

DEPARTMENT OF THE INTERIOR

**Freedom of Information Act 2006 Annual Report
(October 1, 2005 - September 30, 2006)**

I. Basic Information Regarding Report

A. Questions about the report should be directed to:

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Office of the Chief Information
Officer (OCIO)
Department of the Interior (DOI)
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B. The electronic address for this report on DOI's World Wide Web site is:

<http://www.doi.gov/foia/06anrep.pdf>

C. A copy of the report in paper form may be obtained by contacting the Departmental FOIA Officer (see A, above).

II. How to Make a FOIA Request (see DOI's **Guide for Obtaining Information** which is located at the following Internet address: **<http://www.doi.gov/foia/foitabl.htm>**).

A. FOIA requests should be submitted to the FOIA contact at the bureau/office where the records are maintained. A list of the Department's bureaus/offices is provided below. If it is unclear where to send the request, contact the Departmental FOIA Officer. A list of DOI's FOIA contacts may be found at the following Internet address:

<http://www.doi.gov/foia/contacts.html>

Bureaus/Offices

Office of the Secretary (OS)	Minerals Management Service (MMS)
Bureau of Indian Affairs (BIA)	Bureau of Land Management (BLM)
Fish & Wildlife Service (FWS)	Office of Inspector General (OIG)
National Park Service (NPS)	Office of the Solicitor (SOL)
Bureau of Reclamation (BOR)	Office of Surface Mining (OSM)
U.S. Geological Survey (USGS)	

- B. While the median number of days for DOI's bureaus and offices to process requests ranges from 10 - 145 days (see VII.A., Normal Requests), the timeframes in a large, highly decentralized organization, such as DOI, are often longer than they would be in a small, centralized agency. In DOI, the response time varies considerably depending on the existing workload, the complexity of the request, the volume of responsive records, and the need to consult and coordinate with other bureaus/offices and agencies.
- C. In accordance with its FOIA regulations, DOI makes records available to the public unless the information is protected from disclosure by one or more of the nine specific FOIA exemptions (see 43 CFR § 2.21(b)(2)). Some requests are not granted due to one of the reasons cited in V.B.4., below (see DOI's FOIA regulations, 43 CFR § 2.21(e)).

III. Definitions of Terms and Acronyms Used in the Report

- A. Agency-specific acronyms or other terms (see II.A., above).
- 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 simplicity 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 by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.

IV. Exemption 3 Statutes

A1. and 2. List of Exemption 3 statutes relied on by DOI during current fiscal year with a brief description of the type of information withheld under each statute, and a statement of whether a court has upheld the use of each statute.

a. Archaeological Resources Protection Act of 1979, 16 U.S.C. § 470hh(a).

1) Used to withhold information regarding historical, cultural, and archaeological resources and their specific locations, including narrative descriptions of objects and their locations.

2) Pertinent litigation:

Starkey v. United States Department of the Interior, et al., Civil No. 01CV1458 (S.D. Calif. Dec. 15, 2002) (finding that the agency properly withheld, pursuant to exemption (3), narrative descriptions of archaeological resources, descriptions of objects, and commentary on their condition).

b. National Defense Authorization Act for Fiscal Year 1997 (contains a provision which amends the Federal Property and Administrative Services Act of 1949 (41 U.S.C. § 253b)).

1) Used to withhold the proposals of unsuccessful bidders and related information, and certain contract proposal information.

2) Pertinent litigation:

Hornbostel v. Department of the Interior, 305 F. Supp. 2d 21 (D.D.C. 2003) (finding that the agency properly withheld, pursuant to exemption 3 (subsection 821(b)(m) of the National Defense Authorization Act For Fiscal Year 1997, 41 U.S.C. § 253b), contractor proposals, as defined by the Act, because they are not set forth or incorporated by reference in a contract between the agency and the contractor that submitted the proposal.

c. National Historic Preservation Act Amendments of 1980, 16 U.S.C. § 470w-3.

1) Used to withhold descriptions and locations of archaeological resources,

information pertaining to an archaeological debris site, and an archaeological survey report for the Hanna property (under the authority of the Muscogee Nation).

2) DOI is not aware of any court cases upholding the use of this statute.

d. National Parks Service Omnibus Management Act of 1998 (16 U.S.C. § 5937).

