

COALITION OF
JOURNALISTS FOR
OPEN GOVERNMENT

Federal Government Continues to Fall Behind In Responding to FOIA Requests, CJOG Finds

Analysis Tracks Ongoing Slide in Information Released to the Public

June 2006

The federal government continues to fall further behind in getting information to people seeking public records under the Freedom of Information Act.

The backlog of requests, a critical indicator of information delays, rose from 20 percent in 2004 to 31 percent in 2005, despite a decline in the volume of requests, according to a survey of 22 agencies and departments by the Coalition of Journalists for Open Government. Had these departments and agencies maintained their 2004 level of processing requests, there would have been no significant backlog.

Agencies also said "no" more often—and spent more to do so.

The deteriorating performance is reflected in individual agency reports filed for the fiscal year that ended Sept. 30, 2005, just a few months before President Bush's Executive Order requiring federal departments and agencies to conduct an internal examination and find ways to improve service to FOIA requesters.

CJOG reviewed the reports of 13 Cabinet-level departments and nine agencies handling the highest volumes of third-party FOIA requests, which come from individuals, organizations and corporations seeking non-personal information.

Steadily growing complaints about the difficulties in getting government data led Congress to take up the OPEN Government Act of 2005, designed to reform the 40-year-old Freedom of Information Act, and subsequently the president's Executive Order.

The Coalition analysis includes but separates data from the Department of Health and Human Services, the Department of Veterans Affairs and the Social Security Administration because more than 90 percent of the requests they receive are also filed under the Privacy Act and come from individuals seeking personal records. HHS, the VA and SSA handle the bulk of information requests to the federal government, grant almost all requests and do so within a few days.

The CJOG analysis showed:

- **The backlog got worse.** The 22 departments and agencies had 148,603 requests unprocessed at the end of 2005, or 31 percent of the total number handled. In 2004, the backlog was 20 percent. The Securities and Exchange Commission and the Department of Housing and Urban Development were the furthest behind, with backlogs of 131 percent and 127 percent, respectively. Only seven agencies improved their performance.

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CJOG Finds Fed FOIA Backlog Increasing—Page 2

CJOG findings, continued:

- **Agencies got stingier with their records.** The agencies and departments surveyed said 63 percent of all requests in 2005 resulted in full or partial grants (the official government term for the release of public information). The year before, they granted 67 percent of requests.
- **Requesters had to wait longer.** Agencies and departments do not record how long requestors have to wait to get information, only how long it takes to tell people whether a request will or will not be granted. These data are misleading, however, because they reflect median times, not average, and many departments and agencies do not report their overall performance. Instead, they show only the median times recorded by the component FOIA offices. That makes it impossible to assess department-wide performance. What the data do show is that more agencies had greater median response times in 2005 than those who reported less time to get back to requestors. There's no reason to believe the subsequent release of information followed a different pattern.
- **The worst delays got worse.** The Securities and Exchange Commission said median waiting time on its 1,099 complex requests was 410 working days, more than double the median a year earlier. (There are 261 federal working days a year). One Agriculture Department component reported its median response time for complex requests was 1,277 working days. A Justice Department unit put its complex median response time at 863 days.
- **Cost went up as service fell.** The cost for each request handled by the 22 departments and agencies rose 6 percent to \$490.81, even as the backlog grew and requesters waited longer to find out if they would get the information sought.
- **Rather than catch up, the government cut FOIA costs.** The government reduced both the number of employees working on FOIA requests and overall costs, even as the backlog and slow processing times continued. Efficiency—as measured by the employee days it takes to handle a request—remained unchanged.
- **The failure to respond was not always the result of workload.** Some agencies noted the length of time that requests unprocessed at yearend had been pending. The National Archives said its median for backlogged requests was 1,631 working days, more than six years. One Treasury Department component reported a median backlog time of 648 days, about 2.5 years.
- **The appeals process improved nominally.** The percentage of appeals granted in full or in part went up slightly, from 17 percent to 18 percent. The backlog of appeals decreased along with an overall decrease in the number of appeals.
- **The government continued to prevail in litigation.** The government won outright in 56 percent of the cases resolved in court in 2005. Requesters won outright only 3 percent of the time.

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CJOG Finds Fed FOIA Backlog Increasing—Page 3

CJOG findings, continued:

- **The use of broad discretionary exemptions to withhold information increased.** Departments continued to increase the use of Exemption 2, internal agency procedures, and Exemption 5, internal and inter-agency memos, to withhold information. These exemptions were recommended in administration instructions designed to tighten restrictions on release of information that were sent to departments and agencies in 2001 and 2002 by then-Attorney General John Ashcroft and then-White House Chief of Staff Andrew Card. Although there were fewer requests and the overall use of exemptions to deny requests declined by 7 percent from 2004 to 2005, the use of Exemption 2 increased 37 percent and the use of Exemption 5 by 5 percent.

The Coalition also compared the 2005 FOIA data with reports from 2000, the last year before the current administration took office. That analysis showed that while the number of FOIA requests has dropped 21 percent, there has been an even greater decrease (23 percent) in the number governmental employees working on FOIA. At the same time, there was a 31 percent increase in the spending on FOIA processing costs and a 66 percent increase in the per request cost.

A series of charts containing the data collated by the Coalition of Journalists for Open Government follows.

CJOG is an alliance of more than 30 journalism-related organizations concerned about secrecy in government and the increasing closure of public records and meetings at all levels of government. Additional FOIA reports and related information can be found on the CJOG Web site, www.cjog.net.

