

**U.S. Department of Transportation (DOT)
Freedom of Information Act (FOIA)
2012 Annual Report**

I. Basic Information Regarding Report

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II. MAKING A FOIA REQUEST - *agency components that receive FOIA requests*

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<p>Note: Up-to-date information can be found on each component's FOIA page via www.dot.gov/foia.</p>	

II. 2. *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*

Some requested records, or portions of records, were withheld pursuant to the FOIA's exemptions. The most frequently used exemption in DOT for FY 2012 was Exemption 6, which protects against a clearly unwarranted invasion of personal privacy. Other reasons for not granting requests included: (a) DOT did not have the records sought; (b) the requester did not seek records; rather, he or she was seeking answers to questions; or (c) the information from the records sought was publicly available. For a detailed breakdown, see Section V. B of this report, Disposition of FOIA Requests.

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

1. *Agency-specific acronyms or terms used in this Report*

DOT	Department of Transportation
OST	Office of the Secretary of Transportation
OIG	Office of Inspector General
FAA	Federal Aviation Administration
FHWA	Federal Highway Administration
FMCSA	Federal Motor Carrier Safety Administration
FRA	Federal Railroad Administration
FTA	Federal Transit Administration
MARAD	Maritime Administration
NHTSA	National Highway Traffic Safety Administration
PHMSA	Pipeline and Hazardous Materials Safety Administration
RITA	Research and Innovative Technology Administration
SLSDC	Saint Lawrence Seaway Development Corporation

III. 2. *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 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 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 entirety under one or more of the FOIA exemptions, or because of another 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. **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.
- 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. **Remanded Appeal** – An appeal request, particularly a “no records” appeal, sent back to the original action office or forwarded to another office when the requester provides additional information either clarifying the documents sought or providing additional search parameters. The action office considers the request as if it were a new request, responding directly to the requester. Remanded appeal responses may again be appealed; appeal rights are provided if the remanded appeal response is a denial, partial denial, or “no records” determination.
- r. **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).

III. 3. *Descriptions of the nine FOIA exemptions*

Exemption 1	classified national defense and foreign relations information
Exemption 2	information that is related solely to the internal personnel rules and practices of an agency
Exemption 3	information that is prohibited from disclosure by another Federal law
Exemption 4	trade secrets and other confidential business information
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 (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

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
5 U.S.C. app. § 107(a) (Ethics in Government Act of 1978)	Financial disclosure information pertaining to certain government employees	<u>Meyerhoff v. EPA</u> , 958 F.2d 1498, 1500-02 (9 th Cir. 1992); <u>Concepcion v. FBI</u> , 606 F. Supp. 2d 14, 33 (D.D.C. 2009), <u>renewed motion for summary judgment granted in part on other grounds</u> , 699 F. Supp. 2d 106 (D.D.C. 2010).	FHWA – 1	1
16 U.S.C. § 470w-3	National historic preservation information	N/A	FHWA – 1	1
23 U.S.C. § 403 note	Identities of subjects of traffic accident investigations	N/A	NHTSA – 3	3
41 U.S.C. § 2102(a)	Contractor bid or proposal information; source selection information	<u>Legal & Safety Employer Research, Inc. v. U.S. Dep't of the Army</u> , No. Civ. S001748, 2001 WL 34098652, at *3-4 (E.D. Cal. May 4, 2001) (dictum).	FAA -1 FHWA – 2	3
41 U.S.C. § 4702(b)	Contractor proposals that are in the possession or control of an executive agency and that have not been set forth or incorporated by reference into contracts.	<u>Sinkfield v. HUD</u> , No. 10-885, 2012 U.S. Dist. LEXIS 35233, at #13-15 (S.D. Ohio Mar. 15, 2012); <u>Hornbostel v. Dep't of the Interior</u> , 305 F. Supp. 2d 21, 30 (D.D.C. 2003), <u>summary affirmance granted</u> , No. 03-5257, 2004 WL 1900562 (D.C. Cir. Aug. 25, 2004).	FHWA – 2 FMCSA - 1 FTA – 1 OST - 1 RITA - 1	6
49 U.S.C. § 31105(h)(1)	Names of certain motor carrier employees	N/A	FMCSA – 99	99
49 U.S.C. § 40110(e)	Contract proposal not incorporated into contract	N/A	FAA – 4	4
49 U.S.C. § 40115(a)	Information harmful to U.S. position in	N/A	FAA – 1	1

