

## ANNUAL FOIA REPORT FY 2005

### I. Basic Information Regarding Report

#### A. Person(s) to be contacted with questions about the report.

Name: Barry Bird  
Title: FOIA Officer/Chief Counsel  
Address: Office of the Chief Counsel  
Economic Development Administration (EDA)  
1401 Constitution Ave., NW, Room 7005  
Washington, DC 20230  
Telephone: (202) 482-4687

#### B. Electronic Address for report on the World Wide Web.

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

### II How to Make a FOIA Request

Instructions are shown on DOC FOIA Home Page at:

#### A. Names, addresses, and telephone numbers of all individual agency components and offices that receive FOIA requests.

- Barry Bird, Chief Counsel/FOIA Officer  
Office of the Chief Counsel  
Economic Development Administration (EDA)  
14<sup>th</sup> & Constitution Ave., NW, Room 7005  
Washington, DC 20230  
(202) 482-4687
- Lola Smith, Acting Regional Director  
EDA, Atlanta Regional Office  
401 W. Peachtree St., NW, Suite 1820  
Atlanta, GA 30308  
(404) 730-3002
- Margo Wilton-Harvey, Regional Counsel  
EDA, Austin Regional Office  
504 Lavaca Street, Suite 1100  
Austin, TX 78701  
(512) 381-8144

- Charlene Degen, Regional Counsel  
EDA, Chicago Regional Office  
111 North Canal Street, Suite 855  
Chicago, IL 60606  
(312) 353-8143
- Tom Vine, Regional Counsel  
EDA, Denver Regional Office  
1244 Speer Blvd., Suite 670  
Denver, CO 80204  
(303) 844-4715
- Linda Cruz-Carnall, Regional Counsel  
EDA, Philadelphia Regional Office  
Curtis Center, Suite 140 South  
Independence Square West  
Philadelphia, PA 19106  
(215) 597-4603
- Karen Borell, Regional Counsel  
EDA, Seattle Regional Office  
Jackson Federal Building, Suite 1856  
915 Second Ave.  
Seattle, WA 98174  
(206) 220-7660

B. Brief description of the agency's response -time ranges.

C. Brief description of why some requests are not granted.

A request for records may be denied if the requested record contains information which falls into one or more of the nine categories listed below. If the requested record contains both exempt and nonexempt information, the nonexempt portions which may reasonably be segregated from the exempt portions will be released to the requester.

#### Categories of Exempt Information

Exemption One: Records which are specifically authorized under criteria established by an Executive Order to be kept secret in interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order.

Exemption Two: Records related solely to the internal personnel rules and practices of the Department of Commerce.

Exemption Three: Records specifically exempted from disclosure by statute, provided that such statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issues, or establishes particular criteria for withholding or refers to particular types of matter to be withheld.

Exemption Four: Trade secrets and commercial or financial information obtained from a person that is privileged or confidential.

Exemption Five: Interagency or intra-agency memoranda or letters which would not be available by law to a private party in litigation with the Department of Commerce.

Exemption Six: Personnel, medical, and similar files (including financial files) the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Exemption Seven: Records compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records could reasonably be expected to interfere with enforcement proceedings; would deprive a person of a right to a fair trial or an impartial adjudication; could reasonably be expected to constitute an unwarranted invasion of personal privacy; could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution which furnished records on a confidential basis; would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or could reasonably be expected to endanger the life or physical safety of any individual.

Exemption Eight: Records that are contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for use of an agency responsible for the regulation or supervision of financial institutions.

Exemption Nine: Geological and geophysical information and data, including maps, concerning wells.

### III. Definitions of Terms and Acronyms Used in the Report

A. Agency-specific acronyms or other terms.

B. Basic terms, expressed in common terminology.

1. 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.)

2. Initial Request - a request to a Federal agency for access to records under the Freedom of Information Act.
3. Appeal - a request to a federal agency asking that it review at a higher administrative level a full denial or partial denial of access to records under the Freedom of Information Act, or any other FOIA determination such as a matter pertaining to fees.
4. Processed Request or Appeal - a request or appeal for which an agency has taken a final action on the request or the appeal in all respects.
5. 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).
6. 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.
7. Simple Request - a FOIA request that an agency using multi-track processing places in its fastest (nonexpedited) track based on the volume and/or complexity of records requested.
8. 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.
9. Grant - an agency decision to disclose all records in full in response to a FOIA request.
10. Partial Grant - an agency decision to disclose a record in part in response to a FOIA request, deleting information determined to be exempt under one or more of the FOIA's exemptions; or a decision to disclose some records in their entirety, but to withhold others in whole or in part.
11. 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).