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FOIA Grants, 2004 vs. 2005

Department/ Agency	2004			2005			2004 Requests Granted		2005 Requests Granted	
	Requests Processed	Yearend Backlog	%	Requests Processed	Yearend Backlog	%	Grants	%Total	Grants	%Total
Agriculture	61,209	2,372	4%	51,922	1,965	4%	57,428	94%	48,629	94%
Commerce	2,035	308	15%	1,834	278	15%	1,227	60%	948	52%
Defense	77,256	12,826	17%	78,775	14,953	19%	49,63	64%	51,894	66%
Education	2,082	348	17%	2,219	545	25%	1,666	80%	1,538	69%
Energy	2,440	862	35%	3,831	1159	30%	1,848	76%	3,395	89%
Homeland Security	152,027	45,810	30%	126,126	82,591	65%	110,447	73%	77,195	61%
HUD	3,978	2,421	61%	2,923	3,725	127%	2,411	61%	1,650	56%
Interior	4,219	1,790	42%	6,420	1,910	30%	2,663	63%	5,018	78%
Justice	56,865	8,055	14%	51,435	8,637	17%	27,681	49%	25,605	50%
Labor	21,860	559	3%	23,284	780	3%	14,929	68%	15,897	68%
State	4,963	1,996	40%	3,870	2,728	70%	2,207	44%	1,342	35%
Transportation	10,905	1,971	18%	9,384	2,072	22%	6,515	60%	5,875	63%
Treasury	64,570	5,538	9%	53,987	4,883	9%	33,527	52%	28,817	53%
CIA	3,336	1,150	34%	3,110	975	31%	1,669	50%	1,385	45%
CSPC	6,397	58	1%	5,387	112	2%	6,140	96%	4,901	91%
EEOC	17,485	1,686	10%	16,232	1,907	12%	13,494	77%	12,209	75%
EPA	13,352	1,898	14%	11,108	2,991	27%	8,175	61%	5,903	53%
Archives	5,219	5,501	105%	8,878	6,382	72%	586	11%	535	6%
NASA	1567	257	16%	1351	135	10%	969	62%	836	62%
NLRB	5295	154	3%	4702	133	3%	4,503	85%	3,946	84%
SEC	3,830	8,635	225%	7,422	9,710	131%	1,289	34%	2,192	30%
SBA	1,927	30	2%	3,737	32	1%	1,584	82%	3,350	90%
Subtotal	522,817	104,225	20%	477,937	148,603	31%	350,651	67%	281,260	63%
HHS	222,408	23,545	11%	221,402	24,515	11%	206,951	93%	204,426	92%
Veterans Affairs	1,815,756	45,076	2%	1,915,013	37,698	2%	1,812,795	99.8%	1,862,162	97%
Social Security	1,450,493	5,857	0%	17,262,315	1,428	0.01%	1,446,438	99.7%	17,260,667	99.9%
Subtotal	3,488,657	74,478	2%	19,398,730	63,641	0.3%	3,476,717	99.7%	19,327,255	99.6%
Total	4,011,474	178,703	4%	19,876,667	212,244	1.1%	3,827,368	95.4%	19,608,515	98.7%

Key: Increase From 2004 No Change From 2004 Decrease From 2004

Grants: The combined total of requests completely or partially granted.

HOW FOIA REQUESTORS FARED IN 2005

Department/ Agency	Requests				Decisions Made				
	Received	Processed	Yearend Backlog	%	Granted in Full	Partial Grant	Percent Granted	Requests Denied	Other/No Grant*
Agriculture	51,516	51,922	1,965	4%	46,352	2,277	94%	1,085	2,208
Commerce	1,804	1,834	278	15%	652	296	52%	225	661
Defense	81,304	78,775	14,953	19%	36,587	15,307	66%	1,765	25,116
Education	2,416	2,219	545	25%	806	732	69%	73	608
Energy	3,729	3,831	1159	30%	3,126	269	89%	38	398
Homeland Security	163,016	126,126	82,591	65%	28,631	48,564	61%	894	48,037
HUD	4,247	2,923	3,725	127%	1,165	485	56%	260	1,013
Interior	6,749	6,420	1,910	30%	2,145	2873	78%	84	1318
Justice	52,010	51,435	8,637	17%	18,539	7,066	50%	1,677	24,153
Labor	23,505	23,284	780	3%	8,938	6,959	68%	1,808	5,579
State	4,602	3,870	2,728	70%	437	905	35%	199	2,329
Transportation	9,597	9,384	2,072	22%	3,695	2,180	63%	199	2,329
Treasury	53,330	53,987	4,883	9%	25,451	3,366	53%	624	22,761
CIA	2,935	3,110	975	31%	334	1,051	45%	605	1,120
Consumer Prod. Safety	5,441	5,387	112	2%	4447	454	91%	74	412
EEOC	16,282	16,232	1,907	12%	1,191	11,018	75%	1,356	2,667
EPA	12,201	11,108	2,991	27%	5,385	518	53%	95	5,110
Archives	9,759	8,878	6,382	72%	434	101	6%	10	8,333
NASA	1,229	1351	135	10%	469	367	62%	40	475
NLRB	4,681	4702	133	3%	3560	386	84%	119	637
SEC	8,726	7,422	9,710	131%	1898	294	30%	58	329
SBA	3,739	3,737	32	1%	3172	178	90%	58	329
Subtotal	522,818	477,937	148,603	31%	197,414	105,646	63%	11,346	155,922
HHS	1,045,6362 22,272	221,402	24,515	11%	203,367	1,059	92%	2,330	145,355
Veterans Affairs	1,914,395	1,915,013	37,698	2%	1,853,513	8,649	97%	8,291	44,560
Social Security Admin.	17,259,315	17,262,315	1,428	0.008%	17,260,392	275	99.99%	454	1,194
Subtotal	19,195,982	19,398,730	63,641	0.3%	19,317,272	9,983	0.05%	11,075	191,109
Total	19,718,800	19,876,667	212,244	2.05%	19,514,686	115,629	0.06%	22,421	347,031

