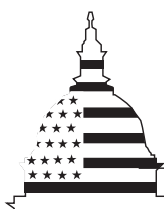


March 2001

INFORMATION MANAGEMENT

Progress in Implementing the 1996 Electronic Freedom of Information Act Amendments



G A O

Accountability * Integrity * Reliability

Form SF298 Citation Data

Report Date <i>("DD MON YYYY")</i> 00MAR2001	Report Type N/A	Dates Covered (from... to) <i>("DD MON YYYY")</i>
Title and Subtitle INFORMATION MANAGEMENT Progress in Implementing the 1996 Electronic Freedom of Information Act Amendments		Contract or Grant Number
		Program Element Number
Authors		Project Number
		Task Number
		Work Unit Number
Performing Organization Name(s) and Address(es) General Accounting Office, PO Box 37050 Washington,DC 20013		Performing Organization Number(s) GAO-01-378
Sponsoring/Monitoring Agency Name(s) and Address(es)		Monitoring Agency Acronym
		Monitoring Agency Report Number(s)
Distribution/Availability Statement Approved for public release, distribution unlimited		
Supplementary Notes		
Abstract On December 19, 2000, we briefed your offices on our review of the 1996 Electronic Freedom of Information Act Amendments, known as e-FOIA. As you know, the Freedom of Information Act requires federal agencies to make certain types of information available for public inspection. e-FOIA, among other things, was intended to improve agency responsiveness and provide for greater public access to government information electronically. In response to your request, we reviewed the progress made at 25 major federal departments and agencies in implementing the e-FOIA amendments.		
Subject Terms		
Document Classification unclassified		Classification of SF298 unclassified
Classification of Abstract unclassified		Limitation of Abstract unlimited
Number of Pages 54		



United States General Accounting Office
Washington, D.C. 20548

March 16, 2001

The Honorable Fred Thompson
The Honorable Patrick Leahy
United States Senate

The Honorable Stephen Horn
Chairman, Subcommittee on Government Efficiency,
Financial Management, and Intergovernmental Relations
Committee on Government Reform
House of Representatives

On December 19, 2000, we briefed your offices on our review of the 1996 Electronic Freedom of Information Act Amendments, known as e-FOIA. As you know, the Freedom of Information Act requires federal agencies to make certain types of information available for public inspection. e-FOIA, among other things, was intended to improve agency responsiveness and provide for greater public access to government information electronically. In response to your request, we reviewed the progress made at 25 major federal departments and agencies in implementing the e-FOIA amendments.

In brief, we found that agencies have implemented many of the e-FOIA provisions. All 25 agencies we reviewed have established electronic reading rooms. However, agencies have not made all required documents electronically available. Furthermore, the Department of Justice and other federal agencies have implemented reporting provisions required by e-FOIA, including annual workload reports. While these reports provide a good overview of FOIA activities across the government, data quality issues limit their usefulness.

This report officially transmits the results of our work and recommendations to assist the Department of Justice in providing better oversight of federal agencies' implementation of the Freedom of Information Act. OMB and Justice's co-directors of the Office of Information and Privacy (OIP) provided oral comments on the draft briefing slides. They agreed with the information provided and OIP plans to

implement the recommendations. The briefing slides, as amended, are reprinted as appendix I.¹

Recommendations for Executive Action

To improve the public's access to government records and information, as well as to enhance the usefulness of the information contained in agencies' annual FOIA reports, we recommend that the Attorney General direct Justice's Office of Information and Privacy to

- encourage agencies to make all required material electronically available, and
- improve data reliability of FOIA annual reports by (1) providing guidance that addresses the data quality issues we identified and (2) reviewing agencies' report data for completeness and consistency.

We are sending copies of this report to Janice D. Schakowsky, Ranking Minority Member, Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations, Committee on Government Reform, House of Representatives. In addition, we are providing copies to the Honorable Mitchell E. Daniels Jr., Director, Office of Management and Budget, and the Honorable John D. Ashcroft, Attorney General. This report is also available on our home page at www.gao.gov. If you have any questions on matters discussed in this report, please contact me at (202) 512-6240 or by e-mail at koontzl@gao.gov. Key contributors to this assignment were Michael P. Fruitman, M. Yvonne Sanchez, and Kevin M. Tansey.



Linda D. Koontz
Director, Information Management Issues

¹Changes were minimal and do not affect the overall content.

December 19, 2000, Briefing on Implementation of e-FOIA Amendments



Implementation of the 1996 Electronic Freedom of Information Act Amendments

Briefing to the Staffs of
Senator Fred Thompson, Senator Patrick Leahy,
and the Subcommittee on Government
Management, Information, and Technology,
Committee on Government Reform,
House of Representatives

December 19, 2000



Overview

- Objective, Scope, and Methodology
- Background
- Overview of the Freedom of Information Act (FOIA) Process
- Progress on the Implementation of the Electronic FOIA Amendments (e-FOIA)
 - Use of Electronic Reading Rooms
 - 20-Day Determination Period
 - Use of Multi-Track and Expedited Processing
 - Implementation of Reporting Provisions
- Conclusions
- Recommendations
- Appendix I: Agency Abbreviations
- Appendix II: Detailed Data from 25 Agencies' FY99 FOIA Reports



Objective, Scope, and Methodology

Objective:

To review the progress made in implementing e-FOIA amendments at 25 major federal departments and agencies

Scope:

Reviewed e-FOIA implementation regarding the

- use of electronic reading rooms for required material and public availability of reference material for requesting records or information
- 20-day period for determining whether to comply with requests, and negotiation of scope with requester
- use of multi-track and expedited processing for improving agency responsiveness
- reporting provisions specific to the Department of Justice and all other federal agencies



Objective, Scope, and Methodology

Methodology:

- Conducted our review in accordance with generally accepted government auditing standards, from June through October 2000
- Interviewed Office of Management and Budget (OMB) and Justice officials about their efforts to guide agencies' e-FOIA implementation
- Interviewed officials of eight agencies about their FOIA processes and their experiences in implementing e-FOIA; these agencies were selected because six received the largest volume of requests and two have longstanding reported problems with backlogged requests
- Met with representatives of a few nonprofit and private organizations -- identified by your offices--that are interested in FOIA issues



Objective, Scope, and Methodology

Methodology (continued):

- Selected the 24 major agencies identified in the Chief Financial Officers Act, plus the CIA, which together handle 97% of FOIA requests governmentwide; for each agency, we reviewed:
 - FY99 FOIA annual report data for aggregated and agency-comparative information; we did not independently verify the data
 - main Internet and FOIA web sites for electronic availability of documents; our review is neither representative of the entire agency nor a determination of compliance because
 - we did not check component-level FOIA web sites
 - we could not determine if all applicable documents were posted
- Requested the 25 agencies to verify the results of our Internet review; 92% responded



Background

History of FOIA and 1996 e-FOIA Amendments

- FOIA was the first law to establish a legal right of access to government information, subject to certain statutory exemptions
- Enacted in 1966, and amended in 1974, 1976, 1986, 1996
- Through e-FOIA, Congress recognized problems with agency responsiveness and tried to encourage improvements by
 - providing requesters with an opportunity to limit the scope of their requests to obtain faster processing
 - authorizing agencies to implement multi-track processing of requests, giving them flexibility to respond to relatively simple requests more quickly
 - requiring agencies to implement expedited processing for requests determined to meet criteria for “*compelling need*”



Background

History of FOIA and 1996 e-FOIA Amendments (continued)

- e-FOIA also encouraged on-line, public access to government information through the use of electronic reading rooms by
 - making categories of records available in electronic form(s), such as agency final opinions, policy statements/interpretations, administrative staff manuals, frequently requested records, and an index of frequently requested records
 - making agencies' annual FOIA reports electronically available
- e-FOIA provided for the public availability of FOIA-related information, specifically
 - FOIA guidance, including information on multi-track processing, expedited processing, and fee schedules
 - reference materials/handbooks on requesting records or information, including an index and description of major information systems and a description of record locator systems



Background

Roles of OMB and Justice

- OMB officials have coordinated with Justice to provide guidance and direction regarding FOIA, with Justice acting as the main point of contact for agencies
 - In 1998, OMB issued guidance on developing a handbook for individuals seeking access to public information and on the Government Information Locator Service (GILS)¹
- Within Justice, the Office of Information and Privacy (OIP) has primary responsibility for providing guidance and support to federal agencies on FOIA issues

¹The Paperwork Reduction Act of 1995 directed the establishment of GILS to help the public locate and access information throughout the federal government. GILS is a decentralized collection of agency-based information locators using technology to direct users to relevant information resources.



