

U.S. Department of Housing and Urban Development 2009 Annual FOIA Report

I. Basic Information Regarding Report

- A. Questions about this report should be directed to:

Vicky J. Lewis
Assistant Executive Secretary
Freedom of Information Act Office
Office of Administration
Room 10139
451 Seventh Street, SW
Washington, DC 20410-3000

(202) 708-3054

- B. The World Wide Web address to obtain an electronic copy of the Freedom of Information Act (FOIA) report is <http://www.hud.gov/offices/adm/foia/foiarpts.cfm>. The report can be accessed by clicking “**HUD Annual FOIA Report 2009**.”
- C. A paper copy of the report can be obtained by submitting a request to the Assistant Executive Secretary, Office of the Executive Secretariat, FOIA Office, 451 Seventh Street, SW, Room 10139, Washington, DC 20410.

II. How to Make a FOIA Request

For basic information about how to make a FOIA request, please visit HUD’s website at <http://www.hud.gov/offices/adm/foia/foiarequests.cfm>.

- A. For the names, addresses, and telephone numbers of all offices that receive FOIA requests, visit HUD’s website at <http://www.hud.gov/offices/adm/foia/foiaservicecenters.cfm>.
- B. Brief description of why FOIA requests are not granted.

The most frequent reason that a FOIA request was not granted was that the request was a no documents response (HUD did not have records requested).

The primary reasons for not granting a request where documents could be located is that disclosure would result in an unwarranted invasion of personal privacy or that the information was inter-agency or intra-agency, deliberative material, attorney work product and attorney-client material.

III. Acronyms, Definitions, and Exemptions

- A. Agency-specific acronyms or other terms are as follows:

HUD - Department of Housing and Urban Development

OIG - Office of Inspector General

B. Basic terms expressed in common terminology.

1. **Administrative 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 FOIA, or any other FOIA determination, such as a matter pertaining to fees.
2. **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.
3. **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.
4. **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 the agency include in their Annual FOIA Report data for both the agency overall and for each principal component of the agency.
5. **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.
6. **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).
7. **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).
8. **Full Grant** – an agency decision to disclose all records in full in response to a FOIA request.
9. **Full Denial** – an agency decision not to release any part of a record or records in response to a FOIA request because the requested 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 can be located.
10. **Initial Request** – a request to a federal agency for access to records under the FOIA.
11. **Median Number** – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.

12. **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.
 - a. **Expedited Processing** – an agency will process a FOIA request on an expedited basis when a requester satisfies requirements for expedited processing as set forth in the statute and in agency regulations.
 - b. **Routine/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.
 - c. **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.
13. **No Documents** – no records are located in response to a FOIA request.
14. **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.
15. **Pending Request or Pending Administrative Appeal** – a request or administrative appeal for which an agency has not taken final action in all respects.
16. **Perfect Request** – a request for records which reasonably describe such records and is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed.
17. **Processed Request or Processed Administrative Appeal** – a request or administrative appeal for which an agency has taken a final action on the request or the appeal in all respects.
18. **Range in Number of Days** – the lowest and highest number of days to process requests or administrative appeals.
19. **Time Limits** – the time period for an agency to respond to a FOIA request is ordinarily 20 working days from the receipt of a perfected FOIA request.

- C. Description 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 the 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 (F) could 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

Statute	Type of Information Withheld	Case Citation	Number of Times Relied upon per Component	Total Number of Times Relied upon by Agency
42 USC §3601(d)	Information Related to conciliation under the Fair Housing Act	None	Region 9 – 1 Region 4 – 1 Region 7 – 1 Region X - 3	6
41 USC §253b(m)	Proposals received from unsuccessful offerors and not incorporated into the contract	Hornbostel v. United States Department of Interior, 305 F. Supp. 2d 21 (DDC, 2003)	Headquarters – 4 Philadelphia Regional Office - 2	6

V. FOIA Requests

A. Received, Processed, and Pending FOIA Requests

	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
Headquarters	368	958	1,134	192
Field	260	1,607	1,660	207
OIG	69	193	255	7
Agency Overall	697	2,758	3,049	406

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									Total
				No records	All Records Referred to Another Component or Agency	Request With-drawn	Fee-Related Reason	Records not Reasonably Described	Improper FOIA Request for Other Reason	Not Agency Record	Duplicate Request	Other *Explain in chart below	
Headquarters	351	151	25	185	49	60	41	35	28	13	21	175	1,134
Field Office	332	266	89	206	76	154	91	74	88	82	95	107	1,660
OIG	14	99	35	49	0	13	12	11	8	0	14	0	255
Agency Overall	697	516	149	440	125	227	144	120	124	95	130	282	3,049