Key: Above Norm Norm Below Norm

*Other/No Grant lists the total number of requests rejected for reasons unrelated to any of the exemptions, such as failure to front processing fees, no records found, requests referred to other agencies, a non-specific request and withdrawn requests.

FOIA BACKLOG, 2004 AND 2005

Department/Agency	2004			2005			Days Pending
	Processed	Backlog	%	Processed	Backlog	%	
Agriculture	61,209	2,372	4%	51,922	1,965	4%	12 \ 227
Commerce	2,035	308	15%	1,834	278	15%	60
Defense	77,256	12,826	17%	78,775	14,953	19%	74
Education	2,082	348	17%	2,219	545	25%	78
Energy	2,440	862	35%	3,831	1159	30%	14 \ 559
Homeland Security	152,027	45,810	30%	126,126	82,591	65%	NA
HUD	3,978	2,421	61%	2,923	3,725	127%	20 \ 205
Interior	4,219	1,790	42%	6,420	1,910	30%	10 \ 927
Justice	56,865	8,055	14%	51,435	8,637	17%	NA
Labor	21,860	559	3%	23,284	780	3%	NA
State	4,963	1,996	40%	3,870	2,728	70%	148
Transportation	10,905	1,971	18%	9,384	2,072	22%	1 \ 180
Treasury	64,570	5,538	9%	53,987	4,883	9%	22 \ 648
CIA	3,336	1,150	34%	3,110	975	31%	324
CSPC	6,397	58	1%	5,387	112	2%	45
EEOC	17,485	1,686	10%	16,232	1,907	12%	10
EPA	13,352	1,898	14%	11,108	2,991	27%	NA
NARA	5,219	5,501	105%	8,878	6,382	72%	1,631
NASA	1567	257	16%	1351	135	10%	64
NLRB	5295	154	3%	4702	133	3%	4
SEC	3,830	8,635	225%	7,422	9,710	131%	235 \ 507
SBA	1,927	30	2%	3,737	32	1%	16
Subtotal	522,817	104,225	20%	477,937	148,603	31%	NA
HHS	222,408	23,545	11%	221,402	24,515	11%	9 \ 189
Veterans Affairs	1,815,756	45,076	2%	1,915,013	37,698	2%	9 \ 144
Social Security	1,450,493	5,857	0%	17,262,315	1,428	0%	NA
Subtotal	3,488,657	74,478	2%	X	63,641	X	X
Key: Backlog Increase No Change Backlog Decrease							

WAIT TIME, 2005

Department/ Agency	Type of Request, Processing Time						
	Simple Request	Median Days	Complex Request	Median Days	Expedited Requests	Number Granted	Median Days
Agriculture	46,146	2 \ 90	5,451	12 \ 1,277	940	325	3 \ 40
Commerce	1,321	12	511	40	2	2	8
Defense	66,979	15.5	11,385	85	528	411	0
Education	1,874	35	329	66	NA	16	24
Energy	3,556	5 \ 106	246	10 \ 170	54	19	1 \ 12
Homeland Sec.	95,993	16 \ 61	29,117	3 \ 242	NA	1,016	2 \ 45
HUD	2,388	21 \ 65	286	35 \ 160	NA	249	9 \ 70
Interior	6,206	2 \ 43	189	28 \ 89	54	25	1 \ 15
Justice	45,472	2 \ 139	5,769	12 \ 863	536	194*	2 \ 185
Labor	17,276	6 \ 28	5,834	14 \ 60	NA	174	2 \ 18
State	1,647	14	2,216	142	170	7	136
Transportation	5,328	1 \ 30	3,982	20 \ 134	208	74	5 \ 30
Treasury	5,412	2 \ 86	48,574	3 \ 251	6	1	1
CIA	577	7	2,533	68 ^{MD}	53	0	0
Consumer Prod. Safety	4,859	6	528	35 ^{MD}	0	0	0
EEOC	16,017	18	0	0	485	215	5
EPA	10,933	13 \ 32	170	4 \ 166	NA	5	8 \ 109
NARA	8,669	13.5	209	252.4	2	0	0
NASA	938	19	410	49	5	3	15
NLRB	4,702	9	0	0	0	0	0
SEC	6,322	26	1099	410	1	1	14
SBA	3,737	7	0	0	0	0	0
HHS	49,301	10 \ 26	172,044	5 \ 370	191	57	14 \ 158
Veterans Affairs	—	—	1,901,514	1 \ 60	20,086	13,499	1 \ 10
SSA Field Offices	17,223,713	NA	NA	NA	NA	NA	NA
SSA Fast Track	1,555	10	0	0	0	0	0
Social Security Admin.*	364	15	1,014	39	31	31	17

(The statutory deadline for a response is 20 working days. We've highlighted deadline performance.)