1) Used to withhold the locations of threatened and endangered species, studies done on butterflies, and narrative descriptions of objects and their locations.

2) Pertinent litigation:

(i) Southwest Center for Biological Diversity v. Department of Agriculture, No. Civ. 98-1022-PHX-SMM (D. Ariz. Sept. 28, 2000) (determining that section 207 of the National Parks Omnibus Management Act of 1998 is an exemption 3 statute that protects all information in Forest Service records that identifies the location of goshawk nest sites located within one square mile of a National Park boundary); and

(ii) Pease v. United States Department of the Interior, No. 1:99CV113, slip op. at 2, 4 (D. Vt. Sept. 17, 1999) (finding that the agency properly withheld, pursuant to exemption 3 (section 207 of the National Parks Omnibus Management Act of 1998), certain information pertaining to the location, tracking and/or radio frequencies of grizzly bears in the Yellowstone National Park ecosystem).

e. Rule 6(e), Federal Rules of Criminal Procedure (Grand Jury), 18 U.S.C. Appendix

1) Used to withhold grand jury material relating to the identities of witnesses or jurors, the substance of the testimony, the strategy or direction of the investigation, and the deliberations or questions of the jurors.

2) The D.C. Circuit has concluded that Rule 6(e) of the Federal Rules of Criminal Procedure, regulating disclosure of matters occurring before a grand jury, satisfies exemption (3)'s "statute" requirement because it was specially amended by Congress in 1977. Fund for Constitutional Gov't v. National Archives & Records Serv., 656 F.2d 856, 867 (D.C. Cir. 1981).

f. Indian Mineral Development Act of 1982, 25 U.S.C. 2103(c)

1) Used to withhold information regarding the Energy Mineral Development Project on the Crow Reservation and subsequent correspondence from the Crow Tribe Chairman to the Rocky Mountain Regional Director.

2) DOI is not aware of any court cases upholding the use of this statute.

V. Initial FOIA/PA Access Requests

A. Numbers of initial requests

1. Number of requests pending as of end of preceding fiscal year 1,763*

2. Number of requests received during current fiscal year 4,804

*Although DOI indicated in its FY 2005 Annual Report that there were 1,910 requests pending at the end of the fiscal year, the figure denoted in V.A.1. is correct. The difference is attributed to the fact that 1) although many requests were completed in FY 2005, the bureaus did not show them as being completed until after the FY 2005 report was finalized; 2) there were a few discrepancies in accounting; and 3) some of the bureau offices are still transitioning to DOI's centralized electronic FOIA tracking system (EFTS). The EFTS ultimately will provide for greater accuracy and accountability.

3. Number of requests processed during current fiscal year 5,086

4. Number of requests pending as of end of current fiscal year 1,481

B. Disposition of initial requests

1. Number of total grants 2,443

2. Number of partial grants 1,186

3. Number of denials 137

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

(1) Exemption 1 5

(2) Exemption 2 85

(3) Exemption 3 45

(4) Exemption 4	<u>169</u>
(5) Exemption 5	<u>345</u>
(6) Exemption 6	<u>718</u>
(7) Exemption 7 (A)	<u>42</u>
(8) Exemption 7 (B)	<u>2</u>
(9) Exemption 7 (C)	<u>138</u>
(10) Exemption 7 (D)	<u>15</u>
(11) Exemption 7 (E)	<u>18</u>
(12) Exemption 7 (F)	<u>14</u>
(13) Exemption 8	<u>1</u>
(14) Exemption 9	<u>4</u>
4. Other reasons for nondisclosure (total)	<u>1,320</u>
a. no records	<u>458</u>
b. referrals	<u>164</u>
c. request withdrawn	<u>150</u>
d. fee-related reason	<u>69</u>
e. records not reasonably described	<u>118</u>
f. not a proper FOIA request for some other reason	<u>57</u>
g. not an agency record	<u>29</u>
h. duplicate request	<u>30</u>
i. other (specify)	<u>245</u>

- Requester failed to provide additional clarification requested	<u>236</u>
- Request closed due to an appeal	<u>1</u>
- Per Indian Lands Consolidation Act (25 CFR 217) information not disclosed	<u>1</u>
- Reason not specified	<u>7</u>