	international aviation negotiations, or harmful to any U.S. international air carrier			
49 U.S.C. § 40119(b) (Federal Aviation Act)	Certain information obtained or developed in ensuring transportation security if disclosure of that information would: constitute an invasion of personal privacy, reveal a trade secret or confidential commercial or financial information, or be detrimental to transportation safety	<u>Pub. Citizen, Inc. v. FAA</u> , 988 F.2d 186, 194 (D.C. Cir. 1993); <u>Gordon v. FBI</u> , 390 F. Supp. 2d 897, 900 (N.D. Cal. 2004)	FAA – 25 FMCSA – 63 PHMSA – 2 FHWA – 1 FRA - 1	92
49 U.S.C. § 40123(a)	Aviation Safety Action Program voluntarily submitted information	N/A	FAA – 6	6

V. FOIA REQUESTS

A. FOIA Requests -- *Received, Processed and Pending 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
FAA	*800	6,834	6,899	735
FHWA	**74	517	531	60
FMCSA	**355	1,945	1,921	379
FRA	63	337	342	58
FTA	18	323	324	17
MARAD	**91	102	126	67
NHTSA	29	231	200	60
OIG	15	99	98	16
OST	37	340	326	51
PHMSA	***38	148	153	33
RITA	1	48	46	3
SLSDC	0	22	22	0
AGENCY OVERALL	****1,521	10,946	10,988	1,479

* This number is 82 lower than reported in last year's annual report as pending at the end of FY 2011. The adjustment primarily reflects requests where final action was taken by all appropriate FAA offices in FY 2011, but not all database closures were entered into the database until 2012. (Note: FOIA requests assigned to multiple FAA offices are not closed until the last FAA office responds to the requester.)

** These numbers are 4 lower (FHWA), 1 lower (FMCSA), and 5 lower (MARAD), than reported in last year's annual report as pending at the end of FY 2011. The adjustment primarily reflects requests where final action was taken in FY 2011, but the close-outs were not captured in the database until 2012.

*** This number is 1 higher than reported in last year's annual report as pending at the end of FY 2011. This adjustment reflects an additional request that was received in FY 2011, but not logged in until FY 2012.

**** For the reasons stated above, this number is 91 lower than reported in last year's annual report as pending at the end of FY 2011.

V. 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									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	
FAA	3,625	1,375	66	1,165	15	348	211	28	48	18	0	0	6,899
FHWA	246	98	1	87	6	20	2	4	5	7	49	6	531
FMCSA	718	783	3	315	0	63	7	6	1	0	25	0	1,921
FRA	151	86	3	60	5	20	0	0	0	0	17	0	342
FTA	115	130	3	71	0	2	0	1	0	0	0	2	324
MARAD	79	15	0	10	0	7	5	6	3	1	0	0	126
NHTSA	69	60	4	21	2	12	17	0	8	0	4	3	200
OIG	4	45	8	23	1	2	0	2	6	1	0	6	98
OST	96	70	3	61	0	4	1	0	1	2	2	86	326
PHMSA	86	14	2	15	0	17	7	6	2	0	4	0	153
RITA	16	14	2	9	0	2	2	0	0	1	0	0	46
SLSDC	6	9	0	7	0	0	0	0	0	0	0	0	22
AGENCY OVERALL	5,211	2,699	95	1,844	29	497	252	53	74	30	101	103	10,988

