

AN OPPORTUNITY LOST

Part II

Agency Performance in 2007

July 3, 2008

COALITION OF
JOURNALISTS FOR
OPEN GOVERNMENT

How FOIA Requesters Fared by Department/Agency, 2007

Department/Agency	Requests				Decision Made				
	Received	Processed	Yearend Backlog	Percent	Granted in Full	Partial Grant	Percent Granted	Denied	Other
Agriculture	31,500	31,651	1,683	5%	27,046	1,793	91%	798	2,014
Commerce	1,852	1,949	212	11%	769	395	60%	133	652
Defense	86,299	78,392	26,195	33%	37,642	12,691	64%	2,345	25,714
Education	1,792	1,670	663	40%	639	583	73%	85	363
Energy	3,434	3,698	646	17%	2,909	278	86%	52	459
Homeland Sec.	108,416	135,297	83,661	62%	13,608	62,832	56%	1,479	57,378
HUD	3,484	7,661	764	10%	2,171	719	38%	436	4,335
Interior	4,891	5,437	876	16%	2,578	949	65%	174	1,736
Justice	52,560	53,889	7,649	14%	22,036	6,562	53%	1,851	23,452
Labor	27,944	27,581	1,269	5%	12,617	6,608	70%	2,673	170
State	5,078	4,792	4,085	85%	437	929	29%	210	3,216
Transport.	9,695	9,542	2,194	23%	3,135	2,236	56%	293	3,878
Treasury	27,927	28,785	3,066	11%	15,238	2,950	63%	468	10,129
CIA	2,911	3,031	776	26%	344	1100	48%	586	1,001
CPSC	4,598	4,402	280	6%	3,467	379	87%	91	465
EEOC	14,602	14,879	1,416	10%	800	9,643	70%	1,571	2,865
EPA	11,820	12,066	1,727	14%	4,613	624	43%	83	6,746
GSA	1,354	1,347	86	6%	929	125	78%	17	276
NARA	12,185	12,386	5,177	42%	863	339	10%	12	11,172
NASA	1,416	1,326	331	25%	408	380	59%	34	504
NLRB	4,320	4,278	158	4%	3,201	387	84%	306	384
NRC	349	351	34	10%	147	98	70%	8	98
NSF	340	343	2	1%	39	255	86%	6	43
SEC	9,070	12,564	6,909	55%	5,691	187	47%	577	6,109
SBA	3,333	3,348	31	1%	2,820	168	89%	77	283
Subtotal	431,170	460,665	149,890	33%	164,147	113,042	60%	14,365	163,442
HHS	289,721	290,315	28,134	10%	276,886	792	96%	2,096	10,541
OPM	14,459	14,398	986	7%	10,460	2,757	92%	106	380
SSA	18,995,845	18,995,719	1,282	0%	18,994,411	206	100%	300	802
VA	2,008,589	2,011,887	35,366	2%	1,930,264	3,519	96%	18,858	59,246
Subtotal	21,308,614	21,312,319	65,768	0%	21,212,021	7,274	100%	21,360	70,969

KEY: Average and Above Average and Below

HHS, OPM, SSA and the VA are shown separately because the bulk of their requests come under both FOIA and the Privacy Act from individuals seeking personal records. Most do not require discretionary decisions of the agency on whether to release the documents and are automatically and quickly granted.

