

The background of the page features a large, faint, circular seal of the Federal Election Commission. The seal contains the text "FEDERAL ELECTION COMMISSION" at the top and "UNITED STATES OF AMERICA" at the bottom, separated by two stars. The central part of the seal depicts a stylized American flag with stars and stripes.

**FEDERAL ELECTION
COMMISSION**

**FREEDOM OF INFORMATION ACT
ANNUAL REPORT
FISCAL YEAR 2013**

**Federal Election Commission
Freedom of Information Act Annual Report
Fiscal Year 2013**

I. BASIC INFORMATION REGARDING REPORT

1. Person(s) to be contacted with questions about the Report.

Gregory R. Baker, Chief Freedom of Information Act Officer

Kate Higginbotham, Freedom of Information Act Public Liaison

**Candace J. Salley, Paralegal, Freedom of Information Act Requester
Service Center**

**Federal Election Commission
999 E Street, NW
Washington, DC 20463
(202) 694-1650**

2. Electronic link for access to the Report on the agency website.

<http://www.fec.gov/press/foia.shtml>

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

Contact:

**FOIA Requester Service Center, ATTN: Candace J. Salley
Federal Election Commission
999 E Street, NW
Washington, DC 20463
(202) 694-1650**

II. MAKING A FOIA REQUEST

1. Agency components¹ that receive FOIA requests.

**Federal Election Commission
FOIA Requester Service Center
999 E Street, NW
Washington, DC 20463**

¹ Please note that because the Commission is a small agency, the entire agency is considered to be one component (as opposed to individual divisions).

(202) 694-1650
(202) 219-1043 (fax number)
foia@fec.gov (email address)

2. 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.

The Federal Election Commission (FEC) is an independent regulatory agency with jurisdiction over the financing of campaigns in federal elections (that is, those for President and Vice President of the United States, United States Senator, and United States Representative). It also administers the public financing program for Presidential elections. The Commission enforces the limits on the sources and amounts of contributions to candidates for federal office, reviews the registration and periodic reports filed by political committees supporting federal candidates, and publicly discloses those reports.

By far, the most frequent reason requests are denied at the FEC is that the agency has no responsive records. Some FOIA requesters do not clearly understand the limits on the agency's jurisdiction and ask for documents that the agency does not maintain: such as information pertaining to state or local elections, voter registration and voting information, and information regarding the qualifications of candidates. Other documents are not released because the release of information concerning the Agency's open enforcement cases and conciliation attempts in enforcement matters is prohibited from disclosure by the Federal Election Campaign Act. See 2 U.S.C. §§ 437g(a)(4) (conciliation), 437g(a)(12) (open enforcement matters). Consequently, this material is exempt from disclosure under FOIA Exemption 3.

Other FOIA exemptions that often apply to FEC records include, but are not limited to:

- a) Inter-agency or intra-agency communications that are protected by the deliberative process, attorney-client, or attorney work-product privileges (Exemption 5); and
- b) Information involving matters of personal privacy (Exemptions 6 and 7(C)).

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

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

- a. **FEC – Federal Election Commission**
- b. **FECA – Federal Election Campaign Act**

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 now requires that agencies include in their Annual FOIA Report data for both the overall agency 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 a procedural reason, such as when no records could be located.
- j. **Median Number** – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
- k. **Multi-Track Processing** – a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests granted expedited processing are placed in 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 some portions of the records and to withhold others that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.
- m. **Pending Request or Pending Administrative Appeal** – a request or administrative appeal for which an agency has not taken final action in all respects.
- n. **Perfected Request** – a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.
- o. **Processed Request or Processed Administrative Appeal** – a request or administrative appeal for which an agency has taken final action in all respects.

- p. **Range in Number of Days** – the lowest and highest number of days to process requests or administrative appeals.
- q. **Time Limits** – the time period in the statute for an agency to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).

