

HRSA Freedom of Information Annual Report FY 2009

I. AGENCY: Health Resources and Services Administration

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TITLE: Freedom of Information Officer

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ELECTRONIC ADDRESS FOR THIS REPORT ON THE WORLD WIDE WEB:

<http://www.hrsa.gov/foia/annualreports/foiaannualreport2009.pdf>

ADDRESS FOR PAPER COPIES OF THIS REPORT:

Freedom of Information Officer

Health Resources and Services Administration, HHS

5600 Fishers Lane, Rm. 6C-18

Rockville, MD 20857

II. HOW TO MAKE A FOIA REQUEST

For instructions how to submit a FOIA request electronically, go to -

<http://www.hrsa.gov/foia/index.html>

To submit a FOIA request by mail, send it to -

FOIA Office

Health Resources and Services Administration

5600 Fishers Lane, Rm. 6C-18

Rockville, Maryland 20857

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

Requests are not granted if the information requested falls within one of the statute's enumerated exemptions, primarily Exemption 4 because the requested record contains proprietary business information, Exemption 5 because the requested record contains information that would reveal internal agency deliberations, or Exemption 6 because the requested record contains personal information such as social security numbers, home address and phone number or medical information.

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS:

1. Agency-specific acronyms or other terms:

HHS - U.S. Department of Health and Human Services

OPDIVs - Operating Divisions of HHS

OS - Office of the Secretary, HHS

OASPA - Office of the Assistant Secretary for Public Affairs, HHS

AoA - Administration on Aging

ACF - Administration for Children and Families

AHRQ - Agency for Healthcare Research and Quality

ATSDR - Agency for Toxic Substances and Disease Registry

CDC - Centers for Disease Control and Prevention

FDA - Food and Drug Administration

HRSA - Health Resources and Services Administration

IHS - Indian Health Service

NIH - National Institutes of Health

OIG - Office of the Inspector General

OASH - Office of the Assistant Secretary for Health

PRO - Professional Review Organization

PSC - Program Support Center

SAMHSA - Substance Abuse and Mental Health Services Administration

2. Basic terms (from FOIA UPDATE, Summer 1997):

- 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.
- 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.
- 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.
- 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 report data for both the agency overall and for each principal component of the agency.
- Consultation** the procedure whereby the agency responding to a FOIA request first forwards a record to another agency for its review because that 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.
- 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.
- FOIA Request** a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "thirdparty" 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., "firstparty" requests) when those requesters are not subject to the Privacy Act, such as nonU.S. citizens. Moreover, because all firstparty 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 firstparty 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.)
- Full Grant** an agency decision to disclose all records in full in response to a FOIA request.
- Full Denial** an agency decision not to release any records in response to a FOIA request because the records are exempt in their entirety under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.
- Median Number** the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
- MultiTrack 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.
 - 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.
 - Simple Request** a FOIA request that an agency using multitrack processing places in its fastest (nonexpedited) track based on the low volume and/or simplicity of the records requested.

3. **Complex Request** a FOIA request that an agency using multitrack processing places in a slower track based on the high volume and/or complexity of the records requested.
12. **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.
13. **Pending Request or Pending Administrative Appeal** a request or administrative appeal for which an agency has not taken final action in all respects.
14. **Perfect 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.
15. **Processed Request or Processed Administrative Appeal** a request or administrative appeal for which an agency has taken final action in all respects.
16. **Range in Number of Days** the lowest and highest number of days to process requests or administrative appeals.
17. **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. **Concise descriptions of the nine FOIA exemptions:**
- Exemption 1:** classified national defense and foreign relations information
 - Exemption 2:** internal agency rules and practices
 - Exemption 3:** information that is prohibited from disclosure by another federal law
 - Exemption 4:** trade secrets and other confidential business information e. **Exemption 5:** interagency or intraagency communications that are protected by legal privileges
 - Exemption 5:** inter-agency or intra-agency communications that are protected by legal privileges
 - Exemption 6:** information involving matters of personal privacy
 - Exemption 7:** records or information compiled for law enforcement purposes, to the extent that the production of those records
 - could reasonably be expected to interfere with enforcement proceedings,
 - would deprive a person of a right to a fair trial or an impartial adjudication,
 - could reasonably be expected to constitute an unwarranted invasion of personal privacy,
 - could reasonably be expected to disclose the identity of a confidential source,
 - would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or
 - could reasonably be expected to endanger the life or physical safety of any individual
 - Exemption 8:** information relating to the supervision of financial institutions
 - Exemption 9:** geological information on wells