Overview of the FOIA Process

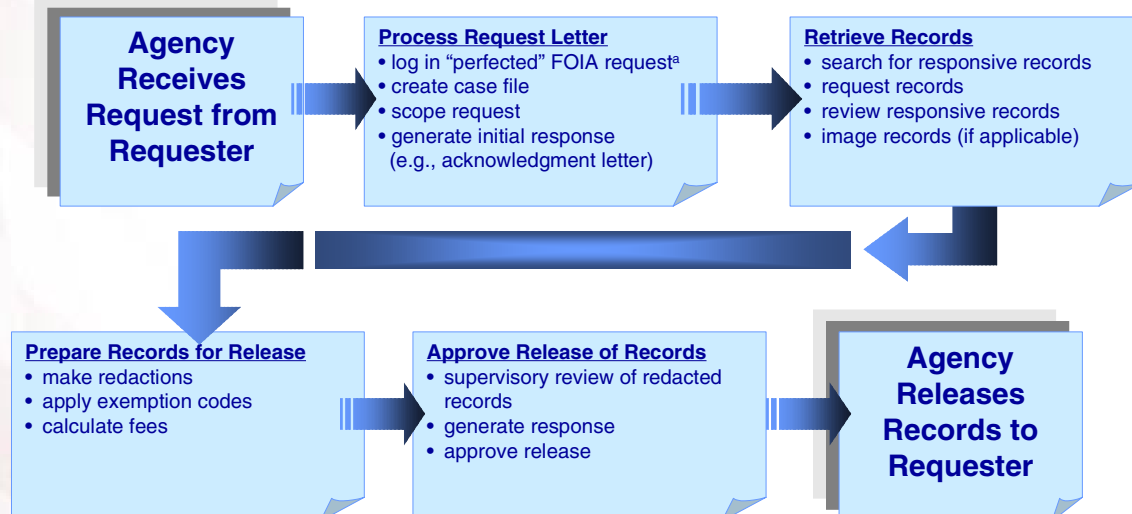
- In FY99, 25 agencies processed about 1.9 million FOIA requests, providing records in full for 82%; 23 agencies reported that 1.6 million requests were processed with median times of 20 days or fewer, while 140,000 were processed with medians over 20 days¹
- Various factors determine the workflow, fees, and time needed to process a FOIA request, such as
 - amount and type of information requested and where in the organization the responsive records would likely be found
 - category of requester (i.e., commercial, educational)
 - completeness of the request
- In responding to requests, FOIA offices interact with several external entities--the requester, the office(s) responsible for providing the responsive records, and other federal agencies that send and receive FOIA referrals

¹Based on agencies' FOIA annual reports for fiscal year 1999 (self-reported data); processing data for about 145,000 requests were not included due to either incomplete (for 2 agencies) or inconsistently reported data.



Overview of the FOIA Process

Generic FOIA Process



Note: At any point in the process, an agency may refer a request to another agency for processing or consultation.

^a A FOIA request that adequately describes the records sought, that has been received by the FOIA office of the agency/component in possession of the records, and for which there is no remaining question about fees.

10



Overview of the FOIA Process

Retrieval of Records and Line-by-Line Review

Officials of all eight agencies interviewed stated that processing complex FOIA requests is labor-intensive because

- FOIA offices, as a rule, are not the owners of the responsive records and are dependent on other units to search for and provide the requested information--generally not a high priority for them
- searching for and retrieving responsive records often takes a significant amount of effort, especially when responding to broad (e.g., agencywide) requests
- some requests involve hundreds or thousands of pages that require line-by-line review to ensure that the proper legal exemptions are applied



Overview of the FOIA Process

Size and Content of Records Affects Disposition of Requests, Which Varies Across Agencies

- Every request is different--the type, size, and content of the responsive records may require significant processing time
- Examples of varying effects on disposition of requests:
 - for 93% of its requests, USDA provided records in full, generally because they were requests for individuals' own records, which require less review for exemptions; of its 80,000 requests processed, exemptions were taken 2,727 times, 55% for privacy-related reasons
 - for 28% of its requests, NSF provided records in full; of its 169 requests processed, exemptions were taken 118 times, 71% for privacy-related reasons

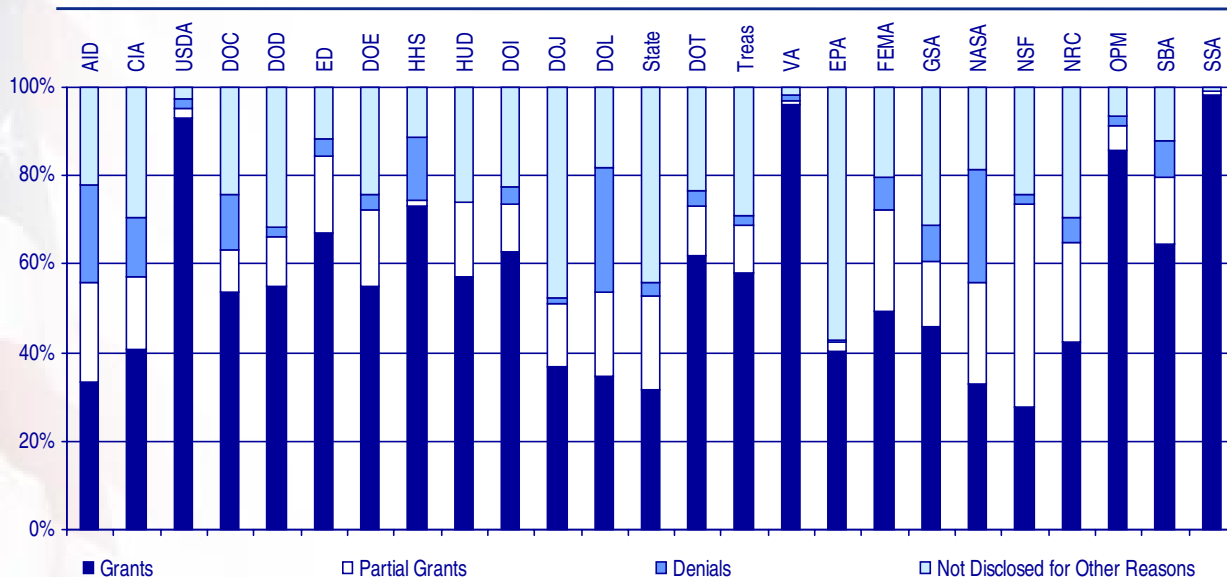
Source: FOIA annual reports for fiscal year 1999 (self-reported data).

