

August 2002

INFORMATION
MANAGEMENT

Update on
Implementation of the
1996 Electronic
Freedom of
Information Act
Amendments





INFORMATION MANAGEMENT

Update on Implementation of the 1996 Electronic Freedom of Information Act Amendments

Highlights of [GAO-02-493](#), a report to the Chairman, Senate Committee on the Judiciary, and the Chairman, Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations, House Committee on Government Reform.

Why GAO Did This Study

The 1966 Freedom of Information Act (FOIA) established the public's right of access to government information, on the basis of openness and accountability. The 1996 Electronic Freedom of Information Act (e-FOIA) Amendments extended these principles to include electronic access to information. Under the act, the Department of Justice provides implementing guidance to agencies. In addition, agencies report annually to Justice on their FOIA operations.

GAO was asked to determine, among other things, (1) agencies' progress in improving their timeliness in responding to requests for information and (2) the actions Justice has taken on previous GAO recommendations (GAO-01-378, Mar. 16, 2001) to improve data quality in annual reports and on-line availability of government information.

What GAO Found

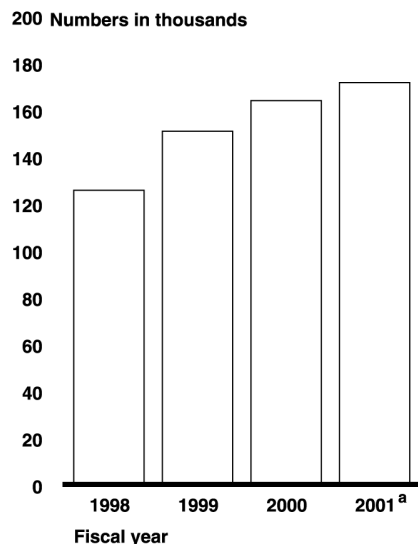
Changes in agency reporting conventions—made to improve accuracy and consistency—make it difficult to identify clear trends in timeliness for fiscal years 1999 through 2001. However, while the number of requests received appears to be leveling off, backlogs of pending requests governmentwide are substantial and growing, indicating that agencies are falling behind in processing requests.

In response to our previous recommendation on data quality—including consistency and accuracy of reporting—Justice issued supplemental guidance, augmented its training programs, and continued reviewing agency annual reports. Data quality improved, but numerous anomalies remained in agencies' fiscal year 2001 reports. Justice's efforts to implement this recommendation are continuing.

Justice also issued guidance encouraging better on-line availability of information, as GAO recommended. Although agencies have progressed in making information available electronically, not all materials required by e-FOIA were available on line as of May/June 2002. Further, certain information was difficult to find and was not always continuously available on Web sites. Justice officials stated that they are continuing to reinforce the need for full e-FOIA compliance and periodic agency review of Web site content, and to facilitate the sharing of best practices.

Justice generally agreed with the report's findings and conclusions.

Total Number of FOIA Requests Pending for 25 Agencies



^aDepartment of Education data for fiscal year 2001 were not available as of July 2002. Source: FOIA annual reports for fiscal years 1998–2001 (self-reported data).

Contents

Letter		1
	Results in Brief	2
	Background	4
	No Clear Trends in Agency Processing Times, but Backlogs Are Growing	12
	Progress in On-Line Availability Is Continuing, but Additional Agency Attention Is Needed	45
	Views of FOIA Officials and FOIA Requesters Differ Regarding Impact of the Post-September 11 Environment	55
	Justice Is Continuing Actions to Implement Our Recommendations	58
	Conclusions	61
	Agency Comments and Our Evaluation	62

Appendixes

Appendix I: Scope and Methodology	64
Appendix II: Overview of Agency FOIA Processing	67
Appendix III: Further Details Regarding Agency Workload Analysis	70
Disposition of Requests	70
Use of Exemptions	81
Administrative Appeals	82
Fees	83
Costs	89
Staffing (FTE)	94
Component-Level Reporting	97

Tables

Table 1: Agency Processing Times, by Track	13
Table 2: Processing Times for Expedited Requests	20
Table 3: Freedom of Information Act Exemptions	67
Table 4: Agency FOIA FTEs, Total Reported Costs, and Reported Fees Collected (Self-Reported)	84

Figures

Figure 1: Overview of Generic FOIA Process	5
Figure 2: Median Days for Single-Track Processing	15
Figure 3: Median Days for Simple Processing	16
Figure 4: Median Days for Complex Processing	18
Figure 5: Total FOIA Requests for 25 Agencies	23
Figure 6: Total FOIA Requests (Without VA)	24

Figure 7: Total FOIA Requests Received, by Agencies	26
Figure 8: Total Pending Requests for 25 Agencies, 24 Agencies (Without VA), and VA Only	29
Figure 9: Pending Requests at End of Year for 25 Agencies	30
Figure 10: Pending Requests Divided by Received Requests	34
Figure 11: Agency Processing Rate for 25 Agencies	38
Figure 12: Median Age of Backlog	42
Figure 13: Agencies with Pending Median Days Below 100	44
Figure 14: On-Line Availability of Elements as Required by e-FOIA	46
Figure 15: Use of the Web to Make Reference Material and FOIA Regulations Publicly Available	48
Figure 16: Features that Facilitate Public Access	52
Figure 17: Disposition of Initial Requests	71
Figure 18: Disposition of Initial Requests (Without VA)	72
Figure 19: Total Grants as a Percentage of Total Disposition	74
Figure 20: Partial Grants as a Percentage of Total Disposition	76
Figure 21: Denials as a Percentage of Total Disposition	78
Figure 22: Nondisclosures as a Percentage of Total Disposition	80
Figure 23: Exemptions Used by 25 Agencies	82
Figure 24: Aggregated Data on the Disposition of Appeals	83
Figure 25: Total Agency Reported Costs	86
Figure 26: Fees as Percentage of Agency's Reported Costs	88
Figure 27: Reported Cost per Request	92
Figure 28: Reported Cost per Request Comparison	94
Figure 29: Reported FTEs per Request, by Agency	96
Figure 30: Trend Toward Component-based Reporting of FOIA Data	98

Abbreviations

AID	Agency for International Development
CIA	Central Intelligence Agency
DOC	Department of Commerce
DOD	Department of Defense
DOE	Department of Energy
DOI	Department of the Interior
DOJ	Department of Justice
DOL	Department of Labor
DOT	Department of Transportation
ED	Department of Education
e-FOIA	Electronic Freedom of Information Act Amendments
EPA	Environmental Protection Agency
FEMA	Federal Emergency Management Agency
FOIA	Freedom of Information Act
FTE	full time equivalent
GILS	Government Information Locator Service
GSA	General Services Administration
HHS	Department of Health and Human Services
HUD	Department of Housing and Urban Development
NASA	National Aeronautics and Space Administration
NRC	Nuclear Regulatory Commission
NSF	National Science Foundation
OIP	Office of Information and Privacy
OMB	Office of Management and Budget
OPM	Office of Personnel Management
SBA	Small Business Administration
SSA	Social Security Administration
VA	Department of Veterans Affairs
USDA	Department of Agriculture



United States General Accounting Office
Washington, D.C. 20548

August 30, 2002

The Honorable Patrick Leahy
Chairman, Committee on the Judiciary
United States Senate

The Honorable Stephen Horn
Chairman, Subcommittee on Government Efficiency,
Financial Management, and Intergovernmental Relations
Committee on Government Reform
House of Representatives

In our open society, public access to information about the government and its operations is a strongly held value. The Freedom of Information Act (FOIA) has been a valuable tool through which the public has been able to learn about the operation and decisions of the federal government. Specific requests by the public for information through FOIA have led to the disclosure of waste, fraud, abuse, and wrongdoing in the government and the identification of unsafe consumer products, harmful drugs, and serious health hazards.

The 1996 Electronic Freedom of Information Act (e-FOIA) Amendments were intended to extend the principles of FOIA to information stored electronically and improve public access to agency information, in part by requiring more materials to be available electronically. The amendments were also intended to ensure agency compliance with statutory time limits for responding to FOIA requests. As you requested, this report addresses the progress that federal agencies have made in implementing the e-FOIA amendments since our previous March 2001 report.¹

Last year's report disclosed that data quality issues limited the usefulness of agencies' annual FOIA reports and that agencies had not provided on-line access to all of the information required by e-FOIA. We therefore recommended that the Attorney General direct the Department of Justice to improve the reliability of data in the agencies' annual reports by providing guidance addressing the data quality issues we identified and by reviewing agencies' report data for completeness and consistency. We

¹U.S. General Accounting Office, *Information Management: Progress in Implementing the 1996 Electronic Freedom of Information Act Amendments*, [GAO-01-378](#) (Washington, D.C.: Mar. 16, 2001).

further recommended that the Attorney General direct the department to enhance the public's access to government records and information by encouraging agencies to make all of the required materials available electronically.