Key: Met Deadline Met Some, Missed Some Missed Deadline

Median Days: Not all agencies aggregate response-time data. Instead, they report by component. In those instances, the "Median Days" shown reflect the range—the lowest and highest of the times.

Justice reported granting only 177 of the 536 expedited review requests, so 17 of the requests processed in 2005 must have been carried over from 2004's stack of requests to be expedited.

Social Security does not report Median Days for requests processed in its 1,400 field offices. It says that most are dealt with on the first day. Unlike other agencies, it breaks its own FOIA processing into a fourth, Fast Track, category.

FOIA REQUEST WAITING TIMES, 2004 AND 2005

Department/ Agency	2004		2005		2004		2005	
	Simple Request	Median Days	Simple Request	Median Days	Complex Request	Median Days	Complex Request	Median Days
Agriculture	34,067	14 \ 77	46,146	2 \ 90	26,616	54 \ 800	5,451	12 \ 1,277
Commerce	1,654	13	1,321	12	465	41	511	40
Defense	63,433	17	66,979	15.5	12,922	59	11,385	85
Education	1,566	3 \ 30	1,874	35	442	2 \ 134	329	66
Energy	1,907	10 \ 152	3,556	5 \ 106	493	18 \ 916	246	10 \ 170
Homeland Security	116,944	8 \ 84	95,993	16 \ 61	34,391	5 \ 111	29,117	3 \ 242
HUD	3,540	21 \ 95	2,388	21 \ 65	258	30 \ 161	286	35 \ 160
Interior	3,976	15 \ 834	6,206	2 \ 43	30	56 \ 90	189	28 \ 89
Justice	49,618	1 \ 137	45,472	2 \ 139	7,049	15 \ 636	5,769	12 \ 863
Labor	17,771	2 \ 30	17,276	6 \ 28	3,959	18 \ 60	5,834	14 \ 60
State	1,236	6	1,647	14	3,710	209	2,216	142
Transportation	6,232	1 \ 68	5,328	1 \ 30	4,614	23 \ 135	3,982	20 \ 134
Treasury	723	2 \ 10	5,412	2 \ 86	63,844	4 \ 172	48,574	3 \ 251
CIA	501	7	577	7	2,834	63	2,533	68
CSPC	5640	6	4,859	6	757	25	528	35
EEOC	17,164	18	16,017	18	0	0	0	0
EPA	13,324	15 \ 27	10,933	13 \ 32	17	19 \ 353	170	4 \ 166
NARA	4,920	35	8,669	13.5	299	354	209	252
NASA	1,069	18	938	19	454	33	410	49
NLRB	5,295	9	4,702	9	0	0	0	0
SEC	3,401	30	6,322	26	419	202	1,099	410
SBA	1,927	5	3,737	7	0	0	0	0
HHS	44,761	9 \ 25	49,301	10 \ 26	177,633	77 \ 325	172,044	5 \ 370
Veterans Affairs	0	0	0	0	1,833,581	4 \ 42	1,901,514	1 \ 60
Social Security Admin.*	317	19	364	15	882	37	1,014	39

Key: Increase From 2004 No Change From 2004 Decrease From 2004

Note: A number of agencies do not report aggregate wait times, listing instead only the median times of component units that individually handle FOIA requests. This makes it impossible to determine department or agency wide performance. In those cases, we have shown the range of median days wait times recorded by the component units.

FOIA APPEALS, 2005

Department/Agency	Appeals Received	Appeals Processed	Backlog 2005	% Backlog	Full Grant	Partial Grant	% Granted	Denial Upheld	Other Non-Disc.*
Agriculture	229	162	67	41%	29	54	51%	32	47
Commerce	57	40	17	43%	0	5	13%	19	16
Defense	563	798	0	0%	25	149	22%	370	254
Education	40	39	1	3%	3	7	26%	7	22
Energy	49	46	3	7%	0	5	11%	11	30
Homeland Security	1,389	885	504	57%	38	67	12%	204	576
HUD	47	33	14	42%	2	3	15%	28	0
Interior	189	157	32	20%	52	11	40%	14	80
Justice	2,921	2,441	480	20%	13	126	6%	747	1505
Labor	364	188	176	94%	10	48	31%	36	94
State	326	243	83	34%	11	137	61%	82	13
Transportation	125	136	0	0%	14	24	28%	47	51
Treasury	327	413	0	0%	14	39	13%	321	39
CIA	230	233	0	0%	3	59	27%	100	71
Consumer Prod. Safety	19	19	0	0%	0	0	0%	19	0
EEOC	337	345	0	0%	34	135	49%	112	64
EPA	117	110	314	285%	6	24	27%	30	30
NARA	28	29	0	0%	1	5	21%	6	17
NASA	22	22	0	0%	4	2	27%	16	5
NLRB	36	38	0	0%	3	7	26%	22	6
SEC	348	244	104	43%	28	15	18%	201	0
SBA	20	16	4	25%	1	8	56%	3	4
Subtotal	7,783	6,637	1,799	17%	291	930	18%	2,427	2,924
HHS	223	164	59	36%	35	17	32%	40	72
Veterans Affairs	178	172	6	3%	9	20	17%	42	101
Social Security Admin.	69	70	0	0%	14	7	30%	37	12
Subtotal	470	406	65	16%	58	44	25%	119	185

* **Other Non-Disclosure:** Departments list various other "non-disclosure" reasons including request withdrawn, referrals, fee-related, not reasonably described, not a proper FOIA request, not an agency record, duplicate request, available from another source.

