DEFENSE NUCLEAR FACILITIES SAFETY BOARD
Freedom of Information Act
Report for
October 1, 2011
through
September 30, 2012

January 2013

I. BASIC INFORMATION REGARDING REPORT

1. For questions about the report, contact:

    Andrew L. Thibadeau
    Information Officer
    Defense Nuclear Facilities Safety Board
    625 Indiana Avenue, NW, Suite 700
    Washington, DC 20004
    Telephone (202) 694-7088
    Email: andrewt@dnfsb.gov

2. Electronic link for FOIA Report FY 2012 on the World Wide Web:
    http://www.dnfsb.gov/foia-annual-report-2012

3. How to obtain a copy of the report in paper form:
    Contact Mr. Thibadeau by phone or email.

II. MAKING A FOIA REQUEST

1. All FOIA requests to the DNFSB should be directed to Mr. Thibadeau at the addresses given above.

2. Why Some Requests Are Not Granted:

    The DNFSB generally provides most of the documents requested. The most common reason that the Board withholds all or part of a document falls under Exemption 2 (internal agency rules and practices).

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

1. DNFSB is the acronym used for the Defense Nuclear Facilities Safety Board. OGM is the acronym used for the Office of General Manager, and OGC is the acronym used for Office of General Counsel.

2. The following definitions of terms are 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 (e.g., for 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 for its review because that other agency has an interest in the document. Once the agency in receipt of the consultation finishes its review of the record, it responds back to the agency that forwarded it. That agency, in turn, will then respond to the FOIA requester.

f.   **Exemption 3 Statute** – a federal statute that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3) of the FOIA.

g.   **FOIA Request** – a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "third-party" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "first-party" requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report).

h.   **Full Grant** – an agency decision to disclose all records in full in response to a FOIA request.

i.   **Full Denial** – an agency decision not to release any records in response to a FOIA request because the records are exempt in their 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 the 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).

3.   The nine FOIA exemptions are described as follows:

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.

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

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

IV.   EXEMPTION 3 STATUTES

A.   Exemption 3 – Statutes Relied upon to Withhold Information

Statute	Type of Information Withheld	Case Citation	Number of Times Relied upon per Component	Total Number of Times Relied upon by Agency
N/A	N/A	N/A	OGM N/A	N/A
N/A	N/A	N/A	OGC N/A	N/A

V.   FOIA REQUESTS

A.   Received, Processed, and Pending FOIA Requests

	Number of Requests Pending as of Start of Fiscal Year	Number of Requests Received in Fiscal Year	Number of Requests Processed in Fiscal Year	Number of Requests Pending as of End of Fiscal Year
OGM	2	8	10	0
OGC	0	3	2	1
AGENCY OVERALL	2	11	12	1

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

	No. of Full Grants	No. of Partial Grants/ Partial Denials	No. 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 With-drawn	Fee-Related Reason	Records not Reasonably Described	Improper FOIA Request for Other Reason	Not Agency Record	Duplicate Request	Other *Explain In Chart Below	TOTAL
OGM	6	0	0	4	0	0	0	0	0	0	0	0	10
OGC	2	0	0	0	0	0	0	0	0	0	0	0	2
Agency Overall	8	0	0	4	0	0	0	0	0	0	0	0	12

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

Component	Description of "Other Reasons for Denials from Chart B (1) & Number of Times Those Reasons Were Relied Upon	TOTAL
OGM	0	0
OGC	0	0

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

	Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex. 8	Ex. 9
OGM	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OGC	0	0	0	0	0	0	0	0	0	0	0	0	0	0
AGENCY OVERALL	0	0	0	0	0	0	0	0	0	0	0	0	0	0

VI. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS

A. Received, Processed, and Pending Administrative Appeals

Number of Appeals Pending as of Start of Fiscal Year	Number of Appeals Received in Fiscal Year	Number of Appeals Processed in Fiscal Year	Number of Appeals Pending as of End of Fiscal Year
0	0	0	0

B. Disposition of Administrative Appeals – All Processed Appeals

Number Affirmed on Appeal	Number Partially Affirmed & Partially Reversed/Remanded on Appeal	Number Completely Reversed/Remanded on Appeal	Number of Appeals Closed for Other Reasons	TOTAL
0	0	0	0	0

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

Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex. 8	Ex. 9
0	0	0	0	0	0	0	0	0	0	0	0	0	0

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

No Records	Records Referred at Initial Request Level	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper Request for Other Reasons	Not Agency Record	Duplicate Request or Appeal	Request in Litigation	Appeal Based Solely on Denial of Request for Expedited Processing	Other *Explain in Chart Below
0	0	0	0	0	0	0	0	0	0	0

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

Description of "Other" Reasons for Denial on Appeal from Chart C (2) & Number of Times Those Reasons Were Relied Upon	TOTAL
Description 0	0

C. (4)   Response Time for Administrative Appeals

Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
0	0	0	0

C. (5)   Ten Oldest Pending Administrative Appeals

	10th Oldest Appeal	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal
Date of Receipt of Ten Oldest Appeals	0	0	0	0	0	0	0	0	0	0
Number of Days Pending	0	0	0	0	0	0	0	0	0	0

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

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

	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median No. of Days	Average No. of Days	Lowest No. of Days	Highest No. of Days	Median No. of Days	Average No. of Days	Lowest No. of Days	Highest No. of Days	Median No. of Days	Average No. of Days	Lowest No. of Days	Highest No. of Days
OGM	8	8.6	1	20	0	0	0	0	0	0	0	0
OGC	18	18	14	22	0	0	0	0	0	0	0	0
AGENCY OVERALL	11	11	1	22	0	0	0	0	0	0	0	0