12



Overview of the FOIA Process

Disposition of Processed Requests, by Agency



Note: HUD reported a single total for denials and partial grants

Source: FOIA annual reports for fiscal year 1999 (self-reported data).



Overview of the FOIA Process

Need for Additional Staff Cited as a Barrier in Implementing e-FOIA

- Officials at seven of the eight agencies--and representatives of nonprofit and private organizations--interviewed said agencies need more staff to improve their responsiveness to FOIA requests and decrease their number of pending requests
- Officials at three agencies cited the lack of available people with the knowledge and experience to review and redact classified records, due in part to “special searches” (e.g., the Nazi War Crimes Disclosure Act)
- According to FBI officials, over the past 4 years, the FBI has reduced its backlog of pending requests from about 18,000 to 4,000, primarily due to its staffing increase
- Echoing a 1993 Attorney General memo to agency heads, OIP officials see a lack of funds and other resources as the greatest barrier to more effective e-FOIA implementation

14



Overview of FOIA Process

Use of IT Tools in Processing Requests

- Agencies are increasingly looking at automated FOIA processing to enhance the efficiency and cost-effectiveness of their operations
- Capabilities include:
 - Scanning and Imaging: scanning and converting paper documents to electronic images or text; once converted, information can be searched and modified electronically at a computer workstation
 - Workflow: creating and tracking cases, routing information throughout an office, and collecting and reporting workload data
 - Document Management: storing, redacting, and archiving responsive records
- At least 8 of the 25 agencies and/or their components use FOIA application software

15



Use of Electronic Reading Rooms

- In determining the electronic or public availability of documents, we categorized the results of our Internet review as:
 - *available* -- found the required material
 - *partially available* -- found a portion of the required material
 - *not found* -- did not find any of the required material
- For 16 agencies we found FOIA guidance on agency-specific processes and fees, while for the remaining 9 we found material for at least 2 of the 4 areas (p. 17)
- For 15 agencies we found documents for all required categories of records, while for the remaining 10 we found documents for at least 3 of the 6 required categories (p. 18)
- For 12 agencies we found reference material addressing all 4 areas specified by e-FOIA, 6 addressed 2 to 3 areas, and the remaining 7 only addressed 1 area (p.19)

16



Use of Electronic Reading Rooms Available FOIA Guidance

	AID	CIA	USDA	DOC	DOD	ED	DOE	HHS	HUD	DOI	DOJ	DOL	State	DOT	Treas	VA	EPA	FEMA	GSA	NAASA	NSF	NRC	OPM	SBA	SSA
FOIA Regulations	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Info on Multi-Track Process	n/a	●	●	○	●	○	○	●	n/a	n/a	●	○	●	●	●	n/a	○	n/a	n/a	○	n/a	●	n/a	n/a	●
Info on Expedited Process	○	●	●	○	●	○	○	●	○	●	●	●	●	●	●	○	●	●	●	●	●	●	○	●	●
Fee Schedule	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●

● = Available ○ = Partially available ○ = Not found n/a = Not applicable; agency uses single-track process

17



Use of Electronic Reading Rooms

Electronic Availability of Required Documents

	AID	OA	USDA	DOC	DOD	ED	DOE	HHS	HUD	DOI	DOJ	DOL	State	DOT	Trease	VA	EPA	FEMA	GSA	NASA	NSF	NRC	OPM	SBA	SSA
Agency Final Opinions	n/a	n/a	●	●	○	●	○	●	●	●	●	●	○	●	○	●	●	●	●	○	n/a	●	●	●	●
Policy Statements/ Interpretation	●	n/a	●	●	○	●	●	●	○	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Admin Staff Manuals	●	n/a	●	●	○	●	●	●	○	●	●	●	●	●	●	○	●	●	●	●	●	●	●	●	●
Frequently Requested Records	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	○	○	●	●	○	●	●	●	●	●
Index of Frequently Requested Records	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	○	○	●	●	○	●	●	●	●	●
FOIA Annual Reports	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●

● = Available ○ = Partially available ○ = Not found n/a = Not applicable

18



Use of Electronic Reading Rooms

Public Availability of Reference Material

	AID	CA	USDA	DOC	DOD	ED	DOE	HHS	HUD	DOI	DOJ	DOL	State	DOT	Trease	VA	EPA	FEMA	GSA	NASA	NSF	NRC	OPM	SBA	SSA
Index to Major Info Systems	●	○	●	○	●	●	●	●	○	○	●	○	●	●	○	●	●	○	○	○	●	●	○	●	●
Desc of Major Info Systems	●	○	●	○	●	●	●	●	○	○	●	○	●	●	○	●	●	○	○	○	●	●	●	●	●
Desc of Record Locator Systems (GILS)	●	○	●	●	●	○	●	○	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Handbook for Obtaining Public Info	○	●	●	○	○	●	●	●	●	●	●	●	●	●	●	●	○	○	○	○	●	●	●	●	●

● = Available ○ = Partially available ○ = Not found

19



Use of Electronic Reading Rooms

Web Page Features Used to Facilitate Public Access

- FOIA web page (all 25 agencies)
- FOIA web page link on agency's home page (19)
- List of FOIA contacts or links to FOIA offices (16 of the 17 agencies with multiple FOIA offices)
- Programmatic information on obtaining public services (25)
- Links from agency web pages to other organizational units (23)
- Web site search feature (24)
- Ability to submit FOIA requests electronically (13)

Note: Justice established a feature in its newsletter called "Web Site Watch" that encourages the development of agency Internet sites for FOIA purposes. According to Justice officials, the use of e-mail and the Internet for submitting requests electronically will increase in the future, as agencies become more technically sophisticated.



Use of Electronic Reading Rooms

Internet Provides Vehicle for Making Information Available to the Public

- Officials of all eight agencies interviewed stated that they
 - are continuing to improve their electronic reading rooms
 - use the Internet to provide information to the public well beyond what e-FOIA requires, which they hope will decrease the number of FOIA requests
- OMB officials also said agencies are making a lot more information available on the Internet beyond e-FOIA (e.g., the FirstGov initiative¹)
- Officials at six of the eight agencies stated that while more information is available on the Internet, the public may be generating more FOIA requests or more complex ones because
 - individuals are learning more about the Internet and government services
 - highly publicized topics in the media generate a lot of attention for federal web sites

¹FirstGov is a portal designed to provide a centralized location to find information from local, state, and federal government agency web sites.



20-Day Determination Period Agencies Consider Requirement Impractical

- FOIA requires agencies to (1) determine within 20 working days whether to fulfill requests and immediately notify requesters, and (2) make releasable records promptly available
- Despite the implication of a two-step process in the statutory language, Justice and other agency officials said that, in most cases, agencies make the determination and notify the requester concurrent with their final response to the FOIA request
- Officials at seven of the eight agencies stated that the 20-day requirement was impractical because
 - this period has often expired before agencies have retrieved the records needed, or are in a position to make a determination¹
 - it would not be cost-effective to issue determination letters separate from final responses in all required cases

¹For example, CIA acknowledgment letters cite the agency's backlog and include language that states (in case the requester chooses not to wait for responsive records), "...Since we cannot respond within the 20 working days stipulated by the Act, you have the right to consider this as a denial and may appeal..."