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

Component	Description of “Other” Reasons for Denials from Chart B (1) & Number of Times Those Reasons Were Relied upon	TOTAL
FHWA	Transferred within DOT	6
FTA	Transferred within DOT	2
NHTSA	Transferred with DOT	3
OIG	Transferred within DOT	6
OST	Transferred within DOT	86
Agency Overall		103

V. 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
FAA	2	23	37	137	414	870	77	1	26	3	11	5	0	0
FHWA	0	2	7	23	40	16	0	0	2	0	0	0	0	0
FMCSA	0	1	163	12	4	760	1	5	469	91	0	0	0	0
FRA	0	0	1	13	5	78	3	0	70	0	0	0	0	0
FTA	0	0	1	32	40	80	1	0	0	0	0	0	0	0
MARAD	1	0	0	4	11	13	0	0	0	0	0	0	0	0
NHTSA	0	0	3	13	14	36	0	0	0	0	0	0	0	0
OIG	0	1	0	2	22	43	7	0	45	1	10	0	0	0
OST	0	0	1	8	20	55	1	0	10	0	2	1	0	0
PHMSA	0	0	2	4	7	8	1	0	0	0	0	4	0	0
RITA	0	0	1	6	1	6	0	0	2	0	0	0	0	0
SLSDC	0	0	0	0	0	9	0	0	0	0	0	0	0	0
AGENCY OVERALL	3	27	216	254	578	1,974	91	6	624	95	23	10	0	0

VI. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS

A. Received, Processed and Pending Administrative Appeals

	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
FAA	47	110	128	29
FHWA	14	8	9	13
FMCSA	5	2	5	2
FRA	0	2	2	0
FTA	5	8	12	1
MARAD	0	1	0	1
NHTSA	1	6	7	0
OIG	0	2	0	2
OST	2	7	9	0
PHMSA	0	0	0	0
RITA	0	1	1	0
SLSDC	0	0	0	0
Agency Overall	74	147	173	48

VI. 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
FAA	30	17	47	34	128
FHWA	1	5	0	3	9
FMCSA	0	3	2	0	5
FRA	1	1	0	0	2
FTA	3	4	2	3	12
MARAD	0	0	0	0	0
NHTSA	2	0	1	4	7
OIG	0	0	0	0	0
OST	3	2	1	3	9
PHMSA	0	0	0	0	0
RITA	0	1	0	0	1
SLSDC	0	0	0	0	0
Agency Overall	40	33	53	47	173

VI. 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
FAA	0	0	1	1	7	20	0	0	9	2	0	0	0	0
FHWA	0	0	0	0	3	1	0	0	0	0	0	0	0	0
FMCSA	0	0	1	0	0	5	0	0	1	1	0	0	0	0
FRA	0	0	0	0	0	1	0	0	0	0	0	0	0	0
FTA	0	0	0	0	3	1	0	0	0	0	0	0	0	0
MARAD	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NHTSA	0	0	0	3	3	2	0	0	0	0	0	0	0	0
OIG	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OST	0	0	0	1	2	0	0	0	0	0	0	0	0	0
PHMSA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
RITA	0	0	0	0	1	1	0	0	0	0	0	0	0	0
SLSDC	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Agency Overall	0	0	2	5	19	31	0	0	10	3	0	0	0	0

VI. 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
FAA	16	0	9	0	0	24	0	0	0	0	42
FHWA	1	0	1	1	0	0	0	0	0	0	0
FMCSA	0	0	0	0	0	0	0	0	0	0	0
FRA	1	0	0	0	0	0	0	0	0	0	0
FTA	2	0	2	0	0	1	0	0	0	0	0
MARAD	0	0	0	0	0	0	0	0	0	0	0
NHTSA	0	0	0	0	0	0	0	1	1	0	2
OIG	0	0	0	0	0	0	0	0	0	0	0
OST	2	0	0	1	0	0	0	0	0	0	0
PHMSA	0	0	0	0	0	0	0	0	0	0	0
RITA	0	0	0	0	0	0	0	0	0	0	0
SLSDC	0	0	0	0	0	0	0	0	0	0	0
Agency Overall	22	0	12	2	0	25	0	1	1	0	44