As agreed with your offices, our objectives for this update were to

- determine the progress that the 25 federal agencies studied have made in processing FOIA requests;
- determine the progress that the 25 agencies have made in developing on-line access to materials as required by e-FOIA (often referred to as “electronic reading room” access);
- provide information on the views of FOIA officials and requesters regarding the impact of the post-September 11, 2001, environment on implementation; and
- determine what actions Justice has taken on our previous recommendations.

We assessed the 25 agencies' implementation progress by analyzing data from the fiscal years 2000 and 2001 annual reports they submitted to the Attorney General, and by analyzing their department-level and FOIA-related Web sites to determine whether materials were available. We also interviewed FOIA officials at the eight major agencies covered in our previous report. To obtain information on the impact of the post-September 11 environment and of actions taken by Justice on our previous recommendations, we drew upon interviews with officials in the eight agencies, Justice's Office of Information and Privacy (OIP), and the Office of Management and Budget (OMB) as well as information from members of the FOIA requester community. The requester community members we contacted, most of whom had been identified during our previous study, are widely recognized for their expertise and involvement in issues pertaining to use of the act, and advocate public access to government information. Details of our scope and methodology are included as appendix I.

Results in Brief

We were unable to identify any clear trends in processing time because agencies have made changes in how they report these data. These changes improved data quality but also reduced comparability among years. For

fiscal years 1999 through 2001, the number of requests received and processed appears for most agencies—except the Department of Veterans Affairs—to peak in fiscal year 2000 and decline slightly in fiscal year 2001. However, agency backlogs of pending requests are substantial and growing governmentwide. Agency officials attributed this growth primarily to the increasing complexity of the requests.

Although agencies are continuing to make progress in making material required by e-FOIA available on line, not all of the required materials are yet available. In addition, materials were sometimes difficult to find, and Web site links were not always functioning properly. This situation appears to reflect a lack of adequate attention and continuing review by agency officials to ensure that these materials are available.

Regarding the post-September 11 environment, agency officials and FOIA requesters view the impacts differently. Agency officials characterized the effects on FOIA implementation as relatively minor, except for mail delays associated with the anthrax problem. In contrast, members of the requester community expressed general concern about information dissemination and access to government information in light of removal of information from government Web sites after September 11. In addition, some requesters characterized Justice policies issued since that time as representing a shift from a “right to know” to a “need to know” that could discourage the public from making requests. In any event, the effects of the post-September 11 environment, if any, may not be known for some time because data on requests processed after September 2001 will not be available until early 2003. Further, any effects may not be clear until denials of information during this time period are appealed, litigated, and decided—a process that could take several years.

Justice has acted to implement our previous recommendations. First, to improve the quality of agency annual reports, it has issued supplemental guidance, augmented its training programs, and continued reviewing the reports. Although these actions have improved data quality, numerous problems remain. Justice’s efforts to implement this recommendation are ongoing. Second, Justice implemented our recommendation to issue guidance encouraging agencies to make all required materials available on line, and, as a result, agencies continue to make progress in this area. However, not all required elements were available on agency Web sites, some were difficult to locate, and Web site links were not always functioning. Justice officials recognize the need for agencies to make further improvements and stated that, in agency training sessions, they

plan to continue to reinforce the need for full e-FOIA compliance and periodic agency review of Web site content, and to facilitate sharing of best practices.

In providing oral comments on a draft of this report, a Justice OIP codirector stated that the department generally agreed with the report's findings and conclusions.

Background

FOIA established a legal right of access to government records and information, on the basis of the principles of openness and accountability in government. Before the act, an individual seeking access faced the burden of establishing a right to examine government records. FOIA also established a "right to know" standard for access, instead of a "need to know," and shifted the burden of proof from the individual to the government agency seeking to deny access. FOIA was enacted in 1966 and was amended in 1974, 1976, 1986, and 1996. The amendments in 1974 through 1986 made changes in procedures, modified exemptions from FOIA, protected sensitive law enforcement information, and created new fee and fee-waiver provisions. The 1996 amendments are known as the e-FOIA amendments, discussed in detail later in this section.

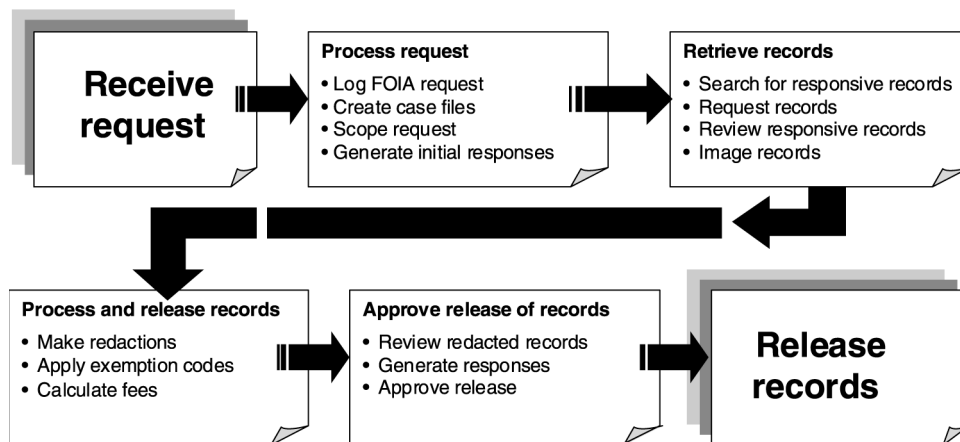
FOIA provides public access to government information through two means: affirmative agency disclosure and public request for disclosure. Affirmative agency disclosure takes place in one of two ways. FOIA requires disclosure through *Federal Register* publication of information, such as descriptions of agency organizations, functions, procedures, rules, and statements of general policy. This has come to be known as the FOIA publication requirement. The act also requires disclosure of final opinions and orders, specific policy statements, certain administrative manuals, and certain records previously released under FOIA to be made available for public inspection and copying. This has come to be known as the FOIA reading room requirement.

Public request for disclosure of records is the most well-known part of FOIA. Any member of the public may use it to request access to information held by federal agencies, without showing a need or reasons for seeking the information. Agencies may deny access to material (e.g., by withholding records or redacting information) that falls within any of nine statutory categories of exemptions (see table 3 in app. II). There are also FOIA exclusions for specific, sensitive records held by law enforcement agencies. Agencies have statutory timelines for determining whether to

comply with FOIA requests, making determinations with respect to appeals of adverse determinations, and determining whether to provide expedited processing of FOIA requests. Requesters are entitled to be told the reason for denials, to appeal denials, and to challenge them in court. Under the act, agencies are required to submit annual reports on these FOIA activities to the Attorney General.

Figure 1 provides an overview of a generic agency FOIA process, from receipt of a request to the release of records. A brief overview of agency FOIA processing is included as appendix II.

Figure 1: Overview of Generic FOIA Process



Source: [GAO-01-378](#).

The 1986 FOIA amendments established the current fee structure. Agencies may assess three levels of fees, each with statutory limitations, according to the type of requester and the intended use of the information sought. The first level of fees includes charges for document search, review, and duplication. These charges apply when records are requested for commercial use, defined in the OMB fee schedule guidelines as “a use or purpose that furthers the commercial, trade or profit interests of the requester or the person on whose behalf the request is being made.” The second level of fees exempts educational or noncommercial scientific institutions and representatives of the news media from being charged search and review fees when records are not requested for commercial

use.² In such instances, these requesters are charged only for document duplication. The third level of fees, which applies to all requesters who do not fall within either of the preceding two fee levels, consists of reasonable charges for document search and duplication.

Except for commercial-use requesters, agencies must provide the first 100 pages of duplication, as well as the first 2 hours of search time, without cost to the requester. Agencies may not charge fees if the government's cost of collecting and processing the fee is likely to equal or exceed the amount of the fee itself. Agencies also may not require a requester to make an advance payment (i.e., payment before work is begun or continued on a request) unless the agency first estimates that the assessable fee is likely to exceed \$250, or unless the requester has previously failed to pay a properly assessed fee in a timely manner (i.e., within 30 days of the billing date). Agencies may, however, require payment before records that have been processed are released.

Roles of Justice and OMB in FOIA Implementation

Justice oversees agencies' compliance with FOIA and is the primary source of policy guidance for agencies. Justice's specific requirements under the act are to

- make agencies' annual FOIA reports available through a single electronic access point and notify Congress as to their availability;
- in consultation with OMB, develop guidelines for the required agency reports, so that all reports use common terminology and follow a similar format; and
- submit an annual report on FOIA statistics and the efforts undertaken by Justice to encourage agency compliance.