20-Day Determination Period Agencies' Median Processing Time

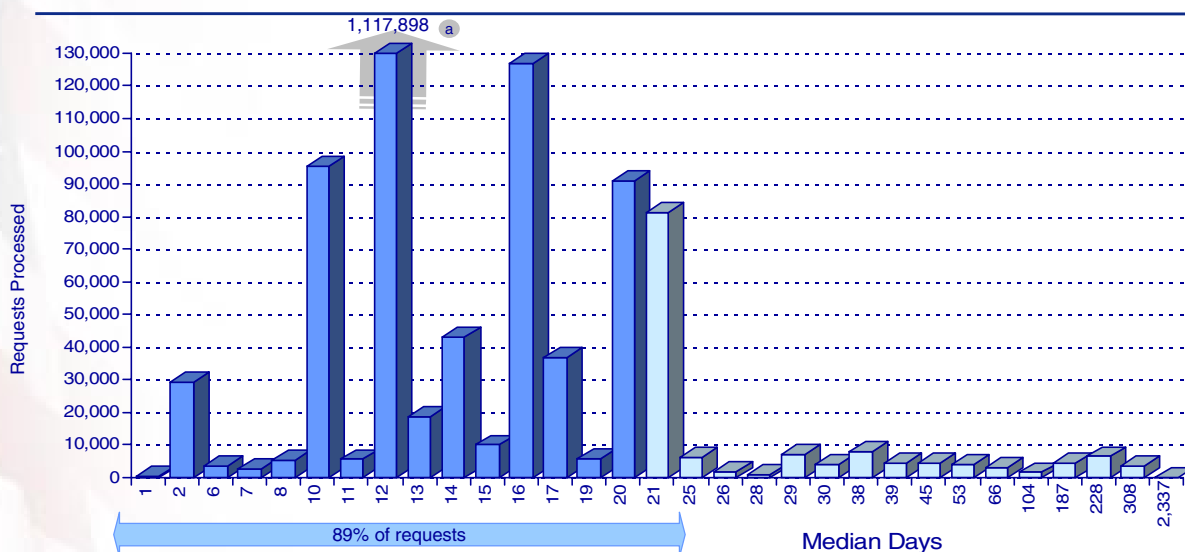
- Justice officials said that, as a practical matter, they consider the e-FOIA provision to report data on median processing days the basis for measuring compliance with the 20-day requirement
- While we have concerns regarding the data reliability of agencies' FY99 FOIA annual report, the best available data on median processing times indicate that for 19 agencies
 - 79% of requests were processed on a single-track system with medians ranging from 6 to 53 days¹
 - 11% were processed as simple requests with medians ranging from 7 to 48 days
 - 8% were processed as complex requests with medians ranging from 17 to 308 days
 - 2% were processed as expedited requests with medians ranging from 2 to 168 days

¹A single-track system processes all requests on a first-in, first-out basis (FIFO); a multi-track processing system categorizes them in 2 or more tracks (e.g., simple and complex), and then processes them on a FIFO basis.



20-Day Determination Period

Distribution of Requests Processed by Median Days



Note: Except for the end points (1 and 2,337), only medians with over 1,000 requests are included in the graph; data from 23 agencies
^a Actual value; bar scaled down to better illustrate the lower values

Source: FOIA annual reports for fiscal year 1999 (self-reported data).



20-Day Determination Period

Discussion of Scope Has Improved Responsiveness

- Officials of all eight agencies interviewed stated that they contacted requesters, as needed, about limiting the scope of their requests to improve responsiveness when the 20-day period could not be met
 - Overall, they saw this e-FOIA provision as beneficial
 - Officials cited examples of individuals who were not aware of the extent of records and associated fees involved in their requests
- For example, to deal with growing backlogs of requests, in 1997 the FBI implemented a “negotiation team” to communicate and negotiate with FOIA requesters of voluminous records



Use of Multi-Track and Expedited Processing

- **Multi-track processing** is an agency-optional system in which simple requests requiring relatively minimal review are placed on one processing track, and more voluminous and complex requests are placed on one or more other tracks; **expedited processing** involves an agency decision to expedite the handling of a request when a requester has shown an exceptional need or urgency for the records that warrants prioritization over earlier requests
- 18 agencies reported data for multi-track processing and all 25 agencies reported data for expedited processing¹
- Officials at seven of the eight agencies interviewed said the multi-track provision has been helpful, although two of the seven said it has produced only marginal gains
- Officials of all eight agencies said they consider requests for expedited processing, but this is granted in few cases

¹FOIA annual reports for fiscal year 1999 (self-reported data).



Implementation of Reporting Provisions Justice's Office of Information and Privacy (OIP)

Justice implemented provisions in e-FOIA that direct the U.S. Attorney General to

- develop, in consultation with OMB, reporting and performance guidelines for agencies' FOIA annual reports
- make these annual reports available from a single electronic access point
- submit a Justice annual report to include
 - 1) a list of FOIA court cases, exemptions involved, disposition of each case, and the cost, fees, and penalties assessed
 - 2) a description of activities undertaken by Justice to encourage agency compliance



Implementation of Reporting Provisions Justice's Office of Information and Privacy (OIP) (continued)

Justice reported the following activities, primarily through OIP, for 1999:

- provided about 3,000 responses to requests for assistance
- issued policy guidance
- distributed a quarterly newsletter to about 5,500 subscribers
- developed research and reference materials, such as the *Freedom of Information Act Guide and Privacy Act Overview*
- provided about 180 training presentations
- briefed individuals interested in FOIA operations, such as representatives of foreign governments
- provided responses to congressional and public inquiries

Officials at all eight agencies interviewed provided positive feedback about the support they received from OIP



Implementation of Reporting Provisions Reporting Inconsistencies and Data Quality Problems Limit Usefulness of FY99 Annual Report Data

- According to OIP officials, they frequently provide guidance in response to questions from agencies on preparation of their annual reports, and receive these reports, but do not review them for content or accuracy
- e-FOIA authorizes Justice to “*establish additional requirements for such reports as the Attorney General determines may be useful.*”
- While we did not perform a full validation of the agencies’ annual reports to determine their accuracy, we did identify a number of data deficiencies in preparing aggregated and agency-comparative information



Implementation of Reporting Provisions

Examples of Reporting Inconsistencies and Data Quality Problems

- **Unclear criteria for defining a FOIA request:** Of the three federal agencies that deliver health care services, VA counted first-party requests for medical records as FOIA requests in FY99, resulting in a 447% increase; in contrast, HHS only counted them as Privacy Act requests, and DOD was unable to verify if this type of request was properly counted
- **Different ways of counting requests:** Officials of at least three components within Justice stated that they counted each “subject” on whom information was requested as a separate request, while those at the other seven agencies interviewed said they counted each request letter as one request



Implementation of Reporting Provisions

Reporting Inconsistencies in “Compliance with Time Limits” Section Further Limit Use of Agency Data

In addition to data discrepancies we noted, 12 agencies reported certain limitations associated with their data in the section of the FOIA annual report that addressed compliance with time limits; for example:

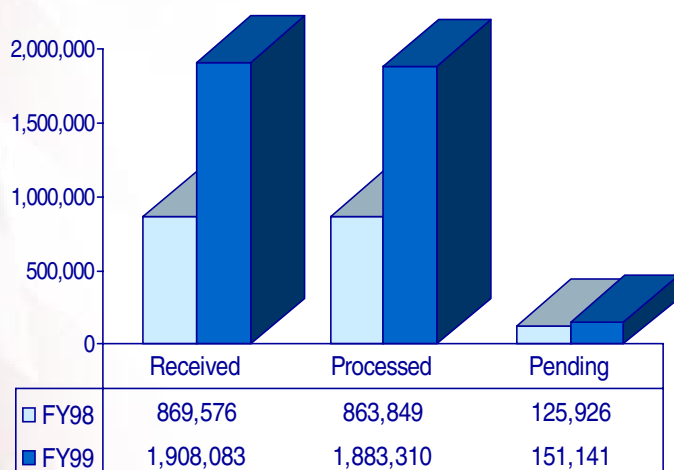
- **Understated “processing” data:** Four agencies have incomplete data because they did not report median days by type of multi-track process for either some or all of their components
- **Overstated “processing” data:** EPA reported *action office assignments*¹ rather than requests processed, which overstated its count by 142% (a difference of 23,707)
- **Inconsistent ways of reporting median processing time:** OIP guidance states that, when practical, agencies should report the median processing time in working days, but only 5 of the 25 agencies reported doing so; 5 reported by calendar days, 1 reported by both, and 14 did not state a basis; OIP officials said it should be assumed these 14 agencies reported in working days

¹EPA defines *action office assignments* as “The EPA component office(s) where the FOI office assigns a request for action and direct reply to the requester. Many initial requests are assigned to multiple components for separate responses/action.”