VI. C. (3) Reasons for Denial on Appeal – *“Other” Reasons from Section VI. C (2) Chart*

Descriptions of the “other” reasons and the number of times each reason was relied upon

Description of “Other” Reasons for Denial on Appeal from Chart C(2)	Number of Times Those Reasons Were Relied Upon	TOTAL
Remanded to Region/Center/Org	FAA – 42	42
Appeal not received by deadline	NHTSA – 2	2

VI. C. (4) Response Time for Administrative Appeals

Median, average, and range in number of days to respond to administrative appeals

	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
FAA	23.00	114.00	<1	914.00
FHWA	425.00	425.00	185.00	674.00
FMCSA	156.00	131.00	32.00	212.00
FRA	35.50	36.00	20.00	51.00
FTA	74.00	85.00	19.00	176.00
MARAD	0.00	0.00	0.00	0.00
NHTSA	36.00	42.00	22.00	72.00
OIG	0.00	0.00	0.00	0.00
OST	17.00	23.00	5.00	65.00
PHMSA	0.00	0.00	0.00	0.00
RITA	106.00	106.00	106.00	106.00
SLSDC	0.00	0.00	0.00	0.00
Agency Overall	18.00	124.03	<1	914.00

VI. C. (5) Ten Oldest Pending Administrative Appeals

Dates of receipt of the ten oldest pending administrative appeals, and the number of days pending

	10 th Oldest Appeal	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest Appeal
FAA	9-8-2011 267 days	7-28-2011 296 days	7-24-2011 306 days	6-28-2011 317 days	5-24-2011 341 days	5-16-2011 347 days	3-10-2011 394	2-28-2011 402 days	1-25-2011 425 days	12-22-2010 466 days
FHWA	3-16-2012 137 days	3-1-2012 148 days	12-14-2011 200 days	11-22-2011 215 days	7-20-2011 301 days	7-12-2011 307 days	7-7-2011 310 days	5-25-2011 340 days	6-8-2010 581 days	10-13-2009 738 days
FMCSA	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	8-21-2012 27 days	10-18-2010 490 days
FRA	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days
FTA	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	9-29-2012 1 day
MARAD	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	4-27-2012 107 days
NHTSA	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days
OIG	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	1-17-2012 179 days	11-7-2011 222 days
OST	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days
PHMSA	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days
RITA	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days
SLSDC	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days
Agency Overall	5-25-2011 340 days	5-24-2011 341 days	5-16-2011 347 days	3-10-2011 394 days	2-28-2011 402 days	1-25-2011 425 days	12-22-2010 466 days	10-18-2010 490 days	6-8-2010 581 days	10-13-2009 738 days

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
FAA	10	15	<1	1,323	30	61	<1	1,472	17	25	<1	164
FHWA	13	27	<1	531	23	52	<1	575	12	17	<1	51
FMCSA	42	41	<1	108	50	53	1	307	9	16	<1	81
FRA	N/A	N/A	N/A	N/A	39	76	1	656	N/A	N/A	N/A	N/A
FTA	17	19	1	193	50	61	1	145	28	28	27	28
MARAD	160	242	<1	878	49	149	38	360	N/A	N/A	N/A	N/A
NHTSA	17	19	<1	170	30	51	2	296	10	10	10	10
OIG	20	46	<1	178	122	143	1	305	4	4	3	4
OST	2	8	<1	135	23	56	<1	582	N/A	N/A	N/A	N/A
PHMSA	4	11	<1	107	13	93	<1	569	7	44	<1	252
RITA	6	12	1	111	17	21	4	46	5	6	1	16
SLSDC	12	11	2	20	113	113	113	113	N/A	N/A	N/A	N/A
AGENCY OVERALL	13	20.714	<1	1,323	37	61.912	<1	1,472	10	23.69	<1	252

