



SOCIAL SECURITY ADMINISTRATION

FREEDOM OF INFORMATION ACT

ANNUAL REPORT

FISCAL YEAR 2012

**FREEDOM OF INFORMATION ACT (FOIA) ANNUAL REPORT
FOR THE SOCIAL SECURITY ADMINISTRATION
FOR FISCAL YEAR 2012**

I. BASIC INFORMATION REGARDING REPORT

1. Provide name, title, address, and telephone number of person(s) to be contacted with questions about the Report.

Name: Dawn Wiggins

Title: Freedom of Information Act Officer

**Agency/Component: Social Security Administration
Office of the General Counsel
Office of Privacy and Disclosure**

**Telephone Number: (410) 966-6645
FAX: (410) 966-4304**

**Mailing Address: Social Security Administration
Office of the General Counsel
Office of Privacy and Disclosure
Altmeyer Building, Room 617
6401 Security Boulevard
Baltimore, MD 21235-0001**

2. Provide an electronic link for access to the Report on the agency Web site.

Website: <http://www.socialsecurity.gov/foia/>

3. Explain how to obtain a copy of the Report in paper form.

To obtain a paper copy of this report, write to the address shown above, or phone, fax, or e-mail the Office of Privacy and Disclosure (OPD). Our e-mail address is foia.pa.officers@ssa.gov.

II. MAKING A FOIA REQUEST

1. Provide names, addresses, and telephone numbers of all individual agency components that receive FOIA requests.

Office of Privacy and Disclosure, Altmeyer Building, Room 617, 6401 Security Boulevard, Baltimore, MD 21235-0001, (410) 966-6645.

Division of Earnings Record Operations, 3-D-10 Metro West, 300 North Greene Street, Baltimore, MD 21290-0300, (410) 597-1730.

2. Provide a brief description of why some requests are not granted and an overview of certain general categories of the agency's records to which the FOIA exemptions apply.

In general, we do not disclose: classified records; internal personnel rules; records of investigation; information deemed confidential by law; personal information about living people; information that is otherwise legally privileged; or trade secrets found in confidential financial information within procurement records.

The following are some examples of agency records covered by FOIA exemptions:

- **Exemption 2, Internal Personnel Rules and Practices.** We withhold information regarding Federal agency personnel matters such as conditions of employment, hiring tests, work rules, disciplinary actions, and employee benefits.
- **Exemption 3, Prohibited by Law.** We use Exemption 3 when the law strictly prohibits disclosing the requested information or when we can withhold information under specific criteria set by law. For example, the Internal Revenue Code (26 U.S.C. §§ 6103, 6105) restricts the disclosure of tax return information, such as third-party addresses, employers' names, addresses, and earnings information. The Federal Information Security Management Act of 2002 (44 U.S.C. § 3541) protects sensitive information about our systems because its release would increase the opportunity of fraud and pose cyber-security risks to our networks.
- **Exemption 4, Trade Secrets and Commercial or Financial Information.** We withhold information contained in contracts that relates to "trade secrets and commercial or financial information which, if disclosed, would either cause substantial harm to a person's ability to compete with others in his business or impair the Government's ability to obtain needed information." These records may include detailed information concerning profits, losses, and business costs.
- **Exemption 5, Deliberative Process.** We withhold documents that contain advice, opinions, recommendations, predecisional discussion, and evaluative remarks that are part of the government decision-making process.
- **Exemption 6, Invasion of Privacy.** We withhold any personal information if disclosing it would constitute a clearly unwarranted invasion of personal privacy. For example, we would invoke this exemption when a requester asks if his neighbor receives Social

Security benefits. Disclosing this information would not serve the public interest and would constitute an invasion of the neighbor’s privacy.

- **Exemption 7, Investigatory Records. We withhold records compiled for law enforcement purposes if the production of this information could reasonably be expected to interfere with law enforcement proceedings, deprive a person of his or her right to a fair trial, disclose the identity of a confidential source, disclose investigative techniques or procedures, or endanger the life or physical safety of law enforcement personnel. We apply this exemption to Office of the Inspector General (OIG) reports and investigations.**

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

1. Provide any agency-specific acronyms or terms used in this report.

OPD- Office of Privacy and Disclosure

SSA- Social Security Administration

SSN- Social Security number

OIG – Office of the Inspector General

FISMA- Federal Information Security Management Act

ALJ- Administrative law judge

SS-5- Application for a Social Security number Card

2. Include the following definitions of terms used in this Report:

- a. **Administrative Appeal** – a request to a Federal agency asking that it review, at a higher administrative level, a full denial or a partial denial of access to records under the FOIA or any other FOIA determination such as a matter pertaining to fees.

