

*FREEDOM OF INFORMATION ACT
ANNUAL REPORT*

FOIA Data Submission Form for Treasury Bureaus
Fiscal Year 2006
(Oct. 1, 2005-Sept. 30, 2006)

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Note: Bureau reporting begins at item II-B. Those sections marked “Not for bureaus” will be answered by the Departmental Disclosure Office in the combined report.
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I. and II - A. (Not for bureaus.)

II. B. Brief Description of your bureau’s response-time ranges.

The response time for FOIA requests ranged from one day to more than one year in some cases.

C. Brief description why some requests are not granted.

The most common reasons why requests for records could not be granted are the information sought falls within FOIA exceptions (b)(3) and (b)(7); the information requested is protected by federal statute or falls under the jurisdiction of another authority.

III. Definition of terms and acronyms used in this report.

A. List your agency-specific acronyms or terms.

None.

B. Basic Terms (This has already been done by the Department of Justice (DOJ).)

IV. Exemption 3 Statutes.

A. List of Exemption 3 statutes relied on by agency during fiscal year.

1. Brief description of type(s) of information withheld under each statute.

Bank Secrecy Act, Titles I and II of Public Law 91-508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5331, authorizes the Secretary of the Treasury, inter alia, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures. Regulations implementing Title II of the Bank Secrecy Act appear at 31 CFR Part 103. The authority of the Secretary to administer the Bank Secrecy Act has been delegated to the Director of the Financial Crimes Enforcement Network.

Information withheld under the Bank Secrecy Act statute would include Currency Transaction Reports, Foreign Bank Account Reports, Currency and Monetary Instrument Reports, Suspicious Activity Reports, and Registration of Money Services Businesses.

2. Statement of whether a court has upheld the use of each statute. If so, then cite example.

31 U.S.C. § 5319

Small v. IRS, 820 F. Supp. 163 (D.N.J. 1992)

31 U.S.C. § 5218(g)(3)

Whitney National Bank v. Karam, 306
F.Supp.2d 678 (S.D. Tex. 2004)

V. FOIA/PA Access Requests. Include all access requests, whether first-party or third-party.

A. Number of initial requests. Total of the numbers in lines 1 and 2, minus the number in line 3, should equal the number in line 4.

1. Number of requests pending as of end of preceding fiscal year (**FY05**): 78
(Take # of requests from line V.A. #4 of previous fiscal year's report)
2. Number of requests received during current reporting period: 121
3. Number of requests processed during current reporting period: 98
(Total # of requests in 1 and 2 above that were closed in current fiscal year)
4. Number of requests pending at the end of current reporting period: 101
(Above items 1 + 2 - 3 = line 4) (Also enter this number in section VII. B. 1.)

B. Disposition of initial requests. (Total number of dispositions B1 + B2 + B3 + B4 = A3)

1. Number of total grants: 14
2. Number of partial grants: 2 (the same as partial withheld)
3. Number of denials: 60

a. Number of times each FOIA exemption used (counting each exemption

once per request):

(b)(1) <u> 0 </u>	(b)(6) <u> 2 </u>	(b)(7)(E) <u> 24 </u>
(b)(2) <u> 1 </u>	(b)(7)(A) <u> 0 </u>	(b)(7)(F) <u> 0 </u>
(b)(3) <u> 57 </u>	(b)(7)(B) <u> 0 </u>	(b)(8) <u> 0 </u>
(b)(4) <u> 0 </u>	(b)(7)(C) <u> 22 </u>	(b)(9) <u> 0 </u>
(b)(5) <u> 4 </u>	(b)(7)(D) <u> 0 </u>	

4. Other reasons for nondisclosure (total): 22

- a. no records 1 (no records found that were responsive to the request)
- b. referrals 4 (a request forwarded, in total, to another Treasury bureau or another agency for response)
- c. withdrawn 1 (requester withdrew the request)
- d. fee-related 0 (nonpayment of estimated fees, or previously owed fees)
- e. records not reasonably described 1 (requests which do not adequately describe the records sought)
- f. not a proper FOIA request for some other reason 0 (for example, requester sought answers to questions)
- g. not an agency record 0 (not the type of record maintained by Treasury)
- h. duplicate request 0 (more than one request from the same requester which was received by the agency or forwarded from other sources)
- i. other (specify) 15 (requests that were not processed for other reasons)

Lack of interest on the part of the requestor.

VI. Appeals of initial denials of FOIA/PA requests. Again, include all access requests, whether *First-party*--a request for one's own records or *Third-party*--all other requests.

A. Number of appeals.

1. Number of appeals received during the current reporting period: 6
2. Number of appeals processed (closed) during the current reporting period: 4

B. Disposition of appeals.

1. Number completely upheld: 4 (requester's appeal denied)
2. Number partially reversed: 0 (requester's appeal partially granted and partially denied)
3. Number completely reversed: 0 (requester's appeal granted)

a. number of times each FOIA exemption used (counting each exemption once per appeal):

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

4. Other reasons for non-disclosure (total): 0

(Remember, this pertains to appeals and therefore the numbers reported will most likely be low to zero.)