²Justice issued fee waiver policy guidance to the heads of all federal departments and agencies on April 2, 1987. Under this guidance, requests for a waiver or reduction of fees are considered on a case-by-case basis, taking both the public interest and the extent of the requester commercial interest into account.

In addition, FOIA requires OMB to issue guidelines to “provide for a uniform schedule of fees for all agencies.”³ Agencies are required to conform their fee schedules to the OMB fee schedule guidelines. E-FOIA requires each agency head to prepare and make publicly available reference material or a guide for requesting information from the agency, including a handbook for obtaining public information.⁴ OMB issued an agency guidance memorandum for developing such handbooks.⁵

The 1996 e-FOIA Amendments

These amendments sought to strengthen the requirement that agencies respond to FOIA requests in a timely manner and reduce their backlogs of pending requests. To that end, the amendments made a number of procedural changes, including

- providing requesters with an opportunity to limit the scope of their requests so that the requests could be processed more quickly;
- authorizing agencies to implement multitrack processing, so they could process requests by single and complex tracks, instead of processing all requests on a single-track, first-in/first-out basis (thus giving agencies the flexibility to respond to relatively simple requests more quickly); and
- requiring agencies to expedite processing for requests meeting the criteria for “compelling need” that warrants prioritization over other requests that were made earlier, with the requirement that an agency determine within 10 days whether to provide such expedited processing.

The amendments also required agencies to determine within 20 working days (an increase from the previous 10 days) whether a request would be fulfilled and to notify the requester immediately. Congress did not establish a statutory deadline for making releasable records available, but instead required agencies to make them available promptly.

³This provision was added by the Freedom of Information Reform Act of 1986 (Pub. L. 99-570). See OMB, Uniform Freedom of Information Act Fee Schedule and Guidelines, 52 FR 10011 (Mar. 27, 1987), effective April 27, 1987.

⁴See 5. U.S.C. sec. 552(g).

⁵See H. Rpt. 104-795, p. 30, and OMB, *Updated Guidance on Developing a Handbook for Individuals Seeking Access to Public Information* (M-98-09, Apr. 23, 1998).

E-FOIA encouraged on-line, public access to government information by requiring agencies to make six specific types of records, created on or after November 1, 1996, available in electronic form.⁶ The six elements that the amendments require agencies to make available on line are

- agency final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;
- statements of policy and interpretations that have been adopted by the agency and are not published in the *Federal Register*;
- administrative staff manuals and instructions to staff that affect a member of the public;
- copies of records that have been released to any person through FOIA and which, because of the nature of their subject matter, the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records;
- a general index of the “frequently requested records” referred to in the item above; and
- the annual FOIA report.

Agencies are also required to make eight types of related information and reference materials publicly available. The law did not explicitly require these elements to be made publicly available in electronic form. These are

- FOIA processing regulations,
- multitrack processing regulations,
- expedited processing regulations,
- FOIA fee schedule,

⁶These expanded on the traditional “reading room” records by including frequently requested records and an index to these as well as creating a new requirement for agency FOIA reports to be made available on line. See 5 U.S.C. sec. 552(a)(2)(A) through (E) and 5 U.S.C. sec. 552(e)(2). On-line availability was required for records created on or after November 1, 1996.

-
- an index of major information systems,
 - a description of major information systems,
 - a description of agency record locator systems, and
 - reference materials or handbooks on how to request records or information.

Finally, agencies have incorporated features that facilitate public access to government information into their Web sites. These features, which are not required by law, are

- information on obtaining public services,
- a FOIA link on the agency home page,
- a FOIA Web page,
- Web site search features,
- ability for requesters to submit requests electronically,
- electronic links to FOIA office(s), and
- electronic links to program divisions.

According to legislative history, using electronic access to make more affirmative disclosure of the frequently requested material was expected to reduce additional FOIA requests for the same material.⁷ This was expected to enable agencies to make better use of their limited resources to complete other, more complex, requests on time. Because the affirmative disclosure provisions had historically been considered to provide access through a physical reading room, the expanded on-line access provisions, including frequently requested records and other required elements, have commonly come to be called “electronic reading room” access.⁸

⁷See, for example, “Electronic Freedom of Information Amendments of 1996,” Committee on Government Reform and Oversight, U.S. House of Representatives, H. Rpt. 104-795, Sept. 17, 1996, pp. 11-13.

⁸For purposes of this report, we will refer to this as on-line access or on-line availability.

The e-FOIA amendments also made changes to agency reporting requirements. The amendments changed the reporting period from calendar year to fiscal year and allowed agencies more time to prepare their annual reports. Agencies were to provide these reports to the Attorney General by February 1 of each year and to make them available to the public in electronic form. The Attorney General is required to make all agency reports available on line at a single electronic access point and report to Congress no later than April 1 of each year that these reports are available in electronic form.

E-FOIA also expanded on the previous reporting requirements. For example, it added requirements for information regarding denials, appeals, the number of requests pending at the end of the fiscal year, the median number of days that requests have been pending, the median number of days required to process requests, the amount of fees collected, and the number of staff devoted to FOIA processing. According to legislative history, these changes were intended to make the reports more useful to the public and Congress by providing more visibility into response times, reasons for not providing a response, resources and workloads, and backlogs of pending requests. The intent was to allow meaningful comparisons among agencies about performance and allow Congress to monitor individual agencies' progress over time.

Justice Has Issued Guidance on FOIA Implementation

Within Justice, OIP has lead responsibility for providing guidance and support to federal agencies on FOIA issues. OIP first issued guidelines for agency preparation and submission of annual reports in the spring of 1997 and has periodically issued additional guidance. OIP also periodically issues guidance on compliance, provides training, and maintains a counselors service to provide expert, one-on-one assistance to agency FOIA staff. Further, it also makes a variety of FOIA and Privacy Act resources available to agencies and the public via the Justice Web site and on-line bulletins.

In addition to OIP guidance, the Attorney General has often issued a policy memorandum at the beginning of a new administration. Such policy memorandums have been issued in 1977, 1981, 1993, and 2001.

The 1993 Attorney General memorandum established an overall "presumption of disclosure" and promoted discretionary disclosures (when an exemption might otherwise be used to withhold information) to achieve "maximum responsible disclosure" under FOIA. This guidance stated that

Justice policy would be to defend an agency's use of a FOIA exemption to withhold information only when the agency reasonably anticipated that disclosure would be harmful to an interest protected by that exemption (a "foreseeable harm" standard). Otherwise, where information might technically or arguably fall within an exemption, the 1993 memorandum indicated that it ought not to be withheld from a requester unless it was necessary to do so. The 1993 Attorney General guidance remained in effect through fiscal year 2001.

The current Attorney General memorandum, issued October 12, 2001, replaced the 1993 memorandum. It stresses balancing the important interest of a "well-informed citizenry" with "protecting other fundamental values that are held by our society. Among them are safeguarding our national security, enhancing the effectiveness of our law enforcement agencies, protecting sensitive business information and, not least, preserving personal privacy." Accordingly, the Attorney General instructed agencies:

"...to carefully consider the protection of all such values and interests when making disclosure determinations under the FOIA. Any discretionary decision by your agency to disclose information protected under the FOIA should be made only after full and deliberate consideration of the institutional, commercial, and personal privacy interests that could be implicated by disclosure of the information."

Given this "balancing interests" policy, the 2001 guidance establishes a "sound legal basis" standard for Justice's defending an agency's withholding of information:

"When you carefully consider FOIA requests and decide to withhold records, in whole or in part, you can be assured that the Department of Justice will defend your decisions unless they lack a sound legal basis or present an unwarranted risk of adverse impact on the ability of other agencies to protect other important records."

OIP followed up on the 2001 Attorney General memorandum with guidance focusing on protection of sensitive material pertaining to vulnerability assessments, safeguard circumventions, and critical infrastructure protections.

Following the events of September 11, the Information Security Oversight Office in the National Archives and Records Administration⁹ and OIP developed additional guidance for reviewing government information regarding weapons of mass destruction and other information that could be exploited to harm homeland security and public safety. This guidance addressed the protection of classified information, previously unclassified

or declassified information, and sensitive but unclassified information.¹⁰ This guidance was issued along with a March 19, 2002, memorandum to the heads of all departments and agencies from the White House Chief of Staff.

Relationship of FOIA and the Privacy Act

Although the laws differ in scope, procedures in both FOIA and the Privacy Act permit individuals to seek first-party access to records about themselves. Depending on the individual circumstances, one law may allow broader access or more extensive procedural rights than the other, or access may be denied under one act and allowed under the other. After a series of conflicting court decisions, Congress in 1984 clarified the interrelationship between the Privacy Act and FOIA for all federal agencies. As a result, individuals may make first-party requests using the procedures in the Privacy Act, FOIA, or both. Subsequently, OIP issued guidance that it is “good policy for agencies to treat all first-party access requests as FOIA requests (as well as possibly Privacy Act requests), regardless of whether the FOIA is cited in a requester’s letter.” This treatment may provide a possibly broader response to a first-party request. As a result, agencies include first-party requests in their annual FOIA reports (e.g., the Department of Veterans Affairs (VA) data include first-party requests for records of medical treatment).