FOIA APPEALS, 2004 AND 2005

Department/Agency	Total Appeals			Backlog		Appeals Granted	
	2004	2005	Change	2004	2005	2004	2005
Agriculture	160	162	2	54%	41%	52%	51%
Commerce	68	40	-28	16%	43%	25%	13%
Defense	933	798	-135	0%	0%	21%	22%
Education	59	39	-20	0%	3%	17%	26%
Energy	28	46	18	14%	7%	14%	11%
Homeland Security	722	885	163	203%	57%	5%	12%
HUD	45	33	-12	36%	42%	16%	15%
Interior	67	157	90	279%	20%	57%	40%
Justice	2,933	2,441	-492	2%	20%	6%	6%
Labor	313	188	-125	7%	94%	35%	31%
State	294	243	-51	25%	34%	59%	61%
Transportation	101	136	35	289%	0%	21%	28%
Treasury	504	413	-91	0%	0%	8%	13%
CIA	273	233	-40	0%	0%	16%	27%
Consumer Prod .Safety	13	19	6	15%	0%	0%	0%
EEOC	372	345	-27	12%	0%	35%	49%
EPA	105	110	5	11%	285%	17%	27%
NARA	6	29	23	0%	0%	12%	21%
NASA	22	22	0	0%	0%	36%	27%
NLRB	47	38	-9	4%	0%	28%	26%
SEC	202	244	42	13%	43%	36%	18%
SBA	28	16	-12	0%	25%	46%	56%
Subtotal	7,295	6,637	-658	21%	15%	17%	18%
HHS	132	164	32	27%	36%	29%	32%
Veterans Affairs	148	172	24	0%	3%	13%	17%
Social Security Ad.	96	70	-26	0%	0%	28%	30%
Subtotal	376	406	30	0%	16%	22%	25%

Key: Increase No Change Decrease

THE COSTS OF FOIA, 2005

Department	Processing Costs	Requests Processed	Cost per Request	FTEs	Requests per FTE
Agriculture	\$ 9,862,348	51,922	\$ 189.95	219.3	237
Commerce	\$ 1,227,066	1,834	\$ 669.07	17.4	106
Defense	\$ 47,876,973	78,775	\$ 607.77	752.2	105
Education	\$ 1,063,860	2,219	\$ 479.43	10.1	220
Energy	\$ 4,020,094	3,831	\$ 1,049.36	70.5	54
Homeland Security	\$ 28,824,858	126,126	\$ 228.54	621.6	203
HUD	\$ 1,998,632	2,923	\$ 683.76	41.0	71
Interior	\$ 7,666,403	6,420	\$ 1,194.14	121.0	53
Justice	\$ 56,610,612	51,435	\$ 1,100.62	524.5	98
Labor	\$ 16,027,360	23,284	\$ 688.34	190.1	122
State	\$ 9,926,300	3,870	\$ 2,564.94	143.0	27
Transportation	\$ 7,334,051	9,384	\$ 781.55	86.8	108
Treasury	\$ 12,920,599	53,987	\$ 239.33	104.4	517
CIA	\$ 8,350,000	3,110	\$ 2,684.89	74.1	42
Consumer Prod. Safety	\$ 1,142,756	5,387	\$ 212.13	11.2	481
EEOC	\$ 1,976,105	16,232	\$ 121.74	49.0	331
EPA	\$ 9,449,572	11,108	\$ 850.70	181.1	61
NARA	\$ 1,741,987	8,878	\$ 196.21	25.0	355
NASA	\$ 1,128,410	1,351	\$ 835.24	18.8	72
NLRB	\$ 779,187	4,702	\$ 165.71	7.7	613
SEC	\$ 3,835,658	7,422	\$ 516.80	36.1	206
SBA	\$ 812,729	3,737	\$ 217.48	10.7	349
Subtotal	\$ 234,575,560	477,937	\$ 490.81	3,315.5	144
HHS	\$ 18,137,650	221,402	\$ 81.92	246.6	898
Veterans Affairs	\$ 43,968,967	1,915,013	\$ 22.96	720.4	2658
Social Security Admin.	\$ 22,794,463	17,262,315	\$ 1.32	405.0	NA
Subtotal	\$ 84,901,080	19,398,730	\$ 4.38	1372.0	NA
All Depts./Agencies	\$ 319,476,640	19,876,667	\$ 16.07	4,687.4	NA
Key: Above Norm Norm Below Norm					

