

FOIA ANNUAL REPORT

The following **Annual Freedom of Information Act** report covers the Period 10/01/2022, through 09/30/2023, as required by 5 U.S.C. 552.

I. BASIC INFORMATION REGARDING REPORT

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

Alecia S. Sillah
Supervisory FOIA Team Lead
U.S. Agency for International Development
1300 Pennsylvania Avenue, N.W.
USAID Annex, M/MS/IRD, Room 2.4.0A
Washington, D.C. 20523
Direct Dial: (202) 916-4660

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

<https://www.usaid.gov/foia-requests/foia-annual-reports>

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

Send a request by email to foia@usaid.gov or by postal mail to:

U.S. Agency for International Development
1300 Pennsylvania Avenue, N.W.
USAID Annex, M/MS/IRD, Room 2.4.0A
Washington, D.C. 20523

II. MAKING A FOIA REQUEST

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

You may submit FOIA requests in writing, by fax, by internet or by e-mail describing the records you would like to obtain. Include an agreement to pay any FOIA processing fees, your address and telephone number. Please mark your envelope with the notation, "FOIA REQUEST." You may fax your request. Our fax number is (202) 916-4990. You may e-mail your request to our FOIA Mailbox at foia@usaid.gov. When you e-mail your request please make sure that you include a mailing address. If you fax your request, you normally do not have to mail us the original copy. However, there are some cases in which we need both the faxed version and the signed original version. You should send both versions if your request is both a FOIA request and a Privacy Act request for records about you. We also need both versions if a third-party (an attorney, for example) requests records about you on your behalf. When a third-party makes such a request on your behalf, we need an original consent letter signed by you which gives us authorization to release records about you to the third-party. You may submit your request by internet via the Public Access Link (PAL) at <https://foiarequest.usaid.gov/index.aspx>. You may submit your request by internet via National FOIA Portal at <https://www.foia.gov/>.

Initial Requests:

U.S. Agency for International Development
1300 Pennsylvania Avenue, N.W.
USAID Annex, M/MS/IRD, Room 2.4.0A
Washington, D.C. 20523
Email: foia@usaid.gov

Appeals:

Office Director, Office of Management Services
U.S. Agency for International Development
1300 Pennsylvania Avenue, N.W.
USAID Annex, M/MS, Room 10.8.OD
Washington, D.C. 20523
Email: foia@usaid.gov

2. Brief description of why some requests are not granted:

In some cases, USAID withheld information under one or more of the FOIA's exemptions. The number of instances in which USAID used an exemption in Fiscal Year 2023 is listed in Section V.B.3. Exemption 2 was used to protect information solely related to internal personnel rules or practices. Exemptions 3 and/or 4 were normally used to protect commercial or financial information provided by contractors and grantees. Exemption 5 was used to protect vital deliberative-process information or attorney-client information. Exemption 6 was used to protect the privacy of individuals named in documents. Exemption 7 was used to protect information that could

be reasonably expected to interfere with law enforcement proceedings, the privacy of individuals named in documents, the identity of a confidential source, techniques and procedures of a law enforcement investigation, and endanger the life or physical safety of any individual. At times, a request was not fulfilled for an administrative reason such as “no records” or “request withdrawn.” For a more complete listing of the various types of administrative reasons, see Section V.B.2.

3.

Agency FOIA Regulations

<https://ecfr.io/Title-22/Part-212>

Fee Schedule

<https://ecfr.io/Title-22/Section-212.15>

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

1. Agency-Specific acronyms or other terms:

USAID – U.S. Agency for International Development

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

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

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

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

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

i. **Full Denial** - an agency decision not to release any records in response to a FOIA request because the records are exempt in their entirety under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.

j. **Median Number** - the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.

k. **Multi-Track Processing** - a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests granted expedited processing are placed in 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. Include the following concise descriptions of the nine FOIA exemptions:

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

b. **Exemption 2:** internal agency rules and practices

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

3. Agency Component Abbreviations

Component Abbreviation	Component Name
USAID	United States Agency for International Development