VI. Appeals of Initial Denials of FOIA/PA Requests

A. Numbers of appeals.

1. Number of appeals received during fiscal year	<u>216</u>
2. Number of appeals processed during fiscal year	<u>167</u>

B. Disposition of appeals.

1. Number completely upheld	<u>11</u>
2. Number partially reversed	<u>18</u>
3. Number completely reversed	<u>64</u>

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

(1) Exemption 1	<u>0</u>
(2) Exemption 2	<u>3</u>
(3) Exemption 3	<u>0</u>
(4) Exemption 4	<u>0</u>
(5) Exemption 5	<u>12</u>
(6) Exemption 6	<u>8</u>
(7) Exemption 7(A)	<u>1</u>
(8) Exemption 7(B)	<u>0</u>
(9) Exemption 7(C)	<u>5</u>

(10) Exemption 7(D)	<u>0</u>
(11) Exemption 7(E)	<u>0</u>
(12) Exemption 7 (F)	<u>0</u>
(13) Exemption 8	<u>0</u>
(14) Exemption 9	<u>0</u>
4. Other reasons for nondisclosure (total)	<u>74</u>
a. no records	<u>12</u>
b. referrals	<u>0</u>
c. request withdrawn	<u>1</u>
d. fee-related reason	<u>8</u>
e. records not reasonably described	<u>0</u>
f. not a proper FOIA request for some other reason	<u>2</u>
g. not an agency record	<u>0</u>
h. duplicate request	<u>0</u>
i. other (specify)	<u>51</u>
- Appeals closed due to litigation	<u>6</u>
- Expedited processing denied	<u>1</u>
- Records covered by a Protective Order	<u>1</u>
- Premature appeals	<u>4</u>
- Bureau did not receive request	<u>2</u>
- Bureau resolved issue in appeal before appeal decision rendered	<u>1</u>
- Bureau responded to request before appeal filed	<u>3</u>
- Bureau failed to timely respond	<u>7</u>

- Vaughn index not required at administrative level 1
- Adequate search conducted 9
- Remand due to procedural deficiencies (failed to review records (2), fee waiver (2), inadequate search (3), incomplete processing (5), no exemption cited (2), scope defined improperly (1)) 15
- Remand (7A issue moot) 1

VII. Compliance with Time Limits/Status of Pending Requests

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

1. Simple requests

a. number of requests processed 144

b. median number of days to process (by bureau/office)

OS	<u>2</u>
BLM	<u>41</u>
FWS	<u>89</u>
BOR	<u>9</u>

2. Normal requests

a. number of requests processed 4,625

b. median number of days to process (by bureau/office)

OS	<u>10</u>
OIG	<u>145</u>
SOL	<u>26</u>
OSM	<u>22</u>
MMS	<u>21</u>
BLM	<u>25</u>
FWS	<u>29</u>
NPS	<u>21</u>
BOR	<u>17</u>
USGS	<u>10</u>
BIA	<u>83</u>

3. Complex requests

- a. number of requests processed 278
- b. median number of days to process (by bureau/office)
 - OS 79
 - OSM 20
 - MMS 53
 - BLM 79
 - FWS 4
 - BOR 28
 - USGS 27

4. Requests accorded expedited processing

- a. number of requests processed 39
- b. median number of days to process (by bureau/office)

OS	<u>17</u>
OIG	<u>2</u>
SOL	<u>0</u>
OSM	<u>0</u>
MMS	<u>28</u>
BLM	<u>16</u>
FWS	<u>15</u>
NPS	<u>0</u>
BOR	<u>6</u>
USGS	<u>0</u>
BIA	<u>15</u>

B. Status of pending requests.

- 1. Number of requests pending as of end of 1,481
current fiscal year
- 2. Median number of days that such requests
were pending as of that date (by bureau/office)

OS	<u>93</u>
OIG	<u>905</u>
SOL	<u>138</u>
OSM	<u>59</u>
MMS	<u>23</u>
BLM	<u>58</u>
FWS	<u>149</u>
NPS	<u>39</u>
BOR	<u>15</u>

