

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
Freedom of Information Act
Report for
October 1, 2005
through
September 30, 2006



February 2007

I. Basic Information About the Report

A. For questions about the report, contact:

1. 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

B. Electronic address for FOIA Report FY 2005 on the World Wide Web:

1. http://www.dnfsb.gov/foia/arfa_2006.pdf

C. How to obtain a copy of the report in paper form:

1. Contact Mr. Thibadeau by phone or email.

II. How to Make a FOIA Request

A. Send the request to Andrew Thibadeau at the addresses given above.

B. To obtain general information from the DNFSB, please review the DNFSB Information Handbook and FOIA regulations, both available on the DNFSB website or by request to Mr. Thibadeau.

C. DNFSB Offices Receiving FOIA Requests

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

D. Agency Response Times

1. With few exceptions, the DNFSB responds within the statutory time limits.

E. Why Some Requests Are Not Granted

1. The DNFSB generally provides all or most of the documents requested. The most common reason for withholding all or part of document would be the need to protect classified national security information under Exemption 1.

III. Definition of Terms and Acronyms Used in the Report

A. Agency-Specific Terms

1. DNFSB is Defense Nuclear Facilities Safety Board.

B. Basic Terms

1. FOIA/PA request -- Freedom of Information Act/Privacy Act request. A FOIA request is generally a request for access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning oneself; such requests are also treated as FOIA requests. (All requests for access to records, regardless of which law is cited by the requester, are included in this report.)
2. Initial Request -- a request to a federal agency for access to records under the Freedom of Information Act.
3. Appeal -- a request to a federal agency asking that it review at a higher administrative level a full denial or partial denial of access to records under the Freedom of Information Act, or any other FOIA determination such as a matter pertaining to fees.
4. Processed Request or Appeal -- a request or appeal for which an agency has taken a final action on the request or the appeal in all respects.
5. 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 in each track are processed on a first-in/first-out basis. A requester who has an urgent need for records may request expedited processing (see below).
6. Expedited processing -- an agency will process a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records which warrants prioritization of his or her request over other requests that were made earlier.
7. Simple request -- a FOIA request that an agency using multi-track processing places in its fastest (nonexpedited) track based on the volume and/or simplicity of records requested.
8. Complex request -- a FOIA request that an agency using multi-track processing places in a slower track based on the volume and/or complexity of records requested.

9. Grant -- an agency decision to disclose all records in full in response to a FOIA request.
10. Partial grant -- an agency decision to disclose a record in part in response to a FOIA request, deleting information determined to be exempt under one or more of the FOIA's exemptions; or a decision to disclose some records in their entirety, but to withhold others in whole or in part.
11. Denial -- an agency decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempt under one or more of the FOIA's exemptions, or for some procedural reason (such as because no record is located in response to a FOIA request).
12. Time limits -- the time period in the Freedom of Information Act for an agency to respond to a FOIA request (ordinarily 20 working days from proper receipt of a "perfected" FOIA request).
13. "Perfected" request -- a FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency or agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.
14. Exemption 3 statute -- a separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection (b)(3).
15. Median number -- the middle, not the average, number. For example, of 3, 7, and 14, the median number is 7.
16. 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.

IV. Exemption 3 Statutes

- A. The Board did not rely on any Exemption 3 statutes during the reporting period.
 1. Brief description of type(s) of information withheld under each statute.
Not applicable.
 2. Statement of whether a court has upheld the use of each statute. If so, cite example.
Not applicable.

V. Initial FOIA/PA Access Requests

A. Numbers of initial requests

1.	Number of requests pending as of end of preceding fiscal year:	0
2.	Number of requests received during current fiscal year:	6
3.	Number of requests processed during current fiscal year:	6
4.	Number of requests pending as of end of current fiscal year:	0

B. Disposition of initial requests

1.	Number of total grants:	2
2.	Number of partial grants:	0
3.	Number of denials:	0

a.	Number of times each FOIA exemption used (Counting each exemption once per request):	0
----	---	---

(1)	Exemption 1:	0
(2)	Exemption 2:	0
(3)	Exemption 3:	0
(4)	Exemption 4:	0
(5)	Exemption 5:	0
(6)	Exemption 6:	0
(7)	Exemption 7(a):	0
(8)	Exemption 7(b):	0
(9)	Exemption 7(c):	0
(10)	Exemption 7(d):	0
(11)	Exemption 7(e):	0
(12)	Exemption 7(f):	0
(13)	Exemption 8:	0
(14)	Exemption 9:	0

