

**TENNESSEE VALLEY AUTHORITY**  
**Freedom of Information Act Annual Report**

October 1, 2005 to September 30, 2006

I. Basic Information Regarding Report

- A. Name, title, address, and telephone number of person(s) to be contacted with questions about the report.

Denise Smith  
FOIA Officer  
Tennessee Valley Authority  
400 W. Summit Hill Drive (WT 7D)  
Knoxville, TN 37902-1499  
(865) 632-6945

- B. Electronic address for report on the World Wide Web.

[http://www.tva.gov/foia/foia\\_annual06.pdf](http://www.tva.gov/foia/foia_annual06.pdf)

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

Contact Denise Smith at the above address and/or telephone number.

II. How to Make a FOIA Request

For basic information about how to make a FOIA request, visit our Website at <http://www.tva.gov/foia>.

- A. Names, addresses, and telephone numbers of all individual agency components and offices that receive FOIA requests.

All FOIA requests to TVA should be directed to Ms. Smith at the address given above.

- B. Brief description of the agency's response-time ranges.

The median time for responding to all requests in FY 06 was 11 days.

- C. Brief description of why some requests are not granted.

The primary reason for not granting requests for which records were located is that disclosure would result in a clearly unwarranted invasion of personal privacy.

### III. Definitions of Terms and Acronyms Used in the Report

#### A. Agency-specific acronyms or other terms.

TVA is the Tennessee Valley Authority

#### B. Basic terms, express in common terminology.

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.
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 warrant 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 (non-expedited) 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 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. List of Exemption 3 statutes relied on by agency during the current fiscal year.

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

Federal Property and Administrative Services Act of 1949, as amended, at 41 U.S.C. § 253b(m), prohibits the release or disclosure of an unsuccessful technical, management, or cost proposal submitted by a contractor in response to the requirements of a solicitation for a competitive proposal.

Archeological Resources Protection Act at 16 U.S.C. § 470hh prohibits the disclosure of information concerning the nature and location of archeological resources.

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

Hornbostel v. United States Dep't. of the Interior, 305 F.Supp 2d 21 (D.D.C. 2003)

Starkey v. United States Dep't. of the Interior, 238 F.Supp 2d 1188 (S.D. Cal. 2002)

## V. Initial FOIA/PA Access Requests

### A. Numbers of initial requests.

1. Number of requests pending as of end of preceding fiscal year 16
2. Number of requests received during current fiscal year 108
3. Number of requests processed during current fiscal year 111
4. Number of requests pending as of end of current fiscal year 13

### B. Disposition of initial requests.

1. Number of total grants 23
2. Number of partial grants 53
3. Number of denials 4
  - a. number of times each FOIA exemption used (counting each exemption once per request)

(1) Exemption 1	<u>0</u>
(2) Exemption 2	<u>3</u>
(3) Exemption 3	<u>2</u>
(4) Exemption 4	<u>5</u>
(5) Exemption 5	<u>19</u>
(6) Exemption 6	<u>47</u>
(7) Exemption 7(A)	<u>1</u>
(8) Exemption 7(B)	<u>0</u>
(9) Exemption 7(C)	<u>2</u>
(10) Exemption 7(D)	<u>0</u>
(11) Exemption 7(E)	<u>0</u>
(12) Exemption 7(F)	<u>0</u>
(13) Exemption 8	<u>0</u>
(14) Exemption 9	<u>0</u>

4. Other reasons for nondisclosure (total) 31
  - a. no records 16
  - b. referrals 0
  - c. request withdrawn 3
  - d. fee-related reasons 12
  - 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. Number of appeals.