VII. 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
FAA	12	14	<1	248	30	61	<1	1,472	18.5	31	1	164
FHWA	18	33	<1	421	27	43	<1	167	18.5	17	<1	51
FMCSA	43	43	<1	95	50	53	4	307	6	17	<1	81
FRA	N/A	N/A	N/A	N/A	42	74	2	565	N/A	N/A	N/A	N/A
FTA	18	20	1	143	145	145	145	145	28	28	27	28
MARAD	162	236	<1	878	360	360	360	360	N/A	N/A	N/A	N/A
NHTSA	18	17	2	51	31	53	4	296	10	10	10	10
OIG	84	88	2	178	117	148	39	305	N/A	N/A	N/A	N/A
OST	7	15	<1	93	31	64	<1	582	N/A	N/A	N/A	N/A
PHMSA	5	10	<1	107	16	50	<1	438	17	48	<1	252
RITA	6	14	1	111	17	18	17	19	5	7	1	16
SLSDC	11	11	4	17	113	113	113	113	N/A	N/A	N/A	N/A
AGENCY OVERALL	15	21.11	<1	878	38	59.047	<1	1,472	1	4.813	<1	252

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	TOTAL
FAA	4,983	376	59	25	14	13	7	6	3	3	13	3	16	5,521
FHWA	331	71	22	14	12	6	4	1	0	1	3	2	4	471
FMCSA	99	507	746	43	3	1	0	0	0	0	0	0	0	1,399
FRA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
FTA	208	88	15	4	1	0	0	1	0	1	0	0	0	318
MARAD	20	12	11	6	1	4	2	6	7	2	6	9	37	123
NHTSA	98	22	2	0	0	0	1	0	1	0	0	0	0	124
OIG	42	5	6	5	14	3	3	1	4	0	0	0	0	83
OST	127	5	2	1	1	1	1	0	0	0	0	0	0	138
PHMSA	41	3	0	1	0	1	0	0	0	0	0	0	0	46
RITA	27	5	0	0	0	1	0	0	0	0	0	0	0	33
SLSDC	21	0	0	0	0	0		0	0	0	0	0	0	21
AGENCY OVERALL	5,997	1,094	863	99	46	30	18	15	15	7	22	14	57	8,277

VII. C. Processed Requests – *Response Time in Day Increments*

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
FAA	428	456	201	74	34	21	13	27	13	14	31	16	25	1,353
FHWA	21	8	9	1	3	2	0	0	2	0	1	0	1	48
FMCSA	16	68	338	63	17	6	1	2	1	0	2	1	0	515
FRA	93	80	58	32	9	9	8	9	5	7	13	10	9	342
FTA	1	0	2	0	0	0	0	1	0	0	0	0	0	4
MARAD	0	1	1	0	0	0	0	0	0	0	0	1	0	3
NHTSA	23	31	9	2	0	3	0	0	1	0	6	0	0	75
OIG	1	1	0	1	1	2	1	1	1	0	3	1	0	13
OST	87	40	17	10	7	2	4	4	4	1	6	2	4	188
PHMSA	46	18	3	3	1	2	3	0	1	0	1	4	11	93
RITA	4	0	1	0	0	0	0	0	0	0	0	0	0	5
SLSDC	0	0	0	0	0	1	0	0	0	0	0	0	0	1
AGENCY OVERALL	720	703	639	186	72	48	30	44	28	22	63	35	50	2,640