Implementation of Reporting Provisions

Aggregated FY99 Data for Requests Received, Processed, and Pending



Note: FY99 reported data are used for "requests pending at the end of the FY98" because of discrepancies noted between FY98 and FY99 annual reports

- The 25 agencies received 119% more requests in FY99 than in the previous year
- VA accounted for about 90% of the increase in FY99 for requests received and processed due to a change in reporting of first-party medical record requests
- For FY99, five agencies--VA, Justice, SSA, DOD, and USDA--received 89% of the total requests received

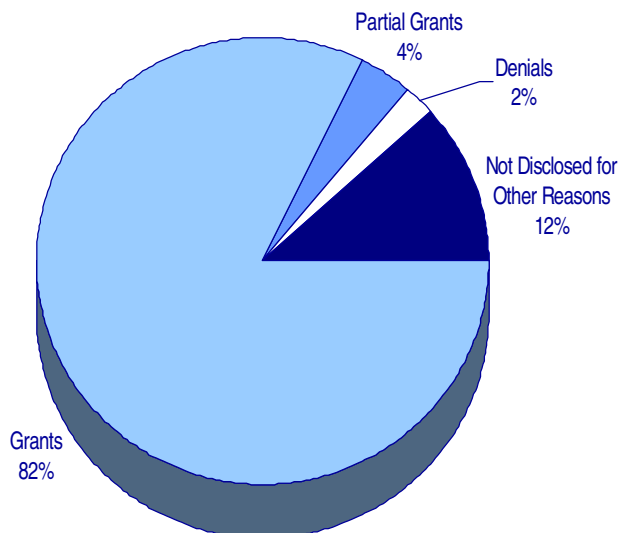
Source: FOIA annual reports for fiscal years 1998 and 1999 (self-reported data).

32



Implementation of Reporting Provisions Aggregated FY99 Data on the Disposition of Processed Requests

- *Grants* are agency decisions to disclose all records in full
- *Partial grants* are agency decisions to disclose a record in part, deleting information determined to be exempt under one or more exemptions, or a decision to disclose some records in their entirety, but to withhold others in whole or in part
- *Denials* are agency decisions not to release any part of the requested record(s) because all information in the record(s) is determined to be exempt under one or more exemptions

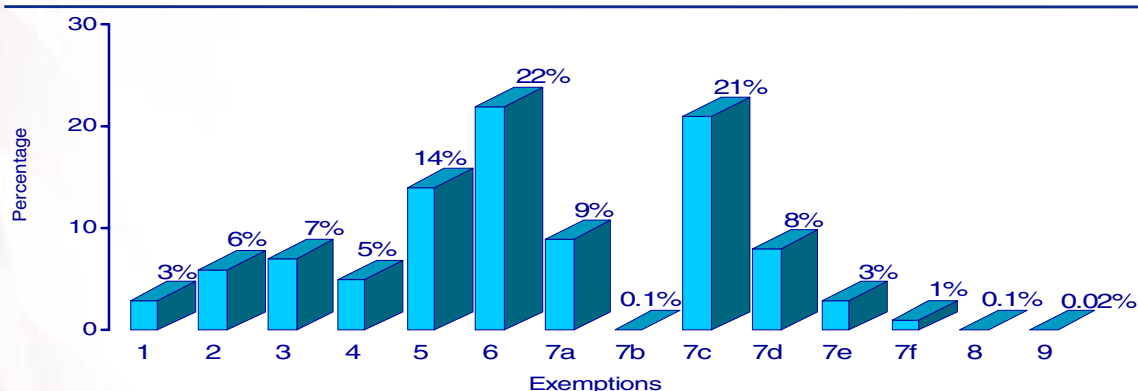


Source: FOIA annual reports for fiscal year 1999 (self-reported data).

33



Implementation of Reporting Provisions Aggregated FY99 Data on Statutory Exemptions Used



Exemptions are for matters that are

- (1) to be kept secret in the interest of national defense or foreign policy
- (2) related to the internal personnel rules and practices of an agency
- (3) specially exempted from disclosure by statute
- (4) trade secrets and commercial or financial information
- (5) inter- or intra-agency memos or letters not available by law
- (6) personnel and medical files which constitute an unwarranted invasion of privacy

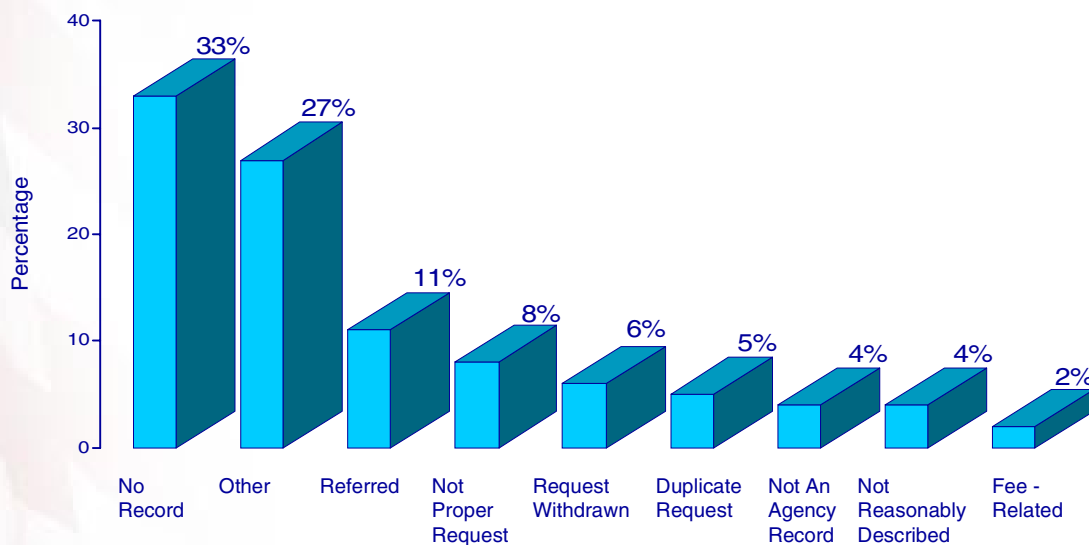
- (7) compiled for law enforcement purposes that:
 - (7a) interfere with enforcement proceedings
 - (7b) deprive a person of a right to a fair trial or impartial adjudication
 - (7c) constitute an unwarranted invasion of personal privacy
 - (7d) disclose the identity of a confidential source
 - (7e) risk circumvention of the law
 - (7f) endanger the life or physical safety of any individual
 - (8) for the regulation of financial institutions
 - (9) geological and geophysical information concerning wells

Note: HHS and Treas/IRS "7" exemptions included under "7a"

Source: FOIA annual reports for fiscal year 1999 (self-reported data).