No Clear Trends in Agency Processing Times, but Backlogs Are Growing

We were unable to identify any clear trends in processing time needed to fulfill requests because agencies have made changes in how they report these data. These changes improved data quality but also reduced year-to-year comparability. For most agencies—except VA—the number of requests received and processed appears to have peaked in fiscal year 2000 and declined slightly in fiscal year 2001. Governmentwide, however, agency backlogs of pending requests are substantial, and growing, indicating that agencies are falling behind in processing requests.

⁹The Information Security Oversight Office receives its policy and program guidance from the National Security Council and is an administrative component of the National Archives and Records Administration. The office oversees the governmentwide security classification program.

¹⁰Sensitive but unclassified information was described as sensitive information related to America's homeland security that might not meet one or more of the standards for classified national security information and whose protection should be considered carefully, on a case-by-case basis.

No Clear Trends in Processing Times

The time required to process requests by track varies among agencies (see table 1). Agencies with single-track processing use a first-in/first-out basis to process all requests. As figure 2 shows, the median processing times for agencies that used single-track processing are usually less than 50 days. Agencies with multitrack processing designate requests as simple requests, which require relatively minimal review, or complex requests, which are more voluminous and/or require more search and review. Agencies generally reported median processing times of about 20 days for requests processed in what they designated as their simple tracks; however, two agencies reported much longer times (see fig. 3). Median processing times for complex requests were reported to be much higher than for simple requests (see figs. 3 and 4).

Table 1: Agency Processing Times, by Track

Agency	Simple track			Complex track			Single track		
	Median days to process			Median days to process			Median days to process		
	1999	2000	2001	1999	2000	2001	1999	2000	2001
AID	10	-	-	70	-	-	-	45	31
CIA	7	7	7	187	176	86	-	-	-
USDA	11	26	30	20	45	49	-	-	-
DOC	16	14	14	30	30	54	-	-	-
DOD	20	25	23	66	69	84	-	-	-
ED	20	16	-	27	51	-	-	-	-
DOE	16	133	211	55	531	1,788	-	-	-
HHS	-	-	10-35 ^a	-	-	60-332 ^a	-	-	6-342 ^a
HUD	-	-	27-266 ^a	-	-	67	53	43	-
DOI	-	-	-	-	-	-	19	18	13-157 ^a
DOJ	23	1-78 ^a	1-137 ^a	167	12-2,097 ^a	16-1,311 ^a	-	-	-
DOL	10	13	13	25	43	39	-	-	-
State	48	37	157	308	694	742	-	-	-
DOT	16	14	8	45	39	23	6	15	30
Treasury	11	1-22 ^a	2-20 ^a	40	5-1,000 ^a	9-232 ^a	-	-	-
VA	-	-	-	12	25	13	-	-	-
EPA	14	19	17-36 ^a	25	31	24-333 ^a	-	-	-
FEMA	-	-	-	-	-	52	35	50	-

(Continued From Previous Page)

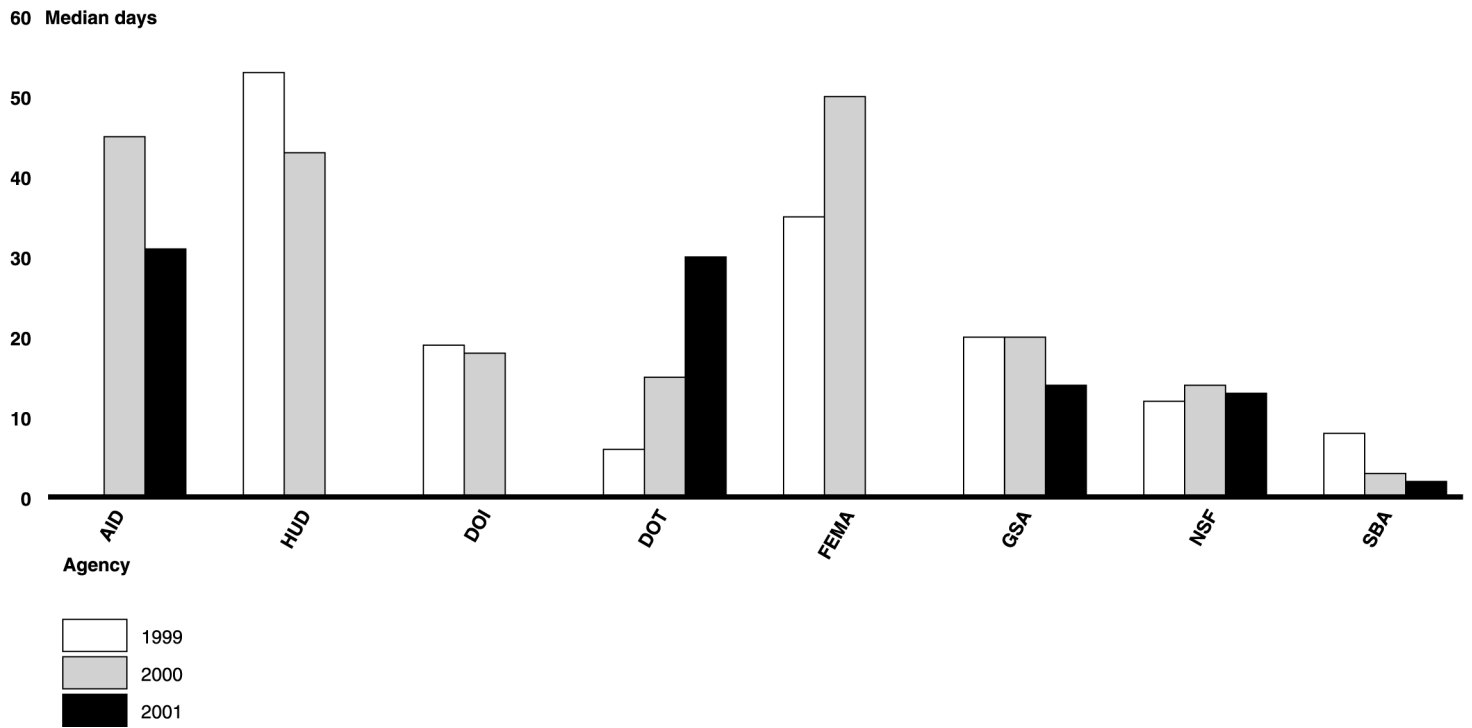
Agency	Simple track			Complex track			Single track		
	Median days to process			Median days to process			Median days to process		
	1999	2000	2001	1999	2000	2001	1999	2000	2001
GSA	-	-	-	-	-	-	20	20	14
NASA	15	24	19	29	38	45	-	-	-
NSF	-	-	-	-	-	-	12	14	13
NRC	17	19	17	75	26	20	-	-	-
OPM	8	7	-	17	17	11	-	-	-
SBA	-	-	-	-	-	-	8	3	2
SSA	16	11-45 ^a	13	97	42	62	-	-	-

Note: A hyphen indicates that the agency did not report any median time for a given track in a given year.

^aSome agencies that have decentralized FOIA processing reported processing times by component. Table indicates the range of reported component median processing times.

