Office of Management and Budget

Annual Freedom of Information Act (FOIA) Report for FY 2008

(October 1, 2007 through September 30, 2008)

I. BASIC INFORMATION REGARDING REPORT

- 1. Any questions concerning this report, as well as requests for a copy of the report in paper form, should be addressed to the Office of Management and Budget (OMB), Attn: Ms. Dionne Hardy, FOIA Officer, 725 17th Street, N.W., Washington, DC 20503, (202) 395-7214.
- 2. Copies of this report, as well as information on how to make a Freedom of Information Act (FOIA) request to OMB, are available at the "FOIA" site on the OMB Home Page at http://www.whitehouse.gov/omb.foia/index.html. You may wish to submit your request in writing at the following address: Office of Management and Budget, New Executive Office Building, FOIA Officer, Room 9026, 725 17th Street, N.W., Washington, DC 20503.
- 3. To obtain a copy of this Report in paper form, see Section I. 1. above.

II. MAKING A FOIA REQUEST

- 1. Guidance on how/where to submit a FOIA request can be found on the OMB website Home Page mentioned above. As noted in the guidance, all FOIA requests to OMB are received at the address shown on the Home page. Please note that OMB has one FOIA Office and does not have any individual components that receive FOIA requests aside from OMB's central FOIA Office.
- 2. OMB processed 142 FOIA initial requests during fiscal year 2008. Of the initial 142 requests processed, 48 were granted in total. With respect to the 94 remaining requests, OMB either had no documents responsive to the request, some or all of the responsive documents were withheld under one of the FOIA exemptions listed below in Section III. 3., the request was referred to another agency, or the records were not reasonably described.

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

- 1. Agency-specific acronyms or other terms: N/A.
- 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.

- 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 also include any first-party requests where an agency determines that it must search beyond its Privacy Act, FOIA requests 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.
- 1. **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 would disclose guidelines for law enforcement investigations or prosecutions, or would 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
- * NOTE: As noted above in Section II. 1. OMB has one FOIA Office and does not have any individual components that receive FOIA requests aside from its FOIA Office. Consequently, all numbers listed below refer to OMB's central FOIA Office.

Statute	Type of Information Withheld	Case Citation	Number of Times Relied upon per Component*	Total Number of Times Relied upon by Agency	
N/A	N/A	N/A	N/A	0	

V. FOIA REQUESTS

- A. Received, Processed and Pending FOIA Requests
- *NOTE: As noted above in Section II. 1. OMB has one FOIA Office and does not have any individual components that receive FOIA requests aside from its FOIA Office. Consequently, all numbers listed below refer to OMB's central FOIA Office.

	Column 1	Column 2	Column 3	Column 4
	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
Component A*				
Component B*				
AGENCY OVERALL	11	136	142	5

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
Comp. A*													
Comp. B*													
AGENCY OVERALL	48	13	30	48	1	0	0	0	0	2	0	0	142

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
	Description #	
Component A*	Description #	N/A
	Description #	
Component B*	Description #	N/A

	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
Component A*														
Component B*														
AGENCY OVERALL	1	5	0	0	37	2	0	0	0	0	0	0	0	0

VI. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS

A. Received, Processed and Pending Administrative Appeals

Column 1	Column 2	Column 3	Column 4
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
1	8	7	2

B. Disposition of Administrative Appeals – All Processed Appeals

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

* NOTE: As indicated below, OMB withheld information under Exemption 6 (disclosure of the information would constitute a clearly unwarranted invasion of personal privacy) in response to four administrative appeals. As previously indicated in the chart in Section V. B. (3), OMB withheld information under Exemption 6 in response to two initial requests. The explanation for the two additional invocations of Exemption 6 at the appeal stage is that, during OMB's re-review of withheld materials on appeal, OMB identified information for which an Exemption 6 withholding was warranted in two matters for which this exemption had not been invoked at the initial response stage.

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	4	0	0	5	4	0	0	0	0	0	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
0	0	0	0	0	0	0	0	0	0	1

Description of "Other" Reasons for Denial on Appeal from Chart C (2) & Number of Times Those Reasons Were Relied upon	TOTAL
Description: In this appeal response OMB explained to the requester that OMB had previously provided all of the responsive documents to the requester in OMB's prior initial full release of documents.	1

C. (4) Response Time for Administrative Appeals

Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days		
24	28	18	41		

C. (5) Ten Oldest Pending Administrative Appeals

*** NOTE: The two pending Administrative Appeals, as of the end of fiscal year 2008, were received near the end of fiscal year 2008 and were completed during fiscal year 2009. Consequently, the number of days pending is beyond the scope of the FY 2008 reporting period and this information will be reported on next year's report (the fiscal year 2009 report.)