- 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 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** – 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. In this report, we include all requests that require the agency to use the FOIA in responding to the requester. Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester, but not those received as a consultation from another agency. (We report consultations 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 entire records are exempt 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 for expedited processing are placed in a separate 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 FOIA 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 that 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 FOIA for an agency to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).

3. Include the following concise 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 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
26 U.S.C. § 6103, 6105 (Internal Revenue Code)	Certain tax return information and certain tax convention information	<i>Church of Scientology v. IRS</i> , 484 U.S. 9, 15 (1987) (26 U.S.C. § 6103); <i>Pac. Fisheries, Inc. v. IRS</i> , No. 09-35618, 2010 WL 3611645, at *2 (9th Cir. September 15, 2010) (unpublished disposition); <i>Tax Analysts v. IRS</i> , 217 F. Supp. 2d 23, 27-29 (D.D.C. 2002) (26 U.S.C. § 6105).	73	73
42 U.S.C. § 405(r) (Social Security Act)	Death certificates and records pertaining to deaths provided to the Commissioner of the Social Security under this subsection	<i>Int'l Diatomite Producers Ass'n v. SSA</i> , No. 92-1634, 1993 WL 137286, at *3 (N.D. Cal. Apr. 28, 1993), appeal dismissed per stipulation, No. 93-16204 (9th Cir. Oct. 27, 1993).	2	2
The Federal Information Security Management Act of 2002 (44 U.S.C. § 3541, <i>et seq.</i>)	Information security controls and programs that support Federal operations		1	1

V. FOIA REQUESTS

A. Received, Processed and Pending FOIA Requests

	Column 1	Column 2	Column 3	Column 4
	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	845	31,329	31,584	590

B. (1) Disposition of FOIA Requests – All Processed Requests

1. Provide the number of request dispositions as described in the columns below. Select only the one column to report

	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 Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper FOIA Request for Other Reason	Not Agency Record	Duplicate Request	Other *Explain in chart below	
AGENCY OVERALL	29,218	1,485	649	121	0	2	51	35	0	14	9	0	31,584

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

	Description of “Other” Reasons for Denials from Chart B (1) & Number of Times Those Reasons Were Relied upon	TOTAL
AGENCY OVERALL	Not Applicable	0

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
AGENCY OVERALL	0	556 ¹	76	28	98	987	12	0	41	6	577 ²	3	0	0

¹We received numerous additional FOIA requests in FY 2011 due to a change in the agency’s procedure to not include the assigned administrative law judge’s (ALJ) name on notices to claimants. We used Exemption 2 to withhold the names of ALJs presiding over Social Security hearings.

²As noted above, we received numerous additional FOIA requests in FY 2011 due to a change in the agency’s procedure to not include the assigned ALJ’s name on notices to claimants. We also used Exemption 7(E) to withhold the names of ALJs presiding over Social Security hearings.

VI. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS

- If more than one component in the agency adjudicates administrative appeals, provide information for each appellate component, as well as for the agency overall.

Column 1 Number of Appeals Pending as of Start of Fiscal Year	Column 2 Number of Appeals Received in Fiscal Year	Column 3 Number of Appeals Processed in Fiscal Year	Column 4 Number of Appeals Pending as of End of Fiscal Year
14	867 ³	844 ⁴	37

³ The number of appeals received and processed in FY2011 increased significantly due to a change in two procedures and policies. Specifically, withholding parents’ names on Social Security number application (SS-5) requests led to an increase in appeals. In addition, withholding the names of ALJs in hearings notices also led to an increase in appeals.

⁴ In response to the increase in appeals regarding SS-5s and ALJ names, we created template language for these requests and processed the vast majority of them.