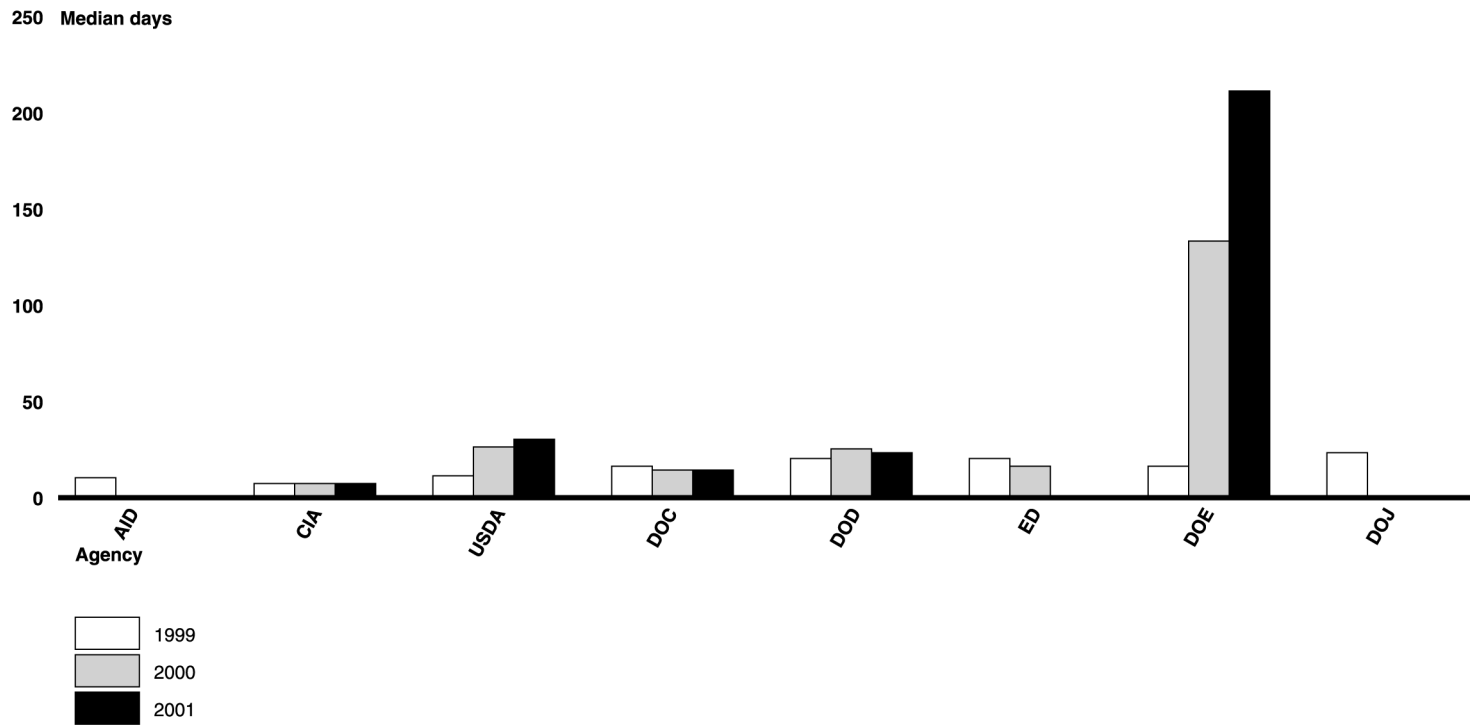
Source: FOIA annual reports for fiscal years 1999-2001 (self-reported data).

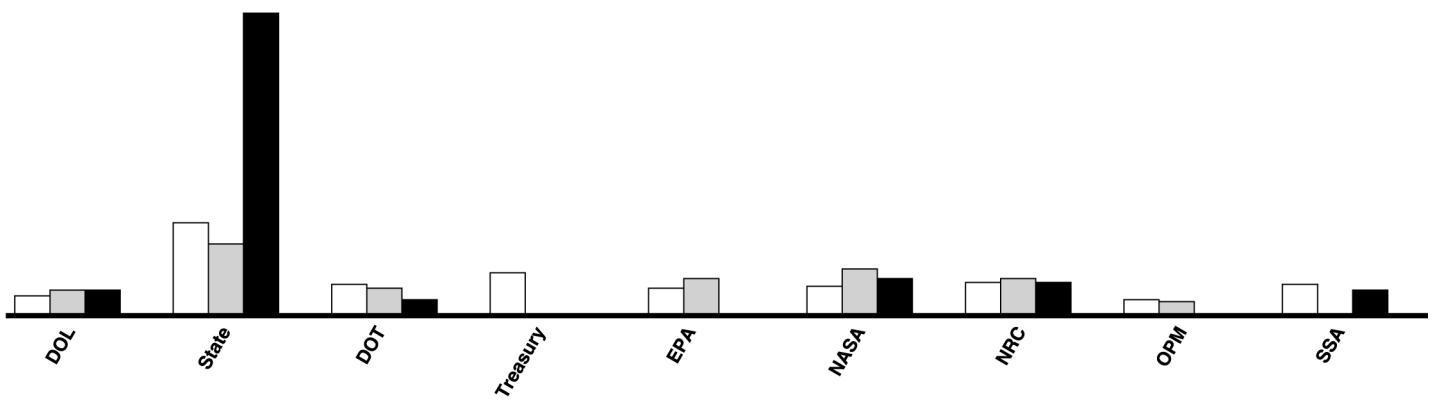
Figure 2: Median Days for Single-Track Processing



Source: FOIA annual reports for fiscal years 1999-2001 (self-reported data).

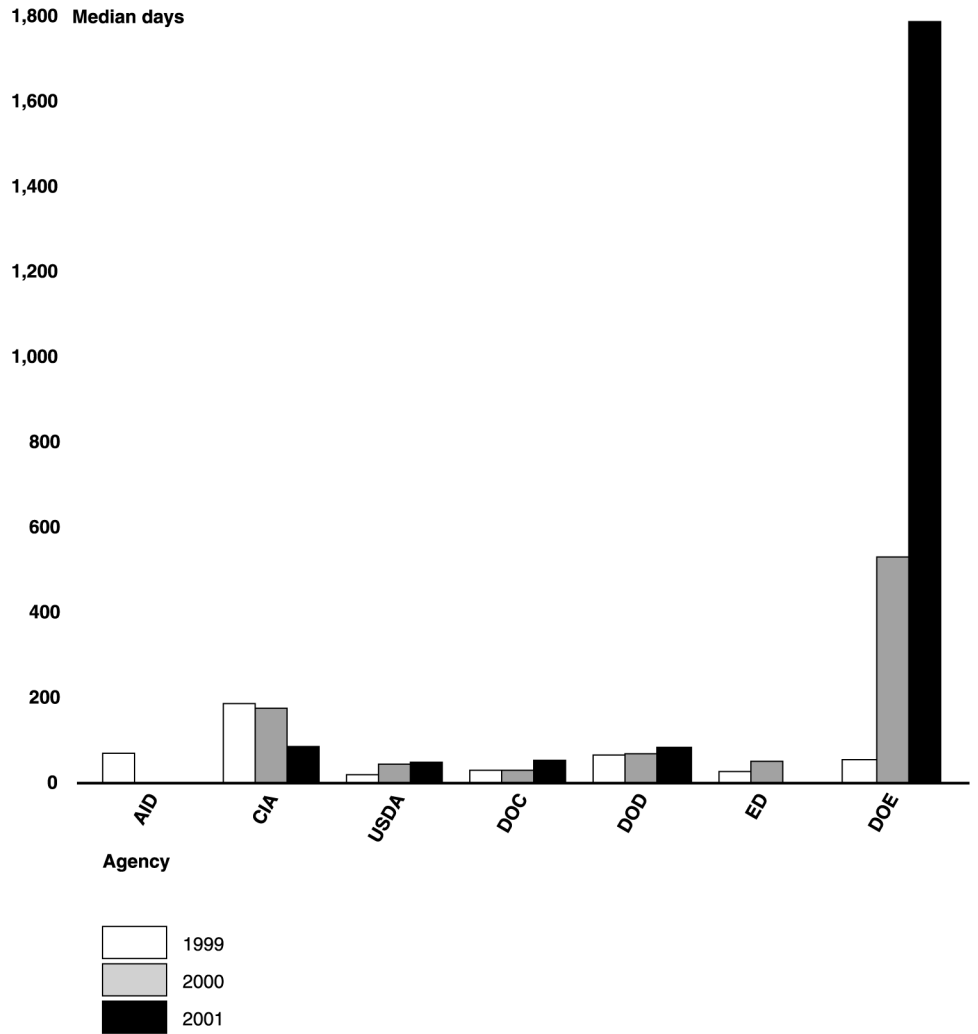
Figure 3: Median Days for Simple Processing

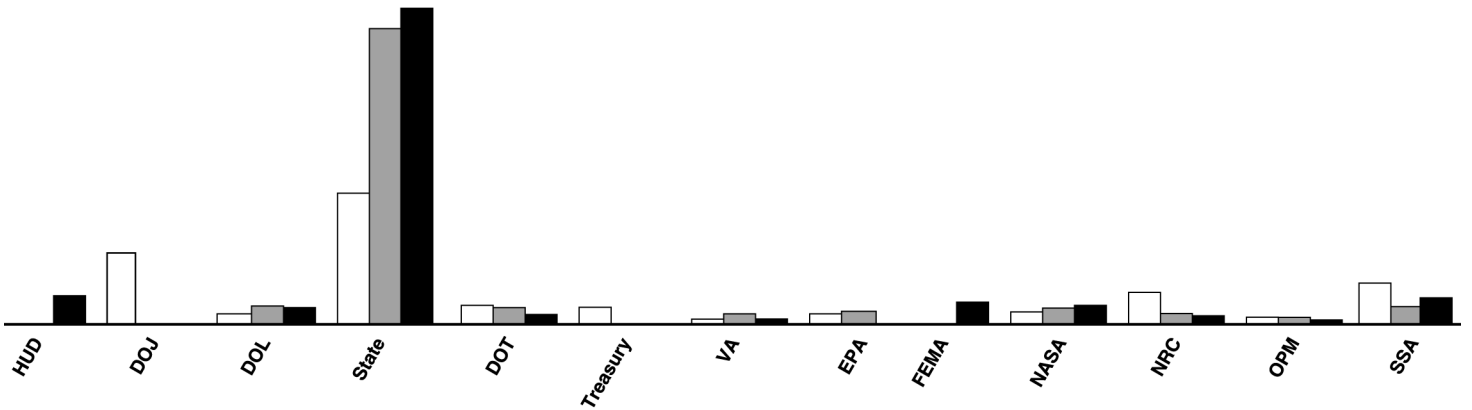




Source: FOIA annual reports for fiscal years 1999-2001 (self-reported data).

