Department of Justice Handbook for Agency Annual Freedom of Information Act Reports

Guidance for FOIA Professionals on Proper Tracking and Detailed Instructions for Preparing the Annual Report

(Last updated: February 16, 2017)

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INTRODUCTION

The Freedom of Information Act provides a statutory right of public access to Executive branch information in the federal government. Currently there are 100 agencies subject to the FOIA and one of the ways they are held accountable for their administration of the law is through the Annual FOIA Report. The FOIA requires that "each agency . . . submit to the Attorney General of the United States a report which shall cover the preceding fiscal year and which shall include" numerous details regarding the agency's administration of the FOIA. 5 U.S.C. § 552(e)(1) (2006 & Supp. IV 2010). The FOIA also provides that "[t]he Attorney General . . . in consultation with the Director of the Office of Management and Budget (OMB), shall develop reporting and performance guidelines in connection with reports required by this subsection . . . and may establish additional requirements for such reports as the Attorney General determines may be useful." Id. § 552(e)(5).

Pursuant to this statutory authority, in 2008 the Department of Justice, in consultation with OMB, created guidance for agencies to follow in creating their Annual FOIA Reports. The Department has since continued to provide additional guidance to agencies as needed. In accordance with the Open Government Directive, in 2009 the Department notified agencies of the requirement to publish their Annual FOIA Report in an open format. During the following year, the Department created and distributed an Annual FOIA Report tool that includes built-in data validation checks and assists agencies in producing their Annual FOIA Report in a uniform open (NIEM-XML) format. In an effort to eliminate inconsistencies between the NIEM-XML and human readable versions of agencies' Annual FOIA Reports, this year the Department released an enhanced version of the DOJ Annual FOIA Report Tool which produces both the NIEM-XML version of the Report and all of the charts containing data in the human readable version.

In order to centralize into one document all of the legal, procedural, and technical requirements concerning the Annual FOIA Report, the Department is providing this comprehensive handbook which is to be used by both FOIA professionals who take part in documenting the information that goes into the Annual FOIA Report and those professionals at the agencies that work with the Department of Justice to produce their Annual FOIA Report after the fiscal year.

The Annual FOIA Report Handbook is separated into two main parts: Chapter II covers all of the guidance agency FOIA professionals will need to know when processing requests and

appeals throughout the year and Chapter III provides all of the guidance and instructions for preparing the Annual FOIA Report itself. Professionals preparing their agency's Annual FOIA Report are encouraged to review the guidance and instructions in Chapter III in the order presented, as it progresses from the initial steps necessary for creating the Annual FOIA Report to the final step of publishing the Report online and notifying the Office of Information Policy (OIP). This handbook will continuously be updated to reflect any changes in the law, process, or technology related to agency Annual FOIA Reports. Accordingly, agencies should carefully review this document every year prior to creating their Annual FOIA Report and submitting it to the Department of Justice.

SCOPE OF THE ANNUAL FOIA REPORT

Types of Requests Included in the Annual FOIA Report

The Annual FOIA Report is designed to capture an agency's FOIA activities and therefore should not include requests for records handled exclusively under the Privacy Act of 1974 (PA). In order to provide a clear report of agency FOIA activities, agencies shall only include PA requests in their Annual FOIA Reports if the FOIA is utilized in any way to process the request. In other words, if an agency search extends beyond PA "systems of records," see 5 U.S.C. § 552a(a)(5), the search constitutes a FOIA search and the request must be included in the agency's Annual FOIA Report. Similarly, if a PA exemption applies to a request, the agency must then consider whether the FOIA allows access to the records. That request must likewise be included in the agency's Annual FOIA Report.

Conversely, when an agency conducts a PA search exclusively (i.e., within a "system of records") and does not claim a PA exemption for any records located, that request was in no way processed under the FOIA and should not be included in the agency's Annual FOIA Report.

Agencies should still give incoming requests the potential benefit of access under both the PA and the FOIA. However, if or when the agency determines that the request will be processed completely and exclusively under the PA, that request shall not be included in the agency's Annual FOIA Report.

The Two Versions of the Annual FOIA Report

In accordance with the Open Government Directive and DOJ Guidance, the Annual FOIA Report must be produced in two versions, a human-readable version (e.g., PDF), and a machine-readable version (NIEM-XML). Both the NIEM-XML and human-readable versions contain eight identical sections of data, but the human-readable version also contains additional textual sections. All requests (perfected and non-perfected), appeals, and consultations that were pending at any time during the relevant fiscal year (October 1st through September 30th) will be captured in at least one of the eight data sections covered in both versions of the Report. The human-readable version will also include textual sections which contain basic information regarding the Annual FOIA Report, information about making a FOIA request to the reporting agency, definitions and acronyms, and a link to the reporting agency's FOIA regulations. The requirements for each version are fully described in Chapter III below.

Reporting by Each Agency Component and the Agency Overall

For decentralized agencies, the information provided in the Annual FOIA Report must be "expressed [both] in terms of each principal component of the agency and for the agency overall." 5 U.S.C. § 552(e)(2).

DATA QUALITY

As outlined in Chapter III below, OIP will review each agency's Annual FOIA Report prior to its publication and OIP's Annual Report Team is always available for any agencies that need additional guidance. However, each agency is ultimately responsible for the accuracy and completeness of its Annual FOIA Report. It is therefore essential for agencies to take steps that will ensure that they are adequately tracking all of the information necessary to complete the Annual FOIA Report sections detailed below. Agencies that utilize a tracking or case management system for this purpose are responsible for ensuring that the system they are using can produce an accurate Annual FOIA Report that is in compliance with the law and Department of Justice guidance. Accordingly, agencies should exercise due diligence in testing the systems they are using to produce Annual FOIA Reports and correcting any identified deficiencies.

PROCESS FOR Annual FOIA Report Completion

For each Fiscal Year, as outlined in greater detail in Chapter III below, agencies must:

(1) Complete the NIEM-XML version of their Annual FOIA Report;
(2) Submit the NIEM-XML version to OIP by no later than **the date published on OIP's website and on FOIA Post**;
(3) Make any necessary corrections resulting from the OIP-review process;
(4) Use the charts provided by OIP to complete the human-readable version of their Annual FOIA Report; and
(5) Post both the open format NIEM-XML and human-readable versions of their Annual FOIA Reports on their websites, and provide the links to OIP for aggregation on the Department's website.

In order to be in compliance with the Department's Annual FOIA Report Guidance, agencies must complete each of these steps as explained in Chapter III below.

As noted above, the Department has enhanced the DOJ Annual FOIA Report Tool, which now produces both the NIEM-XML version of the Annual FOIA Report and the data-oriented sections of the human-readable version. This new enhancement to the Tool ensures better accuracy between the two versions of the Reports by eliminating inconsistencies caused by human error. **Agencies are required to use the document automatically generated by the DOJ Annual FOIA Report Tool (see "Completing the Human-Readable Version" below) and provided to them by OIP as the basis for the human-readable version of their Annual FOIA Report.** However, as outlined below, agencies will need to add certain textual sections to this document and they may adjust the formatting and presentation of the charts produced by the Tool, if they wish.

The Department will continue to seek ways to further enhance the DOJ Annual FOIA Report Tool and improve the Annual FOIA Report process for agencies. We are actively considering new formats and technologies that could further assist agencies in this area.

DOJ GUIDANCE FOR FOIA PROFESSIONALS ON PROPER TRACKING OF REQUESTS, CONSULTATIONS, AND APPEALS

The Annual FOIA Report requires agencies to report on numerous statistics regarding their administration of the FOIA every fiscal year, such as the numbers of requests and appeals received, processed, and pending, the disposition of those requests and appeals, and the amount of time it took to process them. The successful production of each agency's Annual FOIA Report depends heavily on the ability of their FOIA professionals to properly track this data. Accordingly, agency FOIA professionals should use this chapter of the Handbook as they process requests, consultations, and appeals throughout the year to ensure that the required information is being properly tracked for the Annual FOIA Report.

General Guidance

- Data Quality: All agencies must take adequate steps to ensure that the information regarding the numbers of FOIA requests and administrative appeals, their status and dispositions, as well as the time spent processing them is accurate so as to be able to provide a meaningful report of such activities in the Annual FOIA Report. This will take the coordinated efforts of all agency FOIA professionals to ensure that the Annual FOIA Report information concerning requests and appeals is properly documented and accounted for throughout the year.

- Calculating Number of Days: The Annual FOIA Report captures details regarding all purported FOIA requests, including ones that are not perfected (see, e.g., Section V of the Annual FOIA Report). For purposes of calculating the number of days for the Report, however, the FOIA statutory response time does not begin until a request is perfected. Accordingly, for any sections of the Annual FOIA Report where the number of days must be calculated, agencies should count the days from the time the *perfected* request is received, i.e., the date the request was perfected. Additionally, unless indicated otherwise, agencies should only count working/business days in their calculation. The day after the perfected request is received is counted as "day 1." A more detailed explanation on calculating response times can be found below.

- Less than One Day (<1): An agency should report a response time of "<1" when it receives a request directly from the requester at the proper FOIA office and that office is

able to process and respond to the request within that same day. When calculating the number of days a request is pending under the FOIA, the day after the perfected request is received is considered "day 1" of the twenty-day statutory response period. Accordingly, if an agency receives, processes, and responds to a request all on the same day, the time it takes to do so necessarily constitutes less than one day. This amount of time shall be reported as "<1" day in the Annual FOIA Report and should not be counted as "0" days. When calculating averages and medians, agencies should treat "<1" as a value of "1."

- Effect of Weather-Related Dismissals, Furlough Days, etc.: For the purposes of compiling their Annual FOIA Reports, agencies must include all days other than Saturdays, Sundays, and legal public holidays, in their calculations of the amount of time a request or appeal has been pending and the amount of time it took an agency to process the request or appeal. Accordingly, even where an entire agency FOIA office is closed due to weather conditions, furloughed employees, or other circumstances, the agency must count those days for reporting purposes. Agencies are free to include in their Chief FOIA Officer Report an explanation of any such situations they might have faced during the fiscal year.

- Remanded Requests: If a request is remanded as a result of an administrative appeal determination reversing the agency's initial action in full or in part, it is important that the agency keep track of any time that is spent on the remanded request. In order to properly track a remanded request and capture the time taken to process it, agencies may give the remanded request a new tracking number or annotate the original tracking number to reflect that it has been remanded. For reporting purposes, a remanded request should be treated as a new request by the agency and the time spent processing the request should be included in the agency's Annual FOIA Report just as is done for all FOIA requests. For processing purposes, however, agencies should place remanded requests in the front of their queues as the requester has already moved through the queue once.

  - Example: A FOIA request assigned Request No. 123456 is both received and closed by the agency in Fiscal Year 2012 as a full denial based on exemptions. In Fiscal Year 2012, the requester administratively appeals the agency's action. In Fiscal Year 2013, the agency's administrative appellate authority remands the request for further processing. In Fiscal Year 2013, the agency, on remand, opens an annotated request number, 123456-1, which remains pending at the end of Fiscal Year 2013. For reporting purposes, the initial request, Request No. 123456, should have been reported in the agency's Fiscal Year 2012 Annual FOIA Report as having been both received and closed as a full denial based on exemptions. For its Fiscal Year 2013 Annual FOIA Report, the agency should include the remanded request, Request No. 123456-1, as a new request received in Fiscal Year 2013, and pending at the end of Fiscal Year 2013.

- Interim Responses: While OIP encourages agencies to make interim responses, an agency should not report the disposition of a FOIA request (see Section V.B.1 of the Annual FOIA Report) or the exemptions utilized (see Section V.B.3 of the Annual FOIA Report) until processing of the entire request is completed and a final response is issued. Therefore, when an agency issues an interim response, it should keep track of any

exemptions utilized, but should only report them once in the year that the request is finally closed.

- Referrals: When an agency receives a referral of records from another agency or agency component, it should track the referral just as it would an incoming request and include it in all of the relevant sections of the Annual FOIA Report.

- Consultations: Section XII.B. and Section XII.C. of the Annual FOIA Report require agencies and agency components to report information about the consultations that they have received from other agencies as well as other components within their own agency. Agencies and agency components should be careful to report only consultations received from other agencies or components, and to not include the consultations that they have sent to other agencies or components. Information regarding consultations should not be included in any other sections of the Annual FOIA Report.

- Misdirected Requests: The FOIA specifies that the twenty working-day time period to process a request commences "on the date on which the request is first received by the appropriate component of the agency, but in any event not later than ten days after the request is first received by any component of the agency that is designated in the agency's regulations under this section to receive requests." 5 U.S.C. § 552(a)(6)(A)(ii). This provision addresses the situation where a FOIA request is mistakenly addressed to a component of the agency that is designated to receive FOIA requests, but is not itself the proper component to process that particular request. In such a situation, the component that received the misdirected request – provided it is a component designated by the agency's FOIA regulations to receive requests – has ten working days within which to route the FOIA request to the appropriate agency component. Once the FOIA request has been received by the appropriate agency component the twenty working-day time period to respond will commence. However, if the request is not routed within ten days, the twenty working-day time period will commence on that tenth day regardless of whether the request has been received by the proper agency component.

  o Example 1: The misdirected request is received by the proper FOIA office on the eleventh day of the routing period (rather than on or before the tenth day). That eleventh day will constitute "day 1" of the twenty-day response period. In this example, if the proper FOIA office processed and responded to the request on the same day, it would report its response time as one day, *not less than one day*. If the proper FOIA office instead takes eleven days to process and respond it would report this as twelve days, the eleven days it took to process and respond to the request, plus the one day that accrued due to the delayed routing.

  o Example 2: If the proper FOIA office receives, processes and responds to a request on the same day, and that day is the tenth day of the routing period or earlier, the proper FOIA office should report the response time for that request as "<1" day.

Exemption 3 Statutes

The FOIA requires agencies to list in their Annual FOIA Reports all of the statutes they relied upon in conjunction with asserting Exemption 3. 5 U.S.C. § 552(e)(1)(B)(ii). Therefore, agency FOIA professionals will need to keep a good accounting of all the Exemption 3 statutes they asserted throughout the year and the number of times those statutes were used. To assist agencies in properly asserting and accounting for their use of Exemption 3, OIP has compiled a running list of all the statutes that have been found to qualify as proper Exemption 3 statutes by the courts. Agency FOIA professionals should consult OIP's Exemption 3 Chart prior to asserting Exemption 3 in response to a FOIA request. After consulting OIP's Chart, if an agency professional has any questions regarding whether a particular statute qualifies as an Exemption 3 statute they may call OIP's FOIA Counselor Service at (202) 514-FOIA (3648).