12. 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).
13. "Perfected" request - a FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency or agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.
14. Exemption 3 Statute - a separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection (b)(3).
15. Median Number - the middle, not average, number, for example, of 3, 7, and 14, the median number is 7.
16. Average Number - the number obtained by dividing the sum of a group of numbers in the group. For example, of 3, 7, and 14, the average number is 8.

#### IV. Exemption 3 Statutes

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

1. Brief description of type(s) of information withheld under each statute. Information prohibited from disclosures by statute, 26 U.S.C. § 6103, employer identification number.
2. Statement of whether a court has upheld the use of each statute. If so, then cite example. Oldham v. United States, No. 86-0-42 (D. Neb. Nov. 25, 1986), subsequent order (D. Neb. May 4, 1987), reconsideration denied (D. Neb. June 2, 1987), on notice of appeal (D. Neb. June 9, 1987).

#### V. Initial FOIA/PA Access Requests

##### A. Numbers of initial requests

1. Number of requests pending as of end of preceding fiscal year. 0
2. Number of requests received during current fiscal year. 55
3. Number of requests processed during current fiscal year. 53

4. Number of requests pending as of end of current fiscal year. 2

B. Disposition of initial requests.

1. Number of total grants. 21

2. Number of partial grants. 15

3. Number of denials. 0

a. Number of times each FOIA exemption used (counting each exemption once per request)

(1) Exemption 1 0

(2) Exemption 2 0

(3) Exemption 3 3

(4) Exemption 4 7

(5) Exemption 5 4

(6) Exemption 6 4

(7) Exemption 7(A) 0

(8) Exemption 7(B) 0

(9) Exemption 7(C) 0

(10)Exemption 7(D) 0

(11)Exemption 7(E) 0

(12)Exemption 7(F) 0

(13) Exemption 9 1

4. Other reasons for nondisclosure (total) 17

a. no records 8

- b. referrals 0
- c. request withdrawn 3
- d. fee-related reason 2
- e. records not reasonably described 2
- f. not a proper FOIA request for some other reason 0
- g. not an agency record 2
- h. duplicate request 0
- i. other (publicly available information) 0

VI. Appeals of Initial Denials of FOIA/PA Requests (to be provided by OGC)

A. Number of appeals.

- 1. Number of appeals received during fiscal year: One (1) FOIA appeal and one (1) Privacy Act appeal received in FY 2005.
- 2. Number of appeals processed during fiscal year

B. Disposition of appeals.

- 1. Number completely upheld
- 2. Number partially reversed
- 3. Number completely reversed

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

- (1) Exemption 1
- (2) Exemption 2
- (3) Exemption 3
- (4) Exemption 4

- (5) Exemption 5
- (6) Exemption 6
- (7) Exemption 7(A)
- (8) Exemption 7(B)
- (9) Exemption 7(C)
- (10) Exemption 7(D)
- (11) Exemption 7(E)
- (12) Exemption 7(F)
- (13) Exemption 8
- (14) Exemption 9

4. Other reasons for nondisclosure (total)

- a. no records
- b. referrals
- c. request withdrawn
- d. fee-related reason
- e. records not reasonably described
- f. not a proper FOIA request for some other reason
- g. not an agency record
- h. duplicate request
- i. other (untimely)

VII. Compliance with Time Limits/Status of Pending Requests

- A. Median processing time for requests processed during the year.

1. Simple requests (if multiple tracks used).
  - a. number of requests processed N/A
  - b. median number of days to process N/A
2. Complex requests (specify for any and all tracks used).
  - a. number of requests processed 53
  - b. median number of days to process 14
3. Requests accorded expedited processing.
  - a. number of requests processed 0
  - b. median number of days to process N/A

B. Status of pending requests.

1. Number of requests pending as of end of current fiscal year 2
2. Median number of days that such requests were pending as of that date 0

VIII. Comparisons with Previous Year(s) (Optional)

- A. Comparison of numbers of requests received
- B. Comparison of numbers of requests processed
- C. Comparison of median number of days requests pending as of end of FY
- D. Other statistics significant to agency
- E. Other narrative statements describing agency efforts to improve timeliness of FOIA performance and to make records available to the public (e.g., backlog-reduction efforts; specification of average number of hours per processed request; training activities; public availability of new categories of records).

IX. Costs/FOIA Staffing

A. Staffing levels.

1. Number of full-time FOIA personnel 0

2. Number of personnel with part-time or occasional FOIA duties (in total work-years) 0.25

3. Total number of personnel 0.25

B. Total costs (including staff and all resources).

1. FOIA processing (including appeals) \$308.44

2. Litigation-related activities (estimated) N/A

3. Total \$308.44

4. Comparison with previous year(s) (including percentage of change) (optional) N/A

10. Fees

A. Total amount of fees collected by agency for processing requests \$234.20

B. Percentage of total costs 76%

XI. FOIA Regulations (Including Fee Schedule)