Implementation of Reporting Provisions Aggregated FY99 Data on Other Reasons Records Were Not Disclosed



Source: FOIA annual reports for fiscal year 1999 (self-reported data).

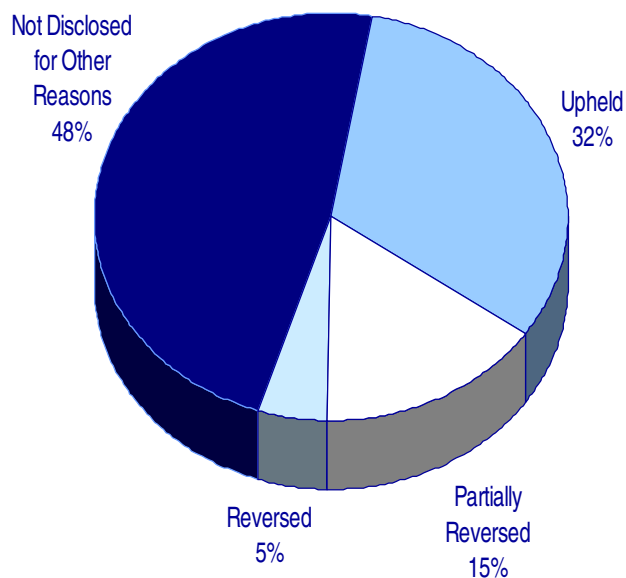
35



Implementation of Reporting Provisions

Aggregated FY99 Data on Disposition of Appeals

- Appeal rates for the 25 agencies ranged from 0.2% for VA to 13% for Interior, with an overall agency average of 4%
- About 10,400 appeals were processed, which is 3% of the total requests processed, excluding requests that were fully granted



Source: FOIA annual reports for fiscal year 1999 (self-reported data).

36



Conclusions

Many e-FOIA provisions have been implemented:

- Agencies use electronic reading rooms to provide access to documents and reference materials; however, not all required documents were electronically available as of October 2000
- Agency officials interviewed consider the 20-day period for determining whether to comply with requests impractical, but view discussions with requesters as beneficial
- Of the 1.9 million requests processed in FY99, 1.7 million requests (89%) were processed with medians of 21 days or less
- Agencies have implemented multi-track and expedited processing
- Agencies' annual reports provide an overview of FOIA activities, but data quality issues limit their usefulness

37



Recommendations

To improve the public's access to government records and information, as well as to enhance the usefulness of the information contained in agencies' annual FOIA reports, we recommend that the Attorney General direct Justice's Office of Information and Privacy to

- encourage agencies to make all required material electronically available, and
- improve data reliability of FOIA annual reports by
 - (1) providing guidance that addresses the data quality issues we identified and
 - (2) reviewing agencies' report data for completeness and consistency.



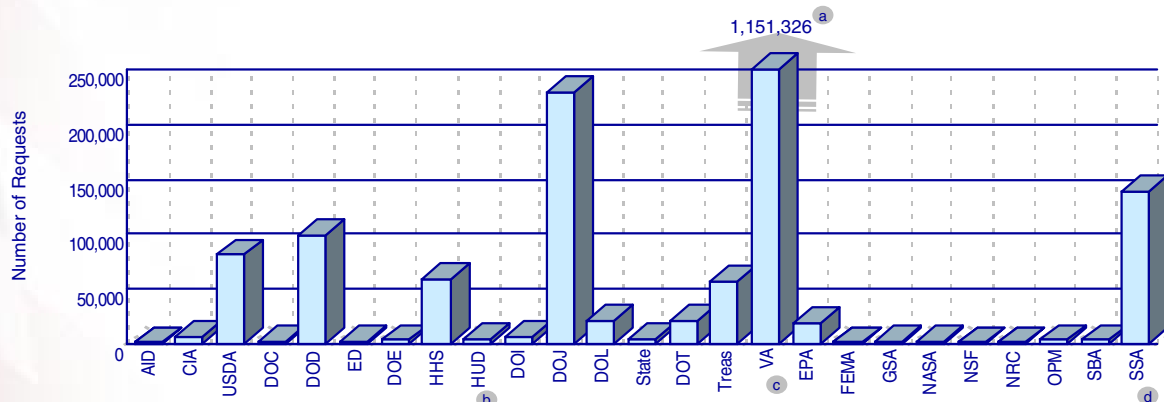
Appendix I: Agency Abbreviations

AID	Agency for International Development	DOT	Department of Transportation
CIA*	Central Intelligence Agency	Treas	Department of the Treasury
USDA*	Department of Agriculture	VA*	Department of Veterans Affairs
DOC	Department of Commerce	EPA	Environmental Protection Agency
DOD*	Department of Defense	FEMA	Federal Emergency Management Agency
ED	Department of Education	GSA	General Services Administration
DOE	Department of Energy	NASA	National Aeronautics and Space Administration
HHS*	Department of Health and Human Services	NSF	National Science Foundation
HUD	Department of Housing and Urban Development	NRC	Nuclear Regulatory Commission
DOI	Department of the Interior	OPM	Office of Personnel Management
DOJ*	Department of Justice	SBA	Small Business Administration
DOL	Department of Labor	SSA*	Social Security Administration
State*	Department of State		

* We interviewed FOIA officials of these agencies



Appendix II: 25 Agencies' FY99 FOIA Reports Requests Received



^a Actual value; bar scaled down to better illustrate the lower values

^b HUD OIG data not included

^c Reflects a 447% increase over FY98 due to a change in reporting of first-party medical record requests

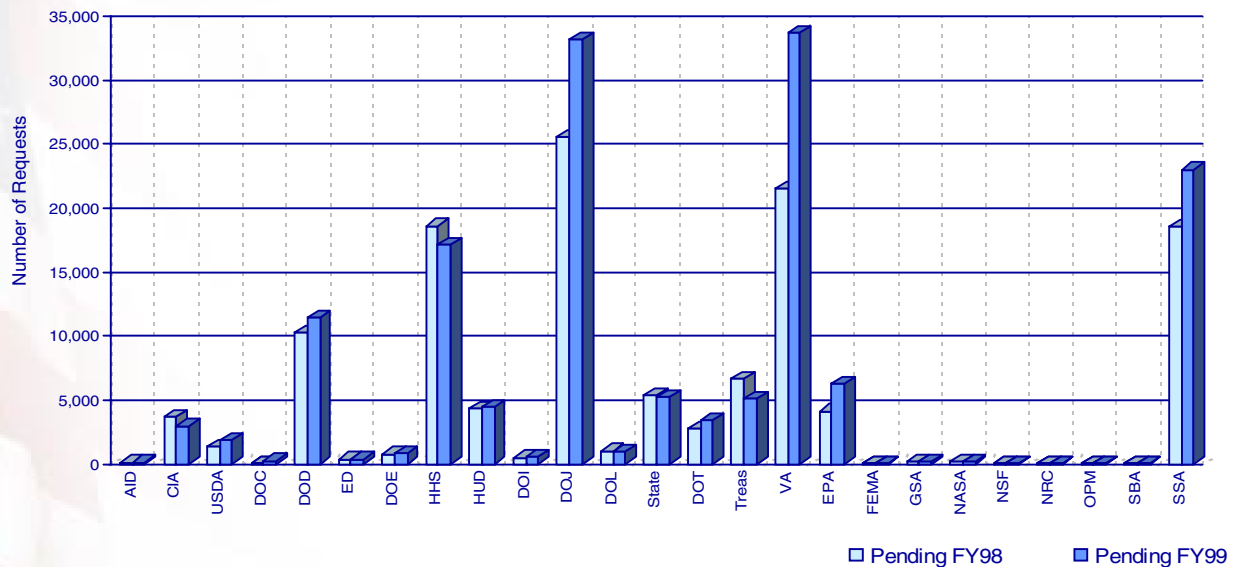
^d Reflects a 114% increase in workload, primarily due to genealogy research by requesters

Source: FOIA annual reports for fiscal year 1999 (self-reported data).