	10 th Oldes Appeal	t 9 th	8^{th}	7 ^{ti}	h	6 th	5 th	4^{th}	3^{rd} 2^{nd}	Oldest Appeal
Date of Receipt of Ten Oldest Appeals	Date	None	None	None	None	None	None	None	September 16, 2008	September 5, 2008
Number of Days Pending	#								N/A ***	N/A ***

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

- A. Processed Requests Response Time for All Processed Perfected Requests
 - *NOTE: As noted above in Section II. 1. OMB has one FOIA Office and does not have any individual components that receive FOIA requests aside from its FOIA Office. Consequently, all numbers listed below refer to OMB's central FOIA Office.
 - ** NOTE: OMB does not have multi-track processing system and does not designate separate tracks for "simple" and "complex" FOIA requests. Instead OMB classifies all incoming FOIA requests together in one category as incoming requests regardless of their complexity. Consequently, for this report OMB is substituting one category: "All Requests" in place of the "simple" and "complex" categories.

	All 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
Component A								
Component B								
Agency Overall	20	26	5	105	0	0	0	0

- B. Processed Requests Response Time for Perfected Requests in Which Information Was Granted
 - * NOTE: As noted above in Section II. 1. OMB has one FOIA Office and does not have any individual components that receive FOIA requests aside from its FOIA Office. Consequently, all numbers listed below refer to OMB's central FOIA Office.
 - ** NOTE: OMB does not have multi-track processing system and does not designate separate tracks for "simple" and "complex" FOIA requests. Instead OMB classifies all incoming FOIA requests together in one category as incoming requests regardless of their complexity. Consequently, for this report OMB is substituting one category: "All Requests" in place of the "simple" and "complex" categories.

	All 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
Component A*								
Component B*								
Agency Overall	19	25	5	85	0	0	0	0

- C. Processed Requests Response Time in Day Increments
 - * NOTE: As noted above in Section II. 1. OMB has one FOIA Office and does not have any individual components that receive FOIA requests aside from its FOIA Office. Consequently, all numbers listed below refer to OMB's central FOIA Office.
 - ** NOTE: OMB does not have multi-track processing system and does not designate separate tracks for "simple" and "complex" FOIA requests. Instead OMB classifies all incoming FOIA requests together in one category as incoming requests regardless of their complexity. Consequently, for this report OMB is substituting one category: "All Requests" in place of the "simple" and "complex" categories.

	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
Comp. A														
Comp. B														
AGENCY OVERALL	71	51	11	4	1	4	0	0	0	0	0	0	0	142

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
Comp. A														
Comp. B														
AGENCY OVERALL	0	0	0	0	0	0	0	0	0	0	0	0	0	0

D. Pending Requests – All Pending Perfected Requests

- * NOTE: As noted above in Section II. 1. OMB has one FOIA Office and does not have any individual components that receive FOIA requests aside from its FOIA Office. Consequently, all numbers listed below refer to OMB's central FOIA Office.
- ** NOTE: OMB does not have multi-track processing system and does not designate separate tracks for "simple" and "complex" FOIA requests. Instead OMB classifies all incoming FOIA requests together in one category as incoming requests regardless of their complexity. Consequently, for this report OMB is substituting one category: "All Requests" in place of the "simple" and "complex" categories.

	All Requests			Expedited Processing		
	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days
Component A						
Component B						
Agency Overall	5	5	6	0	0	0

E. Pending Requests – Ten Oldest Pending Perfected Requests

	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
Total	Date Number of Days	None	None	None	None	09/25/08 3 days	09/23/08 5 days	09/23/08 5 days	09/17/08 9 days	09/16/08 10 days

VIII. REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER

- A. Requests for Expedited Processing
 - * NOTE: As noted above in Section II. 1. OMB has one FOIA Office and does not have any individual components that receive FOIA requests aside from its FOIA Office. Consequently, all numbers listed below refer to OMB's central FOIA Office.

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
Component A					
Component B					
Agency Overall	0	0	0	0	0

- B. Requests for Fee Waiver
 - * NOTE: As noted above in Section II. 1. OMB has one FOIA Office and does not have any individual components that receive FOIA requests aside from its FOIA Office. Consequently, all numbers listed below refer to OMB's central FOIA Office.