THE COSTS OF FOIA, 2004 AND 2005

Department/ Agency	Total Requests Processed			Employees		Days Per Request*		Total Processing Cost			Cost Per Request		
	2004	2005	% Ch	2004	2005	2004	2005	2004	2005	% Ch	2004	2005	% Ch
Agriculture	61,209	51,922	-15%	585.3	219.3	2.5	1.1	11,590,217	9,862,348	-15%	189.35	189.95	0%
Commerce	2,035	1,834	-10%	17.8	17.4	2.3	2.5	1,769,635	1,227,066	-31%	869.60	669.07	-23%
Defense	77,256	78,775	2%	721.0	752.2	2.4	2.5	47,211,794	47,876,973	1%	611.11	607.77	-1%
Education	2,082	2,219	7%	10.7	10.1	1.3	1.2	809,158	1,063,860	31%	388.64	479.43	23%
Energy	2,440	3,831	57%	71.0	70.5	7.6	4.8	3,486,504	4,020,094	15%	1,428.90	1,049.36	-27%
DHS	152,027	126,126	-17%	468.5	621.6	0.8	1.3	21,148,318	28,824,858	36%	139.11	228.54	64%
HUD	3,978	2,923	-27%	41.0	41.0	2.7	3.7	2,017,600	1,998,632	-1%	507.19	683.76	35%
Interior	4,219	6,420	52%	114.0	121.0	7.1	4.9	7,610,439	7,666,403	1%	1,803.85	1,194.14	-34%
Justice	56,865	51,435	-10%	562.5	524.5	2.6	2.7	66,926,196	56,610,612	-15%	1,176.93	1,100.62	-6%
Labor	21,860	23,284	7%	190.8	190.1	2.3	2.1	14,805,397	16,027,360	8%	677.28	688.34	2%
State	4,963	3,870	-22%	182.0	143.0	9.6	9.6	12,779,845	9,926,300	-22%	2,575.02	2,564.94	0%
DOT	10,905	9,384	-14%	56.5	86.8	1.4	2.4	7,719,691	7,334,051	-5%	707.90	781.55	10%
Treasury	64,570	53,987	-16%	145.9	104.4	0.6	0.5	13,985,612	12,920,599	-8%	216.60	239.33	10%
CIA	3,336	3,110	-7%	75.7	74.1	5.9	6.2	8,880,000	8,350,000	-6%	2,661.87	2,684.89	1%
CPSC	6,397	5,387	-16%	15.2	11.2	0.6	0.5	1,629,309	1,142,756	-30%	254.70	212.13	-17%
EEOC	17,485	16,232	-7%	52.0	49.0	0.8	0.8	2,189,259	1,976,105	-10%	125.21	121.74	-3%
EPA	13,352	11,108	-17%	175.5	181.1	3.4	4.3	11,505,500	9,449,572	-18%	861.71	850.70	-1%
Archives	5,219	8,878	70%	26.0	25.0	1.3	0.7	1,425,774	1,741,987	22%	273.19	196.21	-28%
NASA	1,567	1351	-14%	19.7	18.8	3.3	3.6	1,659,840	1,128,410	-32%	1,059.25	835.24	-21%
NLRB	5,295	4702	-11%	8.9	7.7	0.4	0.4	753,008	779,187	3%	142.21	165.71	17%
SEC	3,830	7,422	94%	63.5	36.1	4.3	1.3	2,565,389	3,835,658	50%	669.81	516.80	-23%
SBA	1,927	3,737	94%	12.6	10.7	1.7	0.7	755,550	812,729	8%	392.09	217.48	-45%
Total	522,817	477,937	-9%	3,615.9	3,315.5	1.8	1.8	243,224,035	234,575,560	-4%	465.22	490.81	6%

Key: Increase No Change Decrease

*Days Per Request is calculated by multiplying the number of employees (reported by government agencies as Work Years) by the number of annual working days (261), then dividing by the number of requests processed.

THE COSTS OF FOIA, 2000 AND 2005

Dept./ Agency	Total Requests Processed			Employees		Days Per Request*		Total Processing Cost			Cost Per Request		
	2000	2005	% Ch	2000	2005	2000	2005	2000	2005	% Ch	2000	2005	% Ch
Agriculture	139,503	51,922	-63%	533.0	219.3	1.0	1.1	8,165,912	9,862,348	21%	58.54	189.95	224%
Commerce	2,026	1,834	-9%	27.0	17.4	3.5	2.5	2,279,662	1,227,066	-46%	1,125.20	669.07	-41%
Defense	96,479	78,775	-18%	890.2	752.2	2.4	2.5	36,526,671	47,876,973	31%	378.60	607.77	61%
Education	1,695	2,219	31%	9.1	10.1	1.4	1.2	454,379	1,063,860	134%	268.07	479.43	79%
Energy	2,649	3,831	45%	58.5	70.5	5.8	4.8	2,442,974	4,020,094	65%	922.23	1,049.36	14%
DHS	—	126,126	—	—	621.6	—	1.3	—	28,824,858	—	—	228.54	—
HUD	2,878	2,923	2%	40.0	41.0	3.6	3.7	2,191,000	1,998,632	-9%	761.29	683.76	-10%
Interior	4,966	6,420	29%	131.0	121.0	6.9	4.9	5,190,926	7,666,403	48%	1,045.29	1,194.14	14%
Justice	235,090	51,435	-78%	1,069.1	524.5	1.2	2.7	69,269,121	56,610,612	-18%	294.65	1,100.62	274%
Labor	22,505	23,284	3%	229.0	190.1	2.7	2.1	5,700,000	16,027,360	181%	253.28	688.34	172%
State	3,070	3,870	26%	136.0	143.0	11.6	9.6	11,692,372	9,926,300	-15%	3,808.59	2,564.94	-33%
DOT	19,280	9,384	-51%	110.7	86.8	1.5	2.4	7,942,682	7,334,051	-8%	411.96	781.55	90%
Treasury	1,597	53,987	3,281%	15.6	104.4	2.5	0.5	328,662	12,920,599	3,831%	205.80	239.33	16%
CIA	4,490	3,110	-31%	77.8	74.1	4.5	6.2	9,800,000	8,350,000	-15%	2,182.63	2,684.89	23%
CPSC	13,157	5,387	-59%	169.0	11.2	3.4	0.5	1,407,044	1,142,756	-19%	106.94	212.13	98%
EEOC	16,060	16,232	1%	43.8	49.0	0.7	0.8	1,674,183	1,976,105	18%	104.25	121.74	17%
EPA	14,837	11,108	-25%	630.0	181.1	11.1	4.3	7,628,076	9,449,572	24%	514.13	850.70	65%
Archives	9,311	8,878	-5%	32.5	25.0	0.9	0.7	1,339,336	1,741,987	30%	143.84	196.21	36%
NASA	1,652	1351	-18%	18.0	18.8	2.8	3.6	672,237	1,128,410	68%	406.92	835.24	105%
NLRB	5,418	4702	-13%	10.5	7.7	0.5	0.4	443,340	779,187	76%	81.83	165.71	103%
SEC	2,854	7,422	160%	26.2	36.1	2.4	1.3	3,058,293	3,835,658	25%	1,071.58	516.80	-52%
SBA	3,088	3,737	21%	31.2	10.7	2.6	0.7	338,812	812,729	140%	109.72	217.48	98%
Total	602,605	477,937	-21%	4,288	3,315	1.9	1.8	178,545,681	234,575,56	31%	296.29	490.81	66%