B (2) “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) and Number of Times Those Reasons Were Relied upon	Total
Headquarters	Requests were administratively closed	175
Field Office	Requests were administratively closed	107

B (3) Disposition of FOIA Requests – Number of Times Exemptions Applied

	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
Headquarters	0	11	4	74	32	157	6	0	2	0	1	0	0	0
Field Office	0	20	8	48	81	136	6	2	12	2	5	1	0	0
OIG	0	17	0	1	20	77	22	0	27	0	4	0	0	0
Agency Overall	0	48	12	123	133	370	34	0	41	2	10	1	0	0

VI. Administrative Appeals of Initial Determinations of FOIA Requests

A. Received, Processed, and Pending Administrative Appeals

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
0	39	39	0

B. Disposition of Administrative Appeals – All Processed Appeals

Number Affirmed on Appeal	Number Partially Affirmed and Partially Reversed/Remanded on Appeal	Number Completely Reversed/Remanded on Appeal	Number of Appeals Closed for Other Reasons	Total
20	8	11	0	39

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

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(E)	Ex. 8	Ex. 9
0	0	2	6	3	8	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
2	0	0	0	0	0	0	0	0	0	0

C. (3) Reasons for Denial on Appeal – “Other” Reasons from Section VI, C (2) Chart

Description of “Other” Reasons for Denial on Appeal from Chart C (2) & Number of Times Those Reasons Were Relied Upon	Total
N/A	0

C. (4) Response Time for Administrative Appeals

1. Provide the median, average, and range in number of days to respond to administrative appeals

Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
N/A	N/A	N/A	N/A

HUD’s computer system does not generate reports for the above information. Adaptations to the computer program have been requested to address this issue.

C. (5) Ten Oldest Pending Administrative Appeals

1. Provide the dates of receipt of the ten oldest pending administrative appeals, and the number of days pending.

	10 th Oldest Appeal	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest Appeal
Date of Receipt of Ten Oldest Appeals	N/A	0	0	0	0	0	0	0	0	0
Number of Days Pending	N/A	0	0	0	0	0	0	0	0	0

VII. FOIA Requests: Response Time for Processed and Pending Requests

A. Provide Requests – Response Time for All Processed Perfected Requests

1. Provide the median, average, and range in number of days to process all perfected requests.

	Simple				Complex				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	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
Headquarters	N/A	N/A										
Field Office	N/A	N/A										
OIG	N/A	N/A										
Agency Overall	N/A	N/A										

HUD’s computer system does not generate reports for the above information. Adaptations to the computer program have been requested to address this issue.

B. Processed Requests – Response Time for Perfected Requests in Which Information Was Granted

1. Provide the median, average, and range in number of days to process all perfected requests in which information was granted. (“Granted” refers to full grants and partial grants).

	Simple				Complex				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	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
Headquarters	N/A	N/A										
Field Office	N/A	N/A										
OIG	N/A	N/A										
Agency Overall	N/A	N/A										

HUD’s computer system does not generate reports for the above information. Adaptations to the computer program have been requested to address this issue.

C. Processed Requests – Response Time in Day Increments

Simple Requests

	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
Headquarters	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Field Office	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
OIG	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Agency Overall	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

HUD’s computer system does not generate reports for the above information. Adaptations to the computer program have been requested to address this issue.

Complex Requests

	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
Headquarters	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Field Office	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
OIG	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Agency Overall	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

HUD’s computer system does not generate reports for the above information. Adaptations to the computer program have been requested to address this issue.

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
Headquarters	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Field Office	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
OIG	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Agency Overall	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

HUD’s computer system does not generate reports for the above information. Adaptations to the computer program have been requested to address this issue.

D. Pending Requests – All Pending Perfected Requests

	Simple			Complex			Expedited Processing		
	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days
Headquarters	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Field Office	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
OIG	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Agency Overall	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

HUD's computer system does not generate reports for the above information. Adaptations to the computer program have been requested to address this issue.