1. Number of appeals received during fiscal year 7
2. Number of appeals processed during fiscal year 8

##### B. Disposition of appeals.

1. Number completely upheld 8
2. Number partially reversed 0
3. Number completely reversed 0
  - a. number of times each FOIA exemption used (counting each exemption once per appeal)
    - (1) Exemption 1 0
    - (2) Exemption 2 2
    - (3) Exemption 3 0
    - (4) Exemption 4 1
    - (5) Exemption 5 5
    - (6) Exemption 6 5
    - (7) Exemption 7(A) 1
    - (8) Exemption 7(B) 0
    - (9) Exemption 7(C) 2
    - (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) 0
  - a. no records 0
  - b. referrals 0

- c. request withdrawn   0
- d. fee-related reasons   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

VII. Compliance with Time Limits/Status of Pending Requests

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

- 1. Track 1
  - a. number of requests processed   77
  - b. median number of days to process   9
- 2. Track 2
  - a. number of requests processed   28
  - b. median number of days to process  42.5
- 3. Track 3
  - a. number of requests processed   6
  - b. median number of days to process  287
- 4. Requests accorded expedited processing
  - a. number of requests processed   0
  - b. median number of days to process   0

B. Status of pending requests.

1. Number of requests pending as of end of current fiscal year by track

Track 1   10    
 Track 2   1    
 Track 3   2  

2. Median number of days that such requests were pending as of that date

Track 1   6.5    
 Track 2   67    
 Track 3  124.5

## VIII. Comparisons with Previous Year(s)

## A. Comparison of numbers of requests received

FY 05: 107FY 06: 108

## B. Comparison of numbers of requests processed

FY 5: 111FY 06: 111

## C. Comparison of median number of days requests were pending as of end of fiscal year

FY 05: 34FY 06: 12D. Number of requests for expedited processing received 0Number of requests for expedited processing granted 0

## E. Other narrative statements describing agency efforts to improve timeliness of FOIA performance and to make records available to the public (e.g., backlog-reduction efforts; specification of average number of hours per processed request; training activities; public availability of new categories of records)

As a result of more open information policies and increased emphasis on improving the administration of its FOIA program, the number of FOIA requests TVA receives continues to decline and response times have improved. In addition, TVA continues to improve the content of the general TVA website, of which FOIA is a prominent feature, to make information available to the public in a timely manner. TVA routinely provides information to the public through meetings with stakeholders, public notices, press releases, and other methods.

## IX. Costs/FOIA Staffing

## A. Staffing levels.

1. Number of full-time FOIA personnel 12. Number of personnel with part-time or occasional FOIA duties (in total work-years) .553. Total number of personnel (in work-years) 1.55

## B. Total costs (including staff and all resources).

1. FOIA processing (including appeals) \$154,4492. Litigation-related activities (estimated) -0-3. Total costs \$154,449

## X. Fees

- A. Total amount of fees collected by agency for processing requests \$2,853.75
- B. Percentage of total costs 1.85%

## XI. FOIA Regulations (Including Fee Schedule)

TVA's FOIA regulations are located at 18 C.F.R. § 1301, and can be accessed at [http://www.tva.gov/foia/foia\\_regulations.htm](http://www.tva.gov/foia/foia_regulations.htm).

## XII. Report on FOIA Executive Order Implementation

- A. Description of supplementation/modification of agency improvement plan (if applicable)

TVA has made no modifications to its report issued June 14, 2006.

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

Not applicable. See copy of report at [http://www.tva.com/foia/pdf/improving\\_agency\\_disclosure.pdf](http://www.tva.com/foia/pdf/improving_agency_disclosure.pdf)

- 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)

- E. Concise descriptions of FOIA exemptions

Exemption 1 - National security (classified) information.

Exemption 2 - Records relating solely to the internal personnel rules and practices of an agency (routine or trivial matters) and records that would allow circumvention of another law or statute (security threats).

Exemption 3 - Another federal law or statute prohibits the disclosure of the records.

Exemption 4 - Protects trade secrets and commercial or financial information submitted to the government by an outside source, such as a contractor.

Exemption 5 - Protects some inter-agency and intra-agency documents. Privileges incorporated within Exemption 5 include the attorney-client privilege, the attorney work-product privilege, the deliberative process privilege, the witness statement privilege, and the government confidential commercial privilege, among others.

Exemption 6 - Protects an individual's privacy interest.

Exemption 7 - Provides for the withholding of law enforcement records.

Exemption 8 - Pertains to records relating to the regulation and supervision of financial institutions.

Exemption 9 - Pertains to records concerning the location of wells.

F. Additional statistics:

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

June 29, 2006 to October 24, 2006 (as of October 24, 2006)

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

TVA has no consultations pending with other agencies.

G. Attachment: Agency improvement plan (in current form)