40



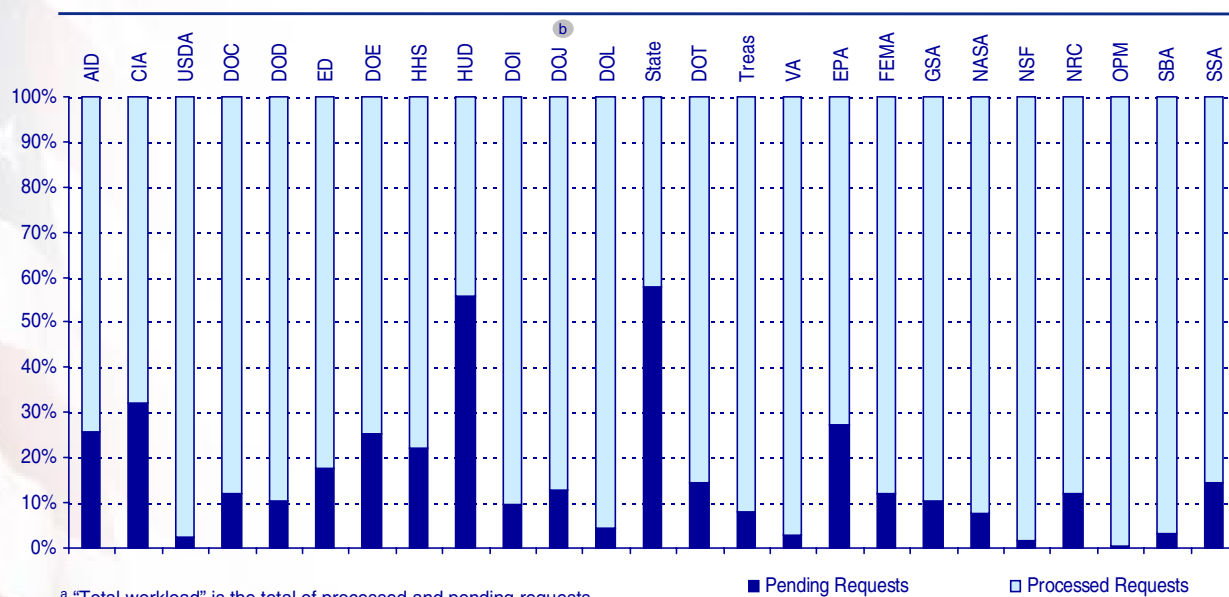
Appendix II: 25 Agencies' FY99 FOIA Reports Pending Requests at End of Fiscal Years 1998 and 1999



Source: FOIA annual reports for fiscal year 1999 (self-reported data).



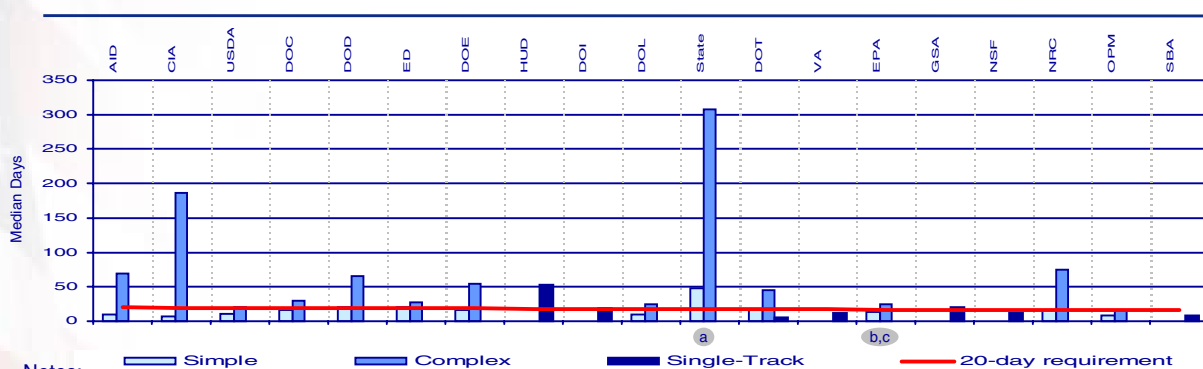
Appendix II: 25 Agencies' FY99 FOIA Reports Proportion of Pending Requests to Total Workload ^a



Source: FOIA annual reports for fiscal year 1999 (self-reported data).



Appendix II: 25 Agencies' FY99 FOIA Reports Median Days to Process Requests



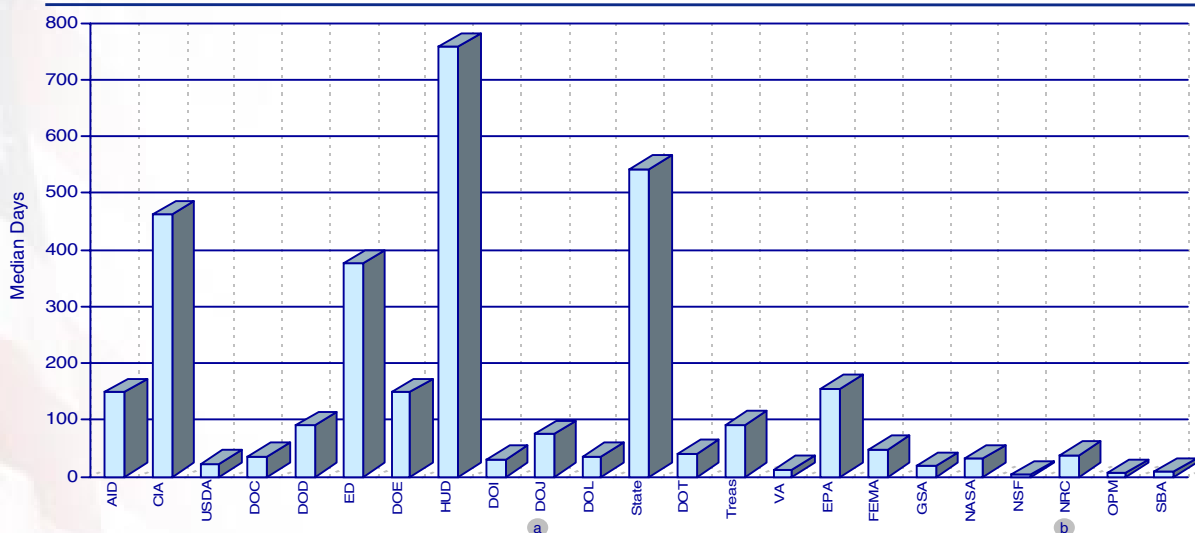
Notes:

- Data for six agencies are not shown above: HHS, Treasury, NASA, and SSA because their processing time data were incomplete, and Justice and FEMA because they reported component-by-component only, and not on an agencywide basis
- Agencies reported median days in calendar days (AID, DOD, ED, State, FEMA), working days (EPA, GSA, NASA, NSF, SBA), both calendar and working days (DOT), or did not state a basis for reporting (CIA, USDA, DOC, DOE, HUD, DOI, DOJ, DOL, VA, NSF, OPM, HHS, Treasury, SSA); OIP guidance states that, when practical, agencies should report the median in working days
- ^a State reported that median days are based on the dates that requests were received or acknowledgement letters sent, which in some cases may include requests that are not yet "perfected"
- ^b EPA counted requests by assignments rather than requests processed and counted processing data under tracks labeled as "basic," "unusual," and "exceptional;" we categorized unusual and exceptional requests as "complex"
- ^c EPA's median days for "complex" is based on the 25 days reported for 99% of its complex requests and excludes data for 8 requests processed with a median of 55 days

Source: FOIA annual reports for fiscal year 1999 (self-reported data).



