



Highlights of [GAO-05-405](#), a report to the Ranking Minority Member, Committee on the Judiciary, U.S. Senate

INFORMATION MANAGEMENT

Freedom of Information Act Fee and Fee Waiver Processing at the Department of Energy

Why GAO Did This Study

The Freedom of Information Act (FOIA) gives the public the right to access information about the federal government. In addressing requests for information, agencies have the authority to assess fees for certain categories of requesters to cover the costs of locating and copying records, as well as discretion to waive fees if specific criteria are met. GAO was asked to determine, for fiscal year 2004, the volume and nature of FOIA request processing at the Department of Energy (DOE), to what extent DOE followed the act and related Office of Management and Budget and Department of Justice guidance in processing cases that involve fees, and to what extent DOE communicated its fee-related decisions to requesters.

What GAO Recommends

To improve FOIA requesters' understanding of agency fee decisions, GAO recommends that Justice revise its FOIA guidelines to require that requesters be explicitly informed of all fee-related determinations associated with their requests.

In commenting on a draft of this report, DOE clarified its process at one field office and stated that it is implementing the GAO recommendation. Justice stated that the recommendation was addressed to the wrong agency; however, GAO believes Justice is the proper addressee because it provides guidance and support to federal agencies on FOIA issues.

www.gao.gov/cgi-bin/getrpt?GAO-05-405.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Linda Koontz at (202) 512-6240 or koontzl@gao.gov.

What GAO Found

In fiscal year 2004, DOE received 2,289 new FOIA cases, of which 31 percent (705 of 2,289) were received by the department's headquarters in Washington, D.C., and DOE sites at Albuquerque, New Mexico, and Richland, Washington—the sites selected for our review. Generally, very few of the requests at these sites involved assessments of fees or requests for waivers of possible fees. DOE's process includes several phases ranging from initial processing and acknowledgement to preparing and releasing records to requesters. The table shows the disposition of FOIA requests for fiscal year 2004 at these three DOE sites.

DOE generally followed FOIA and related guidance when determining fee categories for requesters, fee waivers, and actual fees to be charged. All three sites we reviewed always made explicit determinations about requesters' fee categories in accordance with guidance. DOE also generally adhered to guidance in determining fee waivers by seeking information addressing the prescribed criteria for making fee waiver determinations. In assessing actual fees to be charged, FOIA offices at all three sites charged fees in accordance with guidance.

DOE's FOIA offices often did not communicate the specifics of their fee-related decisions to FOIA requesters. For example, while DOE headquarters often informed requesters of determinations about their fee category, the Richland and Albuquerque offices rarely did. In addition, the three sites rarely informed requesters of the outcome of fee waiver determinations. Further, when fees were not charged, requesters were rarely informed of the reason. Current FOIA guidelines do not require agencies to inform requesters of fee-related decisions. However, without being informed of fee-related determinations, requesters could misunderstand agency fee determinations and have false expectations for the handling of future FOIA requests.

Fee Disposition of Requests Reviewed

Request description	Number of requests charged a fee	Number of requests not charged a fee	Total
Fee waiver not requested	33	501	534
Fee waiver requested	2	169	171
Fee waiver granted	0	38	38
Fee waiver denied	0	8	8
No record of an explicit fee waiver determination ^a	2	123	125

Source: GAO.

^aThese case files do not contain documentation showing that an explicit fee waiver determination was made. According to DOE officials, in most cases this is because they believed, based on their knowledge and experience, that the costs incurred would be below DOE's \$15 threshold for charging fees and that there was no need to make a fee waiver determination.