IV. EXEMPTION 3 STATUTES

| Statute | Type of Information withheld | Case Citation | Number of Times Relied upon per Component | Total number of Times Relied upon by Agency |
|------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|-------------------------------------------|---------------------------------------------|
| 42 U.S.C. § 300aa12(d)(4)(A) (National Childhood Vaccine Injury Act of 1986) | Medical records presented to a special master or the court in National Vaccine Injury Compensation Program | Long V DOJ, No. 06CV1086, 2011 WL 113925, at *10 (N.D.N.Y. Mar. 25, 2011) | HRSA-1 | 1 |
| 42 U.S.C § 11137(b) | Adverse reports of health practitioners' conduct. | None | HRSA-1 | 1 |

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 |
|------|-------------------------------------------------------|--------------------------------------------|---------------------------------------------|-----------------------------------------------------|
| HRSA | 26 | 338 | 334 | 30 |

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

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

| Component | 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 | Number of Full Denials Based on Reasons Other than Exemptions: All Records Referred To Another Component or Agency | Number of Full Denials Based on Reasons Other than Exemptions: Request Withdrawn | Number of Full Denials Based on Reasons Other than Exemptions: Fee Related Reason | Number of Full Denials Based on Reasons Other than Exemptions: Records not Reasonably Described | Number of Full Denials Based on Reasons Other than Exemptions: Improper FOIA Request For Other Reason | Number of Full Denials Based on Reasons Other than Exemptions: Not Agency Record | Number of Full Denials Based on Reasons Other than Exemptions: Duplicate Request | Number of Full Denials Based on Reasons Other than Exemptions: *Explain in chart below | Total |
|-----------|-----------------------|------------------------------------------|--------------------------------------------|---------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|----------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|-------|
| HRSA | 276 | 27 | 2 | 14 | 5 | 4 | 3 | 0 | 0 | 3 | 0 | 0 | 334 |

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 |
|-----------|-------------------------------------------------------------------------------------------------------------|-------|
| HRSA | N/A | 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 |
|------|-------|------|------|------|------|------|-----------|-----------|-----------|-----------|-----------|-----------|-------|-------|
| HRSA | 0 | 1 | 2 | 18 | 5 | 12 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

VI: Administrative Appeals of Initial Determinations of FOIA Requests

See Department of Health and Human Services Annual Report

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

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

| | Simple: Median Number of Days | Simple: Average Number of Days | Simple: Lowest Number of Days | Simple: Highest Number of Days | Complex: Median Number of Days | Complex: Average Number of Days | Complex: Lowest Number of Days | Complex: Highest Number of Days | Expedited Processing: Median Number of Days | Expedited Processing: Average Number of Days | Expedited Processing: Lowest Number of Days | Expedited Processing: Highest Number of Days |
|------|-------------------------------|--------------------------------|-------------------------------|--------------------------------|--------------------------------|---------------------------------|--------------------------------|---------------------------------|---------------------------------------------|----------------------------------------------|---------------------------------------------|----------------------------------------------|
| HRSA | 0 | 0 | 0 | 0 | 15 | 17 | 1 | 174 | 0 | 0 | 0 | 0 |

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

| | Simple: Median Number of Days | Simple: Average Number of Days | Simple: Lowest Number of Days | Simple: Highest Number of Days | Complex: Median Number of Days | Complex: Average Number of Days | Complex: Lowest Number of Days | Complex: Highest Number of Days | Expedited Processing: Median Number of Days | Expedited Processing: Average Number of Days | Expedited Processing: Lowest Number of Days | Expedited Processing: Highest Number of Days |
|------|-------------------------------|--------------------------------|-------------------------------|--------------------------------|--------------------------------|---------------------------------|--------------------------------|---------------------------------|---------------------------------------------|----------------------------------------------|---------------------------------------------|----------------------------------------------|
| HRSA | 0 | 0 | 0 | 0 | 15 | 17 | 1 | 174 | 0 | 0 | 0 | 0 |