Appendix II: 25 Agencies' FY99 FOIA Reports Median Days Requests Were Pending at the End of the Fiscal Year



Note: HHS and SSA are not included because of incomplete data

^a Includes FBI's reported median days of 252

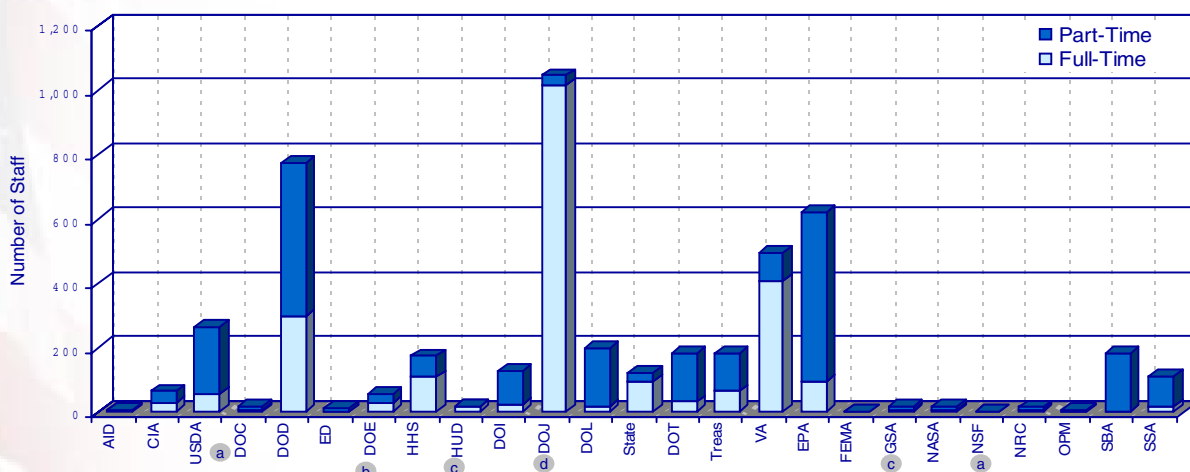
^b NRC data excludes 4 requests pending with a median of 198 days

Source: FOIA annual reports for fiscal year 1999 (self-reported data).

44



Appendix II: 25 Agencies' FY99 FOIA Reports FOIA Staffing

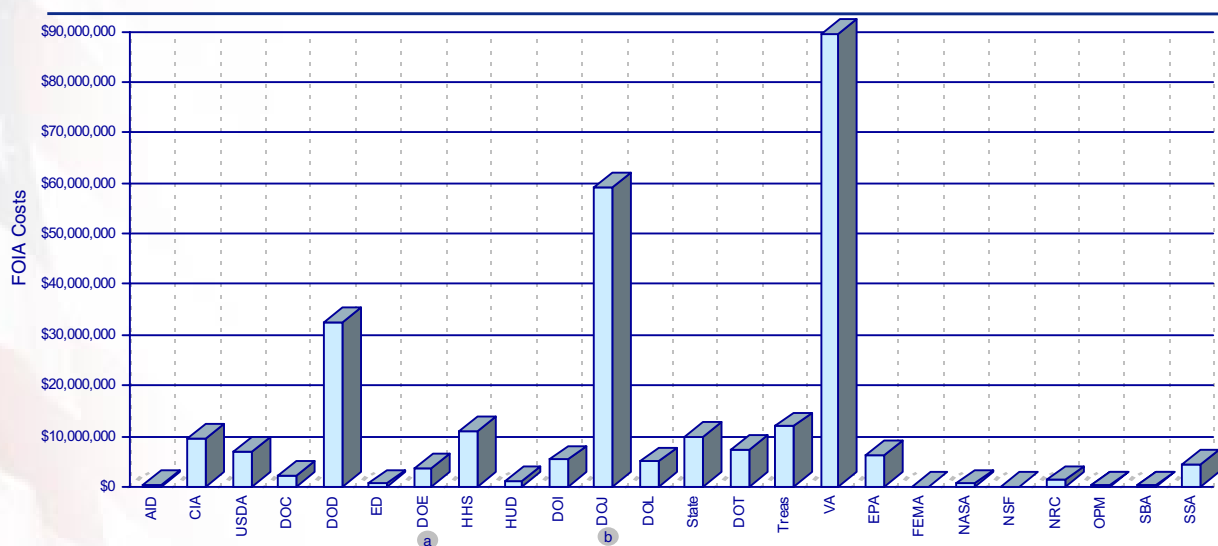


- ^a Adjustment made for USDA, DOC, and NSF in reported part-time work-years to reflect reported total work years
^b DOE data reflect work years reported; however, there is a discrepancy in the number reported for "total work years"
^c HUD and GSA noted that data are understated and do not adequately portray agency work-year investment
^d Includes FBI's reported full-time staff of 671

Source: FOIA annual reports for fiscal year 1999 (self-reported data).



Appendix II: 25 Agencies' FY99 FOIA Reports Total FOIA Costs



Note: GSA is not included because it did not provide cost data

^a DOE reported a discrepancy of \$654,061 between processing and total costs; we used processing costs

^b Includes FBI's reported costs of \$33 million

Source: FOIA annual reports for fiscal year 1999 (self-reported data).

Ordering Information

The first copy of each GAO report is free. Additional copies of reports are \$2 each. A check or money order should be made out to the Superintendent of Documents. VISA and MasterCard credit cards are accepted, also.

Orders for 100 or more copies to be mailed to a single address are discounted 25 percent.

Orders by mail:
U.S. General Accounting Office
P.O. Box 37050
Washington, DC 20013

Orders by visiting:
Room 1100
700 4th St. NW (corner of 4th and G Sts. NW)
U.S. General Accounting Office
Washington, DC

Orders by phone:
(202) 512-6000
fax: (202) 512-6061
TDD (202) 512-2537

Each day, GAO issues a list of newly available reports and testimony. To receive facsimile copies of the daily list or any list from the past 30 days, please call (202) 512-6000 using a touchtone phone. A recorded menu will provide information on how to obtain these lists.

Orders by Internet:
For information on how to access GAO reports on the Internet, send an e-mail message with "info" in the body to:

info@www.gao.gov

or visit GAO's World Wide Web home page at:

<http://www.gao.gov>

To Report Fraud, Waste, or Abuse in Federal Programs

Contact one:

- Web site: <http://www.gao.gov/fraudnet/fraudnet.htm>
- e-mail: fraudnet@gao.gov
- 1-800-424-5454 (automated answering system)

**United States
General Accounting Office
Washington, D.C. 20548-0001**

**Official Business
Penalty for Private Use \$300**

Address Correction Requested

<p>Presorted Standard Postage & Fees Paid GAO Permit No. GI00</p>
--

