

**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
(TTB)**

FREEDOM OF INFORMATION ACT ANNUAL REPORT

**Fiscal Year 2006
(October 1, 2005 – September 30, 2006)**

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Note: Bureau reporting begins at item II-B. Those sections marked “Not for bureaus” will be answered by the Departmental Disclosure Office in the combined report.

I. and II - A. (Not for bureaus.)

II. B. Brief Description of your bureau’s response-time ranges.

The response time for FOIA requests ranged from one day to 23 days.

C. Brief description why some requests are not granted.

The most common reasons why requests for records could not be granted are (1) they are statutorily exempt under 26 USC 6103(a), and (2) the records no longer exist.

III. Definition of terms and acronyms used in this report.

A. List your agency-specific acronyms or terms.

TTB	Alcohol and Tobacco Tax and Trade Bureau
RRD	Regulations and Rulings Division
SDA	Specially Denatured Alcohol
DSP	Distilled Spirit Plants

B. Basic Terms (This has already been done by the Department of Justice (DOJ).)

NA	Not Applicable
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IV. Exemption 3 Statutes.

A. List of Exemption 3 statutes relied on by agency during fiscal year.

1. Brief description of type(s) of information withheld under each statute.

Types of information withheld under Statute 26 U.S.C. §6103 include: request for tax related information i.e., Occupational Tax Stamps, DSP

Operating Permits, Industrial User Permits, Domestic Production Formulations, Imported Beverage Alcohol, Lab Analyses, Tobacco Information, Formulas, SDA Permit listings, and Proprietary Information.

2. Statement of whether a court has upheld the use of each statute. If so, then cite example.

Statute/Rule	Type of Information	
	Withheld	Case Citation
26 U.S.C. §6103	Tax return information	<i>Church of Scientology v. IRS, 484 U.S. 9 (1987)</i>

V. FOIA/PA Access Requests.

A. Number of initial requests. Total of the numbers in lines 1 and 2, minus the number in line 3, should equal the number in line 4.

1. Number of requests pending as of end of preceding fiscal year (**FY05**): 28
2. Number of requests received during current reporting period: 100
3. Number of requests processed during current reporting period: 122
4. Number of requests pending at the end of current reporting period: 6

B. Disposition of initial requests.

1. Number of total grants: 24
2. Number of partial grants: 41
3. Number of denials: 18

a. Number of times each FOIA exemption used (counting each exemption once per request):

(b)(1) <u>0</u>	(b)(6) <u>39</u>	(b)(7)(E) <u>0</u>
(b)(2) <u>5</u>	(b)(7)(A) <u>0</u>	(b)(7)(F) <u>0</u>
(b)(3) <u>42</u>	(b)(7)(B) <u>0</u>	(b)(8) <u>0</u>
(b)(4) <u>31</u>	(b)(7)(C) <u>0</u>	(b)(9) <u>0</u>
(b)(5) <u>14</u>	(b)(7)(D) <u>0</u>	

4. Other reasons for nondisclosure (total):39

- a. no records 26 (no records found that were responsive to the request)
- b. referrals 4 (a request forwarded, in total, to another Treasury bureau or another agency for response)
- c. withdrawn 3 (requester withdrew the request)
- d. fee-related 1 (nonpayment of estimated fees, or previously owed fees)
- e. records not reasonably described 0 (requests which do not adequately describe the records sought)
- f. not a proper FOIA request for some other reason 3 (for example, requester sought answers to questions)
- g. not an agency record 2 (not the type of record maintained by Treasury)
- h. duplicate request 0 (more than one request from the same requester which was received by the agency or forwarded from other sources)
- i. other (specify) 0 (requests that were not processed for other reasons)

VI. Appeals of initial denials of FOIA/PA requests.

A. Number of appeals.

- 1. Number of appeals received during the current reporting period: 5
- 2. Number of appeals processed (closed) during the current reporting period: 5

B. Disposition of appeals.

- 1. Number completely upheld: 2
- 2. Number partially reversed: 3
- 3. Number completely reversed: 0
 - a. number of times each FOIA exemption used (counting each exemption once per appeal):

(b)(1) <u>0</u>	(b)(6) <u>3</u>	(b)(7)(E) <u>0</u>
(b)(2) <u>1</u>	(b)(7)(A) <u>1</u>	(b)(7)(F) <u>0</u>
(b)(3) <u>1</u>	(b)(7)(B) <u>0</u>	(b)(8) <u>0</u>
(b)(4) <u>1</u>	(b)(7)(C) <u>1</u>	(b)(9) <u>0</u>
(b)(5) <u>3</u>	(b)(7)(D) <u>0</u>	