Key: Increase No Change Decrease

*Days Per Request are calculated by multiplying the number of employees (reported by government agencies as Work Years) by the number of annual working days (261), then dividing by the number of requests processed.

FOIA LITIGATION 1999-2005

Fiscal Year	Total Cases Resolved	Judgment for			Cases Dismissed			Legal Fees, Costs Awarded			
		Plaintiff	Partial	U.S. Govt.	Stipulated	Voluntary	Other	Plaintiff Win*		Stipulated Dismissal	
								Number	Amount	Number	Amount
2005	426	14	47	240	64	37	26	17	\$1,636,166	17	\$ 241,789
2004	403	8	35	208	66	36	50	7	\$ 1,477	2	\$ 8,930
2003	422	14	20	220	98	22	48	9	\$ 6,324	3	\$ 62,231
2002	376	10	34	217	73	19	23	8	\$ 8,275	21	\$ 172,999
2001	393	14	23	243	75	17	21	11	\$ 01,717	13	\$ 324,585
2000	456	15	15	253	119	25	29	7	\$ 82,202	37	\$ 292,238
1999	410	17	36	214	87	29	27	9	\$ 42,365	46	\$ 341,377
Total	2886	92	210	1595	582	185	224	68	\$3,284,526	139	\$1,444,159
Annual Average	412	13	30	228	83	26	32	9.7	\$469,218	19.8	\$206,307

The totals shown here are based on annual and "addendum" reports posted by the Justice Department.

*The "Plaintiff Win" numbers in the Legal Fees category include awards to plaintiffs in both full and partial judgment cases.

FOIA LITIGATION COSTS, 2004 AND 2005

Department/Agency	Litigation Costs	
	2004	2005
Agriculture	\$266,025	\$365,872
Commerce	\$396,280	\$310,006
Defense	\$428,202	\$2,180,360
Education	0	0
Energy	\$189,035	\$207,000
Homeland Security	\$562,803	\$481,784
HUD	\$18,968	\$9,350
Interior	\$358,718	\$362,111
Justice	\$7,020,176	\$7,020,176
Labor	\$160,000	\$175,000
State	\$123,156	\$176,800
Transportation	\$90,381	\$83,470
Treasury	\$408,575	\$732,883
CIA	\$730,000	\$750,000
Consumer Prod. Safety	\$2,000	\$20,000
EEOC	\$26,759	\$16,796
EPA	\$290,309	\$356,685
NARA	0	0
NASA	\$118,344	0
NLRB	\$46,860	\$17,575
SEC	\$663	\$118,522
SBA	\$1,800	0
HHS	\$1,427,345	\$739,929
Veterans Affairs	\$210,461	\$125,000
Social Security Admin.	\$20,489	\$55,181
Total	\$12,897,349	\$14,304,500

JUSTICE DEPARTMENT LITIGATION COSTS, 1998-2005

Year	Civil Division	Executive Office of U.S. Attorneys	DOJ Total	Number of Cases	Cost per Case
2005	\$ 2,053,599	\$ 1,573,687	\$ 7,110,971	436	\$ 16,310
2004*	\$ 1,372,006	\$ 2,004,184	\$ 7,020,176	403	\$ 17,420
2003	\$ 30,000	\$ 40,000	\$ 4,098,374	422	\$ 9,712
2002	\$ 30,000	\$ 256,169	\$ 4,305,061	376	\$ 11,450
2001	\$ 25,000	\$ 332,423	\$ 3,736,454	393	\$ 9,508
2000	\$ 15,500	\$ 748,000	\$ 3,607,471	456	\$ 7,911
1999	\$ 24,655	\$ —	\$ 1,013,219	410	\$ 2,471
1998	\$ 31,486	\$ —	\$ 3,448,090	NA	

*In its 2004 report, the Justice Department reported Civil Division litigation costs at \$6,746,198. In its 2005 report, Justice corrected that number to \$1,372,006, saying the 2004 number was the result of an error in data interpretation.

Justice also said the Executive Office of U.S. Attorneys, EOUSA, does not keep separate cost records on FOIA cases, so litigation expenses have been estimated. EOUSA worked on 257 cases during the year. The report assumes an average of 100 hours for each case and allots \$50.18 per hour for the staff attorney's time. EOUSA also had \$284,001 in other FOIA litigation costs for a \$1,573,687 total.