Figure 4: Median Days for Complex Processing





Source: FOIA annual reports for fiscal years 1999-2001 (self-reported data).

Agencies process FOIA requests on an expedited basis when a requester has shown a compelling need or urgency. Agencies reported a wide range of median processing times for expedited requests (see table 2).

Table 2: Processing Times for Expedited Requests

Agency	Median days to process		
	1999	2000	2001
AID	-	-	-
CIA	-	-	-
USDA	7	12	33
DOC	3	-	8
DOD	7	3	3
ED	15	12	-
DOE	4	10	10
HHS	35	5-135 ^a	1-111 ^a
HUD	-	-	5-18 ^a
DOI	7	12	1-10 ^a
DOJ	38	1-106 ^a	1-107 ^a
DOL	5	6	6
State	168	518	252
DOT	6	1	8
Treasury	15	8	3
VA	2	2	3
EPA	14	44	8-105 ^a
FEMA	-	-	-
GSA	-	-	-
NASA	20	3	10
NSF	-	-	-
NRC	-	16	105
OPM	8	-	1
SBA	-	-	1
SSA	-	-	-

Note: A hyphen indicates that the agency did not report any median time for a given track in a given year.

^aSome agencies that have decentralized FOIA processing reported processing times by component. Table indicates the range of reported component median processing times.

Source: FOIA annual reports for fiscal years 1999-2001 (self-reported data).

We were unable to identify any clear trends in request-processing times because of year-to-year changes in agency reporting. Specifically, as shown in table 1, agencies changed in terms of whether they reported at the

individual component level or agencywide, and also changed the tracks in which they process requests.

Annual reports for agencies with decentralized FOIA operations are changing, in terms of how workload data (request processing and backlogs) are reported: component-based reporting, agencywide reporting, or both. These changes are a result of August 2001 guidance from OIP, which stated that agencies that handle FOIA requests in a decentralized manner should report their data at the component level, rather than only in aggregated form. The number of annual reports that include FOIA data by component has increased from fiscal years 2000 to 2001 (see fig. 30 in app. III).

As a result, several agencies with decentralized operations do not have comparable median processing times for fiscal years 1999 through 2001. For example:

- For fiscal year 2001, five annual reports switched from aggregated, agencywide data to reporting disaggregated data by component. Two of the annual reports from agencies with component-based reporting in fiscal year 2001 (VA and the Department of the Treasury) also showed aggregated agencywide data. In fiscal year 2001, six annual reports do not give a clear indication of agencywide progress in timeliness, compared with previous years.
- The Department of Defense (DOD) annual report switched from aggregated reporting for fiscal year 1998, to both aggregated and component based reporting for fiscal year 1999 and fiscal year 2000, and back to aggregated reporting for fiscal year 2001.

This change in reporting will be helpful in the long run, however, because it gives an overall look at an agency's FOIA operations as well as an in-depth look at its components' FOIA operations.

During fiscal years 1999 through 2001, a few agencies also changed how they process and report requests according to tracks. For example, the Department of Housing and Urban Development reported its processing times for fiscal years 1999 and 2000 on a single track. For fiscal year 2001, it switched to multitrack processing and began reporting median times for both simple and complex requests.

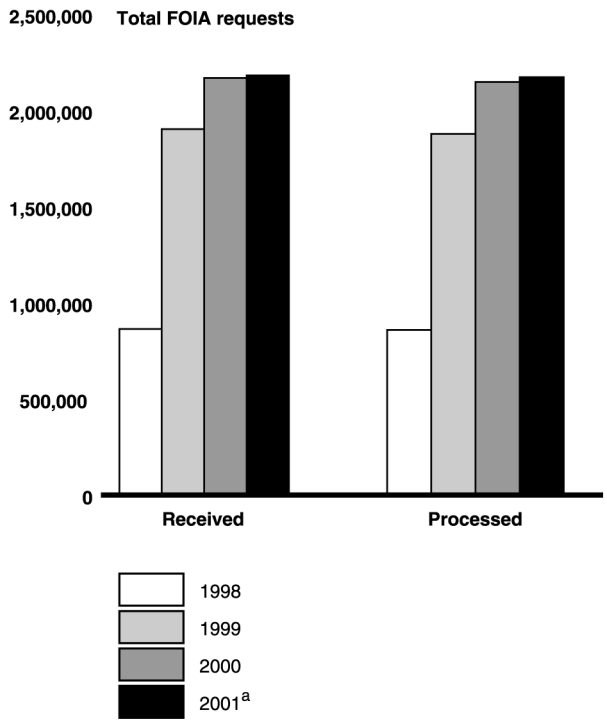
Volume of Requests Leveling Off, Except for VA

In fiscal year 2001, the agencies whose annual data we reviewed reported receiving and processing a total of about 2 million FOIA requests, at an aggregate cost of over \$270 million.¹¹ Taken together, the agencies reported receiving and processing more FOIA requests each succeeding year from fiscal years 1999 through 2001 (see fig. 5). However, the VA's huge and growing volume of requests—according to VA officials, these are mostly first-party requests that are processed and recorded as both Privacy Act and FOIA requests—masks the general picture for the rest of the agencies.¹² Excluding VA, the total number of requests received by the other agencies appears to have peaked in fiscal year 2000 and declined slightly in fiscal year 2001 (see fig. 6).

¹¹Our 25-agency analyses do not include fiscal year 2001 Department of Education data because they were not available as of July 2002.

¹²VA reported receiving and processing well over 1 million FOIA requests—amounting to over half of the 25-agency total volume—each year from fiscal years 1999 through 2001. VA's reported workload consists largely of first-party requests for copies of patient records; VA officials said that these requests can be fulfilled relatively quickly.

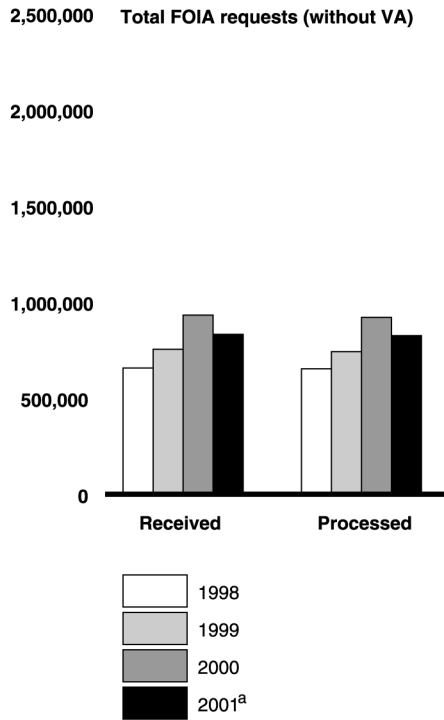
Figure 5: Total FOIA Requests for 25 Agencies



^aYear 2001 includes data for only 24 agencies. The Department of Education fiscal year 2001 FOIA annual report was not available as of July 2002.

Source: FOIA annual reports for fiscal years 1998-2001 (self-reported data).

Figure 6: Total FOIA Requests (Without VA)



^aYear 2001 includes data for only 23 agencies. The Department of Education fiscal year 2001 FOIA annual report was not available as of July 2002.

Source: FOIA annual reports for fiscal years 1998-2001 (self-reported data).