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

- A. Comparison of numbers of requests received
- 29% decrease from FY 2005
- B. Comparison of numbers of requests processed
- 21% decrease from FY 2005
- C. Comparison of median numbers of days requests were pending as of end of fiscal year - N/A
- D. Other statistics significant to agency - Not available
- 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):
- In 2006, the Department focused on complying with the mandates of FOIA Executive Order 13392, in particular conducting a review of its FOIA operations DOI-wide, developing its FOIA Improvement Plan submitted to DOJ/OMB in June, and meeting the milestones in the Plan (see Section XII below, DOI's FOIA Improvement Plan at http://www.doi.gov/foia/exec_order.html)
 - A cost-effectiveness analysis of the Electronic FOIA Tracking System (EFTS) was conducted in 2006. Following the analysis, the Department decided to continue to use the EFTS to track and manage its FOIA requests. The web-based system is used throughout the country by FOIA personnel. The system has an automatic acknowledgement letter, compiles fees, time, and all the information necessary to produce the Annual Report. It has enhancement capability and there is not a 'per seat' fee for users. Designed by the DOI FOIA Officers, the EFTS continues to be a best practice.
 - DOI continues to be concerned about the fluctuation of staff dedicated to the FOIA program, particularly in light of the objectives of FOIA Executive Order (EO) 13392. The learning curve for new FOIA staff has contributed to processing delays and DOI's FOIA backlog.
 - At the end of FY 2005, Indian Affairs (IA) had a significant FOIA backlog, in part due to ineffective processes. In FY 2006, IA reviewed best practices in the Department and made several changes that resulted in a reduction of FOIA requests pending at the end of the year by 33 percent. In addition, IA implemented an organizational change that realigned FOIA responsibility to

improve communications within IA and the Department. IA expects to continue building on these successes.

- In FY 2006, DOI conducted a review of its FOIA operations consistent with the EO. As a result of this review, FWS was identified as having a significant backlog. Accordingly, in 2006, FWS focused on reducing its FOIA backlog, in particular the backlog within Region 1. Through the efforts of the Washington Office and the Regional FOIA Officer which included providing training and guidance, providing partial responses for the readily available material, detailing an employee to focus solely on the backlog, and improved communication, the FWS exceeded its backlog reduction goal of 34 percent.

- NPS received more FOIA requests than any other bureau/office in FY 2006. However, it had considerably fewer requests pending at the end of the year, proportionately, as a result of the time and effort expended towards reducing its backlog and minimizing any future backlog. The bureau continues to post more documents to its web site which has reduced the number of FOIA requests received. In 2006, NPS also focused on improving customer service by promptly contacting requesters by telephone first regarding any processing issues, and then following up with a letter.

- In February 2006, the Department conducted specialized FOIA/Privacy Act training for employees attending the American Society of Access Professionals Western Symposium.

- The Department also provided two FOIA/Privacy Act training sessions to employees through the DOI University, both in headquarters and the field.

- In order to significantly improve the program and meet goals associated with the FOIA Improvement Plan, the Department developed and stood-up a FOIA Intranet website. While this site primarily provides information for FOIA personnel, it is accessible to all DOI staff. This website contains guidance, EFTS user information, upcoming events, and training material. Eventually, the site will allow FOIA personnel to submit questions and concerns for response by the DOI FOIA Office. The Chief FOIA Officer issued a Directive to address training material. The Directive requires that all FOIA training material be vetted through the Department's FOIA Office. This will provide assurance that training material is up-to-date and complies with the latest policy and guidance.

- In FY 2006, several bureaus and offices provided training to their staff. This furthers implementation of the Improvement Plan and provides a means to 'get the word out' regarding changes in the program, requirements and other issues associated with the Plan. Additionally, FOIA staff are becoming more aware of the importance regarding information sharing with regard to processing techniques and handling requests, FOIA policy, and the benefits of using the EFTS. Among the Bureaus/Offices providing training in FY 2006 were the

Department's FOIA Office, the OS FOIA Office, Bureau of Reclamation, and Minerals Management Service. Beginning in FY 2007, the training material used for these sessions will be reviewed by the Department's FOIA Office before conducting any further sessions in accordance with the Directive issued by the Chief FOIA Officer in January 2007. Below are the bureau efforts completed during this reporting period.

- The OS FOIA Office developed a "Practical Introduction to FOIA Processing" course that covers the basics of FOIA processing as well as the statutory and Executive Order (EO) requirements. The OS FOIA Office provided this training to three bureaus during FY 2006. The OS also developed and provided training on the EFTS.