Disposition of FOIA Requests

Agencies are required to account for the disposition of each of the FOIA requests processed during the fiscal year in their Annual FOIA Reports. A disposition is needed for all processed requests, including those that were not perfected. Additionally, once a request is closed, any use of a FOIA exemption by the agency to protect information must be documented. Accordingly, it is important that FOIA professionals properly classify the dispositions of the requests they process and document any exemption usage throughout the year so that the agency is able to produce an accurate accounting of its FOIA work for the Annual FOIA Report.

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									
				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	TOTAL
Comp. A													
Comp. B													
AGENCY OVERALL													

Screenshot of the Annual FOIA Report

There are eleven pre-established dispositions that a request can be classified under, which are each described in the chart below. **Each closed request must have underline exactly one disposition.** If a request cannot be classified under any of these standard dispositions, there is a disposition called "other" which can be used. Agencies should use the first three disposition categories (those columns highlighted in yellow in the table above) whenever possible. Those categories capture all the requests where records are actually processed and

either released or denied in part or in full based on FOIA exemptions. The remaining nine disposition categories cover requests closed for reasons other than exemptions, such as when there are no records or when the request is a duplicate of another request. Many requests will involve a combination of these factors. **For purposes of the Annual FOIA Report, however, the default is to use one of the first three categories and so if any records are reviewed for exemption applicability and released and/or withheld, the disposition for that request must be reported under one of the first three categories even though a disposition from one of the latter nine categories may also be applicable.**

Disposition	Description
Full Grant	A full release of all records responsive to the request is made.
Partial Grant/Partial Denial	The agency responds by providing the requester with some, but not all, of the information requested. This typically, but not always, means that the agency used exemptions in its response. Example 1: In response to a request the agency releases portions of some records and withholds other portions pursuant to FOIA exemptions. This is a Partial Grant/Partial Denial. Note: There can be instances where an agency does not withhold any information yet the disposition is still a Partial Grant/Partial Denial. Example 2: In response to a request for two separate documents (Document A and Document B) an agency could release Document A in full and inform the requester that it has no records responsive to the request for Document B. This would constitute a Partial Grant/Partial Denial. Example 3: If in Example 2 the agency had instead located Document B but referred it to another agency, that action would also constitute a Partial Grant/Partial Denial.

Disposition	Description
Full Denial Based on Exemptions	The agency responds by withholding all of the requested information pursuant to an exemption listed at 5 U.S.C. § 552(b). This includes Glomar responses where an agency neither confirms nor denies the existence of responsive records based on one of the FOIA exemptions.

As noted above, the following nine dispositions should be used only when the previous three dispositions are not applicable, i.e. when the agency did not actually process any records for disclosure or make a determination on exemptions.

Disposition	Description
No Records	The agency responds by informing the requester that it has no records responsive to the request.
All Records Referred to Another Component or Agency	The agency responds by advising the requester that it has referred all responsive records to another component or agency for direct response to the requester.
Request Withdrawn	The request was closed because the requester withdrew the request.
Fee-Related Reason	The request was closed for fee-related reasons, such as failing to pay fees after committing to do so.
Records not Reasonably Described	The request was closed as non-perfected because the requester failed to reasonably describe the information requested. (Agencies are encouraged to work with requesters to help them describe the records they seek.)

Disposition	Description
Improper FOIA Request for Other Reason	The request was not a proper FOIA request and was not perfected for a reason other than not reasonably describing the records sought. For example, if the purported request sought only state or local records, or only asked questions, or failed to provide a certification of identity as required by the agency's regulations.
Not an Agency Record	The request was closed because it did not involve access to an agency record subject to the FOIA.
Duplicate Request	The request was closed because it was a duplicate of another request received by the agency. Only requests from the same requester seeking the same information can be closed as duplicates.

Example 1: Requester A makes a request for records that an agency denies in full pursuant to Exemption 6. Requester B makes a request for the same records to the same agency, and the agency again denies the request in full pursuant to Exemption 6. Both requests should be categorized as Full Denials Based on Exemptions.

Example 2: Requester A sends a request both by e-mail and U.S. mail. As a result, the agency inadvertently opens two request numbers and sends out two acknowledgment letters before realizing that it has received the same request by separate means. The request received last should be closed as a duplicate request. |

Agencies should to the extent possible use one of the eleven pre-established disposition categories described above and only use the "other" category when necessary.

Disposition	Description
Other	The request is closed for a reason other than the eleven categories of dispositions described above. For those requests that are categorized under the "Other" disposition, agencies will need to provide a further description of why the request was closed. Agencies should standardize these descriptions as much as possible. Some examples include: o Court Sealed o Directed Requester to Another Agency or Entity o Information Available for Sale by the U.S. Government Printing Office o Referred Documents Not Responsive o Unable to Locate Requester o Unable to Provide Information to Requester in Requested Format

Disposition of FOIA Requests – Number of Times Exemptions Applied

As noted above, in addition to capturing the disposition of a request, agencies will need to account for any exemptions that are asserted as part of a partial grant/partial denial or full denial based on exemptions. When accounting for the use of exemptions, agency FOIA professionals only need to document which of the nine exemptions were asserted and not how many times a particular exemption was used in response to a given request.

- Example: Given a request in which Exemption 2 applies to one portion of the request, Exemption 5 applies to three portions of the request, and Exemption 6 applies to eight portions of the request, the agency should count each exemption only once per request. So, for this request the agency needs to document that Exemptions 2, 5, and 6 were asserted. The fact that Exemption 5 was used three times during the processing of the responsive records and Exemption 6 was used eight times is not relevant.

Administrative Appeals of Initial Determinations of FOIA Requests

The FOIA provides requesters with the right to administratively appeal any adverse determination made by an agency on their initial request. See 5 U.S.C. § 552(a)(6)(A)(i). Agencies are required to account for the dispositions of these appeals in their Annual FOIA Report, as well as any exemptions that were relied upon by the agency's administrative appellate authority. In order to ensure that an agency can produce an accurate Annual

FOIA Report, it is important for the agency FOIA professionals handling appeals to properly classify the final disposition of these appeals and to account for any exemptions that were used as part of that disposition.

<u>Disposition of Administrative Appeals – All Processed Appeals</u>

The dispositions on appeal are different from those made at the initial request level. On appeal the agency is reviewing an action that already occurred and so the disposition categories capture whether that initial action was upheld by the appellate authority.

The four dispositions associated with adjudicating administrative appeals are described in the chart below:

Disposition	Description
Affirmed	The agency's administrative appellate authority affirms the agency's initial action on the request. This includes instances when the initial action is affirmed on modified grounds. Example: Agency denies all records responsive to a FOIA request pursuant to Exemption 7(C) of the FOIA. On appeal, the agency determines that the records were correctly withheld under Exemption 6, but not Exemption 7(C), and advises the requester that it is affirming the initial decision on modified grounds. The disposition of this appeal should be that the agency's initial determination was *affirmed*.

Disposition	Description
Partially Affirmed & Partially Reversed/Remanded	On appeal, portions of the agency's initial action on the request are affirmed, but other aspects are either reversed or remanded. Example: Agency responds to a request by partially withholding portions of the documents it located pursuant to Exemption 6. On appeal, the requester challenges both the agency's withholding and the adequacy of its search. Upon review of the initial determination, the agency affirms the withholding but determines that a further search is necessary, and therefore, remands the request. The disposition of this appeal should be partially affirmed (Exemption 6) and partially remanded (for further search).
Completely Reversed/Remanded	On appeal, the agency's initial determination is completely reversed and/or the request is remanded for further action.
Closed for Other Reasons	The agency neither affirms nor reverses/remands (either entirely or partially) the initial request determination, but rather closes the appeal for other reasons (e.g., the request was in litigation, the appeal was a duplicate appeal, the appeal was premature, etc.).

<u>Reasons for Denial on Appeal – Number of Times Exemptions Applied</u>

As noted above, in addition to capturing the final dispositions of the appeals that the agency processed during the fiscal year, agencies will need to account for any exemptions that were relied upon on appeal to withhold information. The exemptions used on appeal are what must be captured.

- <u>Example 1</u>: If the agency relied on Exemptions 6 and 7(C) at the initial request level, but on appeal the action was affirmed solely on Exemption 7(C), it is Exemption 7(C) that should be entered in the agency's tracking system for the appeal.

When accounting for exemptions, agency FOIA professionals should count each exemption only once per appeal.

- Example 2: Given a request in which the agency's administrative appellate authority affirms the uses of Exemption 2 for one portion of the request, Exemption 5 for three portions of the request, and Exemption 6 for eight portions of the request, the agency needs to document that Exemptions 2, 5, and 6 were asserted on appeal. The fact that Exemption 5 was asserted in three places and Exemption 6 was asserted in eight places does not need to be tracked.

Additionally, if an appeal results in the denial of information based on exemptions *and* any of the reasons presented in Section VI.C.(2) and Section VI.C.(3) of the Annual FOIA Report, agencies will need to track both the exemptions applied and any of the other reasons.

- Example 3: Agency locates two documents (Document A and Document B) in response to a FOIA request. The agency releases Document A in part, but withholds certain information under Exemption 5. The agency refers Document B to another agency which was the creator of the responsive document. The requester appeals the withholdings on Document A, and also appeals the agency's decision to refer Document B to another agency. If the agency determines on appeal that both the withholding of Document A and the referral of Document B were appropriate, it should track the appeal for both using Exemption 5 and determining that records were properly referred at the initial request level.

<u>Reasons for Denial on Appeal – Reasons Other than Exemptions</u>

Agency FOIA professionals will also need to document any reasons other than exemptions that resulted in a denial on appeal. The following chart provides each of the eleven reasons that should be captured for this section. Agencies may cite more than one of the reasons below for each appeal. The "reasons" information in this section should be cited regardless of whether the agency has affirmed the initial determination, partially affirmed and partially reversed/remanded the initial determination, or closed the appeal for other reasons (<u>see Section VI.B</u> of the Annual FOIA Report). What needs to be documented is the reason the <u>appellate authority</u> denied or otherwise closed the appeal. Sometimes that will be the same reason used at the initial level, but other times the appellate authority may have a different reason.

Reason Other than Exemptions	Description
No Record	On appeal, the agency determined that there are no records responsive to the request.
Records Referred at Initial Requests Level	On appeal, the agency determined that responsive records were properly referred to another agency or agency component for direct response to the requester.

Reason Other than Exemptions	Description
Request Withdrawn	The request was withdrawn by the requester either at the initial request level or on appeal.
Fee-Related Reason	On appeal, a fee-related reason was cited for denying the request.
Records not Reasonably Described	On appeal, the agency determined that the records sought were not reasonably described.
Improper Request for Other Reasons	On appeal, the agency determined that the request was not a proper FOIA request for a reason other than that the request was not reasonably described.
Not an Agency Record	On appeal, the agency determined that at least some of the records requested were not agency records subject to the FOIA.
Duplicate Request or Appeal	This includes both when an appeal is closed because it is a duplicate of another appeal and when on appeal the agency determines to close a request because it is a duplicate of another request the agency received. For an appeal to be a duplicate it must be from the same requester addressing the same issue and request.
Request in Litigation	The appeal was closed because the request was in litigation.
Appeal Based Solely on Denial of Request for Expedited Processing	On appeal, the agency affirmed its initial determination denying a request for expedited processing.
Other	Any other reasons not described above for denying information on appeal. These other reasons will need to be more fully described.

FOIA Requests: Response Time for Processed and Pending Requests

Section VII of the Annual FOIA Report documents an agency's response times. Agency FOIA professionals will need to keep track of the time it takes to process and respond to requests throughout the year. As indicated in the General Guidance above, response times

are only calculated from the time a request is *perfected*. Requests should, however, be presumed to be perfected upon receipt. The agency should begin counting days from the date the perfected request is received.

- Example 1: On day 1, the agency receives a letter which does not reasonably describe the records the requester seeks to obtain. On day 5, after discussions with the agency, the requester clarifies the scope of the request and it is now reasonably described. The agency should begin counting days on day 5.

- Example 2: Agency receives a request on day 1. On day 5, the agency reviews the request and determines that it is reasonably described and made in accordance with the agency's published rules. The agency must begin counting days from the date of receipt, which is day 1.

<center>Using Processing Tracks</center>

For purposes of the Annual FOIA Report, agencies will need to break down their response times by three processing tracks: Simple, Complex and Expedited. Agencies that do not have multi-track processing, will need to report all of their non-expedited requests as either simple or complex, whichever best characterizes the majority of the requests they processed that year. Similarly, agencies that have more than three tracks (including the expedited track), should categorize their non-expedited requests as either simple or complex, whichever best characterizes the majority of the requests they processed that year. All agencies, however, are required by statute to have an expedited track. See 5 U.S.C. § 552(a)(6)(E)(i).

Adjudicating Requests for Expedited Processing

For Section VIII.A. of the Annual FOIA Report, agencies will need to account for the numbers of requests for expedited processing that they granted and denied, as well as the number of days taken to make a determination whether to grant or deny expedited processing. Agency FOIA professionals will need to track this information for any request for expedited processing that is adjudicated at the initial request level or, when applicable, at the administrative appeal level. The FOIA statute requires agencies to "make a determination of whether to provide expedited processing" within ten days. 5 U.S.C. § 552(a)(6)(E)(ii)(I).

Counting Days: When calculating the response time for a request for expedited processing, agencies should begin counting calendar days from the day the request for expedited processing is received until the day the agency provides notice to the requester of its determination to either grant or deny the request for expedited processing.

Adjudicating Requests for Fee Waivers

Section VIII.B. of the Annual FOIA Report documents the numbers of fee waiver requests the agency granted and denied, as well as the response times for adjudicating those requests. Agency FOIA professionals will need to track this information for any fee waiver requests adjudicated at the initial request level or, when applicable, at the administrative appeal level.

Counting Days: Unlike requests for expedited processing, the period of time to adjudicate a fee waiver request does not necessarily begin with receipt of the fee waiver request itself, nor does it necessarily conclude with a separate letter sent to the requester. This is due to the fact that the agency might determine that no fees will be assessed for the processing of the request. In that case, there would be no need for the agency to make any determination on the fee waiver request. In other cases, the agency won't know whether fees will be assessed until after it has begun processing. As a result, agencies should begin counting days at the point when they determine that fees will be assessed for the request, and so the fee waiver request is then "ripe" for adjudication. Once the agency makes a decision whether to grant or deny the fee waiver request, the counting stops for this metric. That period of time must then be documented by the agency, along with the determination whether to grant or deny the fee waiver.

Fees Collected for Processing Requests

Agencies will need to report on the amount of fees that were collected in processing requests during the fiscal year. This includes fees received from a FOIA requester for search, review, document duplication, and any other direct cost permitted by agency regulations. Agency FOIA professionals will need to have a system in place to track this information throughout the year.

