Office of the United States Trade Representative
2011 Annual FOIA Report

I. BASIC INFORMATION REGARDING REPORT

1. Name, title, address, and telephone number of person(s) to be contacted with questions about the report:

Jacqueline Caldwell
FOIA Officer
Office of the U.S. Trade Representative
1724 F St. N.W.
Washington, D.C. 20508
(202) 395-3475

Jonathan Weinberger
Office of the U.S. Trade Representative
1724 F St. N.W
Washington, D.C. 20508
(202) 395-0317

2. Electronic address for report on the World Wide Web:

WWW.USTR.GOV/ABOUT-US/READING-ROOM/FREEDOM-INFORMATION-ACT-FOIA

3. How to obtain a copy of the report in paper form:

Contact the USTR Reading Room (202) 395-6186

II. MAKING A FOIA REQUEST

All requests for records must be in writing and should be addressed to Freedom of Information Officer, Office of the United States Trade Representative, 1724 F St., N.W. Washington, D.C. 20508.

The requester must describe the records that he/she seeks in enough detail to enable USTR personnel to locate them in a reasonable amount of time. The request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter of the record.

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

   Chief FOIA Officer
   Office of the U.S. Trade Representative
   1724 F St. N.W.
   Washington, D.C. 20508
   (202) 395-3475

   Jacqueline Caldwell
   FOIA Public Liaison
   Office of the U.S. Trade Representative
   1724 F St. N.W.
   Washington, D.C. 20508
   (202) 395-3419
   Jacqui_Caldwell@ustr.eop.gov

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

   USTR may determine that the agency does not have records within the scope of the request. In addition, records are frequently exempt under applicable FOIA exemptions.

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

1. Agency-specific acronyms or other terms.

   USTR - - United States Trade Representative
   EOP – Executive Office of the President

2. Basic terms, expressed in common terminology.

   a. **Administrative Appeal** – a request to a federal agency asking that it review at a higher administrative level a FOIA determination made by the agency at the initial request level.

   b. **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.

   c. **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.

d. **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 agencies include in their Annual FOIA Report data for both the agency overall and for each principal component of the agency.

e. **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.

f. **Exemption 3 Statute** – a federal statute that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3) of the FOIA.

g. **FOIA Request** – a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "third-party" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "first-party" requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

   Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

h. **Full Grant** – an agency decision to disclose all records in full in response to a FOIA request.

i. **Full Denial** – an agency decision not to release any records in response to a FOIA request because the 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 could be located.

j. **Median Number** – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.

k. **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.

   i. **Expedited Processing** – an agency will process a FOIA request on an expedited basis when a requester satisfies the requirements for expedited processing as set forth in the statute and in agency regulations.

   ii. **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 requested.

   iii. **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.

l. **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.

m. **Pending Request or Pending Administrative Appeal** – a request or administrative appeal for which an agency has not taken final action in all respects.

n. **Perfected Request** – a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.

o. **Processed Request or Processed Administrative Appeal** – a request or administrative appeal for which an agency has taken final action in all respects.

p. **Range in Number of Days** – the lowest and highest number of days to process requests or administrative appeals.

q. **Time Limits** – the time period in the statute for an agency to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).

3. Descriptions 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 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

h. **Exemption 8**: information relating to the supervision of financial institutions

i. **Exemption 9**: geological information on wells

IV. EXEMPTION 3 STATUES

Statute	Type of Information Withheld	Case Citation	Number of Times Relied upon per Component	Total Number of Times Relied upon by Agency
N/A	N/A	N/A	N/A	N/A

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
AGENCY OVERALL	12	59	58	13

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									
				No Records	All Records Referred to Another Component or Agency	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper FOIA Request for Other Reason	Not Agency Record	Duplicate Request	Other *Explain in chart below	TOTAL
AGENCY OVERALL	18	8	0	23	0	9	0	0	0	0	0	0	58

B. (2) Disposition of FOIA Requests – Other Reasons for Full Denials Based on Reasons other than Exemptions from Section V, B (1)

Component	Description of "Other" Reasons for Denials from Chart B (1) & Number of Times Those Reasons Were Relied upon	TOTAL
N/A	N/A	N/A

B. (3) Disposition of FOIA Requests – Number of Times 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
AGENCY OVERALL	1	3	0	0	2	5	0	0	0	0	0	0	0	0

VI. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA -REQUESTS

A. Received, Processed and Pending Administrative Appeal

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	5	5	0

B. Disposition of Administrative Appeals – All Processed Appeals

Number Affirmed on Appeal	Number Partially Affirmed & Partially Reversed/Remanded on Appeal	Number Completely Reversed/Remanded on Appeal	Number of Appeals Closed for Other Reasons	TOTAL
2	3	0	0	5

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(F)	Ex. 8	Ex.9
1	1	0	0	1	1	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
	0	0	0	0	0	2	0	0	0	0