- The BOR FOIA Officer provided FOIA training to the bureau's regional FOIA coordinators and new FOIA staff throughout the year.

- In September, the MMS FOIA Officer conducted training for new and current employees in the bureau's Denver and New Orleans offices.

- The BLM's FOIA program improvement efforts paralleled those areas identified in the DOI FOIA Improvement Plan. Specifically, the BLM targeted the areas of improving customer service by developing a more highly trained FOIA workforce and improving the Bureau's public outreach efforts. Towards those ends, the Bureau:

1. Developed and implemented a web-based FOIA/PA course ("Introduction to the Freedom of Information Act (FOIA)") that was taken and completed by at least 7,500 people.

2. Issued an instructional memorandum which provided guidance to Bureau employees on their responsibilities under the FOIA and improving service to its customers by ensuring that employees, reply courteously and appropriately to all FOIA requests.

3. Provided training throughout the year to its state leads and field coordinators at sites throughout the country in order to make classroom training accessible to the greatest number of people.

- In FY 2006, the Office of Inspector General (OIG) worked towards improving the processing of FOIA requests. In June, the OIG FOIA Officer issued a memorandum to OIG staff providing guidance for processing requests for investigative reports, which constitute the majority of its requests. There were a number of personnel-related matters that impacted the processing of FOIA requests, including the loss of 1 FOIA FTE. The OIG has requested that the vacant position be filled in 2007 to provide assistance in addressing its backlog. Additionally, the OIG FOIA staff used a new system, other than the EFTS, to manage its requests in 2006.

- The Department and the bureaus continue to enhance their FOIA websites,

making more information available on-line. This has contributed to a decrease in the number of FOIA requests received by some bureaus.

F.	Number of requests for expedited processing received	<u>107</u>
	Number of requests for expedited processing granted	<u>39</u>

IX. Costs/FOIA Staffing

A. Staffing levels

1.	Number of full-time FOIA personnel	<u>30</u>
2.	Number of personnel with part-time or occasional FOIA duties (in total work-years)	<u>95</u>
3.	Total number of personnel (in work-years)	<u>125</u>

B. Total Costs (including staff and all resources)

1.	FOIA processing (including appeals)	<u>\$7,895,813</u>
2.	Litigation-related activities (estimated)	<u>\$121,580</u>
3.	Total costs	<u>\$8,017,393</u>

4. Comparison with previous year

- .14% decrease from FY 2005

C. Statement of additional resources needed for FOIA compliance

As a result of DOI's review of its FOIA operations in 2006, the Department is now more aware of the need for additional resources to ensure total compliance with the FOIA. Further, the EO and DOI's FOIA Improvement Plan have imposed new requirements and obligations on the Department's FOIA Office and Bureau/Office FOIA offices. Funding constraints and staffing issues continue to have a significant impact on the Department's FOIA program, particularly in the areas of training, processing FOIA requests, and reducing and/or eliminating existing backlogs.

A major concern of the DOI FOIA Office relates to those bureaus and offices where FOIA is handled as a "collateral duty" and/or offices where the FOIA Officers are tasked with other duties outside their primary function. FOIA is a collateral duty for most of the Bureau's personnel with assigned FOIA responsibilities. For example, many FOIA Officers are also the Bureau Privacy Act Officer and/or the Bureau Records Officer. These programs, like the FOIA program, are also expanding. All Bureaus are faced with the challenge of maintaining compliance with the FOIA while providing a quality product

with a FOIA workforce that is required to devote its time and resources to other duties and responsibilities. In FY 2006, several Bureaus faced a decrease in the number of personnel assigned to FOIA, while there was an increase in the number of requests received compared with the preceding year. The combination of limited resources and the increasing number of requests necessitates the need for more resources devoted to the FOIA program in order to address and eliminate gaps in knowledge and expertise, and to reduce the FOIA backlog.

The Department is also concerned about the turnover of FOIA personnel and retiring workforce, especially at the FOIA Officer and Coordinator levels. Staffing challenges are becoming evident. For example, the program level of expertise and knowledge is affected by such moves and transitions when key personnel with program and institutional knowledge leave and have not been able to train backup FOIA personnel.

In FY 2006, the number of FOIA requests the Department received overall decreased by 29%. However, the requests the Department receives continue to be more complex and voluminous, resulting in a 21% decrease in the number of requests processed. Many of these requests require coordination with other components in DOI and other Federal agencies. Such requests take longer to process, which adds to the Department's FOIA backlog.