Backlogged Requests and Appeals

Section XII.A. of the Annual FOIA Report requires agencies to report on the numbers of backlogged requests and appeals they have pending at the end of the fiscal year. A request or appeal is considered to be backlogged when it is pending beyond the statutory time period for a response. For requests, the statutory time period is twenty working days from receipt of the *perfected* request, see 5 U.S.C. § 552(a)(6)(A)(i), unless there are "unusual circumstances" in which case the time period may be extended by up to an additional ten working days, see id. § 552(a)(6)(B)(i). For appeals, the statutory time period is twenty working days from receipt of the appeal, see id. § 552(a)(6)(B)(ii), unless there are "unusual circumstances" in which case the time period may be extended by up to an additional ten working days, see id. § 552(a)(6)(B)(i). Although requesters might agree to an alternate time period for the agency to respond, the request must still be counted as backlogged once it is past the statutory response date.

Consultations Received From Other Components and Agencies

In order for agencies to be able to complete Sections XII.B. and XII.C. of their Annual FOIA Report, agency FOIA professionals will need to track the date of each consultation received from components within their agency or from other agencies. As outlined more fully in Chapter III of the Handbook, Section XII.B. of the Annual FOIA Report requires agencies to report on the number of consultations they received from other agencies that were pending at the start of the fiscal year, the number of consultations they received during the fiscal year, the number of consultations they processed during the fiscal year, and finally the number of consultation they received that were still pending at the end of the fiscal year. Section XII.C. requires agencies to list the dates and numbers of days pending for the ten oldest consultations they received from other agencies that are still pending at the end of the fiscal year. The "date" listed in this section of the Annual FOIA Report is the date the

consultation was received by your agency and not the date the request itself was received by the agency sending the consultation (The agency sending the consultation will be reporting the request itself separately in its Annual FOIA Report). The "number of days pending" accounts for the number of days your agency took to review the consultation after receiving it from the other agency (i.e., count working days from the day the consultation was received by your agency through the date the consultation was closed). Please note that all of this information must be tracked for the consultations your agency *receives* from other agencies and not those that your agency has sent to other agencies for review.

DOJ INSTRUCTIONS FOR COMPLETING THE ANNUAL FOIA REPORT

Using the DOJ Annual FOIA Report Tool and Completing the NIEM-XML

Two Options for Creating the NIEM-XML Version of the Annual FOIA Report

Agencies may complete their NIEM-XML file by either: (1) manually entering their Annual FOIA Report data into the DOJ Annual FOIA Report Tool (see "Instructions for Using the DOJ Annual Report Tool" below); or (2) directly exporting the Annual FOIA Report data from their FOIA tracking system into the specified NIEM-XML format. Agencies that choose the latter option should consult with their IT staff about how to integrate the NIEM-based XML schema into the current structure of their FOIA tracking system. Please note that agencies that export their Annual FOIA Report data directly into the NIEM-XML format will still need to use the DOJ Annual FOIA Report Tool to review the contents of their NIEM-XML prior to submitting it to OIP. Therefore, all agencies should follow the next steps for downloading and using the DOJ Annual FOIA Report Tool.

Downloading the DOJ Annual Report Tool and XML Schema

To download the DOJ Annual FOIA Report Tool, agencies may either click here and save the .zip file when prompted, or perform the following steps:

(1) Go to http://www.foia.gov/;
(2) Click on the "Developer Resources" link located near the very end of the page; and
(3) Click on the "Download IEPD" link in the paragraph entitled "The FOIA XML Schema"; and
(4) Save the .zip file in a location where it can easily be accessed.

Instructions for Using the DOJ Annual Report Tool

Extracting/Unzipping the .zip File

Before using the DOJ Annual FOIA Report Tool, you will need to extract the contents of the .zip file downloaded in the previous instruction. To do so, please preform the following steps:

(1) Open the .zip file;
(2) Select "FOIA_Annual_Report_v1.3.2.zip";
(3) Select the "Extract" or "Unzip" button;
(4) Once you have selected the "Extract" or "Unzip" button, you will be prompted to choose where you would like to extract or unzip the documents. Please be sure to note the location you have chosen;
(5) Once you have extracted or unzipped the file, a new folder entitled "FOIA_Annual_Report_v1.3.2.zip" will appear at the specified location.

Opening the Template

Once you have successfully extracted or unzipped the .zip file, you will need to take the following steps to open the template that can be used for entering your FOIA data.

(1) Open the folder entitled "FOIA_Annual_Report_v1.3.2" referenced in the previous step (Note: this should not be the .zip file originally downloaded, but the folder appearing after the .zip file was extracted/unzipped);
(2) Open the folder entitled "tools";
(3) Open the template, which is entitled "FoiaAnnualReport-v1.3.2.xlt";
(4) Once you have opened the template you may get the following message:

> "Cannot locate required add-in file 'FoiaRibbonOverride-v2.xlam'. Please browse to the folder where your FOIA template is stored and open the file 'FoiaRibbonOVerride-v2.xlam' there."

If this message appears, select "OK";

(5) After selecting "OK", a pop up of your directories will appear at which point you will need to navigate back to the "FOIA_Annual_Report_v1.3.2" folder and open the "tools" folder again;
(6) The last step will be to open the file named "FoiaRibbonOverride-v2."

Troubleshooting Tip – "Protected View": If after completing the above instructions your template is opened in "Protected View" where you are asked to "Enable Editing", you will need to complete the following additional steps before you are able to successfully modify and work with the template.

(1) Close the spreadsheet that is in "Protected View" while still leaving the Excel program open (or alternatively, close Excel and then reopen the application to a new, blank workbook);

(2) Select "File";
(3) Find and select "Options" on the left side of the screen;
(4) In the left hand sidebar, select "Trust Center";
(5) Click the "Trust Center Settings" button;
(6) In the left hand side bar, select "Protected View";
(7) Uncheck the box that reads "Enable Protected View for files originating from the internet";
(8) Select "Ok" on both boxes on the screen;
(9) After selecting "OK", repeat the instructions outlined above for opening the template;

After you have repeated all of the instructions above and saved the template again, please then repeat steps 1 through 6 of these troubleshooting instructions and then click the box that says "Enable Protected View for files originating from the internet." After clicking this box you will need to select "OK" twice.

Troubleshooting Tip – Macros: Users may encounter a message at some time regarding macros when attempting to use the tool. There is a tab in the spreadsheet tool entitled "Macro Instructions" (Immediately to the left of the tab entitled "Instructions") which advises users how to enable macros.

<u>Using the Template to Create a NIEM-XML</u>

Saving the Template

After successfully opening the template (and associating it with the ribbon file and enabling macros, if applicable), users should save a copy of the file and continue to save regularly as they work in the template. **For agencies using MS Office 2007 or 2010, it is very important that the file is saved as a .xlsm file**. To do so, the following steps should be taken:

(1) Select "File" ;
(2) Select "Save As";
(3) Select "Excel Macro-Enabled Workbook (*.xlsm)" in the "Save as type" field. **Do <u>not</u> save the file with the extension .xlsx, or you will lose your progress.**

Enter Required Information

Agencies completing their NIEM-XML by using the DOJ Annual FOIA Report Tool must begin by entering data into the "Agency Information" tab of the spreadsheet, and then complete the remaining tabs of the spreadsheet. When entering information, it is best to proceed through the worksheets in order, because some of the worksheets validate information using the entries on the previous worksheets.

Using "Copy" and "Paste" in the Template

Please use only the "Copy" and "Paste Values" buttons on the "Add-Ins" tab located at the top of the screen. Excel offers numerous ways to initiate cut/copy/paste operations. However, these have all been disabled to the greatest extent possible. **Attempting to copy**

and paste using other means may result in corruption of the formatting, which may then require the agency to restart the data entry process.

Adding Rows

If an agency needs to add additional rows to any of the tables in the template, it may do so by right-clicking on any editable cell in a table and choosing "Add Row."

Red Cells

A red cell indicates that the entered data has failed a system validation check. If the red cell is the result of a math or data entry error, the agency should correct the data in the template. If instead the figure in the red cell is not due to a math or data entry error and can be explained with a [footnote](#), the agency should annotate the data with a footnote and continue to complete the remainder of its spreadsheet. **If a red cell does appear in the Annual FOIA Report Tool, please review the guidance below for that particular section where the red cell appears before seeking OIP's assistance.**

Exporting to NIEM-XML

Once all of the tabs in the template have been completed in accordance with the guidance below, agencies should use the Tool to create the NIEM-XML version of their Report. The following steps should be taken to export the data from the template into the NIEM-XML format:

(1) Click on the "Add-Ins" tab located at the top of the screen;
(2) Select "Export as NIEM XML." Please note that an agency may receive an error message identifying a particular section or sections as failing validation. If an agency receives such a message, it should review the referenced tab(s), and fix any errors. If the spreadsheet passes all of the built-in data validation checks, a box will pop up when users select "Export as NIEM XML." If an agency believes that the data entered into the spreadsheet is accurate, but a cell in the spreadsheet is red thus preventing an export to NIEM-XML, please contact OIP's Annual FOIA Report Team for case-specific guidance;
(3) Navigate back to the "FOIA_Annual_Report_v1.3.2" folder, select "exchange_files," and then "sample";
(4) Ensure that the "Save as type" is "XML Files";
(5) Name the file [Agency Name, Fiscal Year], and select "Save." The properly formatted NIEM-XML file should now be saved in the "sample" folder.

Importing from NIEM-XML

In order to review or amend the data contained in an agency's NIEM-XML file, the agency will need to load the file into the DOJ Annual FOIA Report Tool. To import the data into the DOJ Annual FOIA Report Tool, please take the following steps:

(1) Ensure that the NIEM-XML file has been saved in the "sample" folder, which is a subfolder of the "exchange_files" folder.
(2) In the template, click on the "Add-Ins" tab located at the top of spreadsheet;

(3) Select "Import from NIEM XML." Once selected, the data from the NIEM-XML file will be displayed in the spreadsheet so that it can be reviewed and/or edited.

GUIDELINES FOR PREPARING THE ANNUAL FOIA REPORT WITH INSTRUCTIONS FOR USING THE DOJ ANNUAL FOIA REPORT TOOL

General Guidance

For all of the data-oriented sections of the Annual FOIA Report, which are contained in the NIEM-XML, agencies must adhere to the following guidance points:

- Data Quality: All agencies must take adequate steps to ensure that the information regarding the number of FOIA requests and administrative appeals, their status and dispositions, as well as the time spent processing them is accurate so as to be able to provide a meaningful report of such activities in the Annual FOIA Report. Similarly, agencies must track the dates that consultations were received from other agencies as well as the dates they were closed.

- Format: The Annual FOIA Report information and data provided by agencies must be in the format presented in this guidance. All fields in the charts must be completed and "0" or "N/A" should be entered for any fields where there is no data to report.

- Footnotes: If an agency is unable to comply with a specific reporting requirement, an explanatory footnote must be included in the Annual FOIA Report.

- Calculating Number of Days: The Annual FOIA Report captures details regarding all purported FOIA requests, including ones that are not perfected (see, e.g., Section V of the Annual FOIA Report). For purposes of calculating the number of days for the Report, however, the FOIA statutory response time does not begin until a request is perfected. Accordingly, for any sections of the Annual FOIA Report where the number of days must be calculated, agencies should count the days from the time the *perfected* request is received, i.e., the date the request was perfected. Additionally, unless indicated otherwise, agencies should only count working/business days in their calculation. The day after the perfected request is received is counted as "day 1." A more detailed explanation on calculating response times can be found below.

- Less than One Day (<1): An agency should report a response time of "<1" when it receives a request directly from the requester at the proper FOIA office and that office is able to process and respond to the request within that same day. When calculating the number of days a request is pending under the FOIA, the day after the perfected request is received is considered "day 1" of the twenty-day statutory response period. Accordingly, if an agency receives, processes, and responds to a request all on the same day, the time it takes to do so necessarily constitutes less than one day. This amount of time shall be reported as "<1" day in the Annual FOIA Report and should not be counted as "0" days. When calculating averages and medians, agencies should treat "<1" as a value of "1."

- Effect of Weather-Related Dismissals, Furlough Days, etc.: For the purposes of compiling their Annual FOIA Reports, agencies must include all days other than

Saturdays, Sundays, and legal public holidays, in their calculations of the amount of time a request or appeal has been pending and the amount of time it took an agency to process the request or appeal. Accordingly, even where an entire agency FOIA office is closed due to weather conditions, furloughed employees, or other circumstances, the agency must count those days for reporting purposes. Agencies are free to include in their Chief FOIA Officer Report an explanation of any such situations they might have faced during the fiscal year.

- Calculating the Median Age and Average Age for Components and for the Agency Overall:

  - **Calculation of median for components**: Example #1 -- Given seven requests with ages 10, 25, 35, 65, 75, 80, and 400 days from the date the perfected request was received, the median age of these requests is 65 days, i.e., the middle number. Example #2 -- Given six requests with ages 10, 20, 30, 50, 120, and 200 days from the date the perfected request was received, the median age of these requests is 40 days (the average of the two middle numbers).

  - **Calculation of median for the agency overall**: Calculate the median of all requests agency-wide. Do not calculate the median of the components' medians. Example -- Assuming 45 days is the median age of all of Component A's requests, 85 days is the median age of all of Component B's requests, and 200 days is the median age of all of Component C's requests, do not determine the median for the agency overall by selecting the components' middle number, i.e., 85 days. Rather, compile a comprehensive list of the ages of all requests from each of the components and determine the median from this overall group of numbers.

  - **Calculation of average for components**: Given six requests with ages 10, 20, 30, 50, 120, and 200 days from the date the perfected request was received, the average age is 71.7 days, which is 430 days (the sum) divided by six (the number of requests).

  - **Calculation of average for the agency overall**: Provide the weighted average. Example -- Component A has 50 requests with an average age of 25 days, Component B has 100 requests with an average age of 60 days, and Component C has 200 requests with an average age of 75 days. For each component, multiply the number of requests the component has by the average age of those requests, i.e., 50x25 (= 1250 for Component A), 100x60 (= 6000 for Component B), and 200x75 (= 15,000 for Component C). Add these figures (1250+6000+15,000), for a sum of 22,250. Add the number of requests of all components (50+100+200), for a sum of 350 total requests. Divide 22,250 by the 350 total requests, which is 63.6. The average age of requests for this agency is 63.6 days.

- Remanded Requests: If a request is remanded as a result of an administrative appeal determination reversing the agency's initial action in full or in part, it is important that the agency keep track of any time that is spent on the remanded request. In order to

properly track a remanded request and capture the time taken to process it, agencies may give the remanded request a new tracking number or annotate the original tracking number to reflect that it has been remanded. For reporting purposes, a remanded request should be treated as a new request by the agency and the time spent processing the request should be included in the agency's Annual FOIA Report just as is done for all FOIA requests. For processing purposes, however, agencies should place remanded requests in the front of their queues as the requester has already moved through the queue once.