VII. C. Processed Requests – *Response Time in Day Increments*

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
FAA	16	5	2	1	0	0	0	0	1	0	0	0	0	25
FHWA	9	1	2	0	0	0	0	0	0	0	0	0	0	12
FMCSA	6	0	0	0	1	0	0	0	0	0	0	0	0	7
FRA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
FTA	0	0	2	0	0	0	0	0	0	0	0	0	0	2
MARAD	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NHTSA	1	0	0	0	0	0	0	0	0	0	0	0	0	1
OIG	0	2	0	0	0	0	0	0	0	0	0	0	0	2
OST	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PHMSA	7	2	2	0	1	0	1	0	0	0	1	0	0	14
RITA	8	0	0	0	0	0	0	0	0	0	0	0	0	8
SLSDC	0	0	0	0	0	0	0	0	0	0	0	0	0	0
AGENCY OVERALL	47	10	8	1	2	0	1	0	1	0	1	0	0	71

VII. 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
FAA	558	12	96	127	33	93	3	212	210
FHWA	43	71	99	17	44	53	0	N/A	N/A
FMCSA	247	17	21	131	29	36	1	2	2
FRA	0	N/A	N/A	58	56	81	0	N/A	N/A
FTA	17	5	10	0	N/A	N/A	0	N/A	N/A
MARAD	64	203	258	3	46	40	0	N/A	N/A
NHTSA	24	13	27	36	50	58	0	N/A	N/A
OIG	13	39	45	3	95	95	0	N/A	N/A
OST	0	N/A	N/A	51	81	161	0	N/A	N/A
PHMSA	1	11	11	23	121	161	9	239	217
RITA	1	182	182	0	N/A	N/A	2	1	1
SLSDC	0	N/A	N/A	0	N/A	N/A	0	N/A	N/A
AGENCY OVERALL	968	47	97.317	449	52	118.057	15	38	11.478

VII. E. Pending Requests – *Ten Oldest Pending Perfected Requests*

Dates of receipt of the ten oldest perfected requests pending as of end of the fiscal year, and the number of days those requests had been pending

	10th Oldest Request and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request and Number of Days Pending
FAA	4-3-2009 916 days	3-30-2009 920 days	3-3-2009 939 days	1-5-2009 978 days	10-17-2008 1,010 days	8-11-2008 1,077 days	9-17-2007 1,302 days	8-13-2007 1,326 days	10-26-2006 1,525 days	10-26-2006 1,525 days
FHWA	11-1-2011 229 days	10-26-2011 233 days	10-19-2011 238 days	9-23-2011 255 days	9-21-2011 257 days	9-21-2011 257 days	9-20-2011 258 days	6-20-2011 322 days	6-11-2011 328 days	2-18-2011 406 days
FMCSA	6-11-2012 77 day	6-8-2012 78 days	6-7-2012 79 days	6-4-2012 81 days	6-1-2012 83 days	5-14-2012 96 days	5-14-2012 96 days	5-14-2012 96 days	1-31-2012 169 days	1-26-2012 172 days
FRA	2-28-2012 151 days	2-28-2012 151 days	2-14-2012 160 days	2-14-2012 160 days	1-26-2012 173 days	12-16-2011 199 days	11-9-2011 224 days	9-12-2011 265 days	12-22-2010 446 days	12-7-2010 457 days
FTA	9-25-2012 3 days	9-21-2012 5 days	9-14-2012 10 days	9-10-2012 14 days	9-10-2012 14 days	9-10-2012 14 days	9-4-2012 18 days	9-4-2012 18 days	8-23-2012 25 days	8-13-2012 33 days
MARAD	6-16-2010 575 days	6-10-2010 580 days	6-5-2010 584 days	5-11-2010 600 days	3-19-2010 637 days	1-13-2010 683 days	12-31-2009 690 days	11-5-2009 727 days	11-2-2009 730 days	10-21-2009 738 days
NHTSA	6-12-2012 76 days	5-10-2012 98 days	5-7-2012 101 days	5-7-2012 101 days	4-10-2012 120 days	4-6-2012 124 days	3-23-2012 132 days	2-15-2012 158 days	2-2-2012 167 days	2-1-2012 168 days
OIG	8-3-2012 39 days	7-25-2012 46 days	6-25-2012 67 days	6-20-2012 70 days	6-15-2012 74 days	6-11-2012 77 days	5-25-2012 87 days	5-16-2012 94 days	5-15-2012 95 days	4-23-2012 111 days
OST	4-4-2011 376 days	3-23-2011 383 days	3-17-2011 388 days	2-28-2011 401 days	12-30-2010 440 days	11-24-2010 464 days	11-11-2010 473 days	5-10-2010 601 days	4-9-2010 622 days	4-10-2009 868 days
PHMSA	8-15-2011 283 days	8-3-2011 291 days	7-28-2011 295 days	7-12-2011 307 days	7-6-2011 311 days	6-22-2011 320 days	5-5-2011 353 days	4-25-2011 361 days	4-7-2011 373 days	3-16-2011 389 days
RITA	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	9-28-2012 0 days	9-27-2012 1 day	1-11-2012 129 days
SLSDC	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days
Agency Overall	4-3-2009 916 days	3-30-2009 920 days	3-3-2009 939 days	1-5-2009 978 days	10-17-2008 1,010 days	8-11-2008 1,077 days	9-17-2007 1,302 days	8-13-2007 1,326 days	10-26-2006 1,525 days	10-26-2006 1,525 days

