



U.S. Agency for International Development Freedom of Information Act Annual Report Fiscal Year 2012

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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, N.W.
Ronald Reagan Building, Rm. 2.07C
Washington, D.C. 20523-2701
(202) 712-0879

or

Kimberly Frazier
Sr. Government Information Specialist
1300 Pennsylvania Avenue, N.W.
Ronald Reagan Building, Rm. 2.07C
Washington, D.C. 20523-2701
(202) 712-1218

B. Electronic address for report on the World Wide Web

<http://www.usaid.gov/foia-requests/foia-annual-reports>

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

U.S. Agency for International Development
Bureau for Management
Office of Management Services 1300 Pennsylvania Avenue, N.W.
Information and Records Division (M/MS/IRD)
1300 Pennsylvania Avenue, N.W.
Ronald Reagan Building, Room 2.07C
Washington, D.C. 20523-2701

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 Avenue, N.W
Ronald Reagan Building Room 2.07C
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
1300 Pennsylvania Avenue, N.W.
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 2012 is listed in Section V.B.3. Exemption 2 was used to protect information solely related to internal personnel rules or practices. 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. Exemption 7 was used to protect information that could be reasonably expected to interfere with law enforcement proceedings, the privacy of individuals named in documents, the

identity of a confidential source, techniques and procedures of a law enforcement investigation, and endanger the life or physical safety of any individual. 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:** information that is related solely to the internal personnel rules and practices of an agency
- 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, 6105 (Internal Revenue Code)	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> , 395 F. App'x. 438, 440 (9 th Cir. 2010) (unpublished disposition) (26 U.S.C. §§ 6103, 6105); <u>Tax Analysts v. IRS</u> , 217 F. Supp. 2d 23, 27-29 (D.D.C. 2002) (26 U.S.C. § 6105)	45
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 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).	9

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	248*	267	295	220

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										Total
			No Records	All Records Referred to Another Component or Agency	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper FOIA Request	Not An Agency Record	Duplicate Request	Other *Explain in chart below	
53	122	10	39	4	40	3	0	2	2	3	17	295

*FY-11 reported 256 requests pending which included all requests received. The FY-12 pending requests begins with eight (8) less than the FY-11 total which now excludes requests that were previously on hold.

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	14
2) Request for future records	1
3) Request document not responsive	1
4) Final response letter returned	1

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	0	4	53	87	18	81	1	0	5	1	2	1	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
23	18	5	36

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
3	0	0	2	5

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	1	2	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	0	0	0	0	0	0	0	0	2	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
Referrals	1
Administrative error (wrong requester)	1

C. (4) Response Time for Administrative Appeals

Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
58	216.60	<1	885.00

C. (5) Ten Oldest Pending Administrative Appeals

	10 th Oldest Appeal	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal
Date	08/23/2010	08/05/2010	02/18/2010	01/22/2010	09/09/2009	08/07/2009	07/10/2009	06/30/2009	11/14/2008	02/01/2008
Days Pending	528	540	658	676	767	789	809	816	971	1170

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	73	163.02	2	759	145	280.2	<1	1500	59	154.12	12	487

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	79.5	164.47	2	759	144	256.44	4	1500	59	154.12	12	487

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	22	261.5	266.27	187	214	270.67	2	358	358

E. Pending Requests - Ten Oldest Perfected Requests

Agency Overall	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
	09/15/2009 763	08/17/2009 783	08/04/2009 792	07/23/2009 800	07/15/2009 806	03/13/2009 892	02/24/2009 905	05/01/2008 1107	04/28/2008 1110	04/21/2008 1115

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	5	1	<1	2.17	5

B. Requests for Fee Waiver

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
Agency Overall	5	0	<1	<1

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	9	4	13.00	\$1,192,789.43	\$0	\$1,192,789.43

X. Fees Collected for Processing Requests

	Total Amount of Fees Collected	Percentage of Total Costs
Agency Overall	\$8,477.93	0.71

XI. FOIA Regulations

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

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	201	35

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
	4	2	3	3

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
								07/31/2012 42	08/30/2011 272	08/15/2011 283

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	296	267	342	295

	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	215	201

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	13	18	3	5

	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	22	35

F. Discussion of Other FOIA Activities (Optional)