C. Processed Requests – Response Time in Day Increments

1. 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 |
|------|-----------|------------|------------|------------|-------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|-----------|-------|
| HRSA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

2. 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 |
|------|-----------|------------|------------|------------|-------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|-----------|-------|
| HRSA | 264 | 47 | 9 | 10 | 2 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 334 |

3. 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 |
|------|-----------|------------|------------|------------|-------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|-----------|-------|
| HRSA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

D. Pending Requests – All Pending Perfected Requests

| | Simple | | | Complex | | | Expedited Processing | | |
|------|----------------|-------------------------------|--------------------------------|-------------------------|--------------------------------|---------------------------------|--------------------------------------|---------------------------------------------|----------------------------------------------|
| | Number Pending | Simple: Median Number of Days | Simple: Average Number of Days | Complex: Number Pending | Complex: Median Number of Days | Complex: Average Number of Days | Expedited Processing: Number Pending | Expedited Processing: Median Number of Days | Expedited Processing: Average Number of Days |
| HRSA | 0 | 0 | 0 | 30 | 20 | 12 | 0 | 0 | 0 |

E. Pending Requests – Ten Oldest Pending Perfected Requests

| | 10 th Oldest Request and Number of Days Pending | 9 th | 8 th | 7 th | 6 th | 5 th | 4 th | 3 rd | 2 nd | Oldest Request and Number of Days Pending |
|-------|------------------------------------------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-------------------------------------------|
| HRSA: | 9/10/09 14 | 9/10/09 14 | 9/9/09 15 | 9/3/09 20 | 9/2/09 21 | 8/28/09 26 | 8/17/09 35 | 8/5/09 42 | 7/31/09 45 | 7/8/09 60 |

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 |
|------|----------------|---------------|-------------------------------------|--------------------------------------|---------------------------------------------|
| HRSA | 0 | 3 | 4 | 13 | 2 |

B. Requests for Fee Waiver

| | Number Granted | Number Denied | Median Number of Days to Adjudicate | Average Number of Days to Adjudicate |
|------|----------------|---------------|-------------------------------------|--------------------------------------|
| HRSA | 0 | 1 | 19 | 19 |

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" | Processing Costs | Litigation-Related Costs | Total Costs |
| HRSA | 2 | 1.5 | 3.5 | 374,338.00 | 0 | 374,338.00 |

X. FEES COLLECTED FOR PROCESSING REQUESTS

| | Total Amount of Fees Collected | Percentage of Total Costs |
|------|--------------------------------|---------------------------|
| HRSA | 3,731 | 1.0% |

XI. FOIA REGULATIONS: <http://www.hhs.gov/foia/45cfr5.html>.

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 |
|------|--------------------------------------------------------|-------------------------------------------------------|
| HRSA | 30 | N/A |

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 |
|------|----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| HRSA | 0 | 0 | 0 | 0 |

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

| | Oldest Request And Number of Days Pending | 9th | 8th | 7th | 6th | 5th | 4th | 3rd | 2nd | Oldest Request And Number of Days Pending |
|------|-------------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-------------------------------------------|
| HRSA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

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

(1) Requests Received and Processed

| HRSA | Number of Requests Received | | Number of Requests Processed | |
|------|-------------------------------------------------------------------------------|---------------------------------------------------------------------------|--------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| | Number of Requests Received During Fiscal Year from Last Year's Annual Report | Number of Requests Received During Fiscal Year from Current Annual Report | Number of Requests Processed During Fiscal Year from Last Year's Annual Report | Number of Requests Processed During Fiscal Year from Current Annual Report |
| | 305 | 338 | 303 | 334 |

2) Requests Backlogged

| HRSA | 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 |
|------|----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| | 28 | 30 |

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

See Department of Health and Human Services Annual Report