- a. no records 0 (no records found that were responsive to the request)
- b. referrals 0 (a request forwarded in total, to another Treasury bureau or another agency for response)
- c. withdrawn 0 (requester withdrew the request)
- d. fee-related 0 (nonpayment of estimated fees, or previously owed fees)
- e. records not reasonably described 0 (requests which do not adequately describe the records sought)
- f. not a proper request/appeal for some other reason 0 (for example, requester sought answers to questions)
- g. not an agency record 0 (not the type of record maintained by Treasury)
- h. duplicate request 0 (more than one request from the same requester, which was received by the agency or forwarded from other sources)
- i. other (specify) 0 (requests that were not processed for other reasons)

VII. Compliance with Time Limits/Status of Pending Requests.

(Please note that there are two median times that are reported in this section: (1) median time for processing completed requests and (2) median number of days that pending requests were in pending status. Days reported should be “**working days**” as opposed to “calendar days.”)

A. Median time for processing requests.

1. Simple Requests (report only if multi-track processing is used. If not used, report as "N/A").

- a. Number of "simple requests" processed (closed): N/A
- b. Median number of days to process "simple requests": N/A

2. Complex Requests (*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*).

- a. Number of "complex requests" processed (closed): 98*
- b. Median number of days to process "complex requests": 62

*NOTE: If FinCEN had used a multi-tracking system, there would have been 95 simple requests and 3 complex requests processed.

3. Requests for expedited processing.

- a. number of expedited requests processed (closed): 0
- b. median number of days to process expedited requests: 0

B. Status of pending requests (bureaus using multiple tracks may provide number for each track, as well as total).

- 1. Number of requests pending at end of current reporting period: 101
- 2. Median number of days that such requests were pending as of that date: 200

VIII. Comparisons with Previous Years.

According to DOJ instructions, report here the number of expedited processing requests received and the number processed. Also report any other items that need more detail or clarification.

N/A

IX. Costs/FOIA Staffing.**A. Staffing levels.**

1. Number of full-time FOIA personnel: 1
2. Number of personnel with part-time or occasional FOIA duties: .3
3. Total number of personnel (in work-years): 1.3

B. Total costs (staff and resources combined).

1. FOIA processing (including appeals): \$ 119,728
2. Litigation-related activities (estimated): \$ 0
3. Total Costs: \$ 119,728
4. Comparison with previous years. (Not required).

C. Statement of additional resources needed for FOIA compliance (Optional).**X. Fees.**

- A. Total fees collected FY 2006: \$ 0.00
- B. Percentage of total costs: 0%

XI. FOIA Regulations.

XII. Report on FOIA Executive Order Implementation

- A. Description of supplement/modification of agency improvement plan if applicable

No modifications.

- B. Report on agency implementation of its plan, including its performance in meeting milestones, with respect to each improvement area.

FinCEN has amended its FOIA tracking process to increase the workflow and ensure timely processing of requests.

In keeping with Treasury's Plan, FinCEN established a FOIA Requester Service Center and is a regular participant at the Department-wide FOIA Council meetings.

In accordance with FOIA subsection (a)(6)(D) and Department of Treasury regulations for processing requests of various sizes on different tracks based on the amount of work or time (or both), FinCEN has established a multi-tracking process to assist the bureau in complying with the 20 workday time limit.

As an added effort to further reduce our backlog and satisfy any milestones identified in Treasury's Plan, including Treasury's 10% backlog reduction

goal by September 30, 2007, FinCEN has temporarily assigned support personnel to assist with processing simple requests placed on a fast track for responding to the requester. The milestones in our plan call for closure of all FY 2004 and 2005 open requests (the oldest requests) and closure of FY 2006 simple requests. FinCEN anticipates completing these milestones prior to the end of the 2nd quarter of FY 2007.

C. Identification and discussion of any deficiency in meeting plan milestones, if applicable.

Did not meet the 5% milestone for reduction in backlog as of 12/31/06. Instead, a 1.1 increase was noted. FOIA is tasked to one full-time employee who was out of the office for 3 weeks in the first quarter of this fiscal year.

Additionally, there was an increase in the incoming FOIA requests. Revising the tracking system and reassigning one temporary full-time support staff to fast track requests are measures to resolve this increase by March 31, 2007.

D. Additional narrative statement regarding other executive order related activities – optional.

N/A

E. Concise descriptions of FOIA exemptions

b(2) – Protects from mandatory disclosure records related solely to the internal personnel rules and practices of an agency.

b(3) – Prohibits release of records that are exempted from disclosure by statute.

b(5) – Protects interagency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency.

b(6) – Protects personal privacy of individuals when release of personnel and medical files and similar files would cause a clearly unwarranted invasion of personal privacy.

b(7)(C) – Provides protection for personal information in law enforcement records the disclosure of which could reasonably be expected to constitute an unwarranted invasion of personal privacy.

b(7)(E) – Provides protection to all law enforcement records, the release of which would disclose techniques and procedures for law enforcement investigations or prosecutions.

F. Additional Stats:

- a. Time range of requests pending, by date of request (or, where applicable, by date of referral from another agency)

Date of requests range from November 11, 2003 to present.

- b. Time range of consultations pending with other agencies, by date of initial interagency communication

N/A

G. Improvement Plan attached.

<http://www.treas.gov/foia/reading-room/foia-improvement-plan.pdf>