- o Example: A FOIA request assigned Request No. 123456 is both received and closed by the agency in Fiscal Year 2012 as a full denial based on exemptions. In Fiscal Year 2012, the requester administratively appeals the agency's action. In Fiscal Year 2013, the agency's administrative appellate authority remands the request for further processing. In Fiscal Year 2013, the agency, on remand, opens an annotated request number, 123456-1, which remains pending at the end of Fiscal Year 2013. For reporting purposes, the initial request, Request No. 123456, should have been reported in the agency's Fiscal Year 2012 Annual FOIA Report as having been both received and closed as a full denial based on exemptions. For its Fiscal Year 2013 Annual FOIA Report, the agency should include the remanded request, Request No. 123456-1, as a new request received in Fiscal Year 2013, and pending at the end of Fiscal Year 2013.

- Interim Responses: While OIP encourages agencies to make interim responses, an agency should not report the disposition of a FOIA request (see Section V.B.1 of the Annual FOIA Report) or the exemptions utilized (see Section V.B.3 of the Annual FOIA Report) until processing of the entire request is completed and a final response is issued. Therefore, when an agency issues an interim response, it should keep track of any exemptions utilized, but should only report them once in the year that the request is finally closed.

- Referrals: When an agency receives a referral of records from another agency or agency component, it should track the referral just as it would an incoming request and include it in all of the relevant sections of the Annual FOIA Report.

- Consultations: Section XII.B. and Section XII.C. of the Annual FOIA Report require agencies and agency components to report information about the consultations that they have received from other agencies as well as other components within their own agency. Agencies and agency components should be careful to report only consultations received from other agencies or components, and to not include the consultations that they have sent to other agencies or components. Information regarding consultations should not be included in any other sections of the Annual FOIA Report.

- Misdirected Requests: The FOIA specifies that the twenty working-day time period to process a request commences "on the date on which the request is first received by the appropriate component of the agency, but in any event not later than ten days after the request is first received by any component of the agency that is designated in the agency's regulations under this section to receive requests." 5 U.S.C. § 552(a)(6)(A)(ii). This provision addresses the situation where a FOIA request is mistakenly addressed to a component of the agency that is designated to receive FOIA requests, but is not itself

the proper component to process that particular request. In such a situation, the component that received the misdirected request – provided it is a component designated by the agency's FOIA regulations to receive requests – has ten working days within which to route the FOIA request to the appropriate agency component. Once the FOIA request has been received by the appropriate agency component the twenty working-day time period to respond will commence. However, if the request is not routed within ten days, the twenty working-day time period will commence on that tenth day regardless of whether the request has been received by the proper agency component.

- o Example 1: The misdirected request is received by the proper FOIA office on the eleventh day of the routing period (rather than on or before the tenth day). That eleventh day will constitute "day 1" of the twenty-day response period. In this example, if the proper FOIA office processed and responded to the request on the same day, it would report its response time as one day, *not less than one day.* If the proper FOIA office instead takes eleven days to process and respond it would report this as twelve days, the eleven days it took to process and respond to the request, plus the one day that accrued due to the delayed routing.

- o Example 2: If the proper FOIA office receives, processes and responds to a request on the same day, and that day is the tenth day of the routing period or earlier, the proper FOIA office should report the response time for that request as "<1" day.

Agency Information

Screenshot of the DOJ NIEM-XML Template

The NIEM-XML file requires that each agency provide its name, an agency abbreviation, the FOIA Annual Report Year, and the date the report was prepared. Agencies must provide the same name and agency abbreviation used in prior years' NIEM-XML files. For the "FOIA Annual Report Year," agencies should provide the fiscal year that the FOIA data pertains to and not the fiscal year at the time the Report is created. Please note that dates are displayed in the template in YYYY-MM-DD format.

Additionally, if an agency is decentralized and its FOIA information is reported by "component" (sub-organization, office, division), each of the agency's components must also be defined using a unique acronym or abbreviation. As with the agency name and abbreviation, the component names and abbreviations listed here should be consistent with the agency's prior NIEM-XML files. If a component has been added to an agency since the prior fiscal year, or the name of a component has been changed, the agency should advise OIP's Annual FOIA Report Team prior to completing this part of the Report.

If an agency does not break down its Annual FOIA Report by component, it should leave blank the "Component Definition" portion of the "Agency Information" tab in the DOJ Annual FOIA Report Tool.

Section IV: Exemption 3 Statutes

List all Exemption 3 statutes relied upon to withhold information and the number of times each was relied upon.

Enter a single statute in the merged cell in the 'Statute' column. You can make room to enter additional statutes by right-clicking on any editable cell in the statute table and choosing 'Add Statute'. A new, empty statute entry area will be added at the bottom of the table.

The columns to the right of each statute allow entry of information associated with the statute. You can make room for additional associated information by right-clicking on any editable cell associated with the statute and choosing 'Add Detail Row'.

The Footnotes section allows entry of any free-format notes associated with this section of the report. Again, if you need more than two footnotes, right-click on an editable cell in the Footnotes section, and choose 'Add Row'.

IV. Exemption 3 Statutes

Statute	Type of Information Withheld	Case Citation	Agency / Component	Number of Times Relied upon by Agency / Component	Total Number of Times Relied upon by Agency Overall
					0

Footnotes

Screenshot of the DOJ NIEM-XML Template

The following items must be captured for this section in the NIEM-XML:

- <u>Statute</u>: List here all of the Exemption 3 statutes relied upon by your agency to withhold information. In order to standardize the citations and formatting used to list these statutes, agencies must first review the OIP Exemption 3 Chart prior to completing this

section. This Chart identifies statutes that have been found by courts to qualify as a proper Exemption 3 statute. If an agency utilized any statute(s) listed in OIP's Exemption 3 Chart during the fiscal year, it should cite to the statute in the manner it is listed in the Chart.

- o Example: If an agency relied on Rule 6(e) of the Federal Rules of Criminal Procedure, the citation should be "Fed. R. Crim. P. 6(e), enacted by Act of July 30, 1977, Pub. L. No. 95-78, 91 Stat. 319."

  But, agencies should not include the name of the statute.

- o Example: If an agency relied on the Commodity Exchange Act, it should be cited simply as "7 U.S.C. § 12."

  If your agency relied on a statute that is not listed in the OIP Exemption 3 Chart, please include in the e-mail to OIP containing your NIEM-XML file (see "SUBMITTING THE NIEM-XML TO OIP") the statutory citation and text of the portion of the statute your agency relied upon.

  Troubleshooting Tip – Section (§) Symbol: In order to insert the section (§) symbol into the DOJ Annual FOIA Report Tool you must hold the "Alt" key and then type "0167".

- Type of Information Withheld: Provide a brief description of the types of information withheld under each statute listed. If your agency relied on a statute that is in OIP's Exemption 3 Chart, the description inserted here for the type of information withheld should be copied from OIP's Chart, unless that language would not accurately describe the information actually withheld by your agency.

- Case Citation: If the statute listed has been approved to qualify as an Exemption 3 statute by a court, include the case citation in this section. If your agency relied on a statute listed in the OIP Exemption 3 Chart, the case citation should be listed in the exact way it is presented in OIP's Chart.

- Agency/Component: Agencies that do not report by component should place their agency acronym in this column. If the agency does report by component, it should list only component names in this column.

- Number of Times Relied Upon per Agency/Component: Provide the number of times each component (or the agency, if the Annual FOIA Report is not broken down by component) relied upon each statute.

- Total Number of Times Relied Upon by Agency: The total number of times a particular statute was relied upon by an agency. If an agency is using the DOJ Annual FOIA Report Tool to create the NIEM-XML, this number will be automatically generated from information in the previous column.

Section V: FOIA Requests

For the charts in Section V of the Annual FOIA Report, include all "purported" FOIA requests, both perfected and non-perfected. Non-perfected requests are further reflected in various columns in Section V.B.1 of the Annual FOIA Report.

Section V.A.: Received, Processed and Pending FOIA Requests

Each row represents values for a single component. Enter the component abbreviation, or choose it from the drop-down, then enter values for that component in the editable columns to the right. Component abbreviations must match those set up on the 'Agency Information' sheet. If the report is not broken out by component, the agency abbreviation must be entered, which is the only option offered in the drop-down.

Blank lines are ignored, but if the component column is filled in, all other editable columns must be filled in. All values must be non-negative integers.

Additional entry rows may be added by right-clicking on any editable cell in the table and choosing 'Add Row'. An additional component row will be added at the bottom of the table. If you select multiple rows before right clicking, a corresponding number of rows will be added at the bottom.

V. FOIA REQUESTS / A. Received, Processed and Pending FOIA Requests

Agency / 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
				0
				0
AGENCY OVERALL	0	0	0	0

Screenshot of the DOJ NIEM-XML Template

The following items must be captured for this section in the NIEM-XML:

- <u>Number of Requests Pending as of Start of Fiscal Year</u>: Provide the number of requests that were pending as of the start of the relevant fiscal year. If the number reported in this section for a component and/or agency does not match what was reported as pending as of the end of the fiscal year from the prior year's report, the agency should include a <u>footnote</u> briefly explaining the discrepancy.

- <u>Number of Requests Received in Fiscal Year</u>: Provide the number of requests that were received in the relevant fiscal year.

- <u>Number of Requests Processed in Fiscal Year</u>: Provide the number of requests that were closed in the relevant fiscal year.

- Number of Requests Pending as of End of Fiscal Year: Provide the number of requests that were pending at the end of the fiscal year. *Please note that the sum of the number pending at the start of the fiscal year (the second column) and the number received during the fiscal year (the third column), minus the number processed during the fiscal year (the fourth column), must equal the number pending as of the end of the fiscal year (the fifth column).* In the DOJ Annual FOIA Report Tool, the latter number is automatically populated based on the other three values. If the number reported in the last column does not reflect the number actually pending at your agency as of the end of the fiscal year, one of the other numbers must be inaccurate and you must review and correct the discrepancy.

Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool: When filling out this sheet, for the first column titled Agency/Component enter the component abbreviation or choose it from the drop-down menu, and then enter values for that component in the editable columns to the right. Component abbreviations must match those from the "Agency Information" sheet. If the report is not broken down by component, the agency abbreviation must be entered, which is the only option that will be offered in the drop-down menu when clicking the first column.

If an agency uses the DOJ Annual FOIA Report Tool to create the NIEM-XML, the data in the agency overall row will be automatically populated.

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

Screenshot of the DOJ NIEM-XML Template

The number of each of the following dispositions listed below must be captured for this section in the NIEM-XML. Please provide the number of request dispositions for each of the categories described below. **Select only one category to report for each request.**

As described in Chapter II of the Handbook, a request should only be counted in one of the nine "Full Denial Based on Reasons Other than Exemptions" columns (the fourth through twelfth bullets bellow) if the request cannot be accounted for in one of the first three columns (Full Grant, Partial Grant/Partial Denial, or Full Denial Based on Exemptions). Furthermore, a request should only be categorized as "other" if it cannot fit into one of the eleven pre-established categories.

If an agency utilizes exemptions in response to a request, that request must be counted as either a Partial Grant/Partial Denial or a Full Denial Based on Exemptions.

- Number of Full Grants: A full release of all records responsive to the request is made.

- Number of Partial Grants/Partial Denials: The agency responds by providing the requester with some, but not all, of the information requested. This typically, but not always, means that the agency used exemptions in its response.

  o Example 1: In response to a request the agency releases portions of some records and withholds other portions pursuant to FOIA exemptions. This is a Partial Grant/Partial Denial.

     Note: There can be instances where an agency does not withhold any information yet the disposition is still a Partial Grant/Partial Denial.

  o Example 2: In response to a request for two separate documents (Document A and Document B) an agency could release Document A in full and inform the requester that it has no records responsive to the request for Document B. This would constitute a Partial Grant/Partial Denial.

  o Example 3: If in Example 2 the agency had instead located Document B but referred it to another agency, that action would also constitute a Partial Grant/Partial Denial.

- Number of Full Denials Based on Exemptions: The agency responds by withholding all of the requested information pursuant to an exemption listed at 5 U.S.C. § 552(b). This includes Glomar responses where an agency neither confirms nor denies the existence of responsive records based on one of the FOIA exemptions.

- No Records: The agency responds by informing the requester that it has no records responsive to the request.

- All Records Referred to Another Component or Agency: The agency responds by advising the requester that it has referred all responsive records to another component or agency for direct response to the requester.

- Request Withdrawn: The request was closed because the requester withdrew the request.

- Fee-Related Reason: The request was closed for fee-related reasons, such as failing to pay fees after committing to do so.

- Records not Reasonably Described: The request was closed as non-perfected because the requester failed to reasonably describe the information requested. (Agencies are encouraged to work with requesters to help them describe the records they seek.)

- Improper FOIA Request for Other Reason: The request was not a proper FOIA request and was not perfected for a reason other than not reasonably describing the records sought. For example, if the purported request sought only state or local records, or only asked questions, or failed to provide a certification of identity as required by the agency's regulations.

- Not Agency Record: The request was closed because it did not involve access to an agency record subject to the FOIA.

- Duplicate Request: The request was closed because it was a duplicate of another request received by the agency. Only requests from the same requester seeking the same information can be closed as duplicates.

    o Example 1: Requester A makes a request for records that an agency denies in full pursuant to Exemption 6. Requester B makes a request for the same records to the same agency, and the agency again denies the request in full pursuant to Exemption 6. Both requests should be categorized as Full Denials Based on Exemptions.

    o Example 2: Requester A sends a request both by e-mail and U.S. mail. As a result, the agency inadvertently opens two request numbers and sends out two acknowledgment letters before realizing that it has received the same request by separate means. The request received last should be closed as a duplicate request.

- Other: An agency should only report a disposition in this category if it is unable to be described by any of the other eleven categories above. Any requests included in this column must be further described in Section V.B.(2), below.

- TOTAL: Provide the total number of dispositions for each component (or, if the Report is not broken down by component, for the agency overall). *Please note that the numbers in the "Total" column here must match the numbers listed for "Requests Processed in Fiscal Year" in Section V.A above (the third bullet in that section).* The DOJ Annual FOIA Report Tool will flag to users any difference between the numbers reported in the two sections. If an agency uses the DOJ Annual FOIA Report Tool to create the NIEM-XML, the total column and agency overall row will be automatically populated.

<u>Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool</u>: When filling out this sheet, for the first column titled Agency/Component enter the component abbreviation or choose it from the drop-down menu, and then enter values for that component in the editable columns to the right. Component abbreviations must match those from the "Agency Information" sheet. If the report is not broken down by component, the agency abbreviation must be entered, which is the only option that will be offered in the drop-down menu when clicking the first column.