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
2/08/08	1/23/08	1/15/08	12/26/07	12/19/07	11/14/07	9/17/07	4/16/07	4/4/07	7/01/04
370	408	410	422	427	451	493	599	616	1,345

VIII. Requests for Expedited Processing and Requests for Fee Waiver

A. Requests for Expedited Processing

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
Headquarters	N/A	N/A	N/A	N/A	N/A
Field Office	N/A	N/A	N/A	N/A	N/A
OIG	N/A	N/A	N/A	N/A	N/A
Agency Overall	N/A	N/A	N/A	N/A	N/A

B. Requests for Fee Waiver

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
Headquarters	N/A	N/A	N/A	N/A
Field Office	N/A	N/A	N/A	N/A
OIG	N/A	N/A	N/A	N/A
Agency Overall	N/A	N/A	N/A	N/A

Number of expedited requests received was 424. HUD’s computer system does not generate reports for the number of expedited requests and fee waiver requests that were granted and denied. Adaptations to the computer program have been requested to address this issue.

IX. FOIA Personnel and Costs

- A. Personnel
- B. Costs

	Personnel			Costs		
	Number of “Full-Time FOIA Employees”	Number of “Equivalent Full-Time FOIA Employees”	Total Number of “Full-Time FOIA Staff”	Processing Costs	Litigation-Related Costs	Total Costs
Headquarters	11	7	18	1,239,780	9,086	1,248,866
Field Office	89	30	119	935,836	47,384	983,220
OIG	2	0	2	147,916	1,000	148,916
Agency Overall	102	37	139	2,323,532	57,470	2,381,002

X. Fees Collected for Processing Requests

	Total Amount of Fees Collected	Percentage of Total Costs
Agency Overall	\$310,565	13%

XI. FOIA Regulations (Including Fee Schedule)

The World Wide Web Internet address to obtain the Department of Housing and Urban Development FOIA Regulation is: <http://www.hud.gov/offices/adm/foia/foiareg.cfm>.

XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS

A. Backlog of FOIA Requests and Administrative Appeals

	Number of Backlogged Requests as of End of Fiscal Year	Number of Backlogged Appeals as of End of Fiscal Year
Headquarters	192	0
Field Offices	207	0
OIG	7	0
Agency Overall	406	0

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

	Number of Consultations Received from Other Agencies that Were <u>Pending</u> at the Department of Housing and Urban Development as of the <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 the Department of Housing and Urban Development During the Fiscal Year	Number of Consultations Received from Other Agencies that Were <u>Pending</u> at the Department of Housing and Urban Development as of the <u>End</u> of the Fiscal Year
Headquarters	0	1	1	0
Field Office	0	0	0	0
OIG	0	0	0	0
Agency Overall	0	1	1	0

C. Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at the Department of Housing and Urban Development.

1. Dates of receipt of the ten oldest consultations received from other agencies pending at the Department of Housing and Urban Development as of the end of the fiscal year.

	10 th Oldest 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
Headquarters	Date	0	0	0	0	0	0	0	0	0
	Number of Days									
Field Offices	Date	0	0	0	0	0	0	0	0	0
	Number of Days									
OIG	Date	0	0	0	0	0	0	0	0	0
	Number of Days									
Agency Overall	Date	0	0	0	0	0	0	0	0	0
	Number of Days									

D. Comparisons

- D. (1) and (2) Comparison of Number of Requests from Previous and Current Annual Report.

	Number of Requests <u>Received</u>		Number of Requests <u>Processed</u>	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
Headquarters	1,138	958	1,164	1,134
Field Offices	1,608	1,607	1,673	1,660
OIG	253	193	229	255
Agency Overall	2,999	2,758	3,066	3,049

D. (3) Backlog from Previous and Current Annual Reports.

	Number of Backlogged Requests as of the End of the Fiscal Year from Previous Annual Report	Number of Backlogged Requests as of the End of the Fiscal Year from Current Annual Report
Headquarters	368	192
Field Offices	260	207
OIG	69	7
Agency Overall	697	406

C. (1) and (2) Comparison of Number of Requests from Previous and Current Annual Report – Requests Received, Processed, and Backlogged.

	Number of Appeals <u>Received</u>		Number of Appeals <u>Processed</u>	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
Headquarters	30	30	0	30
Field Offices	3	11	0	11
OIG	6	0	0	0
Agency Overall	39	41	0	41

	Number of Backlogged Appeals as of the End of the Fiscal Year from Previous Annual Report	Number of Backlogged Appeals as of the End of Fiscal Year from Current Annual Report
Headquarters	0	0
Field Offices	0	0
OIG	0	0
Agency Overall	0	0