Days Requesters Waited for Agency Response, 2007

Department/ Agency	Type of Request and Processing Time					
	Simple Request	Median Days	Complex Request	Median Days	Expedited Request	Median Days
Agriculture	28,495	2\45	3,099	8\331	2	3\111
Commerce	1,451	13	496	45	2	14
Defense	58,467	11.5	18,621	45.5	1,304	1
Education	1,517	11\574	142	0\578	11	NR
Energy	3,578	9\132	115	0\286	5	0\23
Homeland Sec.	84,369	2\344	49,798	15\262	200	9\549
HUD	4,735	20\45	1,570	30\120	1,356	9\19
Interior	4,704	1\917	636	13\169	97	5\20
Justice	35,128	1\131	6,296	5\819	183	2\363
Labor	20,187	3\63	7,286	2\65	108	5\20
State	1,909	67	2,875	212	8	41
Transportation	6,279	3\56	3,183	20\401	80	1\184
Treasury	4,449	2\35	24,336	6\977	NR	NR
CIA	784	8	2,247	56	NR	NR
CPSC	3,883	10	519	40	0	NR
EEOC	14,359	18	NR	NR	520	8
EPA	11,675	13\49	389	32\141	2	38\75
GSA	—	0	1,347	25	0	0
NARA	11,470	9	914	1,603	2	10
NASA	631	21	683	38	12	365
NLRB	4,278	6	NR	NR	NR	NR
NRC	327	11	24	40	NR	NR
NSF	343	20.8	NR	NR	NR	NR
SEC	9,652	67	2,912	705	NR	NR
SBA	3,348	7	NR	NR	NR	NR
HHS	46,679	11\146	5,785	5\653	52	3\203
OPM	NR	NR	14,398	15	NR	NR
SSA	32,577	2	274	33	NR	NR
SSA Outsourced	18,960,390	NA	NR	NR	NR	NR
SSA Fast Track	181	14	NR	NR	NR	NR
VA	NR	NR	2,000,552	1\76	11,335	1\5

KEY: Missed Response Deadline

NR=Not Reported

NOTE: Agencies are required to respond to all requests within 20 working days. Those agencies that reported a median response time beyond the 20 days are highlighted. Some agencies report only by component unit, providing no agency total. In those instances, the "Median Day" figures shown reflect the lowest and highest response times reported by components, i.e. (6\977). We've used the latter in determining agency compliance. **Social Security** did not report Median Days for requests processed in its 1,400 field offices. Unlike other agencies, it breaks down its own FOIA processing into a fourth, Fast Track category.

The Results of FOIA Appeals by Agency, 2007

Department/Agency	Appeals Received	Appeals Processed	Backlog	Percent Backlog	Full Grant	Partial Grant	Percent Granted	Denial Upheld	Other*
Agriculture	195	125	70	56%	16	36	42%	28	45
Commerce	60	59	1	2%	2	4	14%	39	14
Defense	1,040	1046	NR		35	146	17%	328	537
Education	43	41	2	5%	2	7	31%	24	8
Energy	49	51	NR		1	5	12%	8	37
Homeland Sec.	1,656	1188	468	39%	31	176	17%	303	678
HUD	45	43	NR		6	1	16%	10	26
Interior	192	284	NR		28	1	10%	9	246
Justice	2,560	4,255	NR		25	139	4%	1,430	2,661
Labor	319	389	NR		14	76	23%	63	236
State	390	110	280	255%	6	16	20%	65	23
Transportation	116	160	91	57%	9	34	27%	48	69
Treasury	308	332	NR		7	40	14%	279	6
CIA	205	216	NR		4	27	14%	128	57
CPSC	19	19	NR		0	1	5%	16	12
EEOC	277	291	NR		30	117	51%	96	48
EPA	97	127	196	154%	28	19	37%	15	45
GSA	18	18	NR		1	3	22%	7	7
NARA	36	47	NR		3	6	19%	17	21
NASA	29	29	NR		7	7	48%	5	10
NLRB	25	25	NR		1	5	24%	18	1
NRC	6	7	NR		1	3	57%	1	2
NSF	4	4	NR		0	1	25%	3	4
SEC	143	207	NR		29	27	27%	104	47
SBA	21	19	2	11%	4	2	32%	9	4
Subtotal	7,853	9,073	—	—	290	899	13%	3,053	4,844
HHS	216	141	75	53%	32	10	30%	26	73
OPM	22	22	NR	0%	3	2	23%	13	4
SSA	73	70	3	4%	22	6	40%	32	10
VA	223	204	19	9%	10	17	13%	18	159
Subtotal	534	437	97	22%	67	35	23%	89	246