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

Information for a single component may span multiple rows. The merged cell in the 'Component' column indicates the detail rows to the right which are associated with each component. To add additional components, right-click on any editable cell in the table and choose 'Add Component'. A new, empty component entry area will be added at the bottom of the table.

The columns to the right of each component allow entry of information associated with the component. You can make room for additional associated information by right-clicking on any editable cell associated with the component and choosing 'Add Detail Row'.

Blank components are ignored, but if the component column is filled in, at least one description must also be entered. If a description is entered, an associated count must be entered. Counts must be non-negative integers.

The calculated column titled 'COMPONENT TOTAL' must match the number entered on sheet V.B.1., column 'Other' for the component, and for the agency overall.

V. FOIA REQUESTS / B. (2) Disposition of FOIA Requests - Other Reasons

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

Footnotes

Screenshot of the DOJ NIEM-XML Template

If an agency utilized the "Other" column in Section V.B.(1), it must provide in this section descriptions of the "other" reasons for full denials and the number of times each reason was relied upon. The DOJ Annual FOIA Report Tool will flag to users any difference between the numbers reported in the two sections.

Agencies should attempt to standardize to the fullest extent possible the language used in this section of the Report. While there is no comprehensive list of "other" reasons, some examples include:

- Closed in Litigation
- Court Sealed
- Directed Requester to Another Agency or Entity

- Information Available for Sale by the U.S. Government Printing Office
- Referred Documents Not Responsive
- Unable to Locate Requester
- Unable to Provide Information to Requester in Requested Format

<u>Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool</u>: When filling out this sheet, for the first column titled Agency/Component enter the component abbreviation or choose it from the drop-down menu, and then enter values for that component in the editable columns to the right. Component abbreviations must match those from the "Agency Information" sheet. If the report is not broken down by component, the agency abbreviation must be entered, which is the only option that will be offered in the drop-down menu when clicking the first column. Information for a single component or agency may span multiple rows.

If an agency uses the DOJ Annual FOIA Report Tool to create the NIEM-XML, the data in the agency overall row will be automatically populated.

Section V.B.(3): Disposition of FOIA Requests – Number of Times Exemptions Applied

Screenshot of the DOJ NIEM-XML Template

The number of times each exemption was applied in response to a request must be captured for this section in the NIEM-XML. For each request, report all exemptions applied; however, count each exemption only once per request.

- <u>Example</u>: Given a request in which Exemption 2 applies to one portion of the request, Exemption 5 applies to three portions of the request, and Exemption 6 applies to eight portions of the request, the agency should count each exemption only once per request. So, for this request the agency needs to document that Exemptions 2, 5, and 6 were asserted. The fact that Exemption 5 was used three times during the processing of the responsive records and Exemption 6 was used eight times is not relevant.

Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool: When filling out this sheet, for the first column titled Agency/Component enter the component abbreviation or choose it from the drop-down menu, and then enter values for that component in the editable columns to the right. Component abbreviations must match those from the "Agency Information" sheet. If the report is not broken down by component, the agency abbreviation must be entered, which is the only option that will be offered in the drop-down menu when clicking the first column.

If an agency uses the DOJ Annual FOIA Report Tool to create the NIEM-XML, the data in the agency overall row will be automatically populated.

<u>Section VI: Administrative Appeals of Initial Determinations of FOIA Requests</u>

For this section of the Annual FOIA Report, if more than one component in the agency adjudicates administrative appeals, provide information for each appellate component, as well as for the agency overall.

Section VI.A: Received, Processed and Pending Administrative Appeals

Each row represents values for a single component. Enter the component abbreviation, or choose it from the drop-down, then enter values for that component in the editable columns to the right. Component abbreviations must match those set up on the 'Agency Information' sheet. If the report is not broken out by component, the agency abbreviation must be entered, which is the only option offered in the drop-down.

Blank lines are ignored, but if the component column is filled in, all other editable columns must be filled in. All values must be non-negative integers.

VI. ADMINISTRATIVE APPEALS / A. Received, Processed and Pending Administrative Appeals

Agency / 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
				0
				0
AGENCY OVERALL	0	0	0	0

Footnotes

Screenshot of the DOJ NIEM-XML Template

The following items must be captured for this section in the NIEM-XML:

- <u>Number of Appeals Pending as of Start of Fiscal Year</u>: Provide the number of appeals that were pending as of the start of the relevant fiscal year. If the number reported in this section for a component and/or agency does not match what was reported as pending as of the end of the fiscal year from the prior year's Annual FOIA Report, the agency should include a footnote briefly explaining the discrepancy.

- Number of Appeals Received in Fiscal Year: Provide the number of appeals that were received in the relevant fiscal year.

- Number of Appeals Processed in Fiscal Year: Provide the number of appeals that were closed in the relevant fiscal year.

- Number of Appeals Pending as of End of Fiscal Year: Provide the number of appeals that were pending at the end of the fiscal year. *Please note that the sum of the number pending at the start of the fiscal year (the first bullet above) and the number received during the fiscal year (the second bullet above), minus the number processed during the fiscal year (the third bullet above), must equal the number listed here as pending as of the end of the fiscal year.* In the DOJ Annual FOIA Report Tool, this number is automatically generated based on the other three values. If the number reported in the last column of the Tool does not reflect the number actually pending at your agency as of the end of the fiscal year, one of the other numbers must be inaccurate and you must review and correct this discrepancy.

Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool: When filling out this sheet, for the first column titled Agency/Component enter the component abbreviation or choose it from the drop-down menu, and then enter values for that component in the editable columns to the right. Component abbreviations must match those from the "Agency Information" sheet. If the report is not broken down by component, the agency abbreviation must be entered, which is the only option that will be offered in the drop-down menu when clicking the first column.

If an agency uses the DOJ Annual FOIA Report Tool to create the NIEM-XML, the data in the agency overall row will be automatically populated.

Section VI.B: Disposition of Administrative Appeals – All Processed Appeals

Blank lines are ignored, but if the component column is filled in, all other editable columns must be filled in. All values must be non-negative integers.

The sum of all columns (calculated column titled 'TOTAL') must match the number entered on sheet VI.A., column 'Number of Appeals Processed in Fiscal Year' for the component, and for the agency overall.

VI. ADMINISTRATIVE APPEALS / B. Disposition of Administrative Appeals - All Processed Appeals

Agency / 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
					0
					0
AGENCY OVERALL	0	0	0	0	0

Footnotes

Screenshot of the DOJ NIEM-XML Template

The following items must be captured for this section in the NIEM-XML:

- Number Affirmed on Appeal: Provide the number of times the agency's administrative appellate authority affirms the agency's initial action on the request. This includes instances when the initial action is affirmed on modified grounds.

    o   Example: Agency denies all records responsive to a FOIA request pursuant to Exemption 7(C) of the FOIA. On appeal, the agency determines that the records were correctly withheld under Exemption 6, but not Exemption 7(C), and advises the requester that it is affirming the initial decision on modified grounds. The disposition of this appeal should be that the agency's initial determination was *affirmed.*

- Number Partially Affirmed & Partially Reversed/Remanded on Appeal: Provide the number of times on appeal that portions of the agency's initial action on the request are affirmed, but other aspects are either reversed or remanded.

    o   Example: Agency responds to a request by partially withholding portions of the documents it located pursuant to Exemption 6. On appeal, the requester challenges both the agency's withholding and the adequacy of its search. Upon review of the initial determination, the agency affirms the withholding but determines that a further search is necessary, and therefore, remands the request. The disposition of this appeal should be partially affirmed (Exemption 6) and partially remanded (for further search).

- Number Completely Reversed/Remanded on Appeal: Provide the number of times on appeal that the agency's initial determination is completely reversed and/or the request is remanded for further action.

- Number of Appeals Closed for Other Reasons: Provide the number of times the agency neither affirms nor reverses/remands (either entirely or partially) the initial request determination, but rather closes the appeal for other reasons (e.g., the request was in litigation, the appeal was a duplicate appeal, the appeal was premature, etc.).

- Total: If an agency uses the DOJ Annual FOIA Report Tool to generate its NIEM-XML file, this number will be automatically generated. *Please note that this number must match the "Number of Appeals Processed in Fiscal Year" reported in Section VI.A above (the third bullet in that section).* The DOJ Annual FOIA Report Tool will flag any difference between the numbers reported in the two sections.

Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool: When filling out this sheet, for the first column titled Agency/Component enter the component abbreviation or choose it from the drop-down menu, and then enter values for that component in the editable columns to the right. Component abbreviations must match those from the "Agency Information" sheet. If the report is not broken down by component,

the agency abbreviation must be entered, which is the only option that will be offered in the drop-down menu when clicking the first column.

If an agency uses the DOJ Annual FOIA Report Tool to create the NIEM-XML, the data in the agency overall row will be automatically populated.

Section VI.C.(1): Reasons for Denial on Appeal – Number of Times Exemptions Applied

Each row represents values for a single component. Enter the component abbreviation, or choose it from the drop-down, then enter values for that component in the editable columns to the right.

Blank lines are ignored, but if the component column is filled in, all other editable columns must be filled in. All values must be non-negative integers.

VI. ADMINISTRATIVE APPEALS / C. (1) Reasons for Denial on Appeal - Number of Times Exemptions Applied

Agency / 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
AGENCY OVERALL	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Footnotes

Screenshot of the DOJ NIEM-XML Template

For this section of the NIEM-XML, agencies must provide the number of times each exemption was used on appeal to withhold information. For each administrative appeal, report all exemptions applied; however, count each exemption only once per appeal.

- Example 1: If the agency relied on Exemptions 6 and 7(C) at the initial request level, but on appeal the action was affirmed solely on Exemption 7(C), it is Exemption 7(C) that should be entered in the agency's tracking system for the appeal.

- Example 2: Given a request in which the agency's administrative appellate authority affirms the uses of Exemption 2 for one portion of the request, Exemption 5 for three portions of the request, and Exemption 6 for eight portions of the request, count Exemptions 2, 5, and 6 once each. Do not count Exemption 5 three times and Exemption 6 eight times.

Additionally, if an administrative appeal results in the denial of information based on exemptions *and* any of the reasons presented in Section VI.C.(2) and Section VI.C.(3) below, that appeal should be accounted for in all of the applicable sections.

- Example: Agency locates two documents (Document A and Document B) in response to a FOIA request. The agency releases Document A in part, but withholds certain information under Exemption 5. The agency refers Document B to another agency

which was the creator of the responsive document. The requester appeals the withholdings on Document A, and also appeals the agency's decision to refer Document B to another agency. If the agency determines on appeal that both the withholding of Document A and the referral of Document B were appropriate, it should account for that appeal in the "Ex. 5" category of this section, as well as the "Records Referred at Initial Request Level" category of Section VI.C.(2) below.

Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool: When filling out this sheet, for the first column titled Agency/Component enter the component abbreviation or choose it from the drop-down menu, and then enter values for that component in the editable columns to the right. Component abbreviations must match those from the "Agency Information" sheet. If the report is not broken down by component, the agency abbreviation must be entered, which is the only option that will be offered in the drop-down menu when clicking the first column.

If an agency uses the DOJ Annual FOIA Report Tool to create the NIEM-XML, the data in the agency overall row will be automatically populated.

Section VI.C.(2): Reasons for Denial on Appeal – Reasons Other than Exemptions

Each row represents values for a single component. Enter the component abbreviation, or choose it from the drop-down, then enter values for that component in the editable columns to the right.

Blank lines are ignored, but if the component column is filled in, all other editable columns must be filled in. All values must be non-negative integers.

VI. ADMINISTRATIVE APPEALS / C. (2) Reasons for Denial on Appeal - Reasons Other than Exemptions

Agency / Component	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
AGENCY OVERALL	0	0	0	0	0	0	0	0	0	0	0

Footnotes

Screenshot of the DOJ NIEM-XML Template

The number of each of the following reasons for denying information on appeal must be captured for this section in the NIEM-XML. Agencies may cite to more than one of these reasons for each appeal. Additionally, the reasons in this section can be cited regardless of whether an agency has affirmed its initial determination, partially affirmed and partially reversed/remanded the initial determination, or closed the appeal for other reasons (see Section VI.B of the Annual FOIA Report).

- No Records: On appeal, the agency determined that there are no records responsive to the request.

- Records Referred at Initial Request Level: On appeal, the agency determined that responsive records were properly referred to another agency or agency component for direct response to the requester.

- Request Withdrawn: The request was withdrawn by the requester either at the initial request level or on appeal.

- Fee-Related Reason: On appeal, a fee-related reason was cited for denying the request.

- Records not Reasonably Described: On appeal, the agency determined that the records sought were not reasonably described.

- Improper Request for Other Reasons: On appeal, the agency determined that the request was not a proper FOIA request for a reason other than that the request was not reasonably described.

- Not Agency Record: On appeal, the agency determined that at least some of the records requested were not agency records subject to the FOIA.

- Duplicate Request or Appeal: This includes both when an appeal is closed because it is a duplicate of another appeal and when on appeal the agency determines to close a request because it is a duplicate of another request the agency received. For an appeal to be a duplicate it must be from the same requester addressing the same issue and request.

- Request in Litigation: The appeal was closed because the request was in litigation.

- Appeal Based Solely on Denial of Request for Expedited Processing: On appeal, the agency affirmed its initial determination denying a request for expedited processing.

- Other: If another reason was cited for denying an appeal, include that appeal in this category. Any appeals included here must be further described in Section VI.C.(3) of the Annual FOIA Report.

Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool: When filling out this sheet, for the first column titled Agency/Component enter the component abbreviation or choose it from the drop-down menu, and then enter values for that component in the editable columns to the right. Component abbreviations must match those from the "Agency Information" sheet. If the report is not broken down by component, the agency abbreviation must be entered, which is the only option that will be offered in the drop-down menu when clicking the first column.

Section VI.C.(3): Reasons for Denial on Appeal – "Other" Reasons from Section VI.C.(2) Chart

Information for a single component may span multiple rows. The merged cell in the 'Component' column indicates the detail rows to the right which are associated with each component. To add additional components, right-click on any editable cell in the table and choose 'Add Component'. A new, empty component entry area will be added at the bottom of the table.

The columns to the right of each component allow entry of information associated with the component. You can make room for additional associated information by right-clicking on any editable cell associated with the component and choosing 'Add Detail Row'.

Blank components are ignored, but if the component column is filled in, at least one description must also be entered. If a description is entered, an associated count must be entered. Counts must be non-negative integers.

The calculated column titled 'COMPONENT TOTAL' must match the number entered on sheet VI.C.2., column 'Other' for the component, and for the agency overall.

VI. ADMINISTRATIVE APPEALS / C. (3) Reasons for Denial on Appeal - Other Reasons

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

Footnotes

Screenshot of the DOJ NIEM-XML Template

If an agency utilized the "Other" column in Section VI.C.(2), it must provide in this section descriptions of the "other" reasons for full denials and the number of times each reason was relied upon. The DOJ Annual FOIA Report Tool will flag any difference between the numbers reported in the two sections.

Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool: When filling out this sheet, for the first column titled Agency/Component enter the component abbreviation or choose it from the drop-down menu, and then enter values for that component in the editable columns to the right. Component abbreviations must match those from the "Agency Information" sheet. If the report is not broken down by component, the agency abbreviation must be entered, which is the only option that will be offered in the drop-down menu when clicking the first column. Information for a single component or agency may span multiple rows.

If an agency uses the DOJ Annual FOIA Report Tool to create the NIEM-XML, the data in the agency overall row will be automatically populated.

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

This is the first sheet in which the "AGENCY OVERALL" information cannot be calculated from component information, and must be entered. Notice that the cells in the AGENCY OVERALL line are not green (calculated), but are instead editable.

If the report is broken out by component, enter each component individually, then manually enter agency total information.

If the report is NOT broken out by component, no choices will be available in the component drop-down. In this case, enter only the agency total information in the AGENCY OVERALL row.

Blank component lines are ignored, but if the component column is filled in, all other editable columns must be filled in. All values must be non-negative numeric values, or the special value "<1". A right-click context menu item is available to enter the special value "<1" into selected cells.

VI. ADMINISTRATIVE APPEALS / C. (4) Response Time for Administrative Appeals

Agency / Component	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
AGENCY OVERALL				

Footnotes

Screenshot of the DOJ NIEM-XML Template

The following information must be captured for this section in the NIEM-XML:

- Median Number of Days: For any appeals closed during the relevant fiscal year, provide the median number of days it took to respond. For more information on calculating medians please see the "General Guidance" section above.

- Average Number of Days: For any appeals closed during the relevant fiscal year, provide the average number of days it took to respond. For more information on calculating averages please see the "General Guidance" section above.

- Lowest Number of Days: Provide the lowest number of days that it took to close any appeal during the relevant fiscal year.

- Highest Number of Days: Provide the highest number of days that it took to close any appeal during the relevant fiscal year.

Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool: If your report is broken down by component, enter each component individually, then manually enter the agency overall information. If an agency does not break its report down by component, but only reports as an agency overall, enter data only in the "AGENCY OVERALL" row. No data in this section will automatically populate.

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

Screenshot of the DOJ NIEM-XML Template

The following information must be captured for this section in the NIEM-XML:

- Date of Receipt of Ten Oldest Appeals: Provide the date of receipt for the ten oldest administrative appeals that remain pending at the end of the relevant fiscal year.

- Number of Days Pending: Provide the number of days pending (in working days) for the ten oldest administrative appeals that remain pending at the end of the fiscal year. The number of days pending should be based on the end of the relevant fiscal year and not the date the Annual FOIA Report is created.

Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool: If the report is broken down by component, enter each component individually, then manually enter agency overall information. If an agency does not break its report down by component, but only reports as an agency overall, enter data only in the "AGENCY OVERALL" row. No data in this section will automatically populate.

Additionally, if a component or the agency overall does not have ten or more appeals pending as of the end of the fiscal year, complete the excess cells by listing "N/A" for the "Date of Appeal" and "0" for the "Number of Days Pending."

Section VII: FOIA Requests: Response Time for Processed and Pending Requests

For charts in Section VII, include response times for only perfected requests. Begin counting days from the date of receipt of the *perfected* request.

- Example 1: On day 1, the agency receives a letter which does not reasonably describe the records the requester seeks to obtain. On day 5, after discussions with the agency, the

requester clarifies the scope of the request and it is now reasonably described. The agency should begin counting days on day 5.

- Example 2: Agency receives a request on day 1. On day 5, the agency reviews the request and determines that it is reasonably described and made in accordance with the agency's published rules. The agency must begin counting days from the date of receipt, which is day 1.

Use no more than the three specified tracks to report your requests: Simple, Complex, and Expedited.

All agencies are required to have an expedited track, even if they have no expedited requests to report.

For agencies which do not have multi-track processing (i.e., agencies that maintain only one track aside from an expedited track), report non-expedited requests as simple or complex, whichever best characterizes the majority of those requests.

- Example: An agency tracks is requests as either general FOIA requests or expedited requests. Most of the requests that fall into the first track are complex as they involve high volumes of records. The agency should report its general FOIA requests under the complex column and its expedited requests under the expedited column.

Similarly, where an agency has more than three tracks (including its expedited track), it should categorize the non-expedited requests as either simple or complex, whichever best characterizes the majority of those requests.

- Example: An agency tracks requests as track 1, track 2, track 3, and expedited. Track 1 requests have a low volume of records. Track 2 and track 3 requests have a greater volume of records and are complex. The agency should report the expedited requests in the expedited column, the track 1 requests in the simple column, and the track 2 and track 3 requests in the complex column.

Section VII.A: Processed Requests – Response Time for All Processed Perfected Requests

"AGENCY OVERALL" information cannot be calculated from component information, and must be entered.

Blank component lines are ignored, but if the component column is filled in, all other editable columns must be filled in. Similarly, all columns on the AGENCY OVERALL row must be filled in. Values must either be non-negative numeric values, the special value "<1", or the special value "N/A".

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

Agency / 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												

Footnotes

Screenshot of the DOJ NIEM-XML Template

The following information, broken down by track, must be captured for this section in the NIEM-XML:

- Median Number of Days: For all perfected requests that were closed during the relevant fiscal year, provide the median number of working days it took to close them. For more information on calculating medians please see the "General Guidance" section above.

- Average Number of Days: For all perfected requests that were closed during the relevant fiscal year, provide the average number of working days it took to close them. For more information on calculating averages please see the "General Guidance" section above.

- Lowest Number of Days: For all perfected requests that were closed during the relevant fiscal year, provide the lowest number of working days it took to close any one of them.

- Highest Number of Days: For all perfected requests that were closed during the relevant fiscal year, provide the highest number of working days it took to close any one of them.

Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool: If the report is broken down by component, enter each component individually, then manually enter agency overall information. If an agency does not break its report down by component, but only reports as an agency overall, enter data only in the "AGENCY OVERALL" row. No data in this section will automatically populate.

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

Screenshot of the DOJ NIEM-XML Template

This section captures the response times for those requests identified as either "Full Grants" or "Partial Grants/Partial Denials" in Section V.B.(1) of the Annual FOIA Report. The following information, broken down by "track", must be captured for this section in the NIEM-XML:

- Median Number of Days: For all perfected requests in which information was granted and that were closed during the relevant fiscal year, provide the median number of working days it took to close them. For more information on calculating medians please see the "General Guidance" section above.

- Average Number of Days: For all perfected requests in which information was granted and that were closed during the relevant fiscal year, provide the average number of working days it took to close them. For more information on calculating averages please see the "General Guidance" section above.

- Lowest Number of Days: For all perfected requests in which information was granted and that were closed during the relevant fiscal year, provide the lowest number of working days it took to close any one of them.

- Highest Number of Days: For all perfected requests in which information was granted and that were closed during the relevant fiscal year, provide the highest number of working days it took to close any one of them.

Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool: If the report is broken out by component, enter each component individually, then manually enter agency overall information. If an agency does not break its report down by

component, but only reports as an agency overall, enter data only in the "AGENCY OVERALL" row. No data in this section will automatically populate.

Sections VII.C.1, 2, 3: Processed Requests – Response Time in Day Increments

Screenshot of the DOJ NIEM-XML Template

The following information, broken down by "track", must be captured for these sections in the NIEM-XML:

- <u>< 1-20 Days</u>: Provide the number of perfected requests processed in the relevant year in the designated timeframe. Agencies should include those requests closed in less than one day in this category.

- <u>21-40 Days</u>: Provide the number of perfected requests processed in the relevant year in the designated timeframe.

- <u>41-60 Days</u>: Provide the number of perfected requests processed in the relevant year in the designated timeframe.

- <u>61-80 Days</u>: Provide the number of perfected requests processed in the relevant year in the designated timeframe.

- <u>81-100 Days</u>: Provide the number of perfected requests processed in the relevant year in the designated timeframe.

- <u>101-120 Days</u>: Provide the number of perfected requests processed in the relevant year in the designated timeframe.

- <u>121-140 Days</u>: Provide the number of perfected requests processed in the relevant year in the designated timeframe.

- <u>141-160 Days</u>: Provide the number of perfected requests processed in the relevant year in the designated timeframe.

- <u>161-180 Days</u>: Provide the number of perfected requests processed in the relevant year in the designated timeframe.

- <u>181-200 Days</u>: Provide the number of perfected requests processed in the relevant year in the designated timeframe.

- <u>201-300 Days</u>: Provide the number of perfected requests processed in the relevant year in the designated timeframe.

- <u>301-400 Days</u>: Provide the number of perfected requests processed in the relevant year in the designated timeframe.

- <u>401+ Days</u>: Provide the number of perfected requests processed in the relevant year in the designated timeframe.

- <u>Total</u>: Insert the sum of the thirteen columns in the "Total" column to reflect the total number of requests processed for each of the tracks. If using the DOJ Annual FOIA Report Tool to create the agency's NIEM-XML file, this column will be automatically populated.

Note: The total number of processed perfected requests listed in this section must be less than or equal to the number of requests reported as processed in <u>Section V.A</u>.

<u>Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool</u>: Enter the component abbreviation, or choose it from the drop-down menu, and then enter values for that component in the editable columns to the right. Component abbreviations must match those set up on the "<u>Agency Information</u>" sheet. If the report is not broken down by component, the agency abbreviation must be entered, which is the only option offered in the drop-down menu when clicking in the first column.

If an agency uses the DOJ Annual FOIA Report Tool template to create the NIEM-XML, the data in the agency overall row will be automatically generated.

Section VII.D: Pending Requests – All Pending Perfected Requests

"AGENCY OVERALL" information cannot be calculated from component information, and must be entered.

Blank lines are ignored, but if the component column is filled in, all other editable columns must be filled in, as well as all 'AGENCY OVERALL' columns. "Number Pending" columns must contain non-negative integer, or the special value "N/A". "Median" and "Average" columns must contain non-negative decimal numbers, or the special value "N/A".

VII. D. Pending Requests - All Pending Perfected Requests

Agency / 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									

Footnotes

Screenshot of the DOJ NIEM-XML Template

The following information, broken down by track, must be captured for this section in the NIEM-XML:

- Number Pending: Provide the number of all perfected requests which remained open as of the end of the relevant fiscal year.

- Median Number of Days: For all perfected requests which remained open as of the end of the relevant fiscal year, provide the median number of working days they had been pending. For more information on calculating medians please see the "General Guidance" section above.

- Average Number of Days: For all perfected requests which remained open as of the end of the relevant fiscal year, provide the average number of working days they had been pending. For more information on calculating averages please see the "General Guidance" section above.

Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool: If the report is broken down by component, enter each component individually, then manually enter agency overall information. If an agency does not break its report down by component, but only reports as an agency overall, enter data only in the "AGENCY OVERALL" row. No data in this section will automatically populate.

Section VII.E: Pending Requests – Ten Oldest Pending Perfected Requests

Screenshot of the DOJ NIEM-XML Template

The following information for each of the ten oldest requests pending as of the end of the relevant fiscal year must be captured for this section in the NIEM-XML:

- Date of Receipt: Provide the date of receipt of the *perfected* request (see example).

- Number of Days Pending: From the date of receipt of the perfected request, provide the number of working days that each request remained pending as of the end of the relevant fiscal year.

Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool: If the report is broken down by component, enter each component individually, then manually enter agency overall information. If an agency does not break its report down by component, but only reports as an agency overall, enter data only in the "AGENCY OVERALL" row. No data in this section will automatically populate.

Section VIII: Requests for Expedited Processing and Requests for Fee Waiver

For this Section of the Annual FOIA Report, agencies will need to provide information on the requests for expedited processing they adjudicated and the determinations made on requests for fee waivers. Agencies should not include data in this section for those expedited processing requests or fee waiver requests which became moot for various reasons and, as a result, were neither granted nor denied.

All determinations made during the relevant fiscal year to either grant or deny an expedited processing or fee waiver request must be included.

- Example: The agency receives an initial request in Fiscal Year 2012, which asks for expedited processing. In Fiscal Year 2012, the agency notifies the requester that it has decided to grant expedited processing, but the agency does not complete the processing

of the actual request until Fiscal Year 2013. The information regarding the decision to grant expedited processing should be reported in this section of the agency's Fiscal Year 2012 Annual FOIA Report.

Section VIII.A: Requests for Expedited Processing

"AGENCY OVERALL" information cannot be calculated from component information, and must be entered.

Blank lines are ignored, but if the component column is filled in, all other editable columns must be filled in, as well as all 'AGENCY OVERALL' columns.
* "Number Granted" and "Number Denied" columns must contain non-negative integers.
* "Median" and "Average" columns must contain non-negative decimal numbers, or the special value "N/A".
* "Number Adjudicated within Ten Calendar Days" column must contain non-negative integers, or the special value "N/A".

VIII. A. Requests for Expedited Processing

Agency / 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					

Footnotes

Screenshot of the DOJ NIEM-XML Template

The following items must be captured for this section in the NIEM-XML. Please include requests for expedited processing made both at the initial request level and, when applicable, at the administrative appeal level.

- Number Granted: Provide the number of adjudications resulting in the agency granting expedited processing of the request.

- Number Denied: Provide the number of adjudications resulting in the agency denying expedited processing of the request.

- Median Number of Days to Adjudicate: Provide the median number of calendar days the agency took to adjudicate requests for expedited processing. For more information on calculating medians please see the "General Guidance" section above.

- Average Number of Days to Adjudicate: Provide the average number of calendar days the agency took to adjudicate requests for expedited processing. For more information on calculating averages please see the "General Guidance" section above.

- Number Adjudicated Within Ten Calendar Days: Provide the number of requests for expedited processing that were adjudicated within ten calendar days.

Note: The response time portion of this reporting requirement captures the time taken to decide whether to grant or deny a request for expedited processing. This does not cover the time taken to process the FOIA request which has been granted expedited status and placed in the "expedited processing" track. Rather, this requirement reflects the time taken to make a determination (i.e., adjudicate) whether a request for expedited processing should be granted or denied.

Calculating days: Count calendar days starting from the day the request for expedited processing is received through the day the agency provides notice to the requester of its determination to grant or deny the request for expedited processing.

Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool: If your agency's report is broken down by component, enter each component individually, then manually enter agency overall information. If your agency does not break its report down by component, but only reports as an agency overall, enter data only in the "AGENCY OVERALL" row. No data in this section will automatically populate.

Section VIII.B: Requests for Fee Waiver

"AGENCY OVERALL" information cannot be calculated from component information, and must be entered.