4.	Other reasons for nondisclosure (total)	4
----	---	---

a.	No records	4
b.	Referrals	0
c.	Request withdrawn	0
d.	Fee-related reason	0
e.	Records not reasonably described	0
f.	Not a proper FOIA request for some other reason	0
g.	Not an agency record	0
h.	Duplicate request	0
i.	Other (specify)	0

VI. Appeals of Initial Denials of FOIA/PA Requests

A. Numbers of appeals.

- | | | |
|----|---|---|
| 1. | Number of appeals received during fiscal year: | 0 |
| 2. | Number of appeals processed during fiscal year: | 0 |

B. Disposition of appeals.

- | | | |
|----|---|---|
| 1. | Number completely upheld: | 0 |
| 2. | Number partially reversed: | 0 |
| 3. | Number completely reversed: | 0 |
| 4. | Number of times each FOIA exemption used (counting each exemption once per appeal): | |

- | | | |
|----|-----------------|---|
| a. | Exemption 1: | 0 |
| b. | Exemption 2: | 0 |
| c. | Exemption 3: | 0 |
| d. | Exemption 4: | 0 |
| e. | Exemption 5: | 0 |
| f. | Exemption 6: | 0 |
| g. | Exemption 7(a): | 0 |
| h. | Exemption 7(b): | 0 |
| i. | Exemption 7(c): | 0 |
| j. | Exemption 7(d): | 0 |
| k. | Exemption 7(e): | 0 |
| l. | Exemption 7(f): | 0 |
| m. | Exemption 8: | 0 |
| n. | Exemption 9: | 0 |

- | | | |
|----|---|---|
| 5. | Other reasons for nondisclosure (total) | 0 |
|----|---|---|

- | | | |
|----|---|---|
| a. | No records | 0 |
| b. | Referrals | 0 |
| c. | Request withdrawn | 0 |
| d. | Fee-related reason | 0 |
| e. | Records not reasonably described | 0 |
| f. | Not a proper FOIA request for some other reason | 0 |
| g. | Not an agency record | 0 |
| h. | Duplicate request | 0 |
| i. | Other | 0 |

VII. Compliance with Time Limits/Status of Pending Requests

A. Median processing time for requests processed during the year.

1. Simple requests.

- | | |
|--------------------------------------|-----|
| a. Number of requests processed: | 6 |
| b. Median number of days to process: | 3.5 |

2. Complex requests.

- | | |
|--------------------------------------|---|
| a. Number of requests processed: | 0 |
| b. Median number of days to process: | 0 |

3. Requests accorded expedited processing.

- | | |
|--------------------------------------|---|
| a. Number of requests processed: | 0 |
| b. Median number of days to process: | 0 |

B. Status of pending requests.

- | | |
|---|---|
| 1. Requests pending as of end of current fiscal year: | 0 |
| 2. Median number of days that such requests were pending as of that date: | 0 |

VIII. Comparisons with Previous Years (optional).

- A. We received no requests for expedited processing and none the previous year.

IX. Costs/FOIA Staffing

A. Staffing Levels

- | | |
|--|-----|
| 1. Number of full-time FOIA personnel: | 0 |
| 2. Number of personnel with part-time or occasional FOIA duties (in total work-years): | .03 |
| 3. Total number of personnel (in work-years). | .03 |

- B. Total Costs (including staff and all resources)
 - 1. FOIA processing (including appeals). \$63.96
 - 2. Litigation-related activities: \$ 0.00
 - 3. Total costs: \$63.96
 - 4. Comparison with previous year(s) (including percentage of change (optional)).

C. Statement of additional resources needed for FOIA compliance.

- 1. There are no additional resources needed at this time.

X. Fees

A. Charges for search, review, document duplication, and any other direct costs permitted under agency regulations are included.

- 1. Total amount of fees collected for processing requests: None
- 2. Percentage of total costs: 0%

XI. FOIA Regulations (including fee schedule).

- A. The Board's electronic link can be found at <http://www.dnfsb.gov/foia/index.html>.

XII. Report on FOIA Executive Order Implementation

A. Description of supplementation/modification of agency improvement plan.

Not applicable.

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

The Board reviewed the information on its website to ensure that the information posted is current and complete.

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

Not applicable.

D. Additional narrative statement regarding other executive order-related activities (optional).

E. Concise descriptions of FOIA exemptions.

The nine exemptions to the FOIA authorize federal agencies to withhold information covering: (1) classified national defense and foreign relations information; (2) internal agency rules and practices; (3) information that is prohibited from disclosure by another federal law; (4) trade secrets and other confidential business information; (5) inter-agency or intra-agency communications that are protected by legal privileges; (6) information involving matters of personal privacy; (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; (8) information relating to the supervision of financial institutions; and (9) geological information on wells.