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
41 U.S.C. § 4702 (formerly at 41 U.S.C. § 253b(m)(1))	Contractor proposals that are in the possession or control of an executive agency and that have not been set forth or incorporated by reference into contracts	Sinkfield v. HUD, No. 10-885, 2012 U.S. Dist. LEXIS35233, at *13-15 (S.D. Ohio Mar. 15, 2012); Margolin v. NASA, No. 09-CV-00421, 2011 WL 1303221, at *6 (D. Nev. Mar. 31, 2011); Hornbostel v. U.S. Dep't of the Interior, 305 F. Supp. 2d 21, 30 (D.D.C. 2003), summary affirmance granted, No. 03-5257, 2004 WL 1900562 (D.C.Cir. Aug. 25, 2004).	USAID	6	6
41 U.S.C. § 2102 (amending 41 U.S.C. § 423(a)(1))	Contractor bid or proposal information; source selection information	Legal & Safety Employee Research, Inc. v. U.S. Dept. of the Army, No. Civ. S001748, 2001 WL 34098652, at * 3-4(E.D. Cal. May 4, 2001) (dictum).	USAID	3	3
5 U.S.C. § 407 (formerly at 5 U.S.C. app. 3 § 7(b))	Names of employees who provide information or	Wash. Post Co. v. Special Inspector Gen. for Afg. Reconstr., 486 F. Supp. 3d 141, 166 (D.D.C. 2020).	USAID	1	1

	complaints to the Inspector General				
6 U.S.C. § 673(a)(1) (formerly at 6 U.S.C. § 133(a)(1))	Protection of voluntarily shared critical infrastructure information	N/A	USAID	34	34

V.A. FOIA REQUESTS -- 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
USAID	428	338	334	432
AGENCY OVERALL	428	338	334	432

After reviewing its database, USAID updated the number of requests pending at the start of the Fiscal Year.

V.B.(1). DISPOSITION OF FOIA REQUESTS -- ALL PROCESSED REQUESTS

Agency / Component	Number of Full Grants	Number of Partial Grants / Partial Denials	Number of Full Denials Based on Exemptions	Number of Full Denials Based on Reasons Other than Exemptions										TOTAL
				No Records	All Records Referred to Another Component or Agency	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper FOIA Request for Other Reason	Not Agency Record	Duplicate Request	*Other Explain in Chart Below		
USAID	34	103	15	54	1	77	7	8	7	9	11	8	334	
AGENCY OVERALL	34	103	15	54	1	77	7	8	7	9	11	8	334	

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

Agency / Component	Description of "Other" Reasons for Denials from Chart B(1)	Number of Times "Other" Reason Was Relied Upon	TOTAL
USAID	Unable to Locate or Contact Requester	7	8
	Litigation	1	
AGENCY OVERALL			8

V.B.(3). DISPOSITION OF FOIA REQUESTS -- 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
USAID	0	9	38	52	43	99	6	0	19	6	4	0	1	0
AGENCY OVERALL	0	9	38	52	43	99	6	0	19	6	4	0	1	0

VI.A. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS -- 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
USAID	10	18	15	13
AGENCY OVERALL	10	18	15	13

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

		Request Level										Expedited Processing	
USAID	1	0	0	0	0	0	0	0	0	0	0	1	5
AGENCY OVERALL	1	0	0	0	0	0	0	0	0	0	0	1	5

VI.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
USAID	No Component Response to Adjudicate	5	5
AGENCY OVERALL			5

VI.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
USAID	251	231.67	42	418

AGENCY OVERALL	251	231.67	42	418
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VI.C.(5). TEN OLDEST PENDING ADMINISTRATIVE APPEALS

Agency / Component		10th Oldest Appeal	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal
USAID	Date of Appeal	2023-08-10	2023-07-06	2023-07-03	2023-06-15	2023-05-24	2023-05-23	2023-04-27	2023-04-14	2023-02-08	2023-01-31
	Number of Days Pending	35	60	62	74	89	90	108	117	163	169
AGENCY OVERALL	Date of Appeal	2023-08-10	2023-07-06	2023-07-03	2023-06-15	2023-05-04	2023-05-23	2023-04-27	2023-04-14	2023-02-08	2023-01-31
	Number of Days Pending	35	60	62	74	89	90	108	117	163	169

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

Agency / Component	SIMPLE	COMPLEX	EXPEDITED PROCESSING
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Upon further analysis, USAID has identified the additional request that was granted expedited processing. The overall total should now reflect 319.

