

**NATIONAL INDIAN GAMING COMMISSION
2002 ANNUAL FOIA REPORT**

I. Basic Information Regarding Report

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

**Gregory A. Smith
FOIA/PA Officer
National Indian Gaming Commission
1441 L Street, N.W., Suite 9100
Washington, D.C. 20005
Telephone number: (202) 632-7003
Fax number: (202) 632-7066**

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

[Http://www.nigc.gov/2002foia.htm](http://www.nigc.gov/2002foia.htm)

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

**Contact
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II. How to Make a FOIA Request

**For basic information on how to make a FOIA request, visit our Web site at
http://www.nigc.gov/nigc/foia/foia_request.jsp#MR**

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

For the name, address, and telephone number of the individual whom receives FOIA requests see the above contact information.

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

Response times are from one day to more than one year in some cases.

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

Requests for information are not granted if the information sought falls within FOIA exemptions (b)(4), (b)(5), (b)(6), and (b)(7); the information requested is protected by federal statute or falls under the jurisdiction of another authority, and when no responsive records are located.

III. Definitions of Terms and Acronyms Used in the Report (to be included in each report)

A. Agency-specific acronyms or other terms.

NIGC National Indian Gaming Commission

B. Basic terms, expressed 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 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 entireties, 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.**

IV. Exemption 3 Statutes

A. List of Exemption 3 statutes relied on by agency during current fiscal year.

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

IGRA, 25 U.S.C. § 2716(a) provides that except as provided in subsection (b), of this section, the Commission shall preserve any and all information received pursuant to this chapter as confidential pursuant to the provisions of paragraph (4) and (7) of section 552(b) of Title 5.

Information withheld under this statute would include financial information such as tribal gaming revenue reports and audits.

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

None

V. Initial FOIA/PA Access Requests

A. Numbers of initial requests.

1. Number of requests pending as of end of preceding fiscal year 68
2. Number of requests received during current fiscal year 82
3. Number of requests processed during current fiscal year 65
4. Number of requests pending as of end of current fiscal year 85
(Enter this number also in Line VII.B.1.)

B. Disposition of initial requests.

1. Number of total grants 23
2. Number of partial grants 19
3. Number of denials 3

a. number of times each FOIA exemption used
(counting each exemption once per request)

- (1) Exemption 1 0
- (2) Exemption 2 0
- (3) Exemption 3 0
- (4) Exemption 4 10
- (5) Exemption 5 2
- (6) Exemption 6 8
- (7) Exemption 7(A) 0
- (8) Exemption 7(B) 0
- (9) Exemption 7(C) 1

- (10) Exemption 7(D) 1
- (11) Exemption 7(E) 0
- (12) Exemption 7(F) 0
- (13) Exemption 8 0
- (14) Exemption 9 0

4. Other reasons for nondisclosure (total) 20

- a. no records 6
- b. referrals 3
- c. request withdrawn 4
- d. fee-related reason 0
- e. records not reasonably described 0
- f. not a proper FOIA request for some other reason 6
- g. not an agency record 0
- h. duplicate request 0
- i. other (specify) 1 Proof of identity not provided

VI. Appeals of Initial Denials of FOIA/PA Requests

A. Numbers of appeals.

- 1. Number of appeals received during fiscal year 4
- 2. Number of appeals processed during fiscal year 4

B. Disposition of appeals. (Pending)

- 1. Number completely upheld 4
- 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 _____ 0 _____
- (3) Exemption 3 _____ 0 _____
- (4) Exemption 4 _____ 3 _____
- (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) _____ 1 _____
- (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 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 _____

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 28

b. median number of days to process 20

2. Complex requests.

a. number of requests processed 33

b. median number of days to process 180

3. Requests accorded expedited processing.

a. number of requests processed 4

b. median number of days to process 30

B. Status of pending requests.

1. Number of requests pending as of end of current fiscal year 85
(Enter this number from Line V.A.4.)

2. Median number of days that such requests were pending as of that date 90

VIII. Comparisons with Previous Year(s) (Optional)

As a means to continuously improve timeliness of FOIA performance and reduce the backlog, NIGC hired a legal assistant to assist with the processing of FOIA/PA requests on a full-time basis. NIGC also installed a customized electronic database system for tracking requests and to help NIGC personnel manage the backlog. Of the eight requests for expedited treatment received, NIGC granted and processed four and reduced the median processing time from 45 to 30 days. The median time for processing complex requests declined from 184 in FY01 to 180 days in FY02. Although the number of simple requests declined by 36% for FY02, the median time for processing these requests increased by four days due to the learning curve resulting from training required for NIGC personnel assisting with the FOIA/PA processing. This transition period for installing the electronic database

system and training NIGC personnel invoked a 20% increase in the backlog from FY01 to FY02. Overall, the FOIA performance for FY02 reduced the median time for processing by 19% from FY01.

In an effort to further improve timeliness of FOIA performance and reduce the backlog, NIGC will continue to customize the electronic database system, revise record retention practices, closely examine incoming requests, and review ways to shorten the turnaround response time on searches conducted.

IX. Costs/FOIA Staffing

A. Staffing levels.

1. Number of full-time FOIA personnel 2
2. Number of personnel with part-time or occasional FOIA duties (in total work-years) .5
3. Total number of personnel (in work-years) 2.5

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

1. FOIA processing (including appeals) \$160,000.00
2. Litigation-related activities (estimated) \$40,000.00
3. Total costs \$200,000.00
4. Comparison with previous year(s) (including percentage of change) (optional)

C. Statement of additional resources needed for FOIA compliance (optional)

X. Fees

- A. Total amount of fees collected by agency for processing requests \$350.00
- B. Percentage of total costs <1%

XI. FOIA Regulations (Including Fee Schedule)

NIGC FOIA regulations and fee schedule can be found in chapter 25 of the C.F.R. sec. 517. NIGC Privacy Act regulations can be found in chapter 25 of the C.F.R. sec. 515. A paper copy of these regulations can be obtained by contacting the FOIA Officer (see section I(A) of

**this report) or electronically at
http://www.nigc.gov/nigcControl?option=LAWS_REGS.**