Further, many of these requests are exceedingly costly to process without DOI being able to recoup the fees by law. In addition, the number of appeals received and the increased focus on E-FOIA, E-Records Management, E-GOV Act, HSPD-12, FISMA, and Privacy Act requirements have added to the existing workload burden. As a result of the analysis of the Interior program in developing the EO Plan, it was evident that additional staffing is needed for the FOIA program both at the Department level and the bureau level. Resources are needed to train FOIA Coordinators in order to bring them up to the appropriate level of expertise.

Finally, additional funding is required for operation and maintenance of the electronic FOIA tracking system, training on the system, and for any future upgrades, including the appeals and litigation modules.

DOI is currently operating under a Continuing Resolution (CR) for FY 2007 and within those constraints, appropriate program adjustments are being made.

X. Fees

A.	Total amount of fees collected by agency for processing requests	<u>\$94,551</u>
B.	Percentage of total costs	<u>1%</u>

XI. FOIA Regulations (Including the Fee Schedule)

A copy of DOI's FOIA regulations, including the fee schedule (43 CFR Part 2,

Subparts A thru E) may be found at the following Internet address:

<http://www.doi.gov/foia/FOIARegulations.pdf>. A copy of the regulations in paper form may be obtained by contacting the Departmental FOIA Officer (see I.A., above).

XII. REPORT ON EXECUTIVE ORDER 13392 IMPLEMENTATION

This section of the FOIA annual report contains the Department of the Interior's description of its progress in implementing the milestones and goals of the Department's FOIA Improvement Plan.

- A. Description of supplementation/modification of agency improvement plan (if applicable)

Not applicable

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

Department of the Interior narrative for FOIA Improvement Plan Update

During this reporting period, all planned activities, with the exception of those listed under Section XII C., were accomplished. In addition to meeting planned milestones, the DOI FOIA program enjoyed a number of successes during this initial year of implementing EO 13392. For example, the development of the DOI FOIA Intranet site has proven extremely beneficial for FOIA personnel and for those employees who want to peruse aspects of the program that are not posted to DOI's publicly accessible Web site. The FOIA newsletter has also proven to be very successful. The issues have received accolades from staff throughout the country, noting that material is time-sensitive and informative. Additional success has been achieved in the area of conducting a comprehensive review of the standards for FOIA staff and developing core competencies for FOIA personnel. Future goals entail incorporating standards into position descriptions for the various grade-level performance plans. Based on the goals in DOI's FOIA Improvement Plan, we plan to continue to build on our successes and evaluate other areas of opportunity to improve the program.

In addition to our initial year's success, we are facing a number of challenges. DOI is currently operating under a Continuing Resolution (CR) for FY 2007. Upon further review and consultation with the appropriate offices within DOI, some of the activities in the initial Plan may require additional time and staff to complete. Further, as of January 3, 2007, the Chief FOIA Officer (CFO), W. Hord Tipton, who was also the Chief Information Officer (CIO) for DOI, retired. The Department has designated an Acting CIO as the Chief FOIA Officer until a permanent CIO/CFO has been named.

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

FY 2006

Per guidance from the Department of Justice, Section XII of the annual report for FY 2006 is extended to additionally cover planned activities through January 2007. The adjustments below, with required justification, have been made to DOI's Plan. The proposed dates may be delayed further if resources are not approved.

Performance Measure

Original-Extended Date

1. Develop on-line FOIA request form

12/15/06 - 12/31/07

Justification for deficiency:

Delays are due to current workload with limited staffing. DOI operating under continuing resolution (CR) for FY 2007-adjustments to plan reflect current budget constraints and hiring limitations. Additionally, the forms need to be vetted with the DOI Privacy Office and OMB. DOI is taking steps to obtain the resources to complete this milestone within the adjusted timeframe.

2. Provide toll-free FOIA number for Requesters

12/29/06 - 09/30/07

Justification for deficiency:

DOI is currently under a continuing resolution (CR). We are awaiting approval of the waiver to spend funds for this milestone.

