



## **2022 ANNUAL FREEDOM OF INFORMATION ACT REPORT**

### **I. Basic Information Regarding Report**

1. Name, title, email address, and telephone number of person(s) to be contacted with questions about the Report:
  - Rachel Wallace, Deputy Counsel, 202-456-4444
2. Electronic link for access to the Report on the agency Web site:
  - <https://www.whitehouse.gov/ostp/legal/>
3. How to obtain a copy of the Report in paper form:
  - Please contact Rachel Wallace at 202-456-4444 or at OSTPFOIA@ostp.eop.gov.

### **II. Making a FOIA Request**

1. Names, addresses, and telephone numbers of all individual agency components that receive FOIA requests:
  - Office of Science and Technology Policy, Eisenhower Executive Office Building, 1650 Pennsylvania Avenue NW, Washington, DC 20504; Telephone: (202) 456-4444; Fax: (202) 456-4444; Email: OSTPFOIA@ostp.eop.gov.
2. 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:
  - The Office of Science and Technology Policy (OSTP) provides the President and others within the Executive Office of the President with advice on the scientific, engineering, and technological aspects of the economy, national security, homeland security, health, foreign relations, the environment, and the technological recovery and use of resources among other topics. It also leads interagency science and technology policy coordination efforts, assists the Office of Management and Budget with an annual review and analysis of Federal research and development in budgets, and serves as a source of scientific and technological analysis and judgment for the President with respect to major policies, plans, and programs of the Federal Government. The most common reasons for not granting some requests are: (I) the requests are overly broad; (II) failure to reasonably describe the records sought; (III) the records have been transferred to the National Archives and Records Administration.



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- The following are the general, most common categories of the agency's records to which FOIA exemptions are applicable: (1) deliberative, pre-decisional advice subject to Exemption Five (which safeguards inter-agency or intra-agency records which would normally be privileged in a civil discovery context), or (2) information that is withheld due to personal privacy considerations under Exemption Six.
3. 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):
- <https://www.federalregister.gov/documents/2020/11/04/2020-22375/implementing-the-freedom-of-information-act>.

### III. Acronyms, Definitions, and Exemptions:

#### 1. Definitions:

- 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



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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 given the benefit of the access provisions of the FOIA as well as 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." All requests that 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.



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- N. **Perfect 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. **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
  - H. **Exemption 8:** information relating to the supervision of financial institutions
  - I. **Exemption 9:** geological information on wells



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### 3. Agency Component Abbreviations

Component Abbreviation	Component Name
OSTP	Office of Science and Technology Policy

### 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
5 U.S.C. app. 4 § 107(a)(2)	Confidential financial disclosure report pertaining to certain government employees	Meyerhoff v. EPA, 958 F.2d 1498, 1500-02 (9th Cir. 1992); Boyd v. Exec. Off. for U.S. Att'ys, 161 F. Supp. 3d 1, 7 (D.D.C. 2015); Seife v. NIH, 874 F. Supp. 2d 248, 254 (S.D.N.Y. 2012).	OSTP	1	1
50 U.S.C. § 3024(i)(1) (formerly at 50 U.S.C. § 403- 1(i)(1))	Intelligence sources and methods	CIA v. Sims, 471 U.S. 159, 167 (1985).	OSTP	1	1

### V.A. FOIA REQUESTS -- RECEIVED, PROCESSED AND PENDING FOIA REQUESTS

Agency / Component	Number of Requests	Number of Requests	Number of Requests	Number of Requests



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	Pending as of Start of Fiscal Year	Received in Fiscal Year	Processed in Fiscal Year	Pending as of End of Fiscal Year
OSTP	131	104	65	170
AGENCY OVERALL	131	104	65	170

**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	
OSTP	6	45	0	10	0	1	0	2	0	0	1	0	65
AGENCY OVERALL	6	45	0	10	0	1	0	2	0	0	1	0	65

**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
OSTP	N/A	0	0
AGENCY OVERALL			0



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**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
OSTP	0	2	2	2	12	14	0	0	0	0	0	0	0	0
AGENCY OVERALL	0	2	2	2	12	14	0	0	0	0	0	0	0	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
OSTP	0	3	3	0
AGENCY OVERALL	0	3	3	0

**VI.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
OSTP	2	1	0	0	3
AGENCY OVERALL	2	1	0	0	3



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**VI.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
OSTP	0	0	0	0	2	2	0	0	0	0	0	0	0	0
AGENCY OVERALL	0	0	0	0	2	2	0	0	0	0	0	0	0	0

**VI.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
OSTP	0	0	0	0	0	0	0	0	0	0	0
AGENCY OVERALL	0	0	0	0	0	0	0	0	0	0	0





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**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
OSTP	N/A	0	0
AGENCY OVERALL			0