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
FAA	27	200	1	2	218
FHWA	9	2	1	10	10
FMCSA	6	2	1	1	8
FRA	0	0	N/A	N/A	N/A
FTA	2	0	2	2	2
MARAD	0	5	1	2	5
NHTSA	1	4	6	11	3
OIG	2	10	1	2	12
OST	0	0	N/A	N/A	N/A
PHMSA	24	20	1	2	22
RITA	10	0	1	1	10
SLSDC	0	0	N/A	N/A	N/A
AGENCY OVERALL	81	243	1	1.816	290

VIII. B. *Requests for Fee Waiver*

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
FAA	52	99	1	1
FHWA	34	7	2	11
FMCSA	0	0	N/A	N/A
FRA	0	0	N/A	N/A
FTA	0	1	1	1
MARAD	6	3	1	6
NHTSA	0	2	9	9
OIG	7	1	1	1
OST	1	2	1	1
PHMSA	15	0	1	1
RITA	10	1	1	1
SLSDC	0	0	N/A	N/A
AGENCY OVERALL	125	116	1	4.813

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 (At initial request and appeal levels)	Litigation- Related Costs	Total Costs
FAA	18	53	71	\$6,739,821	\$99,190	\$6,839,011
FHWA	1	3.89	4.89	\$977,474	0	\$977,474
FMCSA	6	1	7	\$643,899	\$77,552	\$721,451
FRA	1	1.5	2.5	\$275,600	0	\$275,600
FTA	0	2.6	2.6	\$277,590	0	\$277,590
MARAD	1	3	4	\$403,728	0	\$403,728
NHTSA	2	2.88	4.88	\$569,626	\$23,623	\$593,249
OIG	2	0.518	2.518	\$247,851	0	\$247,851
OST	4	1	5	\$565,061	0	\$565,061
PHMSA	1	.75	1.75	\$231,827	0	\$231,827
RITA	1	2	3	\$458,178	0	\$458,178
SLSDC	0	0.125	0.125	\$13,372	0	\$13,372
AGENCY OVERALL	37	72.263	109.263	\$11,404,027	\$200,365	\$11,604,392

X. FEES COLLECTED FOR PROCESSING REQUESTS

	Total Amount of Fees Collected	Percentage of Total Costs
FAA	\$188,192.71	2.79%
FHWA	\$34,175.52	3.50%
FMCSA	\$13,763.80	2.14%
FRA	\$238.50	0.09%
FTA	0	0.00%
MARAD	\$3,148.40	0.78%
NHTSA	\$5,840.23	1.03%
OIG	0	0.00%
OST	\$3,399.60	0.60%
PHMSA	\$5,225.87	2.25%
RITA	\$14,848.82	3.24%
SLSDC	0	0.00%
AGENCY OVERALL	\$268,833.45	2.36%