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
USAID	0	N/A	N/A	404	392	449	13	846	811
AGENCY OVERALL	0	N/A	N/A	404	392	449	13	846	811

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

Agency / Component		10th Oldest Request	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request
USAID	Date of Receipt	2019-08-19	2019-08-07	2019-08-05	2019-07-30	2019-06-19	2019-03-07	2019-03-05	2019-01-18	2018-11-30	2018-11-21
	Number of Days Pending	1024	1032	1034	1038	1066	1138	1140	1170	1202	1208

AGENCY OVERALL	Date of Receipt	2019-08-19	2019-08-07	2019-08-05	2019-07-30	2019-06-19	2019-03-07	2019-03-05	2019-01-18	2018-11-30	2018-11-21
	Number of Days Pending	1034	1042	1044	1048	1076	1149	1151	1181	1214	1220

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
USAID	2	46	<1	16.94	48
AGENCY OVERALL	2	46	<1	16.94	48

Upon further analysis, USAID confirms that the agency overall number of denied request for expedited processing is 46. The data has been updated to reflect the updated total.

VIII.B. Requests for Fee Waiver

Agency / Component	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
USAID	31	29	<1	1.07

AGENCY OVERALL	31	29	<1	1.07
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IX. FOIA Personnel and Costs

Agency / Component	PERSONNEL			COSTS		
	Number of "Full-Time FOIA Employees"	Number of "Equivalent Full-Time FOIA Employees"	Total Number of "Full-Time FOIA Staff"	Processing Costs	Litigation-Related Costs	Total Costs
USAID	16	9.75	25.75	5567373.10	525262.99	6092636.09
AGENCY OVERALL	16	9.75	25.75	5567373.10	525262.99	6092636.09

Agency overall total costs will be provided as soon as possible.

X. Fees Collected for Processing Requests

Agency / Component	Total Amount of Fees Collected	Percentage of Total Costs
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USAID	0.00	0.0000
AGENCY OVERALL	0.00	0.0000

XI.A. Number of Times Subsection (C) Used

Agency / Component	Number of Times Subsection Used
USAID	0
AGENCY OVERALL	0

XI.B. Number of Subsection (A)(2) Postings

Agency / Component	Number of Records Posted by the FOIA Office	Number of Records Posted by Program Offices
USAID	593	0
AGENCY OVERALL	593	0

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
USAID	401	11
AGENCY OVERALL	401	11

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

Agency / Component	Number of Consultations Received from Other Agencies that were <u>Pending</u> at the Agency as of <u>Start</u> of the Fiscal Year	Number of Consultations <u>Received</u> from Other Agencies During the Fiscal Year	Number of Consultations Received from Other Agencies that were <u>Processed</u> by the Agency During the Fiscal Year	Number of Consultations Received from Other Agencies that were <u>Pending</u> at the Agency as of <u>End</u> of the Fiscal Year
USAID	15	56	63	8
AGENCY OVERALL	15	56	63	8

XII.C. CONSULTATIONS ON FOIA REQUESTS -- TEN OLDEST CONSULTATIONS RECEIVED FROM OTHER AGENCIES AND PENDING AT THE AGENCY

Agency / Component		10th Oldest Consultation	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Consultation
USAID	Date	n/a	n/a	2023-09-29	2023-08-28	2023-08-04	2023-06-21	2023-05-03	2023-05-01	2023-03-27	2023-03-27
	Number of Days	0	0	0	23	39	70	104	106	131	131
AGENCY OVERALL	Date	n/a	n/a	2023-09-29	2023-08-28	2023-08-04	2023-06-21	2023-05-03	2023-05-01	2023-03-27	2023-03-27
	Number of Days	0	0	0	23	39	70	104	106	131	131

XII.D.(1). COMPARISON OF NUMBERS OF REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- REQUESTS RECEIVED AND PROCESSED

Agency / Component	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
USAID	326	338	330	334

AGENCY OVERALL	326	338	330	334
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XII.D.(2). COMPARISON OF NUMBERS OF REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- BACKLOGGED REQUESTS

Agency / Component	Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report
USAID	408	401
AGENCY OVERALL	408	401

XII.E.(1). COMPARISON OF NUMBERS OF ADMINISTRATIVE APPEALS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- APPEALS RECEIVED AND PROCESSED

Agency / Component	NUMBER OF APPEALS <u>RECEIVED</u>		NUMBER OF APPEALS <u>PROCESSED</u>	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report

USAID	12	18	7	15
AGENCY OVERALL	12	18	7	15

XII.E.(2). COMPARISON OF NUMBERS OF ADMINISTRATIVE APPEALS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- BACKLOGGED APPEALS

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
USAID	10	11
AGENCY OVERALL	10	11