Blank lines are ignored, but if the component column is filled in, all other editable columns must be filled in, as well as all 'AGENCY OVERALL' columns.
* "Number Granted" and "Number Denied" columns must contain non-negative integers.
* "Median" and "Average" columns must contain non-negative decimal numbers, or the special value "N/A".

VIII. B. Requests for Fee Waiver

Agency / Component	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
AGENCY OVERALL				

Footnotes

Screenshot of the DOJ NIEM-XML Template

The following items must be captured for this section in the NIEM-XML. Please include requests for a waiver of fees made both at the initial request level and, when applicable, at the administrative appeal level.

- <u>Number Granted</u>: Provide the number of adjudications resulting in the agency granting a request for a fee waiver.

- <u>Number Denied</u>: Provide the number of adjudications resulting in the agency denying a request for a fee waiver.

- <u>Median Number of Days to Adjudicate</u>: Provide the median number of days the agency took to adjudicate a request for a fee waiver. For more information on calculating medians please see the "<u>General Guidance</u>" section above.

- <u>Average Number of Days to Adjudicate</u>: Provide the average number of days the agency took to adjudicate a request for a fee waiver. For more information on calculating averages please see the "<u>General Guidance</u>" section above.

<u>Calculating days</u>: Unlike requests for expedited processing, the period of time to adjudicate a fee waiver request does not necessarily begin with receipt of the fee waiver request itself, nor does it necessarily conclude with a separate letter sent to the requester. This is due to the fact that the agency might determine that no fees will be assessed for the processing of the request. In that case, there would be no need for the agency to make any determination on the fee waiver request. In other cases, the agency won't know whether fees will be assessed until after it has begun processing. As a result, agencies should begin counting days at the point when they determine that fees will be assessed for the request, and so the fee waiver request is then "ripe" for adjudication. Once the agency makes a decision whether to grant or deny the fee waiver request, the counting stops for this metric. That period of time must then be documented by the agency, along with the determination whether to grant or deny the fee waiver.

<u>Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool:</u> If your agency's report is broken down by component, enter each component individually, then manually enter agency overall information. If an agency does not break its report down by component, but only reports as an agency overall, enter data only in the "AGENCY OVERALL" row. No data in this section will automatically populate.

Section IX: FOIA Personnel and Costs

Screenshot of the DOJ NIEM-XML Template

The following items must be captured for this section in the NIEM-XML:

- Number of "Full-Time FOIA Employees": Provide the number of full-time FOIA employees. A "full-time FOIA employee" is a full-time employee who performs FOIA duties 100% of the time.

- Number of "Equivalent Full-Time FOIA Employees": Provide the number of equivalent full-time FOIA employees. This includes employees performing less than full-time FOIA duties that are either: (1) part-time employees who perform FOIA duties all, or part, of the time, or (2) full-time employees who perform FOIA duties less than 100% of the time. An "equivalent full-time FOIA employee" is created by adding together the percentages of time dedicated to FOIA duties by employees performing less than full-time FOIA work. Each time 100% is reached, the time expended is counted as one "equivalent full-time FOIA employee." The number of such "equivalent" employees should be reported in this category. The following examples illustrate how to calculate the number of "equivalent full-time FOIA employees."

   o Example 1: Assume three full-time employees with part-time or occasional FOIA duties. If Employee #1 performs FOIA duties 50% of the time, and Employees #2 and #3 each perform FOIA duties 25% of the time, together they perform 100% (50+25+25) FOIA duties. Therefore, the FOIA duties of these three employees are the equivalent of 1 "full-time FOIA employee," because a "full-time FOIA employee" is equal to 100%. This component would report that it has one equivalent full-time FOIA employee.

   o Example 2: Assume six full-time employees with part-time or occasional FOIA duties. If Employees #1, #2, #3 and #4 each perform FOIA duties 50% of the time, Employee #5 performs FOIA duties 75% of the time, and Employee #6 performs

FOIA duties 10% of the time, together they perform 285% (50x4 + 75+10) FOIA duties. Because a "full-time FOIA employee" is equal to 100%, the FOIA duties of these six employees are the equivalent of 2.85 "full-time FOIA employees." This component would report that it has 2.85 equivalent full-time FOIA employees.

- o Example 3: Assume Employee #1 is a part-time employee who works twenty hours per week and performs FOIA duties half of his time. As a part-time employee who works twenty hours per week, the most FOIA work Employee #1 could perform is 50%. Because Employee #1 performs FOIA duties for only half of his part-time schedule, he performs 25% FOIA duties (i.e., half of the 50% maximum). Assume Employee #2 is a part-time employee who works thirty-two hours per week and performs FOIA duties for all of her time. As a part-time employee who works thirty-two hours per week, the most FOIA work Employee #2 could perform is 80%. Because Employee #2 performs FOIA duties for all of her time, she performs 80% FOIA duties. Together, the two employees perform 105% (25+80) FOIA duties. Therefore, their combined FOIA duties are the equivalent of 1.05 "full-time FOIA employees," and this component would report that it has 1.05 equivalent full-time FOIA employees.

- Total Number of "Full-Time FOIA Staff": The combined total of full-time FOIA employees and equivalent full-time employees. This number will be automatically populated for agencies using the DOJ Annual FOIA Report Tool to create their NIEM-XML.

- Processing Costs: Provide the sum of all costs expended by the agency for processing FOIA requests at the initial request and administrative appeal levels. Include salaries of FOIA personnel, overhead, and any other FOIA-related expenses. (An agency's budget will often be a useful resource for this information.)

- Litigation-Related Costs: Provide the sum of all costs expended by the agency in litigating FOIA requests. Include salaries of personnel involved in FOIA litigation, litigation overhead, and any other FOIA litigation-related expenses. (As with Processing Costs, an agency's budget will often be a useful resource for this information.)

- Total Costs: The sum of the processing and litigation-related costs. This number will be automatically populated for agencies using the DOJ Annual FOIA Report Tool to create their NIEM-XML.

Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool: Enter the component abbreviation, or choose it from the drop-down menu, and then enter values for that component in the editable columns to the right. Component abbreviations must match those set up on the "Agency Information" sheet. If the report is not broken down by component, the agency abbreviation must be entered, which is the only option offered in the drop-down menu when clicking in the first column.

If an agency uses the DOJ Annual FOIA Report Tool to create the NIEM-XML, the data in the agency overall row will be automatically generated.

Section X: Fees Collected for Processing Requests

If the component column is filled in, the "Total Amount of Fees Collected" column must also be filled in. The value must be non-negative numeric.

The "Percentage of Total Costs" column is calculated by comparing the Fees Collected column with Processing Costs from sheet IX.

X. Fees Collected for Processing Requests

Agency / Component	Total Amount of Fees Collected	Percentage of Total Costs
AGENCY OVERALL	$0.00	0.00%

Footnotes

Screenshot of the DOJ NIEM-XML Template

The following items must be captured for this section in the NIEM-XML:

- Total Amount of Fees Collected: Report the dollar amount of fees collected from FOIA requesters for processing their requests. In calculating the amount of fees collected, include fees received from a FOIA requester for search, review, document duplication, and any other direct costs permitted by agency regulations.

- Percentage of Total Costs: Report the percentage of total processing costs (i.e., the processing costs reported in Section IX must be divided by the total amount of fees collected in this section). This number will be automatically populated for agencies using the DOJ Annual FOIA Report Tool to create their NIEM-XML.

Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool: Enter the component abbreviation, or choose it from the drop-down menu, and then enter values for that component in the editable columns to the right. Component abbreviations must match those set up on the "Agency Information" sheet. If the report is not broken down by component, the agency abbreviation must be entered, which is the only option offered in the drop-down menu when clicking in the first column.

If an agency uses the DOJ Annual FOIA Report Tool to create the NIEM-XML, the data in the agency overall row will be automatically generated.

Section XII: Backlogs, Consultations, and Comparisons

Section XII.A: Backlogs of FOIA Requests and Administrative Appeals

Blank lines are ignored, but if the component column is filled in, all other editable columns must be filled in.
* "Number of Backlogged Requests" column must contain non-negative integers.
* "Number of Backlogged Appeals" column must contain non-negative integers, or the special value "N/A".

XII.A. Backlogs of FOIA Requests and Administrative Appeals

Agency / Component	Number of Backlogged Requests as of End of Fiscal Year	Number of Backlogged Appeals as of End of Fiscal Year
AGENCY OVERALL	0	0

Footnotes

Screenshot of the DOJ NIEM-XML Template

The following items must be captured for this section in the NIEM-XML:

- Number of Backlogged Requests as of End of Fiscal Year: Provide the number of backlogged requests as of the end of the relevant fiscal year.

- Number of Backlogged Appeals as of End of Fiscal Year: Provide the number of backlogged appeals as of the end of the relevant fiscal year. Users should enter "N/A" for any components of their agency that do not process appeals.

Note: A request or appeal is considered to be backlogged if it is pending beyond the statutory time period for a response at the end of the fiscal year. The statutory time period is ordinarily twenty working days from receipt of a perfected request or appeal, see 5 U.S.C. § 552(a)(6)(A)(i), (ii), but that time period may be extended up to ten additional working days when "unusual circumstances" are present, see id. § 552(a)(6)(B)(i). Although requesters might agree to an alternate time period to respond, the request must still be counted as backlogged once it is past the statutory response date.

Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool: Enter the component abbreviation, or choose it from the drop-down menu, and then enter values for that component in the editable columns to the right. Component abbreviations must match those set up on the "Agency Information" sheet. If the report is not broken down by component, the agency abbreviation must be entered, which is the only option offered in the drop-down menu when clicking in the first column.

If an agency uses the DOJ Annual FOIA Report Tool to create the NIEM-XML, the data in the agency overall row will be automatically generated.

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

Each row represents values for a single component. Enter the component abbreviation, or choose it from the drop-down, then enter values for that component in the editable columns to the right. Component abbreviations must match those set up on the 'Agency Information' sheet. If the report is not broken out by component, the agency abbreviation must be entered, which is the only option offered in the drop-down.

Blank lines are ignored, but if the component column is filled in, all other editable columns must be filled in. All values must be non-negative integers.

XII. B. Consultations on FOIA Requests - Received, Processed, and Pending Consultations

Agency / Component	Number of Consultations Received from Other Agencies that were Pending at the 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 the Agency During the Fiscal Year	Number of Consultations Received from Other Agencies that were Pending at the Agency as of End of the Fiscal Year
				0
				0
AGENCY OVERALL	0	0	0	0

Footnotes

Screenshot of the DOJ NIEM-XML Template

This section requires agencies and agency components to report information about consultations that they have received from other agencies as well as those received from other components within their own agency. Agencies and agency components should be careful to report only consultations received from other agencies or from other components of their agency, and to not include consultations that they have *sent* to other agencies and/or components. The following items must be captured for this section in the NIEM-XML:

- Number of Consultations Received from Other Agencies that Were Pending at Agency as of Start of the Fiscal Year: Provide the number of consultations that were pending at your agency as of the start of the relevant fiscal year. If the number reported in this section for a component and/or agency does not match what was reported as pending as of the end of the fiscal year from the prior year's Annual FOIA Report, the agency should include a footnote briefly explaining the discrepancy.

- Number of Consultations Received from Other Agencies During the Fiscal Year: Provide the number of consultations received from other agencies and components during the relevant fiscal year.

- Number of Consultations Received from Other Agencies that Were Processed by the Agency During the Fiscal Year: Provide the number of consultations received from other agencies and components that were closed in the relevant fiscal year.

- Number of Consultations Received from Other Agencies that Were Pending at the Agency as of End of the Fiscal Year: Provide the number of consultations received from other agencies or components that were pending at your agency at the end of the fiscal year. *The sum of the number pending at the start of the fiscal year (the second column) and the number received during the fiscal year (the third column), minus the number processed during the fiscal year (the fourth column), must equal the number pending as of the end of the fiscal year (the fifth column).* In the DOJ Annual FOIA Report Tool, this number is automatically generated based on the other three values. If the number reported in the last column does not reflect the number actually pending at your agency as of the end of the fiscal year, one of the other numbers must be inaccurate and you must review and correct that other number.

Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool: Enter the component abbreviation, or choose it from the drop-down menu, and then enter values for that component in the editable columns to the right. Component abbreviations must match those set up on the "Agency Information" sheet. If the report is not broken down by component, the agency abbreviation must be entered, which is the only option offered in the drop-down menu when clicking in the first column.

If an agency uses the DOJ Annual FOIA Report Tool to create the NIEM-XML, the data in the agency overall row will be automatically generated.

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

"AGENCY OVERALL" information cannot be calculated from component information, and must be entered.

A component, or the agency overall, may not have ten consultations pending. Thus, some columns may be not applicable. In this case, "N/A" should be entered in the "Date" cell, and "0" should be entered in the "Number of Days" cell. However, if a column is used for a valid date, all columns to the right of it must also be filled in with a valid date. If a date is filled in, the number of days associated with the date must also be filled in. "Number of Days" values must be non-negative integers.

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

Agency / Component		10th Oldest Consultation	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Consultation
	Date										
	Number of Days										
AGENCY OVERALL	Date										
	Number of Days										

Footnotes

Screenshot of the DOJ NIEM-XML Template

As with the above, this section requires agencies and agency components to report information about consultations that they have received from other agencies as well as those received from other components within their own agency. Agencies and agency components should be careful to report only consultations received from other agencies or from other components of their agency, and to not include consultations that they have *sent* to other agencies and/or components.

The following information for each of the ten oldest consultations received from other agencies or agency components that are pending as of the end of the relevant fiscal year must be captured for this section in the NIEM-XML:

- Date: The date the consultation was received at your agency from another agency or component of the same agency.

- Number of Days: The number of working days the consultation was pending at your agency as of the end of the relevant fiscal year.

Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool: If the report is broken out by component, enter each component individually, then manually enter agency overall information. If an agency does not break its report down by component, but only reports as an agency overall, enter data only in the "AGENCY OVERALL" row. No data in this section will automatically populate.

Section XII.D.1: Comparison of Numbers of Requests from Previous and Current Annual Report

Screenshot of the DOJ NIEM-XML Template

The following items must be captured for this section in the NIEM-XML:

- Number Received During Fiscal Year from Last Year's Annual Report: Provide the number of requests the agency reported as received from Section V.A of the prior year's Annual FOIA Report.

- Number Received During Fiscal Year from Current Annual Report: Provide the number of requests the agency received during the relevant reporting year. This must be the same number reported in Section V.A.

- Number Processed During Fiscal Year from Last Year's Annual Report: Provide the number of requests the agency reported as processed from Section V.A of the prior year's Annual FOIA Report.

- Number Processed During Fiscal Year from Current Annual Report: Provide the number of requests the agency processed during the relevant reporting year. This must be the same number reported in Section V.A.

Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool: Enter the component abbreviation, or choose it from the drop-down menu, and then enter values for that component in the editable columns to the right. Component abbreviations must match those set up on the "Agency Information" sheet. If the report is not broken down by component, the agency abbreviation must be entered, which is the only option offered in the drop-down menu when clicking in the first column.

If an agency uses the DOJ Annual FOIA Report Tool to create the NIEM-XML, the data in the agency overall row will be automatically generated.

Section XII.D.2: Comparison of Backlogged Requests from Previous and Current Annual Report

Screenshot of the DOJ NIEM-XML Template

The following items must be captured for this section in the NIEM-XML:

- <u>Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report</u>: The number of requests the agency reported as backlogged from Section XII.A of the prior year's Annual FOIA Report.

- <u>Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report</u>: The number of requests pending in the agency's backlog as of the end of the fiscal year for the current Annual FOIA Report. This must be the same number reported in Section XII.A.

<u>Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool</u>: Enter the component abbreviation, or choose it from the drop-down menu, and then enter values for that component in the editable columns to the right. Component abbreviations must match those set up on the "Agency Information" sheet. If the report is not broken out by component, the agency abbreviation must be entered, which is the only option offered in the drop-down menu when clicking in the first column.

If an agency uses the DOJ Annual FOIA Report Tool to create the NIEM-XML, the data in the agency overall row will be automatically generated.

Section XII.E.1: Comparison of Numbers of Administrative Appeals from Previous and Current Annual Report

If the component column is filled in, all other editable columns must be filled in. All values must be non-negative integers.

The values entered for the current fiscal year must match those entered on sheet VI.A.

XII. E. 1. Comparison of Numbers of Administrative Appeals from Previous and Current Annual Report

Agency / Component	NUMBER OF APPEALS RECEIVED		NUMBER OF APPEALS PROCESSED	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
AGENCY OVERALL	0	0	0	0

Footnotes

Screenshot of the DOJ NIEM-XML Template

The following items must be captured for this section in the NIEM-XML:

- Number Received During Fiscal Year from Last Year's Annual Report: The number of administrative appeals the agency reported as received from Section VI.A of the prior year's Annual FOIA Report.

- Number Received During Fiscal Year from Current Annual Report: The number of administrative appeals the agency received during the relevant reporting year. This must be the same number reported in Section VI.A.

- Number Processed During Fiscal Year from Last Year's Annual Report: The number of administrative appeals the agency reported as processed from Section VI.A of the prior year's Annual FOIA Report.

- Number Processed During Fiscal Year from Current Annual Report: The number of administrative appeals the agency processed during the relevant reporting year. This must be the same number reported in Section VI.A.

Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool: Enter the component abbreviation, or choose it from the drop-down menu, and then enter values for that component in the editable columns to the right. Component abbreviations must match those set up on the "Agency Information" sheet. If the report is not broken down by component, the agency abbreviation must be entered, which is the only option offered in the drop-down menu when clicking in the first column.

If an agency uses the DOJ Annual FOIA Report Tool to create the NIEM-XML, the data in the agency overall row will be automatically generated.

Section XII.E.2: Comparison of Backlogged Administrative Appeals from Previous and Current Annual Report

If the component column is filled in, all other editable columns must be filled in. All values must be non-negative integers.

The values entered for the current fiscal year must match those entered on sheet XII.A.

XII. E. 2. Comparison of Backlogged Administrative Appeals from Previous and Current Annual Report

Agency / 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
AGENCY OVERALL	0	0

Footnotes

Screenshot of the DOJ NIEM-XML Template

The following items must be captured for this section in the NIEM-XML:

- Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report: The number of administrative appeals the agency reported as backlogged from Section XII.A of the prior year's Annual Report.

- Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report: The number of administrative appeals pending in the agency backlog as of the end of the fiscal year for the current Annual FOIA Report. This must be the same number reported in Section XII.A.

Additional Instructions for Users Manually Entering Data in the DOJ Annual FOIA Report Tool: Enter the component abbreviation, or choose it from the drop-down menu, and then enter values for that component in the editable columns to the right. Component abbreviations must match those set up on the "Agency Information" sheet. If the report is not broken down by component, the agency abbreviation must be entered, which is the only option offered in the drop-down menu when clicking in the first column.

If an agency uses the DOJ Annual FOIA Report Tool to create the NIEM-XML, the data in the agency overall row will be automatically generated.

Footnotes

Agencies may need to include footnotes in their Annual FOIA Reports in order to explain an apparent discrepancy. They may also choose to include a footnote to provide greater context for their data to the public. These footnotes may be added to an agency report by using the DOJ Annual FOIA Report Tool. Users may add a footnote at the bottom of the page in each tab of the Tool. The wording of the footnote itself should make it clear to which data the footnote applies.

New Annual FOIA Report Metrics: Used of Subsection (c) and Number of (a)(2) Records Posted

The *FOIA Improvement Act of 2016*, which was signed into law on June 30, 2016, amended agencies' Annual FOIA Report requirements to add new metrics that must be captured in these reports. To assist agencies in including these new metrics in their reports, OIP has created a [Supplemental Annual FOIA Report Template](#) which agencies should complete and provide to OIP when submitting their NIEM-XML file.

Use of Subsection (c) – Exclusions

The FOIA provides special protection for a narrow category of particularly sensitive law enforcement records. For these three specifically defined categories of records, Congress provided that federal law enforcement agencies "may treat the records as not subject to the requirements of [the FOIA]." [5 U.S.C. § 552(c)](#). These provisions, which are referred to as "exclusions" provide protection in three limited sets of circumstances where publicly acknowledging even the existence of the records could cause harm to law enforcement or national security interests.

In accordance with 5 U.S.C. § 552(e)(1)(P), agencies are now required to include in their Annual FOIA Report the number of times they have invoked an exclusion. Based on past experience in collecting this data, most agencies do not use exclusions. For those agencies, simply including the number zero by the agency acronym in the supplemental template will be sufficient. For any agency that has invoked an exclusion during the past fiscal year, if the agency is decentralized, it should break the number down by component, and then provide an agency overall total.

- Example 1: An agency processes requests on a decentralized basis with fifteen components. No components invoked an exclusion during the fiscal year. This agency will list its agency name and "0" in the supplemental template.

- Example 2: An agency processes requests on a decentralized basis with fifteen components. Two components invoked exclusions during the fiscal year. This agency will list the two components individually with the number of exclusions invoked to by each component, and then provide an agency overall total in the supplemental template.

Number of (a)(2) Records Posted

Subsection (a)(2) of the FOIA requires agencies to proactively make available to the public non-exempt information from certain categories of records without waiting for a specific request to be received. These categories are:

- Final agency opinions and orders rendered in the adjudication of cases,
- Specific policy statements that are not published in the Federal Register,
- Administrative staff manuals and instructions to staff that affect a member of the public, and
- Records that have become or are likely to become the subject of subsequent requests or those records that have been requested three or more times – commonly referred to as frequently requested records.

In accordance with 5 U.S.C. § 552(e)(1)(Q), agencies are now required to include in their Annual FOIA Report "the number of records that were made available for public inspection in an electronic format under subsection (a)(2) of the FOIA."

The first three categories of subsection (a)(2) records concern the operational documents of the agency and are often posted outside the agency's FOIA office. Agency program offices post a wide variety of records that fall within these categories in various locations throughout agency websites. In light of this reality, FOIA offices are necessarily better equipped to provide more precise numbers for the records that are posted on their agency's FOIA webpage, which are most often "frequently requested records," but can include operational records as well. Taking all this into account, agencies must provide two data points to meet this new reporting requirement.

Using the Supplemental Annual FOIA Report Template, agencies will need to report: (1) the number of (a)(2) records posted to the agency's FOIA webpage, and (2) an estimate of the number of (a)(2) records posted by program offices throughout the agency.

Specifically, agencies must provide the following:

- Number of (a)(2) Records Posted by the FOIA Office: Provide the sum of all (a)(2) records posted to your agency's FOIA webpage. This includes (a)(2) records posted in your FOIA Library or anywhere else on your FOIA web page.

- Number of (a)(2) Records Posted by the Program Offices: Provide an estimate of all (a)(2) records posted to the agency's webpage outside the FOIA office by your agency's program offices. This figure should be formulated by coordinating with the appropriate program offices or resources within your agency that can best help calculate this data point.

This new provision is designed to capture the number of "records" posted by agencies under (a)(2), so both figures should be reported in terms of records posted by the agency.

Review Prior to Submission

Each agency is ultimately responsible for the quality of its own data. Prior to submitting a NIEM-XML to the Department of Justice for clearance, agencies should carefully review all of the data contained in their NIEM-XML file to ensure its accuracy. Even if an agency does not use the DOJ Annual FOIA Report Tool to create its NIEM-XML (see "Two Options for Creating the NIEM-XML Version"), it must load the NIEM-XML into the DOJ Annual FOIA Report Tool in order to review its data prior to submission.

SUBMITTING THE NIEM-XML TO OIP

After completing the NIEM-XML file and Supplemental Annual FOIA Report Template, and reviewing its contents for accuracy, agencies shall submit their NIEM-XML file and Supplemental Template to OIP at DOJ.OIP.FOIA@usdoj.gov. If an agency is using the DOJ Annual FOIA Report Tool to create its Report and is unable to convert the file to NIEM-XML, it should contact OIP at DOJ.OIP.FOIA@usdoj.gov or (202) 514-3642, and request to speak with a member of the Annual FOIA Report Team.

THE OIP REVIEW PROCESS

OIP will review the data contained in agency NIEM-XML files and Supplemental Template in order to help ensure the quality of agency Annual FOIA Reports. However, each agency is ultimately responsible for the quality of the information contained in its report. If OIP identifies any areas that require additional follow-up, it will advise the agency of this, and the agency will be required to resubmit its NIEM-XML to OIP with the issue(s) resolved. Once any outstanding issues are resolved, OIP will advise the agency that its data has been cleared, and will return the cleared NIEM-XML file to the agency, as well as a human-readable version of the data contained in the NIEM-XML, which will also include the data provided in the Supplemental Template. Following the instructions below, the agency must then use the human-readable version of the charts provided by OIP as the basis for its human-readable Annual FOIA Report.

COMPLETING THE HUMAN-READABLE VERSION

The Department has enhanced the DOJ Annual FOIA Report Tool, which now produces both the NIEM-XML version of the Annual FOIA Report and the data-oriented sections of the human-readable version. This new enhancement to the Tool will help agencies by eliminating the need to create two entirely separate reports and ensures better accuracy by eliminating inconsistencies caused by human error. **To ensure consistency between the two versions of the Annual FOIA Report, agencies are required to use the document automatically generated by the DOJ Annual FOIA Report Tool and provided to them by OIP as the basis for the human-readable version of their Annual FOIA Report.**

Upon receiving the charts from OIP, agencies will simply need to complete and add the three textual sections provided below to the beginning of their Report. Agencies may also choose to add a cover page and modify the formatting of the charts in order to customize their human-readable Report. **While agencies may customize their human-readable reports with regard to presentation and formatting, they may not**

make any substantive changes to the data in the charts provided by OIP. Agencies must first contact OIP if they wish to change any data in their NIEM-XML file after it has already been cleared.

Section I: Basic Information Regarding Report

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

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

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

Section II: Making a FOIA Request

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

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

3. Provide a functional electronic link to agency FOIA regulations, including the agency's fee schedule. (NOTE: Agency FOIA Regulations were formerly listed at Section XI of the human-readable version of the Report).

Section III: Acronyms, Definitions, and Exemptions

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

    a. **Administrative Appeal** – a request to a federal agency asking that it review at a higher administrative level a 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 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 or component within the same 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 or component within the same 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 entireties 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 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.   **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).

2.   Include the following concise descriptions of the nine FOIA exemptions:

a.   **Exemption 1**: classified national defense and foreign relations information

b.   **Exemption 2**: information that is related solely to the internal personnel rules and practices of an agency

c.   **Exemption 3**: information that is prohibited from disclosure by another federal law

d.   **Exemption 4**: trade secrets and other confidential business information

e.   **Exemption 5**: inter-agency or intra-agency communications that are protected by legal privileges

f.   **Exemption 6**: information involving matters of personal privacy

g.   **Exemption 7**: records or information compiled for law enforcement purposes, to the extent that the production of those records (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or (F) could reasonably be expected to endanger the life or physical safety of any individual

a.   **Exemption 8**: information relating to the supervision of financial institutions

b.   **Exemption 9**: geological information on wells

POSTING THE FINAL REPORT AND NOTIFICATION TO OIP

After your agency creates the human-readable version of its Annual FOIA Report you will need to post both the human-readable and NIEM-XML versions on your agency's FOIA website. Finally, **and in order for your agency to complete all reporting requirements, you must send the links to the two versions of your Reports to DOJ.OIP.FOIA@usdoj.gov.** The Reports will be linked to on DOJ's centralized Annual FOIA Reports page and the data from the NIEM-XML version will be uploaded onto FOIA.gov.

All agencies should maintain their Annual FOIA Reports on their agency website for at least seven years.

NEW REQUIRMENT: POSTING THE RAW DATA FROM THE FINAL ANNUAL FOIA REPORT

In addition to posting the human-readable and NIEM-XML version of your Annual FOIA Report, the *FOIA Improvement Act of 2016* now requires that your agency also post the raw data that made up your Annual FOIA Report. *See* 5 U.S.C. § 552(e)(3)(A)-(C) (2014), *amended by* FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat. 538. To meet

this requirement, agencies will need to provide the underlying data elements behind each request, administrative appeal, and consultation received and processed that is used to create the Annual FOIA Report at the conclusion of each fiscal year. This data is used to create the aggregated data tables for Sections IV-VIII, X, and XII.A-XII.C of the Annual FOIA Report, and contains such fields as the date the request or appeal was received, the request or appeal disposition, and the date closed. To assist agencies with this new requirement, OIP created a [Raw Data Template](#) which contains all of the raw data fields used in creating an agency Annual FOIA Report.

In order to meet the requirement that this data be provided in an aggregated, searchable format, agencies should post this information in the Comma Separated Value (CSV) file type, which is an open, machine-readable format, and allows the data to be downloadable in bulk.

Agencies should be aware of the following considerations when putting together their raw data and when using this template:

- Data aggregated for consultations in the Annual FOIA Report includes the tracking number, date received, and date closed. While additional data elements may be included in agency case management systems for consultations, because this data is not included in the aggregated Annual FOIA Report it does not appear in the Raw Data Template.

- Data for administrative appeals can be associated with a specific request number or it can be listed in a separate row, depending on the agency's case management system and method of tracking.

- Data for Section IX of the Annual Report, related to personnel and costs, is not included at the raw data level because these data points are not captured at the request-by-request level and often must include calculations that go beyond what can be captured at that level. For example, processing cost information includes overhead costs that are not broken down by request. As such, metrics for this section will be included in the agency's overall report but are not included in the Raw Data Template.