4. Other reasons for non-disclosure (total): 0

- a. no records 0 (no records found that were responsive to the request)
- b. referrals 0 (a request forwarded in total, to another Treasury bureau or another agency for response)

- c. withdrawn 0 (requester withdrew the request)
- d. fee-related 0 (nonpayment of estimated fees, or previously owed fees)
- e. records not reasonably described 0 (requests which do not adequately describe the records sought)
- f. not a proper request/appeal for some other reason 0 (for example, requester sought answers to questions)
- g. not an agency record 0 (not the type of record maintained by Treasury)
- h. duplicate request 0 (more than one request from the same requester, which was received by the agency or forwarded from other sources)
- i. other (specify) 0 (requests that were not processed for other reasons)

VII. Compliance with Time Limits/Status of Pending Requests.

A. Median time for processing requests.

1. Simple Requests

Requests approved for expedited processing are not included here.

- a. Number of "simple requests" processed (closed): 98
- b. Median number of days to process "simple requests": 23

2. Complex Requests

- a. Number of "complex requests" processed (closed): 21
- b. Median number of days to process "complex requests": 71

3. Requests for expedited processing.

- a. number of expedited requests processed (closed): 3
- b. median number of days to process expedited requests: 3

B. Status of pending requests (bureaus using multiple tracks may provide number for each track, as well as total).

- 1. Number of requests pending at end of current reporting period: 6
- 2. Median number of days that such requests were pending as of that date: 29

VIII. Comparisons with Previous Years. 1

IX. Costs/FOIA Staffing.

A. Staffing levels.

1. Number of full-time FOIA personnel: 1
2. Number of personnel with part-time or occasional FOIA duties: .54
3. Total number of personnel (in work-years): 1.54

B. Total costs (staff and resources combined).

1. FOIA processing (including appeals): \$119,098.38
2. Litigation-related activities (estimated): \$ 0
3. Total Costs: \$ 119,098.38
4. Comparison with previous years. (Not required).

C. Statement of additional resources needed for FOIA compliance (Optional).

X. Fees.

- A. Total fees collected FY 2006: \$ 9,031.86
- B. Percentage of total costs: 7.58%

XI. FOIA Regulations.

TTB and the Regulations and Rulings Division (RRD) process its FOIA requirements through the Department of Treasury's FOIA Regulations. The Department's FOIA regulations are 31 CFR Part 1, Subpart A.

XII. Report on FOIA Executive Order Implementation

- A. Description of supplement/modification of agency improvement plan if applicable.

In response to the President's Executive Order 13392 of December 14, 2005 (Improving Agency Disclosure of Information), and the Department of the Treasury, TTB recognizes Sandra L. Pack, Assistant Secretary for Management and Chief Financial Officer, as the Chief Freedom of Information Act (FOIA) Officer. Additionally, TTB recognizes Hugh Gilmore as its public liaison to serve as the supervisory official with whom a FOIA requester can raise concerns about service the FOIA requester receives from the TTB's FOIA Requester Service Center following an initial response from the center staff.

- B. Report on agency implementation of its plan, including its performance in meeting milestones, with respect to each improvement area.

TTB is represented at the at the Treasury Department's FOIA Council meetings. The council meetings, initiated to establish governance and sponsorship within Treasury, sets goals and objectives through the Treasury FOIA Council. Representatives suggest ways for improving the FOIA process. This tool enables us to monitor and report through the Treasury Council to the Chief FOIA Officer.

TTB is improving its process by establishing its FOIA Requester Service Center. The FOIA Requester Service Center enables FOIA requesters to seek information concerning the status of their FOIA requests and appropriate information about the TTB's FOIA responses.

Where information is readily available, TTB is improving its backlog by reviewing and quickly responding to requests. Request placed on fast-track reduces or eliminates backlog by more than 10 percent.

C. Identification and discussion of any deficiency in meeting plan milestones, if applicable

Not applicable.

D. Additional narrative statement regarding other executive order related activities – optional

Not applicable.

E. Concise descriptions of FOIA exemptions

TTB uses the following concise description of the exemptions pursuant to 5 U.S.C. 552(b):

- (2) related solely to the internal personnel rules and practices of an agency;
- (3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

- (6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (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, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by 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 if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;

F. Additional Stats:

- a. Time range of requests pending, by date of request (or, where applicable, by date of referral from another agency)

Outstanding requests range from 20 to 70 days.

- b. Time range of consultations pending with other agencies, by date of initial interagency communication

Not applicable.

G. Improvement Plan attached

Treasury submitted a copy of the Improvement Plan to the Attorney General, United States Department of Justice and the Director, Office of Management and Budget on June 14, 2006. (See Attached)