F. Additional statistics:

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

Not applicable.

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

Not applicable.

G. Attachment: Agency Improvement Plan

The FOIA Improvement Plan for the Defense Nuclear Facilities Safety Board is attached.

**Defense Nuclear Facilities Safety Board
Freedom of Information Act Improvement Plan
Executive Order 13392**

A. Board FOIA Operations

The Defense Nuclear Facilities Safety Board (Board) was created by Congress in 1989 as an independent agency within the Executive Branch to identify the nature and consequences of potential threats to public health and safety at the Department of Energy's defense nuclear facilities. As of December 31, 2005, the Board employed 87 full-time staff including the full-time Board members. The Board's organic statute is found at 42 U.S.C 2286; its Internet website is www.dnfsb.gov; and its Freedom of Information Act Rule is found at 10 C.F.R. Part 1703.

Pursuant to Executive Order 13,392, we reviewed the Board's Freedom of Information Act (FOIA) policies and procedures to identify problem areas and formulate solutions that will enhance customer service and assure prompt response times to FOIA requests. The Board currently has no backlog of requests. Throughout its 16 year history, it has never had a backlog. The Board receives an average of 25 requests per year and in 2005, 33 requests were received and processed. However, thus far in 2006, only four requests have been received.

B. Areas Selected for Review

1. Board FOIA Web Page and Public Access to Information
2. Board Responsiveness to FOIA Requests

C. Results of Review

1. Board FOIA Web Page and Public Access to Information

We reviewed our FOIA page to verify that it was easily located on the Board website's main page, and that all relevant FOIA information and documents were current and up to date.

The agency website (www.dnfsb.gov) includes:

- a. Link to FOIA from the agency home page
- b. Board Rule 20 CFR Part 173, Public Information and Requests
- c. FOIA Fee Schedule, updated annually
- d. Links to FOIA Annual Reports -1998 through 2005
- e. Link to Frequently Requested Information
- f. Log of every FOIA request received from January 2001 to Present
- g. Link to Department of Justice FOIA Page
- h. Board Policy Statement on Access to Public Documents

All FOIA documents and information on the website were determined to be current and up to date, with the exception of the most recent Chief FOIA Officer designation memorandum, which had not yet been posted to replace an out of date one on the web page. This was immediately corrected.

Public access to Board documents on the website has been significantly improved through the upgrade of a search engine which has increased the speed and simplicity of searches. The range of Board information available on the website is broad, and includes, but is not limited to, Annual and Special Reports to Congress (1991-Present), Strategic Plans and Performance Reports to Congress(1999-Present), Weekly Site Representative Reports (1996-Present), Correspondence (2000-Present), and all Recommendations . The website also provides a biweekly listing of all public documents received from the Department of Energy as part of our oversight responsibility. Those documents are made available to the public through procedures detailed on the website.

The Board has always championed public access to information. We will continue to make every effort to provide information to the public as promptly as possible, consistent with legal requirements to protect information affecting the common defense and national security of the United States. Public hearings and meetings conducted by the Board are video streamed live via a link on the main page of our website, and a video recording of each meeting is made available on our website for 90 days following the event. The complete written transcript of each public hearing or meeting is provided to the public free of charge upon request. All publicly releasable information received from the Department of Energy in the course of our oversight activities is made available to anyone who requests it.

2. Board Responsiveness to FOIA Requests

Upon review of the current FOIA organizational structure and the Board internal procedures for handling FOIA requests, we have determined that no changes were necessary to the system. Over the past five years, the Board's median processing time has averaged about six days. In FY 2005 the median number of days to process a request was five. No uncompleted requests are currently in the system. Our response to FOIA requests appears to be well within acceptable guidelines.

D. Areas selected for Improvement

1. Board FOIA Web Page and Public Access to Information

The Board website will be carefully reviewed on a quarterly basis to assure that information posted is accurate, current and complete. Each review will include a consideration of opportunities for improvement.

Each FOIA request received will be carefully monitored as a potential recurring request, and when so identified, that information will be posted on our FOIA web page under "Frequently Requested Information," where other such relevant information is already posted.

E. Time line for completion

Review of the Board web page will be completed by October 15, 2006. Successive reviews will be completed by the end of each quarter. Opportunities to improve the methods by which the Board provides the public with access to information will be pursued aggressively on a continuing basis.

Date: October 6, 2006

Brian Grosner
Chief FOIA Officer