**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
OSTP	17	16.7	15	18
AGENCY OVERALL	17	16.7	15	18

**VI.C.(5). TEN OLDEST PENDING ADMINISTRATIVE APPEALS**

Agency / Component		10th Oldest Appeal	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal
OSTP	Date of Appeal	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Number of Days Pending	0	0	0	0	0	0	0	0	0	0



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AGENCY OVERALL	Date of Appeal	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Number of Days Pending	0	0	0	0	0	0	0	0	0	0

**VII.A. FOIA 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
OSTP	9.5	409.25	1	1252	9	426.52	2	1522	9	13.25	1	66
AGENCY OVERALL	9.5	409.25	1	1252	9	426.52	2	1522	9	13.25	1	66

**VII.B. PROCESSED REQUESTS -- RESPONSE TIME FOR PERFECTED REQUESTS IN WHICH INFORMATION WAS GRANTED**

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
OSTP	9.5	409.25	1	1252	9	426.52	2	1522	9	13.25	1	66



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AGENCY OVERALL	9.5	409.25	1	1252	9	426.52	2	1522	9	13.25	1	66
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**VII.C. PROCESSED SIMPLE REQUESTS -- RESPONSE TIME IN DAY INCREMENTS**

Agency / Component	<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
OSTP	13	3	1	3	1	0	0	0	0	0	0	0	13	34
AGENCY OVERALL	13	3	1	3	1	0	0	0	0	0	0	0	13	34

**VII.C. PROCESSED COMPLEX REQUESTS -- RESPONSE TIME IN DAY INCREMENTS**

Agency / Component	<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
OSTP	5	2	1	0	1	0	0	0	0	1	2	0	9	21
AGENCY OVERALL	5	2	1	0	1	0	0	0	0	1	2	0	9	21

**VII.C. PROCESSED REQUESTS GRANTED EXPEDITED PROCESSING -- RESPONSE TIME IN DAY INCREMENTS**

Agency / Component	<1-20	21-40	41-60	61-80	81-100	101-120	121-140	141-160	161-180	181-200	201-300	301-400	401+	TOTAL



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	Day s	Day s	Day s	Day s	Day s	Day s	Day s	Day s	Day s	Day s	Day s	Day s	Day s	
OSTP	7	0	0	1	0	0	0	0	0	0	0	0	0	8
AGENCY OVERALL	7	0	0	1	0	0	0	0	0	0	0	0	0	8

**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
OSTP	70	486.5	497.39	74	39.5	352.26	13	43	203.31
AGENCY OVERALL	70	486.5	497.39	74	39.5	352.26	13	43	203.31

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

Agency / Component		10th Oldest Request	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request
OSTP	Date of Receipt	2018- 12-04	2018- 11-30	2018- 11-26	2018- 10-12	2018- 10-11	2018- 05-29	2018- 03-01	2018- 01-03	2017- 11-17	2017- 11-14
	Number of Days Pending	952	954	958	987	988	1082	1143	1182	1212	1215
AGENCY OVERALL	Date of Receipt	2018- 12-04	2018- 11-30	2018- 11-26	2018- 10-12	2018- 10-11	2018- 05-29	2018- 03-01	2018- 01-03	2017- 11-17	2017- 11-14
	Number of Days Pending	952	954	958	987	988	1082	1143	1182	1212	1215



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**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
OSTP	8	7	10	8	15
AGENCY OVERALL	8	7	10	8	15

**VIII.B. Requests for Fee Waiver**

Agency / Component	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
OSTP	26	0	1	1
AGENCY OVERALL	26	0	1	1

**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
OSTP	3	1.00	4.00	710930.00	0.00	710930.00



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AGENCY OVERALL	3	1.00	4.00	710930.00	0.00	710930.00
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**X. Fees Collected for Processing Requests**

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

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

Agency / Component	Number of Times Subsection Used
OSTP	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
OSTP	7	0
AGENCY OVERALL	7	0



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**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
OSTP	157	0
AGENCY OVERALL	157	0

**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
OSTP	0	77	77	0
AGENCY OVERALL	0	77	77	0



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**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
OSTP	Date	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Number of Days	0	0	0	0	0	0	0	0	0	0
AGENCY OVERALL	Date	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Number of Days	0	0	0	0	0	0	0	0	0	0

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

Agency / Component	NUMBER OF REQUESTS <u>RECEIVED</u>		NUMBER OF REQUESTS <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
OSTP	129	104	100	65
AGENCY OVERALL	129	104	100	65





**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
OSTP	131	157
AGENCY OVERALL	131	157

**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
OSTP	2	3	2	3
AGENCY OVERALL	2	3	2	3



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**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
OSTP	0	0
AGENCY OVERALL	0	0