3. Concise descriptions of the nine FOIA exemptions.

- a. Exemption 1: classified national defense and foreign relations information.
- b. Exemption 2: internal agency rules and practices related to personnel matters.
- c. Exemption 3: information that is prohibited from disclosure by a federal statute other than the FOIA.
- d. Exemption 4: trade secrets and privileged or confidential business information.
- e. Exemption 5: inter-agency or intra-agency communications that are protected by legal privileges.
- f. Exemption 6: information involving matters of personal privacy.
- g. Exemption 7: records or information compiled for law enforcement purposes, to the extent that the production of those records (A) could reasonably be expected to interfere with enforcement proceedings; (B) would deprive a person of a right to a fair trial or an impartial adjudication; (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy; (D) could reasonably be expected to disclose the identity of a confidential source; (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions; or (F) could reasonably be expected to endanger the life or physical safety of any individual.
- h. Exemption 8: information that is contained in or related to examination, operations, or condition reports prepared by, or on behalf of, an agency for the regulation or supervision of a financial institution.
- i. Exemption 9: geological and geophysical information and data, including maps, concerning wells.

COMPONENT DEFINITION

Component Abbreviation	Component Name

IV. EXEMPTION 3 STATUTES

Statute	Type of Information Withheld	Case Citation	Component	Number of Times Relied upon per Component	Total Number of Times Relied upon by Agency
2 U.S.C. 437g(a)(12)(A)	Any notification or investigation made under this section of the Federal Election Campaign Act pertaining to federal campaign funds.	Citizens for Responsibility and Ethics in Washington v. FEC, No. 04-1672, slip op. at 5 (D.D.C. May 16, 2005).	FEC	6	6

V.A. FOIA REQUESTS -- RECEIVED, PROCESSED AND PENDING FOIA REQUESTS

Component	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
FEC	8	87	73	22
				0
AGENCY OVERALL	8	87	73	22

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									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	
FEC	22	22	0	23	1	2	0	0	0	2	1	0	73
													0
AGENCY OVERALL	22	22	0	23	1	2	0	0	0	2	1	0	73

**V.B.(2) DISPOSITION OF FOIA REQUESTS -- "OTHER" REASONS FOR "FULL DENIALS
 BASED ON REASONS OTHER THAN EXEMPTIONS"**

Component	Description of "Other" Reasons for Denials from Chart B (1)	Number of Times "Other" Reason Was Relied Upon	COMPONENT TOTAL
FEC	N/A	0	0
AGENCY OVERALL			0

V.B.(3). DISPOSITION OF FOIA REQUESTS - NUMBER OF TIMES EXEMPTIONS APPLIED

Component	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
FEC	0	2	6	2	10	16	3	0	3	0	0	0	0	0
AGENCY OVERALL	0	2	6	2	10	16	3	0	3	0	0	0	0	0

VI.A. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS -- RECEIVED, PROCESSED, AND PENDING ADMINISTRATIVE APPEALS

Component	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
FEC	1	3	1	3
				0
AGENCY OVERALL	1	3	1	3

VI.B. DISPOSITION OF ADMINISTRATIVE APPEALS -- ALL PROCESSED APPEALS

Component	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
FEC	0	0	0	1	1
					0
AGENCY OVERALL	0	0	0	1	1

VI.C.(3). REASONS FOR DENIAL ON APPEAL -- "OTHER" REASONS

Component	Description of "Other" Reasons for Denial on Appeal from Chart C (2)	Number of Times "Other" Reason Was Relied Upon	COMPONENT TOTAL
FEC	N/A	0	0
AGENCY OVERALL			0

VI.C.(4). RESPONSE TIME FOR ADMINISTRATIVE APPEALS

Component	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
AGENCY OVERALL	2.00	2.00	2.00	2.00

VI.C.(5). TEN OLDEST PENDING ADMINISTRATIVE APPEALS

Component	Sub-Row Heading	10th Oldest Appeal	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal
	Date of Appeal										
	Number of Days Pending										
AGENCY OVERALL	Date of Appeal	N/A	N/A	N/A	N/A	N/A	N/A	N/A	2013-04-09	2013-03-11	2012-02-28
	Number of Days Pending	0	0	0	0	0	0	0	121	142	401

VII. A. PROCESSED REQUESTS - RESPONSE TIME FOR ALL PROCESSED PERFECTED REQUESTS

Component	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
AGENCY OVERALL	17	16.3	1	35	20.5	28.1	1	88	0	0	0	0

VII. B. PROCESSED REQUESTS - RESPONSE TIME FOR PERFECTED REQUESTS IN WHICH INFORMATION WAS GRANTED

Component	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
AGENCY OVERALL	19.5	17.2	3	35	26	34.3	12	88	0	0	0	0