KEY: NR=Not Reported

Average and Below

*Other: Agencies list various other reasons for non-disclosure including "request withdrawn", "referral", "fee-related", "not reasonably described", "not a proper FOIA request", "not an agency record", "duplicate request", and "available from another source". **The overall percentage of appeals granted** is heavily influenced by the Justice Department, which processed nearly half of the appeals and approved a mere 4%. The average for the 24 other agencies was 20%.

Exemptions Cited by Agencies in Denying FOIA Requests, 2007

Department/ Agency	Total Cited		Exemption Cited													
	2006	2007	1	2	3	4	5	6	7a	7b	7c	7d	7e	7f	8	9
Agriculture	3,536	3,544	0	103	48	515	335	1,600	116	1	788	8	17	3	0	10
Commerce	650	666	5	87	113	129	120	171	14	1	17	3	4	2	0	0
Defense	25,027	26,045	1,474	2,855	2,055	1,583	2,179	10,679	484	20	4,419	178	96	17	0	6
Education	1,432	1,197	0	166	9	218	113	354	117	0	215	2	3	0	0	0
Energy	408	424	4	43	40	92	65	163	2	0	14	1	0	0	0	0
Homeland Sec.	175,925	233,899	145	48,519	413	511	46,316	38,752	549	161	59,644	542	38,145	200	2	0
HUD	624	1,384	0	43	151	331	315	408	77	1	49	0	9	0	0	0
Interior	1,559	1,559	3	105	46	172	333	662	69	0	121	11	16	9	1	11
Justice	20,630	18,535	552	2,790	754	136	1,650	3,922	455	1	5,075	1,758	701	740	1	0
Labor	23,757	20,988	0	949	21	4,034	4,285	2,115	1,608	51	4,763	2,656	504	2	0	0
State	2,399	3,055	948	131	602	125	367	665	57	2	93	23	35	7	0	0
Transportation	2,965	3,212	8	114	119	286	557	1,476	91	4	437	110	10	0	0	0
Treasury	6,407	6,606	11	100	2,181	255	660	747	465	5	951	68	1,015	9	139	0
CIA	2,134	2,422	741	160	1,008	12	127	257	13	3	29	21	51	0	0	0
CPSC	760	1,028	0	0	369	164	277	104	100	0	0	12	2	0	0	0
EEOC	14,796	14,513	0	8	1,760	15	9,223	566	732	3	2,108	88	10	0	0	0
EPA	882	1,018	0	35	269	310	141	138	2	71	34	18	0	0	0	0
GSA	225	227	0	22	11	124	29	35	6	0	0	0	0	0	0	0
NARA	114	811	259	47	105	18	55	195	12	0	61	18	33	8	0	0
NASA	513	539	0	36	36	284	59	93	31	*	*	*	*	*	0	0
NLRB	1,131	1,223	0	31	0	8	213	253	222	0	279	212	5	0	0	0
NRC	220	188	0	30	3	27	42	33	12	0	35	1	5	0	0	0
NSF	364	388	0	0	22	87	10	242	1	0	26	0	0	0	0	0
SEC	853	865	0	47	1	132	46	70	518	0	34	0	0	0	17	0
SBA	323	327	0	10	0	152	74	89	1	0	1	0	0	0	0	0
Subtotal	285,335	344,663	4,150	56,431	10,136	9,720	67,591	63,789	5,754	324	79,193	5,730	40,661	997	160	27
HHS	3,496	3,433	0	52	51	444	179	2,524	71	0	80	19	13	5	0	0
OPM	4,873	4,435	15	72	0	6	15	2,142	1	0	2,096	21	67	1	0	0
SSA	725	549	0	121	38	8	119	249	0	0	14	0	0	0	0	0
VA	24,479	21,748	0	130	6,165	162	157	14,567	55	12	495	—	—	5	0	0
Subtotal	33,573	30,165	15	375	6,254	620	470	19,482	127	12	2,685	40	80	5	0	0

KEY: Increase from 2006 * NASA listed all law enforcement-related citations in the 7a category.