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

	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median No. of Days	Average No. of Days	Lowest No. of Days	Highest No. of Days	Median No. of Days	Average No. of Days	Lowest No. of Days	Highest No. of Days	Median No. of Days	Average No. of Days	Lowest No. of Days	Highest No. of Days
OGM	4.5	6	1	18	0	0	0	0	0	0	0	0
OGC	18	18	6	22	0	0	0	0	0	0	0	0
AGENCY OVERALL	7	9	1	22	0	0	0	0	0	0	0	0

C.　　Processed Requests – Response Time in Day Increments

Simple Requests

	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	Total
OGM	10	0	0	0	0	0	0	0	0	0	0	0	10	8
OGC	1	1	0	0	0	0	0	0	0	0	0	0	0	1
AGENCY OVERALL	11	1	0	0	0	0	0	0	0	0	0	0	0	12

Complex Requests

	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	Total
OGM	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OGC	0	0	0	0	0	0	0	0	0	0	0	0	0	0
AGENCY OVERALL	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Requests Granted Expedited Processing

	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	Total
OGM	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OGC	0	0	0	0	0	0	0	0	0	0	0	0	0	0
AGENCY OVERALL	0	0	0	0	0	0	0	0	0	0	0	0	0	0

D. Pending Requests – All Pending Perfected Requests

	SIMPLE			COMPLEX			EXPEDITED PROCESSING		
	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days	Number of Days Pending	Median Number of Days	Average Number of Days
OGM	0	0	0	0	0	0	0	0	0
OGC	0	0	0	1	23	23	0	0	0
AGENCY OVERALL	0	0	0	1	23	23	0	0	0

E. Pending Requests – Ten Oldest Pending Perfected Requests

	10th Oldest Request & No. of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request & No. of Days Pending
OGM	0	0	0	0	0	0	0	0	0	1-23
OGC	0	0	0	0	0	0	0	0	0	1-23
AGENCY OVERALL	0	0	0	0	0	0	0	0	0	1-23

VIII. REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER

A. Requests for Expedited Processing

	No. Granted	No. Denied	Median No. of Days to Adjudicate	Average No. of Days to Adjudicate	No. Adjudicated Within Ten Calendar Days
OGM	0	0	0	0	0
OGC	0	0	0	0	0
AGENCY OVERALL	0	0	0	0	0

B.   Requests for Fee Waiver

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
OGM	0	0	0	0
OGC	2	0	18	18
AGENCY OVERALL	2	0	18	18

IX.   FOIA PERSONNEL AND COSTS

A.   Personnel and Costs

	PERSONNEL			COSTS		
	Number of "Full-Time FOIA Employees"	Number of Equivalent "Full-Time FOIA Employees"	Total Number of "Full-Time FOIA Staff"	Processing Costs	Litigation-Related Costs	Total Costs
OGM	0.05	0.05	0.1	$2,825.50	$0.00	$2,825.50
OGC	0.01	0.01	0.02	$770.00	$0.00	$770.00
AGENCY OVERALL	0.06	0.06	0.12	$3,595.50	$0.00	$3,595.50

X.   FEES COLLECTED FOR PROCESSING REQUESTS

	Total Amount of Fees Collected	Percentage of Total Costs
OGM	$0.00	0%
OGC	$0.00	0%
AGENCY OVERALL	$0.00	0%

XI.   FOIA REGULATIONS

The electronic link to the Board's FOIA regulations is:
http://www.dnfsb.gov/sites/default/files/Pages/FOIA%20Reading%20Room/DNFSB%20Rule%2010%20CFR%20Part%201703.pdf

The electronic link to the Board's fee schedule is: http://www.dnfsb.gov/foia-reading-room/foia-fee-schedule

XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS

A. Backlogs of FOIA Requests and Administrative Appeals

	Number of Backlogged Requests as of End of Fiscal Year	Number of Backlogged Appeals as of End of Fiscal Year
OGM	**0**	**0**
OGC	**1**	**0**
AGENCY OVERALL	**1**	**0**

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

	No. of Consultations Rec'd from Other Agencies that Were Pending at DNFSB as of Start of the Fiscal Year	No. of Consultations Rec'd from Other Agencies During the Fiscal Year	No. of Consultations Rec'd from Other Agencies that Were Processed by DNFSB During the Fiscal Year	No. of Consultations Rec'd from Other Agencies that Were Pending at DNFSB as of the End of the Fiscal Year
OGM	**0**	**1**	**1**	**0**
OGC	**0**	**2**	**1**	**1**
AGENCY OVERALL	**0**	**3**	**2**	**1**

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

	10th Oldest Consultation and No. of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Consultation and No. of Days Pending
OGM	0	0	0	0	0	0	0	0	0	0
OGC	0	0	0	0	0	0	0	0	0	**8/27/12 (23)**
AGENCY OVERALL	0	0	0	0	0	0	0	0	0	**8/27/12 (23)**

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

	NUMBER OF REQUESTS RECEIVED		NUMBER OF REQUESTS 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**
OGM	2	10	17	10
OGC	0	3	5	2
AGENCY OVERALL	2	13	22	12

D. (2)

	Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report	**Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report**
OGM	0	0
OGC	0	1
AGENCY OVERALL	0	1

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

	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**
OGM	0	0	0	0
OGC	0	0	0	0
AGENCY OVERALL	0	0	0	0

E. (2)

	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
OGM	0	0
OGC	0	0
AGENCY OVERALL	0	0

F.   Other FOIA Activities

The Board submitted the Chief FOIA Officer Report to the Department of Justice during the fiscal year, and created a website link that may be accessed from the Board's FOIA page.