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
394	72	378 ⁵	0	844

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
0	162	1	0	19	336	0	0	0	0	159	0	0	0

⁵ The overall number of appeals increased from FY2011 to FY2012. Accordingly, the number of completely reversed/remanded appeals also increased where requestors provided additional death information on appeal, thus enabling us to release parents' names on SS-5s.

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
47 ⁶	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
	0

⁶ The number of denials on appeal increased from FY2011 to FY2012 because of the increase in SS-5 appeals we received. We were unable to locate records for these appeals because the requester either did not provide enough information regarding the subject, or the subject never applied for Social Security benefits.

C. (4) Response Time for Administrative Appeals

Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
20	26	2	310

C. (5) Ten Oldest Pending Administrative Appeals

	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	8/2/12	7/26/12	7/20/12	7/18/12	7/9/12	6/29/12	6/20/12	6/14/12	6/7/12	5/15/12
Number of Days Pending	44	49	53	55	62	70	75	79	84	101

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

A. Processed Requests - Response Time for All Processed Perfected Request

	SIMPLE				COMPLEX				EXPEDITED PROCESSING ⁷			
	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	12	19	3	257	41	57	1	298	N/A	N/A	N/A	N/A

⁷ SSA grants expedited processing if the request involves an imminent threat to a person’s life or physical safety; if a member of the media makes the request to obtain information that the public has an urgent need to know and the records would cover an actual or an alleged Federal Government activity; or if the individual explains in detail that he or she may be denied a legal right, benefit, or remedy without the requested information.

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	14	25	3	257	40	55	3	298	N/A	N/A	N/A	N/A

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
AGENCY OVERALL	28,040	2,181	408	205	195	124	1	1	0	0	1	0	0	31,156

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
AGENCY OVERALL	111	110	64	51	28	15	15	15	0	6	13	0	0	428

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
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

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	631	9	14	48	25	50	N/A	N/A	N/A

1. Provide the dates of receipt of the ten oldest perfected requests pending as of the end of the fiscal year, and the number of days those requests had been pending.

E. Pending Requests – Ten Oldest Pending Perfected Requests

	10th Oldest Request and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request and Number of Days Pending
Date of Receipt of 10 Oldest Pending Perfected Requests	5/29/12	5/15/12	5/7/12	4/16/12	3/6/12	3/1/12	2/1/12	1/19/12	11/16/11	11/4/11
Number of Days Pending	91	101	107	122	151	154	175	184	230	238

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	0	0	0	0	0

B. Requests for Fee Waiver

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
AGENCY OVERALL	3	11 ⁸	8	8

⁸ We review requests for fee waivers on a case-by-case basis. Only the SSA FOI Officer may waive or reduce a fee in excess of \$7.50. We usually grant a fee waiver when we determine that furnishing the information will primarily benefit the public. We normally grant fee waivers for members of the media and educational and scientific institutions when we need only limited search time to respond.

IX. FOIA PERSONNEL AND COSTS
PERSONNEL

COST

	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	36	41	77	\$4,368,669	\$84,080	\$4,452,749

X. FEES COLLECTED FOR PROCESSING REQUESTS

	Total Amount of Fees Collected	Percentage of Total Costs
AGENCY OVERALL	\$609,948.11	14%

XI. FOIA REGULATIONS

- Agencies must provide an electronic link to their FOIA regulations, including their fee schedule.

Website: http://www.socialsecurity.gov/OP_Home/cfr20/402/402-0000.htm

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	30	15

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

	Column 1	Column 2	Column 3	Column 4
	Number of Consultations Received from Other Agencies that Were <u>Pending</u> at SSA as of <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 SSA During the Fiscal Year	Number of Consultations Received from Other Agencies that Were <u>Pending</u> at SSA as of <u>End</u> of the Fiscal Year
AGENCY OVERALL	0	1	1	0

C. Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency

Agency Overall	10 th Oldest Consultation 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
	Date Number of Days	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

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

	Column 1	Column 2	Column 3	Column 4
	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
AGENCY OVERALL	32,456	31,329	32,445	31,584

	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	38	30

E. Comparison of Numbers of Administrative Appeals from Previous and Current Annual Report – Appeals Received, Processed, and Backlogged

	Column 1	Column 2	Column 3	Column 4
	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
AGENCY OVERALL	98	867	100	844

	Column1	Column 2
	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	7	15