XI. FOIA REGULATIONS

http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=62afd1be927ed203cc284F3204bc919&tpl=/ecfrbrowse/Title49/49cfr7_main_02.tpl

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
FAA	307	29
FHWA	19	13
FMCSA	190	2
FRA	38	0
FTA	2	0
MARAD	61	1
NHTSA	37	0
OIG	13	2
OST	40	0
PHMSA	29	0
RITA	1	0
SLSDC	0	0
AGENCY OVERALL	737	47

XII. B. *Consultations on FOIA Requests*

	Number of Consultations Received from Other Agencies that Were <u>Pending</u> at DOT 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 DOT During the Fiscal Year	Number of Consultations Received from Other Agencies that Were <u>Pending</u> at DOT as of <u>End</u> of the Fiscal Year
FAA	0	0	0	0
FHWA	0	0	0	0
FMCSA	0	0	0	0
FRA	0	0	0	0
FTA	0	0	0	0
MARAD	0	0	0	0
NHTSA	0	0	0	0
OIG	2	9	10	1
OST	0	2	2	0
PHMSA	0	6	5	1
RITA	0	0	0	0
SLSDC	0	0	0	0
AGENCY OVERALL	2	17	17	2

XII. C. *Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at DOT*

	10th Oldest Consultation and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Consultation and Number of Days Pending
FAA	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days
FHWA	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days
FMCSA	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days
FRA	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days
FTA	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days
MARAD	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days
NHTSA	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days
OIG	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	9-27-2012 1 day
OST	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days
PHMSA	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	4-20-2012 112 days
RITA	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days
SLSDC	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days
Agency Overall	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 0 days	N/A 9-27-2012 1 day	4-20-2012 112 days

XII. D. (1) *Comparison of Numbers of Requests from Previous and Current Annual Report – Requests Received, Processed, and Backlogged*

	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
FAA	8,367	6,834	8,483	6,899
FHWA	429	517	410	531
FMCSA	1,774	1,945	1,586	1,921
FRA	316	337	362	342
FTA	281	323	272	324
MARAD	119	102	180	126
NHTSA	216	231	239	200
OIG	85	99	89	98
OST	257	340	244	326
PHMSA	161	148	167	153
RITA	41	48	42	46
SLSDC	18	22	18	22
AGENCY OVERALL	12,064	10,946	12,092	10,988

XII. D. (2) *Number of backlogged requests as of the end of the fiscal year from the previous Annual Report and the number of backlogged requests as of the end of the fiscal year from the 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
FAA	251	307
FHWA	28	19
FMCSA	214	190
FRA	51	38
FTA	4	2
MARAD	87	61
NHTSA	10	37
OIG	17	13
OST	33	40
PHMSA	29	29
RITA	0	1
SLSDC	0	0
AGENCY OVERALL	724	737

XII. E. (1) *Comparison of Numbers of Administrative Appeals from Previous and Current Annual Report – Appeals Received, Processed, and Backlogged*

	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
FAA	106	110	128	128
FHWA	8	8	6	9
FMCSA	7	2	6	5
FRA	2	2	2	2
FTA	7	8	2	12
MARAD	1	1	4	0
NHTSA	11	6	10	7
OIG	4	2	4	0
OST	5	7	4	9
PHMSA	2	0	2	0
RITA	0	1	1	1
SLSDC	0	0	0	0
AGENCY OVERALL	153	147	169	173

XII. E. (2) *Number of backlogged administrative appeals*

	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
FAA	42	29
FHWA	14	13
FMCSA	5	2
FRA	0	0
FTA	4	0
MARAD	0	1
NHTSA	0	0
OIG	0	2
OST	0	0
PHMSA	0	0
RITA	0	0
SLSDC	0	0
AGENCY OVERALL	65	47

F. *Discussion of Other FOIA Activities (Optional)*

Information regarding the Department of Transportation's efforts to improve FOIA administration will be included in the upcoming (March 2013) Chief FOIA Officer's report.