1,004.58	0.08

XI. FOIA Regulations

The U.S. Agency for International Development’s FOIA regulations and fee schedule are located at <http://www.usaid.gov/about/foia/foireg.htm>

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
Agency Overall	215	22

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

Agency Overall	Number of Consultations Received from Other Agencies that Were Pending at the beginning of Fiscal Year	Number of Consultations Received from Other Agencies During the Fiscal Year	Number of Consultations Received from Other Agencies that Were Processed During the Fiscal Year	Number of Consultations Received from Other Agencies that Were Pending at the End of the Fiscal Year
	0*	5	1	4

*In the FY-10 Report, the one pending Consultation was closed but not reflected in the database.

C. Consultations on FOIA Requests Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency

Agency Overall	10 th Oldest Consultation and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request and Number of Days Pending
							08/30/2011 22	08/15/2011 33	08/10/2011 36	08/10/2011 36

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
Agency Overall	268	296	232	342

	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
Agency Overall	275	215

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
Agency Overall	12	13	7	3

	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
Agency Overall	12	22

*FY10 and FY11 variances explained by database reconciliation

F Discussion of Other FOIA Activities (Optional)