C. (3) Reasons for Denial on Appeal

Description of "Other" Reasons for Denial on Appeal from Chart C (2) & Number of Times Those Reasons Were Relied upon	TOTAL
N/A	

C. (4) Response Time for Administrative Appeals

Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
32	32	17	47

C. (5) Ten Oldest Pending Administrative Appeals

	10TH	9TH	8TH	7TH	6TH	5TH	4TH	3RD	2ND	Oldest
Date of Receipt of Ten Oldest Appeals	Date									
Number of Days Pending	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

VII. FOIA REQUESTS: RESPONSE TIME FOR PROCESSED AND PENDING REQUESTS

A. Processed Requests – Response Time for All Processed 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
AGENCY OVERALL	9	17	1	46	374	305	3	805	7	10	1	40

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

	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
AGENCY OVERALL	16	21	2	48	174	388	43	805	4	16	1	40

C. Complex Processed Requests – Response Time in Day Increments

	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	TOTAI
AGENCY OVERALL	1	0	4	2	0	1	0	0	1	0	0	2	7	18

VII.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	TOTAI
AGENCY OVERALL	12	6	1	0	0	0	0	0	0	0	0	0	0	19

VII.C Processed Requests – Response Time in Day Increments—Granted Expedited Process

	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
AGENCY OVERALL	18	4	0	0	0	0	0	0	0	0	0	0	0	22

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
AGENCY OVERALL	7	98	127	5	491	469	1	0	0

E. Pending Requests – Ten Oldest Pending Perfected Requests

Agency Overall	**10th Oldest Request and Number of Days Pending**	**9th**	**8th**	**7th**	**6th**	**5th**	**4th**	**3rd**	**2nd**	**Oldest Request and Number of Days Pending**
	Number of Days									
	7/1/11	7/1/11	6/24/11	5/25/11	1/21/11	1/10/11	7/7/10	5/21/10	3/22/10	8/19/09
	91	91	98	128	252	263	450	497	557	772

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
AGENCY OVERALL	12	4	9	11	8

B. Requests for Fee Waiver

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
AGENCY OVERALL	22	9	6	7

IX. FOIA PERSONNEL AND COSTS

	PERSONNEL			COSTS		
	Number of "Full-Time FOIA Employees"	**Number of "Equivalent Full-Time FOIA Employees"**	**Total Number of "Full-Time FOIA Staff"** (The sum of Columns 1 & 2)	**Processing Costs** (At initial request and appeal levels)	**Litigation-Related Costs**	**Total Costs**
AGENCY OVERALL	1	3.3	4.3	256,800.00	$900.00	257,700.00

X. FEES COLLECTED FOR PROCESSING REQUESTS

	Total Amount of Fees Collected	Percentage of Total Costs
AGENCY OVERALL	0	0

XI. FOIA REGULATIONS

http://www.ustr.gov/sites/default/files/FOIA-REGULATIONS.pdf

XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS

A. Backlogs 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
AGENCY OVERALL	13	0

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

	Number of Consultations Received from Other Agencies that Were Pending at Your Agency as of Start of the Fiscal Year	Number of Consultations Received from Other Agencies During the Fiscal Year	Number of Consultations Received from Other Agencies that Were Processed by Your Agency During the Fiscal Year	Number of Consultations Received from Other Agencies that Were Pending at Your Agency as of End of the Fiscal Year
AGENCY OVERALL	1	11	4	8

C. Consultations on FOIA Requests – Ten Oldest Consultation Pending

	10th Oldest Consultation and Number of Days Pending	**9th**	**8th**	**7th**	**6th**	**5th**	**4th**	**3rd**	**2nd**	**Oldest Consultation and Number of Days Pending**
	Date Number of Days	Date Number of Days	Date 9/30/11 Number of Days 0	Date 9/16/11 Number of Days 14	Date 8/5/11 Number of Days 56	Date 7/22/11 Number of Days 70	Date 7/12/11 Number of Days 80	Date 5/24/11 Number of Days 129	Date 4/27/11 Number of Days 156	Date 3/10/11 Number of Days 203

D. Comparison of Numbers of Requests from Previous and Current Annual Report - Requests Received, Processed, and Backlogged

	NUMBER OF REQUESTS RECEIVED		NUMBER OF REQUESTS PROCESSED	
	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**
AGENCY OVERALL	41	59	53	58

Comparison of Backlogged Requests from Previous and Current Annual Report

	Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report	**Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report**
AGENCY OVERALL	12	13

E. Comparison of Numbers of Administrative Appeals from Previous and Current Annual Report

	NUMBER OF APPEALS RECEIVED		NUMBER OF APPEALS PROCESSED	
	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
AGENCY OVERALL	2	5	2	5

Appeals Received, Processed, and Backlogged

	Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report
AGENCY OVERALL	0	0