Six agencies—VA, the Social Security Administration (SSA), Justice, the Department of Agriculture (USDA), DOD, and the Department of Health and Human Services (HHS)—consistently reported receiving the most FOIA requests (see fig. 7). VA received the largest number of requests for fiscal years 1998, 1999, 2000, and 2001.¹³ The rank order among the other agencies in the top six shifts somewhat from year to year, depending on requesters' interests. For example:

- The number of requests received by SSA increased dramatically between fiscal years 1998 and 2000, moving SSA up in rank order. The

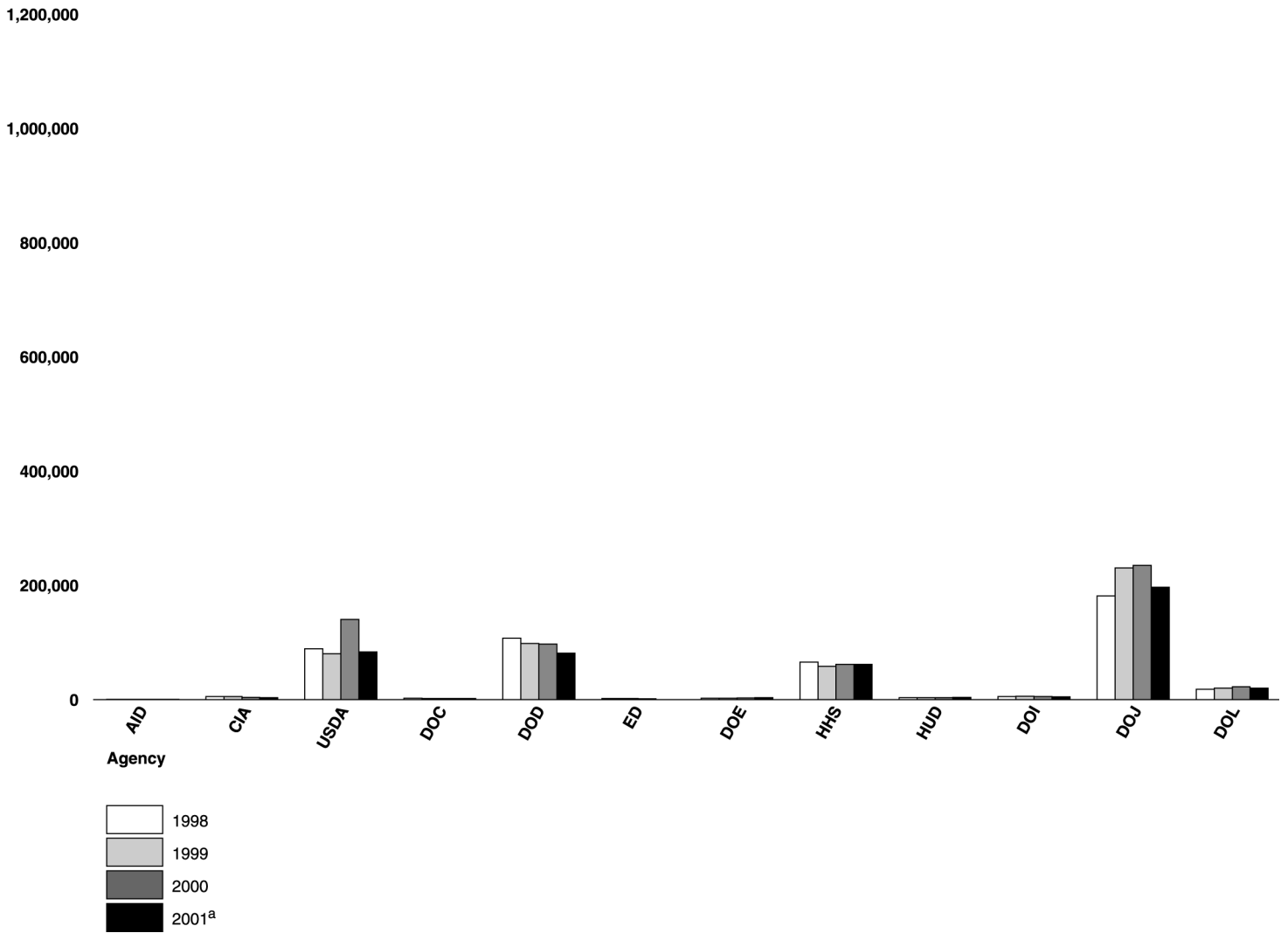
¹³VA began including first-party (Privacy Act) requests for copies of patient records in its fiscal year 1999 annual report.

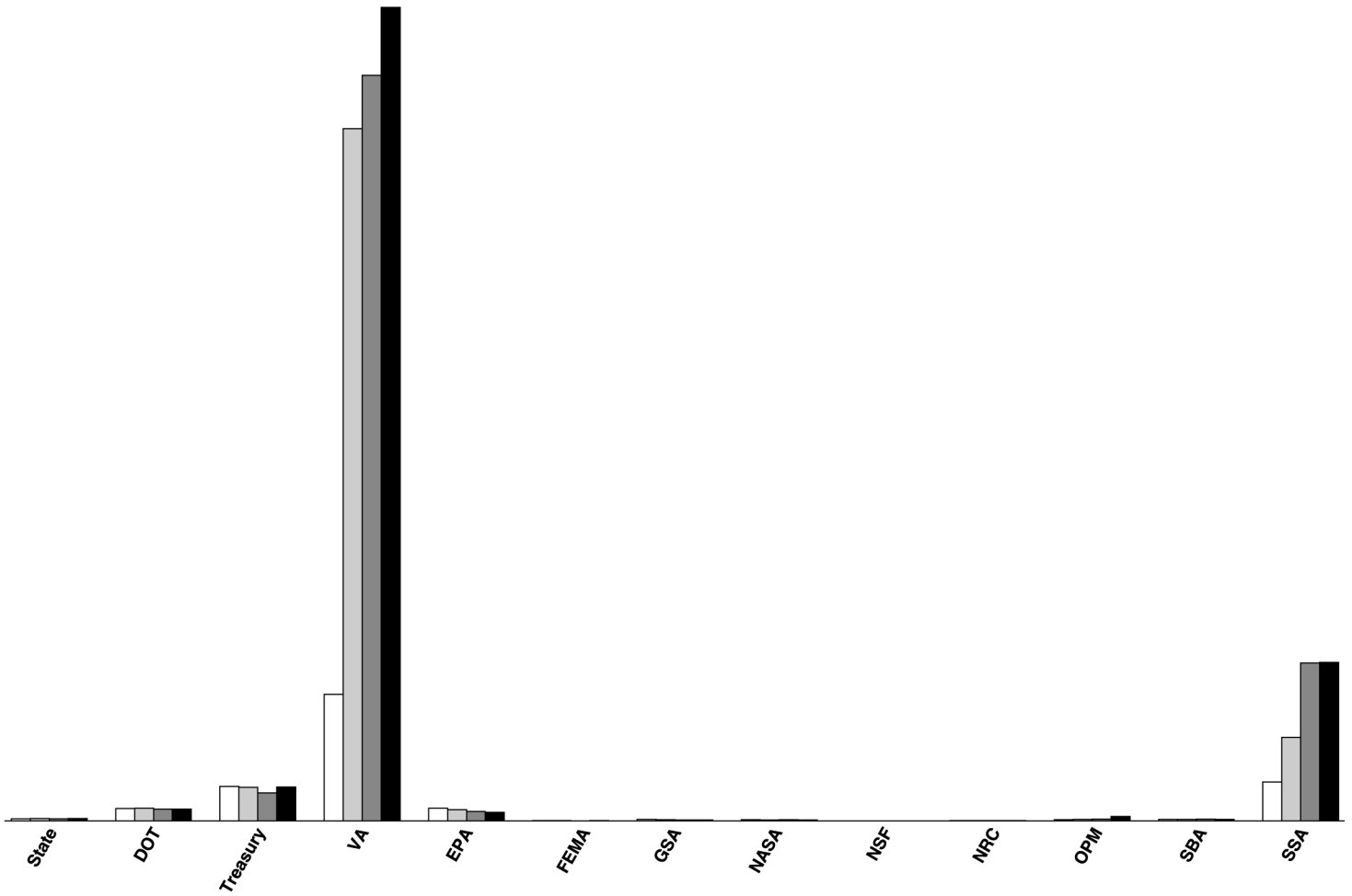
SSA officials we interviewed attributed this to the growing popularity of genealogy and requests by researchers for SSA records; this trend appears to have continued in fiscal year 2001.

- USDA had a relative increase in fiscal year 2000 that agency officials attributed to inquiries regarding settlement of a major legal case, but the fiscal year 2001 numbers are more in line with fiscal year 1999.

Figure 7: Total FOIA Requests Received, by Agencies

1,400,000 Total FOIA requests





Note: In this figure, many agencies appear to receive no requests. This is not true. The appearance is due to the figure's scale, made necessary to portray accurately the large number of requests received by VA.