The 21% increase in citations reflects both the growing number of full denials and the increase in partial grants with portions redacted. The numbers continue to reflect the broad interpretation of Exemptions 2 and 5 urged by the Ashcroft and Card memos in 2001 and 2002.

Other Reasons Cited by Agencies for Nondisclosure, 2007

Department/ Agency	Total 2006	Total 2007	No Records	Referrals	Request Withdrawn	Fee Related Reason	Not Reasonably Described	Not a Proper Request	Not an Agency Record	Duplicate Request	All Other
Agriculture	2,334	2,014	696	156	572	114	43	74	74	77	208
Commerce	797	652	281	42	82	103	23	41	6	20	54
Defense	28,538	25,714	6,363	8,668	2,688	787	821	2,847	782	1,203	1555
Education	343	363	135	28	12	92	24	60	6	5	1
Energy	617	459	242	58	83	14	7	21	12	18	4
Homeland Sec.	44,299	57,378	8,089	4,766	2,526	256	6,755	2,142	1,669	7,903	23,272
HUD	961	4,335	492	501	529	419	304	513	92	392	1093
Interior	1,320	1,736	502	138	171	88	107	65	52	29	584
Justice	26,690	23,452	14,557	672	546	1,328	1,981	1,180	822	1,140	1,226
Labor	5,188	5,683	3,101	1,281	273	87	177	66	158	370	170
State	2,405	3,216	766	587	72	*	*	123	*	60	1,608
Transportation	2,818	3,878	2,616	208	673	138	23	69	85	26	40
Treasury	13,222	10,129	3,732	323	437	361	168	4,202	49	369	488
CIA	878	1,001	421	87	2	0	0	0	0	0	491
CPSC	418	465	154	240	30	12	0	1	0	28	0
EEOC	3,418	2,563	651	402	369	110	14	210	92	132	885
EPA	7,799	6,746	5,617	58	623	31	13	9	14	78	303
GSA	365	276	69	21	95	6	9	6	11	8	51
NARA	8,349	11,172	10,620	102	90	4	117	97	19	34	89
NASA	361	516	143	144	56	27	27	23	23	16	57
NLRB	427	384	84	174	81	9	2	0	5	0	29
NRC	4	98	37	2	19	12	6	3	2	1	16
NSF	58	43	18	2	14	3	5	1	0	0	0
SEC	5,618	6,109	4,294	766	985	26	4	4	3	23	4
SBA	294	283	156	40	27	11	11	2	28	3	5
Subtotal	157,521	168,665	63,836	19,466	11,055	4,027	10,641	11,549	3,912	11,935	32,233
HHS	14,535	10,541	4,051	541	2,793	300	316	790	41	307	1,402
OPM	503	380	223	78	9	2	4	18	20	17	9
SSA	1,045	802	151	0	0	34	24	0	0	68	525
VA	49,219	59,246	16,319	9,015	15,582	795	1,645	6,128	1,183	7,792	787
Subtotal	65,302	70,969	20,744	9,634	18,384	1,131	1,989	6,936	1,244	8,184	2,723
KEY:	Increase from 2006		* Department folded totals in this category into "other"								

The 7% increase in "other reasons" for not providing requested records is primarily the product to two agencies, Homeland Security and HUD, both of which significantly reduced their 2006 backlogs of 97% and 188%, respectively. The citation of "other reasons" by Homeland Security was up 30% and by HUD up 344%.