3. Develop FOIA processor performance standards

11/30/06 - 12/31/07

Justification for deficiency:

Upon analysis and consultation with the Office of Human Resources, DOI determined that logistics of steps required for bureaus to implement needed to be adjusted. Delays are due to current workload with limited staffing. Additional staff required to fully implement. DOI operating under continuing resolution (CR) for FY 2007-adjustments to plan reflect current budget constraints and hiring limitations. DOI is taking steps to obtain the resources to complete this milestone within the adjusted timeframe.

4. Issue position paper regarding streamlining approval process/signature authority for FOIA responses 12/01/06 - 09/30/07

Justification for deficiency:

Delays are due to current workload with limited staffing. DOI operating under continuing resolution (CR) for FY 2007-adjustments to plan reflect current budget constraints and hiring limitations, and the need to coordinate with the Bureaus. DOI is taking steps to obtain the resources to complete this milestone within the adjusted timeframe.

5. Discuss options for streamlining Solicitor reviews of FOIA documents 11/15/06 - 07/31/07

Justification for deficiency:

Delays are due to current workload with limited staffing. DOI operating under continuing resolution (CR) for FY 2007-adjustments to plan reflect current budget constraints and hiring limitations, and the need to coordinate with the Solicitor's Office. DOI is taking steps to obtain the resources to complete this milestone within the adjusted timeframe.

6. Develop electronic FOIA correspondence templates and post to Intranet 12/29/06 - 12/31/07

Justification for deficiency:

Delays are due to current workload with limited staffing. DOI operating under continuing resolution (CR) for FY 2007-adjustments to plan reflect current budget constraints and hiring limitations. DOI is taking steps to obtain the resources to complete this milestone within the adjusted timeframe.

7. Review and update letters in DOI FOIA Handbook, supplement where necessary, and post to DOI Intranet 12/29/06 - 12/31/07

Justification for deficiency:

Delays are due to current workload with limited staffing. DOI operating under continuing resolution (CR) for FY 2007-adjustments to plan reflect current budget constraints and hiring limitations. DOI is taking steps to obtain the resources to complete this milestone within the adjusted timeframe.

8. By end of FY 2006, reduce Office of Inspector General (OIG) FOIA backlog by 25 percent 09/30/06 – 09/30/08

Justification for deficiency:

Delays are due to a number of personnel-related matters, including the loss of 1 FOIA FTE, the balancing of collateral functions, and a major office move. Additionally, the OIG FOIA Officer was out of the office for an extended period in FY 2006 which impacted the processing of FOIA requests significantly. We are addressing these matters with the appropriate OIG management for options and resolutions.

D. Additional narrative statement regarding other Executive order-related activities

Not applicable

E. Concise descriptions of FOIA exemptions

The nine exemptions to the FOIA authorize federal agencies to withhold information covering:

- (1) classified national defense and foreign relations information;
- (2) internal agency rules and practices;
- (3) information that is prohibited from disclosure by another Federal law;
- (4) trade secrets and other confidential business information;
- (5) inter-agency or intra-agency communications that are protected by legal privileges;
- (6) information involving matters of personal privacy;
- (7) records or information compiled for law enforcement purposes, to the extent that the production of those 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;
- (8) information relating to the supervision of financial institutions; and
- (9) geological and geophysical information and data, including maps, on wells.

F. Additional Statistics

1. Time range of requests pending, by date of request (or, where applicable, by date of

referral from another agency) as of January 12, 2007.

See chart below.

2. Time range of consultations pending with other agencies at this time.

Consultation with one agency regarding seven FOIA requests (all with same date initiated January 20, 2006).

G. Agency improvement plan

The Department of the Interior's FOIA Improvement Plan (dated June 12, 2006) may be accessed electronically at http://www.doi.gov/foia/exec_order.html.

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XII F.1 ADDITIONAL STATISTICS

Bureau/Office	Time range of requests pending by date of request
OS	January 13, 2004 – January 12, 2007
BLM	March 5, 2004 – January 11, 2007
MMS	May 23, 2006 - January 11, 2007
OSM	June 21, 2006 - December 11, 2006
FWS	October 1, 2003 - January 12, 2007
NPS	May 25, 2005 - January 12, 2007
BIA	April 7, 1999 – January 9, 2007
BOR	August 21, 2006 - January 12, 2007
USGS	September 26 - January 12, 2007
OIG	January 16, 1996 - January 8, 2007
SOL	March 6, 2006 - January 4, 2007