



At a Glance

Why We Did This Review

The Deputy Administrator of the U.S. Environmental Protection Agency (EPA) requested a review to determine whether the EPA fee waiver determinations under the Freedom of Information Act (FOIA) were completed in a timely and unbiased manner. Specifically, we evaluated whether the EPA implements the FOIA fee waiver provisions in accordance with regulations; adheres to timely and unbiased treatment of requests for fee waivers; and tracks the elements of fee waiver requests to demonstrate timely and unbiased treatment. We reviewed 1,077 EPA FOIA fee waiver denials issued between October 1, 2009, and June 19, 2013. We also reviewed 475 fee waiver requests from 21 organizations to determine whether the EPA appropriately applied criteria (i.e., six factors in the agency's regulations to evaluate fee waiver requests).

This report addresses the following EPA goal or cross-agency strategy:

- *Embracing EPA as a high-performing organization.*

For further information, contact our public affairs office at (202) 566-2391.

The full report is at:
www.epa.gov/oig/reports/2014/20140716-14-P-0319.pdf

No Indications of Bias Found in a Sample of Freedom of Information Act Fee Waiver Decisions But the EPA Could Improve Its Process

What We Found

We found that the EPA responded to fee waiver requests, on average, within 12 business days, although we noted wide variation in response times among the sample we reviewed. We found that 47 percent of the EPA's responses to fee waiver requests we reviewed exceeded the agency's 10-business-day goal. The time it takes the EPA to respond to fee waiver requests has remained fairly consistent over time. On fee waiver appeals, we found that over 71 percent of decisions we reviewed exceeded the EPA's processing goal of 20 business days.

To improve customer service and lessen any perception of differential treatment, the EPA should address variability in time to respond to FOIA fee waiver requests and should clarify what requesters must demonstrate to receive a fee waiver.

The factor most frequently cited by the EPA when it denied fee waiver requests was the requester not adequately describing how disclosure of the requested information would contribute to public understanding. The EPA cited this factor in more than half of the denials we reviewed (585 out of 1,062).

We found no indications of bias in the fee waiver decisions we reviewed. We agreed with how the EPA applied the six factors when deciding 452 of the 475 fee waiver requests we reviewed from 21 different organizations. Of the 475, our decisions differed from the agency's in 23 instances (approximately 5 percent). Among these 23 disagreements, we would have denied 17 that were granted due to our opinion that request letters lacked discussion on one or more factors. We also would have granted six that were denied. The EPA should clarify what requesters must demonstrate under the six review factors and when to obtain additional justification from requesters to lessen any perception of potential differential treatment when evaluating fee waiver requests.

Recommendations and Planned Corrective Actions

We recommended that the Acting Assistant Administrator for Environmental Information and the General Counsel examine and address the reasons for variability in response times for FOIA fee waiver decisions and appeals. We also recommended that the Assistant Administrator for Environmental Information clarify what requesters must demonstrate under each factor to receive a fee waiver, clarify the EPA's approach on when to request additional justification, and inform the public of enhancements to the agency's FOIA website and other efforts to explain what must be demonstrated under each factor. The EPA agreed with our recommendations and developed or completed acceptable corrective actions. All recommendations are resolved. Recommendations 1 through 3 are open and recommendation 4 is closed.