FOIA Processing Costs, Workforce and Efficiency 2007

Department/ Agency	Processing Costs	Requests Processed	Cost per Request	FTEs	Requests per FTE
Agriculture	\$9,690,365	31,651	\$306	170	186
Commerce	\$1,329,011	1,949	\$682	19	105
Defense	\$64,598,467	78,392	\$824	971	81
Education	\$2,334,654	1,670	\$1,398	23	73
Energy	\$4,135,034	3,698	\$1,118	21	176
Homeland Sec.	\$22,618,918	135,297	\$167	811	167
HUD	\$3,704,736	7,661	\$484	69	111
Interior	\$9,797,472	5,437	\$1,802	184	30
Justice	\$39,951,271	53,889	\$741	421	128
Labor	\$17,757,759	27,581	\$644	225	123
State	\$4,294,328	4,792	\$896	104	46
Transportation	\$7,181,964	9,542	\$753	84	114
Treasury	\$11,628,542	28,785	\$404	122	236
CIA	\$9,000,000	3,031	\$2,969	82	37
CPSC	\$912,869	4,402	\$207	10	440
EEOC	\$2,492,130	14,879	\$167	41	366
EPA	\$9,841,145	12,066	\$816	119	101
GSA	\$1,440,000	1,347	\$1,069	24	56
NARA	\$2,719,652	12,386	\$220	30	413
NASA	\$1,920,656	1,326	\$1,448	24	56
NLRB	\$724,834	4,278	\$169	10	450
NRC	\$1,109,456	351	\$3,161	7	50
NSF	\$236,187	343	\$689	2	229
SEC	\$3,509,418	12,564	\$279	32	393
SBA	\$954,169	3,348	\$285	12	274
Subtotal	\$233,883,037	460,665	\$508	3,614	127
HHS	\$21,668,722	289,721	\$75	249	249
OPM	\$1,875,833	14,398	\$130	42	42
SSA	\$29,794,374	18,995,719	\$2	396*	*
VA	\$51,335,144	2,011,887	\$26	881	881
Subtotal	\$104,674,073	21,311,725	\$5	1,172	18,190
KEY:	Average and Above	Average and Below	NR=Not reported		

*The Social Security Administration outsources the handling of most FOIA requests to its 1,400 field offices, whose staff members are not included in the reported FTE total.

FOIA Request Fees Collected; Litigation Costs, 2007

Department/ Agency	Fees	% Total Costs	Litigation Costs
Agriculture	\$107,455	1.11%	\$400,937
Commerce	\$74,695	5.62%	\$269,824
Defense	\$497,354	0.77%	\$2,306,978
Education	\$28,680	1.23%	\$203,674
Energy	\$15,199	0.37%	\$126,600
Homeland Sec.	\$343,128	1.52%	\$522,147
HUD	\$508,777	13.70%	\$17,865
Interior	\$100,388	1.02%	\$227,443
Justice	\$111,826	0.28%	\$7,503,364
Labor	\$220,138	1.24%	\$671,500
State	\$20,683	0.48%	\$188,250
Transportation	\$185,141	2.58%	\$178,752
Treasury	\$543,542	4.67%	\$597,622
CIA	\$7,392	0.08%	\$1,400,000
CPSC	\$14,726	1.61%	\$8,450
EEOC	\$36,487	1.46%	0
EPA	\$313,783	3.19%	\$464,405
GSA	\$ 8,741	4.08%	0
NARA	\$4,500	0.17%	0
NASA	\$29,544	1.54%	\$108,312
NLRB	\$74,581	10.29%	\$9,134
NRC	\$8,063	0.73%	0
NSF	\$985	0.42%	0
SEC	\$140,106	3.99%	\$275,921
SBA	\$38,790	4.07%	0
Subtotal	\$3,484,704	1.49%	\$15,481,178
HHS	\$715,222	3.30%	\$660,738
OPM	\$4,750	0.25%	\$31,207
SSA	\$5,521,000	18.53%	\$43,588
VA	\$814,786	1.59%	\$12,384
Subtotal	\$7,055,758	6.74%	\$747,917