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
Component A					
Component B					
Agency Overall	31	0	22	21	0

IX. FOIA PERSONNEL AND COSTS

	Personnel			Costs		
	Number of "Full-	Number of	Total Number of	Processing Costs	Litigation-Related	Total Costs
	Time FOIA	"Equivalent Full-	"Full-Time FOIA		Costs	
	Employees"	Time FOIA	Staff" (The sum of			
		Employees "	Columns 1 &2)			
Component A						
Component B						
Agency Overall	1	1.5	2.5	\$162,000	\$250,000	\$412,000

X. FEES COLLECTED FOR PROCESSING REQUESTS

* NOTE: As noted above in Section II. 1. OMB has one FOIA Office and does not have any individual components that receive FOIA requests aside from its FOIA Office. Consequently, all numbers listed below refer to OMB's central FOIA Office.

	Total Amount of Fees Collected	Percentage of Total Costs
Component A		
Component B		
	0	0%
AGENCY		
OVERALL		

XI. FOIA REGULATIONS

• The electronic link to OMB's FOIA regulations, including OMB's fee schedule, can be located at <u>www.whitehouse.gov/omb/foia/5cfr1303.html</u>.

XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS

A. Backlogs of FOIA Requests and Administrative Appeals

NOTE: As of the end of FY 2008, OMB had no backlogs in either FOIA Requests or FOIA Administrative Appeals.

* NOTE: As noted above in Section II. 1. OMB has one FOIA Office and does not have any individual components that receive FOIA requests aside from its FOIA Office. Consequently, all numbers listed below refer to OMB's central FOIA Office.

N/A. As of the end of FY 2008, OMB had no backlogs in either FOIA Requests or FOIA Administrative Appeals.

	Number of Backlogged Requests as of End of Fiscal Year	Number of Backlogged Appeals as of End of Fiscal Year
Component A		
Component B		
Agency Overall	0	0

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

	Column 1	Column 2	Column 3	Column 4
	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 <u>Received</u> 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
Component A				
Component A				
Component B				
Agency Overall	0	24	24	0

- C. Consultations on FOIA Requests Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency
 - 1. Provide the dates of receipt of the ten oldest consultations received from other agencies pending at your agency as of the end of the fiscal year.
 - * NOTE: As noted above in Section II. 1. OMB has one FOIA Office and does not have any individual components that receive FOIA requests aside from its FOIA Office. Consequently, all numbers listed below refer to OMB's central FOIA Office.

	10 th Oldest Consultation and Number of Days Pending	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest Consultation and Number of Days Pending
Total	None	None	None	None	None	None	None	None	None	None

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

Provide the number of requests received and the number of requests processed during the fiscal year from last year's Annual Report and the number of those received and processed during the fiscal year from the current Annual Report.

	Column 1	Column 2	Column 3	Column 4
	Number of Received During	Number Received During	Number of Processed	Number Processed
	Fiscal Year from Last Year's	Fiscal Year from Current	During Fiscal Year from	During Fiscal Year from
	Annual Report	Annual Report	Last Year's Annual Report	Current Annual Report
Component A				
Component B	,			
Agency Overall	140	136	137	142

Starting with the Annual Report for Fiscal Year 2009, provide the number of backlogged requests as of the end of the fiscal year from the previous Annual Report and the number of backlogged requests as of the end of the fiscal year from the current Annual Report.

	Column 1	Column 2
	Number of Backlogged Requests as of End of the	Number of Backlogged Requests as of End of the
	Fiscal Year from Previous Annual Report	Fiscal Year from Current Annual Report
Component A		
Component B		
Agency	0	0
Overall		

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

Provide the number of administrative appeals received and the number of administrative appeals processed during the fiscal year from last year's Annual Report and the number of those received and processed during the fiscal year from the current Annual Report.

* NOTE: As noted above in Section II. 1. OMB has one FOIA Office and does not have any individual components that receive FOIA requests aside from its FOIA Office. Consequently, all numbers listed below refer to OMB's central FOIA Office.

	Column 1	Column 2	Column 3	Column 4
	Number Received During	Number Received During	Number Processed During	Number Processed During
	Fiscal Year from Last Year's	Fiscal Year from Current	Fiscal Year from Last Year's	Fiscal Year from Current
	Annual Report	Annual Report	Annual Report	Annual Report
Component A				
Component B				
Agency Overall	12	8	11	7

Starting with the Annual Report for Fiscal Year 2009, provide the number of backlogged administrative appeals as of the end of the fiscal year from the previous Annual Report and the number of backlogged administrative appeals as of the end of the fiscal year from the current Annual Report.

	Column 1	Column 2
	Number of Backlogged Appeals as of End of the	Number of Backlogged Appeals as of End of the
	Fiscal Year from Previous Annual Report	Fiscal Year from Current Annual Report
Component A		
Component B		
Agency Overall	0	0

F. Discussion of Other FOIA Activities (Optional)