Use of Exemptions in Denying FOIA Requests

Exemption Cited	2000	2004	2005
Exemption 1 National defense and foreign policy	4,597	3,410	2,936
Exemption 2 Internal personnel rules and practices	9,185	30,120	41,170
Exemption 3 Statutory	7,156	8,096	9,316
Exemption 4 Trade secrets/commercial financial information	6,264	9,147	8,994
Exemption 5 Inter/Intra-agency memos or letters	32,854	52,644	55,105
Exemption 6 Privacy	60,572	60,026	48,443
Exemption 7(a) Law Enforcement: Interferes with law enforcement	15,351	10,098	8,011
Exemption 7(b) Law Enforcement: Fair trial	136	883	427
Exemption 7(c) Law Enforcement: Privacy	49,972	55,314	44,840
Exemption 7(d) Law Enforcement: Confidential sources	12,974	8,348	6,673
Exemption 7(e) Law Enforcement: Techniques and procedures	7,483	12,834	19,161
Exemption 7(f) Law Enforcement: Life/safety	2,158	2,012	1,035
Exemption 8 Financial institution oversight	59	108	102
Exemption 9 Geological and geophysical data	8	186	11
Total	208,376	253,050	223,050

USE OF FOIA EXEMPTIONS 2000, 2004 AND 2005

Dept./ Agency	Total Requests Processed					Total or Partial Denials						Total Exemptions Cited in Denying Requests				
	2000	2004	2005	Change 2000-05	Change 2004-05	2000	% Total	2004	Total	2005	% Total	2000	2004	2005	Change 2000-05	Change 2004-05
Agriculture	139,503	61,209	51,922	-63%	-15%	3,729	3%	3,727	6%	3,362	6%	2,637	4,066	3,063	16%	-25%
Commerce	2,026	2,035	1,834	-9%	-10%	415	20%	491	24%	521	28%	482	575	614	27%	7%
Defense	96,479	77,256	78,775	-18%	2%	13,918	14%	14,119	18%	17,072	22%	18,812	22,139	23,884	27%	8%
DHS	NA	152,027	126,126	NA	-17%	NA	NA	61,567	40%	49,458	39%	NA	138,134	4,533	NA	-3%
Education	1,695	2,082	2,219	31%	7%	365	22%	720	35%	805	36%	475	1,059	1,281	170%	21%
Energy	2,649	2,440	3,831	45%	57%	362	14%	317	13%	307	8%	393	348	363	-8%	4%
HUD	2,878	3,978	2,923	2%	-27%	473*	16%	824	21%	745	25%	649	601	717	10%	19%
Interior	4,966	4,219	6,420	29%	52%	938	19%	1,037	25%	2,957	46%	1,047	1,385	3,34	219%	141%
Justice	235,090	56,865	51,435	-78%	-10%	35,034	15%	10,631	19%	8,743	17%	130,474	23,399	19,142	-85%	-18%
Labor	22,505	21,860	23,284	3%	7%	13,972	62%	9,482	43%	8,767	38%	25,554	25,634	22,135	-13%	-14%
State	3,070	4,963	3,870	26%	-22%	915	30%	1,715	35%	1,104	29%	914	2,759	1,814	98%	-34%
DOT	19,280	10,905	9,384	-51%	-14%	2,780	14%	2,462	23%	2,379	25%	2,982	3,064	2,845	-5%	-7%
Treasury	1,597	64,570	53,987	3281%	-16%	307	19%	3,964	6%	3,990	7%	359	3,813	8,018	2133%	110%
CIA	4,490	3,336	3,110	-31%	-7%	2,056	46%	1,759	53%	1,656	53%	3,791	2,554	2,343	-38%	-8%
CPSC	13,157	6,397	5,387	-59%	-16%	777	6%	438	7%	528	10%	1,469	780	935	-36%	20%
EEOC	16,060	17,485	16,232	1%	-7%	12,612	79%	13,812	79%	12,374	76%	13,688	18,324	15,744	15%	-14%
EPA	14,837	13,352	11,108	-25%	-17%	705	5%	755	6%	153	1%	1,064	1,306	1,309	23%	0%
Archives	9,311	5,219	8,878	-5%	70%	470	5%	132	3%	111	1%	300	165	175	-42%	6%
NASA	1,652	1,567	1351	-18%	-14%	559	34%	417	27%	407	30%	556	429	528	-5%	23%
NLRB	5,418	5,295	4702	-13%	-11%	933	17%	659	12%	505	11%	1,397	1,701	1,262	-10%	-26%
SEC	2,854	3,830	7,422	160%	94%	654	23%	708	18%	352	5%	955	778	982	3%	26%
SBA	3,088	1,927	3,737	21%	94%	451	15%	241	13%	236	6%	382	274	316	-17%	15%
Total	602,605	522,817	477,937	-21%	-9%	91,952	15%	129,977	25%	116,532	24%	208,376	253,287	245,34	18%	-3%

Key: Increase No Change Decrease

"**Total or Partial Denials**" is the sum of what the government agencies report as "Denials" and as "Partial Grants." Partial grants are, logically, also partial denials, and the government agencies combine the two categories in reporting on their use of exemptions to deny all or portions of FOIA requests. We have done the same here.

% **Total** measures denials as a percentage of the total requests processed, permitting a constant comparison as requests rise or fall.