VII. D. PENDING REQUESTS - ALL PENDING PERFECTED REQUESTS

Component	SIMPLE			COMPLEX			EXPEDITED PROCESSING		
	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days
AGENCY OVERALL	16	12.5	17.4	6	213.5	271.5	0	0	0

VII. E. PENDING REQUESTS - TEN OLDEST PENDING PERFECTED REQUESTS

Component	Sub-Row Heading	10th Oldest Request	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request
	Date of Receipt										
	Number of Days Pending										
AGENCY OVERALL	Date of Receipt	2013-08-07	2013-08-07	2013-08-07	2013-08-07	2013-07-25	2013-05-07	2012-12-31	2012-10-18	2011-11-09	2011-06-09
	Number of Days Pending	12	37	37	37	46	101	189	238	474	581

VIII.A. REQUESTS FOR EXPEDITED PROCESSING

Component	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
AGENCY OVERALL	0	7	3	3	7

VIII.B. REQUESTS FOR FEE WAIVER

Component	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
AGENCY OVERALL	32	0	1	1

IX. FOIA PERSONNEL AND COSTS

Component	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
FEC	0	1.86	1.86	\$193,062.17	\$11,869.33	\$204,931.50
			0			\$0.00
AGENCY OVERALL	0	1.86	1.86	\$193,062.17	\$11,869.33	\$204,931.50

X. FEES COLLECTED FOR PROCESSING REQUESTS

Component	Total Amount of Fees Collected	Percentage of Total Costs
FEC	\$0.00	0.00%
AGENCY OVERALL	\$0.00	0.00%

XI. FOIA REGULATIONS

PUBLIC RECORDS AND THE FREEDOM OF INFORMATION ACT

11 CFR 4.1 Definitions.

11 CFR 4.2 Policy on disclosure of records.

11 CFR 4.3 Scope.

11 CFR 4.4 Availability of records.

11 CFR 4.5 Categories of exemptions.

11 CFR 4.6 Discretionary release of exempt records.

11 CFR 4.7 Requests for records.

11 CFR 4.8 Appeal of denial.

11 CFR 4.9 Fees.

XII. A. BACKLOGS OF FOIA REQUESTS AND ADMINISTRATIVE APPEALS

Component	Number of Backlogged Requests as of End of Fiscal Year	Number of Backlogged Appeals as of End of Fiscal Year
FEC	12	3
AGENCY OVERALL	12	3

Explanation of Backlog.

The primary causes of the current backlog are the significant increase in the number of FOIA requests the Agency received this fiscal year (i.e., 87 requests received in FY 2013 versus 60 requests in FY 2012); and the fact that the Agency received several voluminous requests. The Agency's FOIA operations were also impacted by the departure of its FOIA Public Liaison and the FOIA Office's most senior staff attorney, both positions which have yet to be permanently filled. Despite these challenges, the FEC was able to close three of backlogged cases from the prior fiscal year; and has provided at least one interim response to the requester in nine of the FOIAs in the current backlog.

XII.B. CONSULTATIONS ON FOIA REQUESTS -- RECEIVED, PROCESSED, AND PENDING CONSULTATIONS

Component	Number of Consultations Received from Other Agencies that were <u>Pending</u> at Your Agency 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 Your Agency During the Fiscal Year	Number of Consultations Received from Other Agencies that were <u>Pending</u> at Your Agency as of <u>End</u> of the Fiscal Year
FEC	0	1	1	0
				0
AGENCY OVERALL	0	1	1	0

XII. D. 1. COMPARISON OF NUMBERS OF REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORT

Component	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
FEC	60	87	66	73
AGENCY OVERALL	60	87	66	73

XII. D. 2. COMPARISON OF BACKLOGGED REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORT

Component	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
FEC	5	12
AGENCY OVERALL	5	12

XII. E. 1. COMPARISON OF NUMBERS OF ADMINISTRATIVE APPEALS FROM PREVIOUS AND CURRENT ANNUAL REPORT

Component	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
FEC	4	3	4	1
AGENCY OVERALL	4	3	4	1

XII. E. 2. COMPARISON OF BACKLOGGED ADMINISTRATIVE APPEALS FROM PREVIOUS AND CURRENT ANNUAL REPORT

Component	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
FEC	1	3
AGENCY OVERALL	1	3