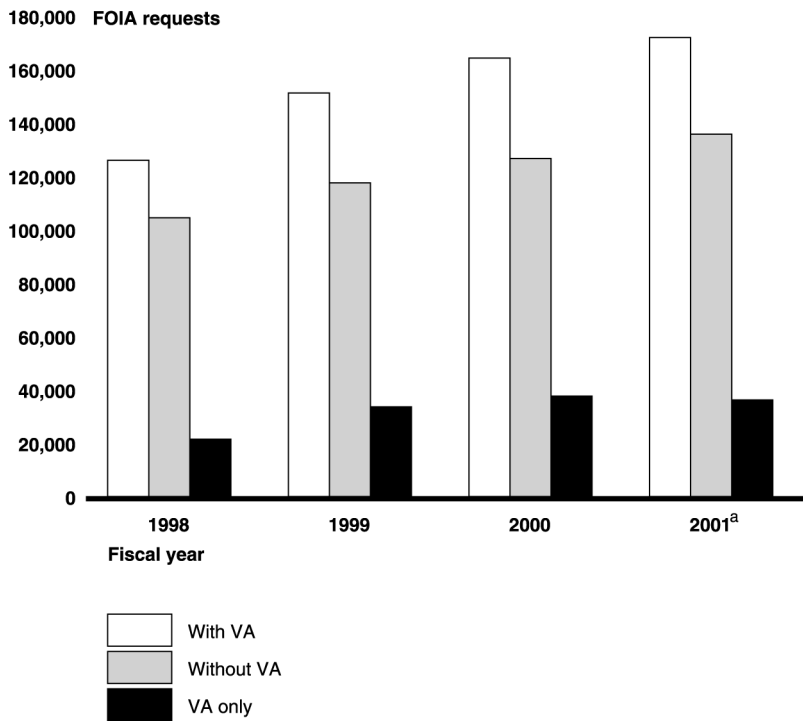
^aYear 2001 includes data for only 24 agencies. The Department of Education fiscal year 2001 FOIA annual report was not available as of July 2002.

Source: FOIA annual reports for fiscal years 1998-2001 (self-reported data).

Growing Backlogs of Pending Cases

For the 24 agencies (not including VA), the total number of requests pending at the end of the fiscal year continued to increase (see fig. 8), even though the total number of FOIA requests they received declined from fiscal years 2000 to 2001. The backlog is generally increasing for about half of the agencies (see fig. 9).

Figure 8: Total Pending Requests for 25 Agencies, 24 Agencies (Without VA), and VA Only

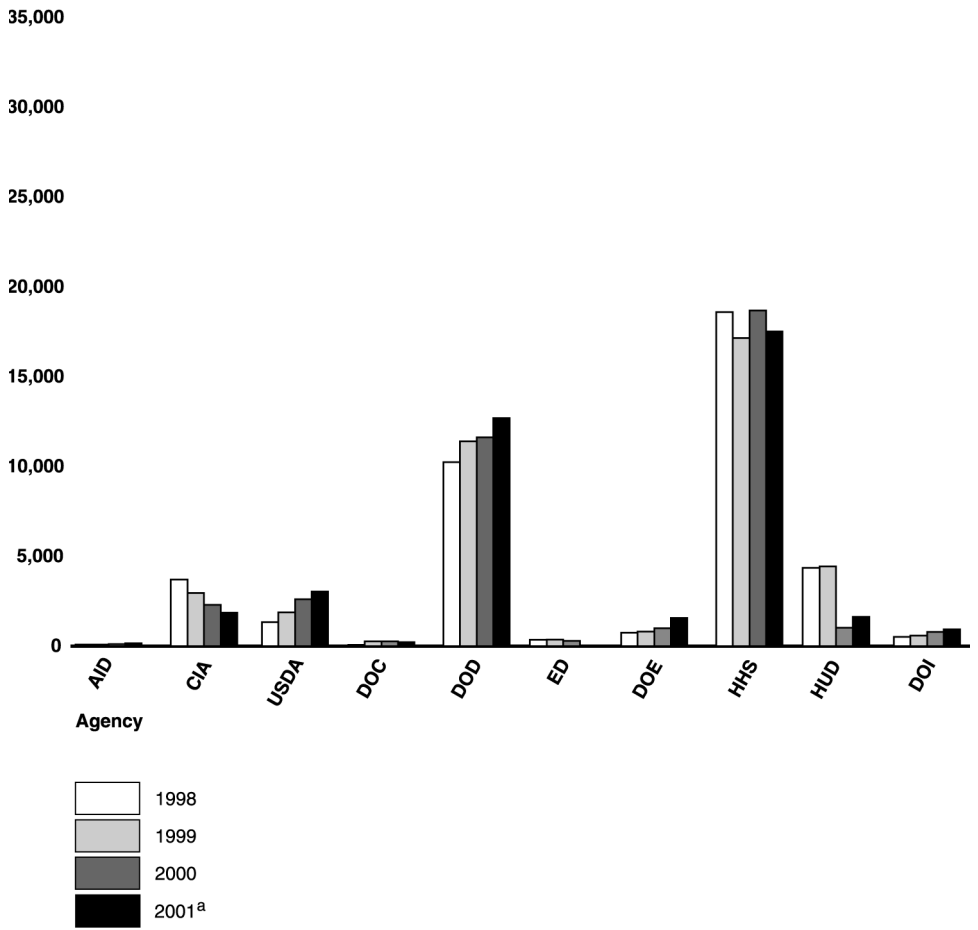


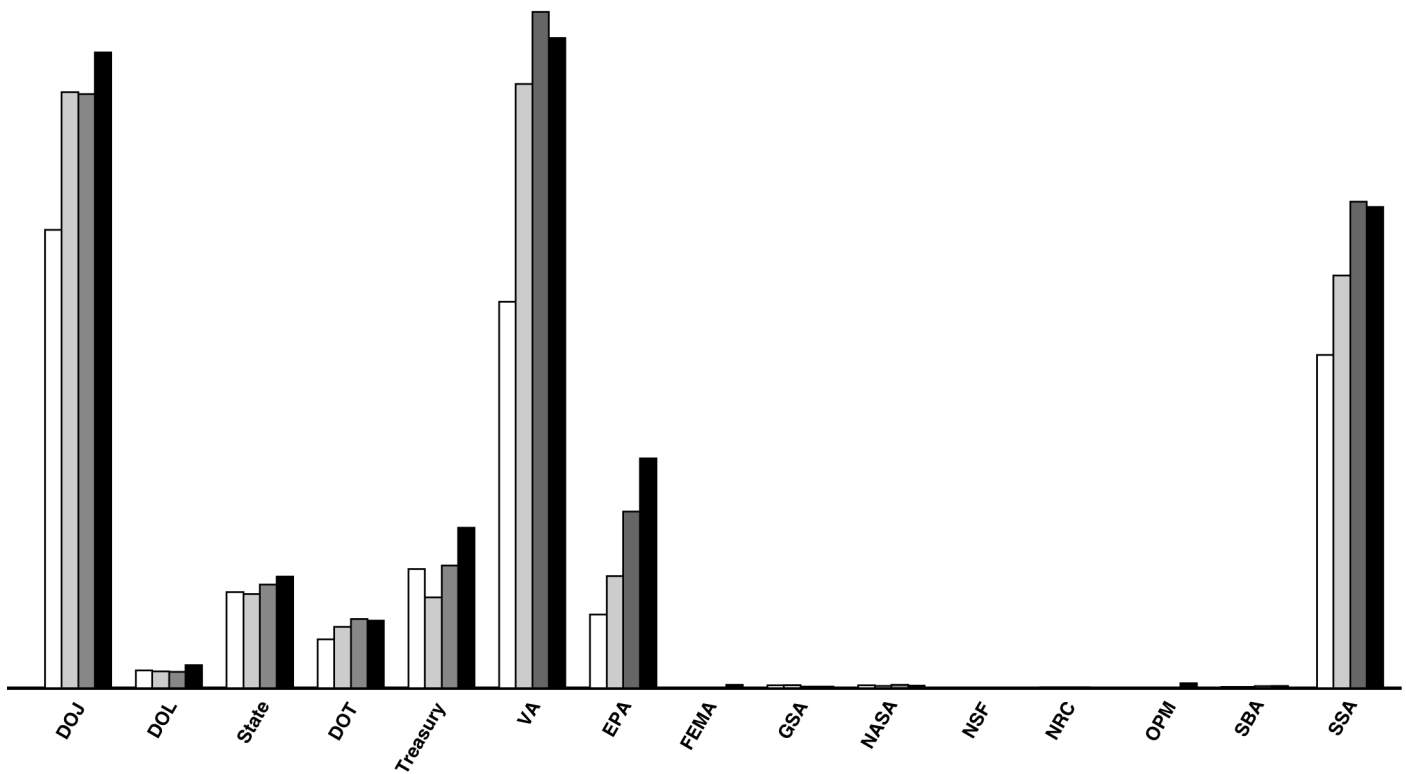
^aYear 2001 total includes data for only 24 agencies. The Department of Education fiscal year 2001 FOIA annual report was not available as of July 2002.

Source: FOIA annual reports for fiscal years 1998-2001 (self-reported data).

Figure 9: Pending Requests at End of Year for 25 Agencies

40,000 FOIA requests





^aYear 2001 includes data for only 24 agencies. The Department of Education fiscal year 2001 FOIA annual report was not available as of July 2002.

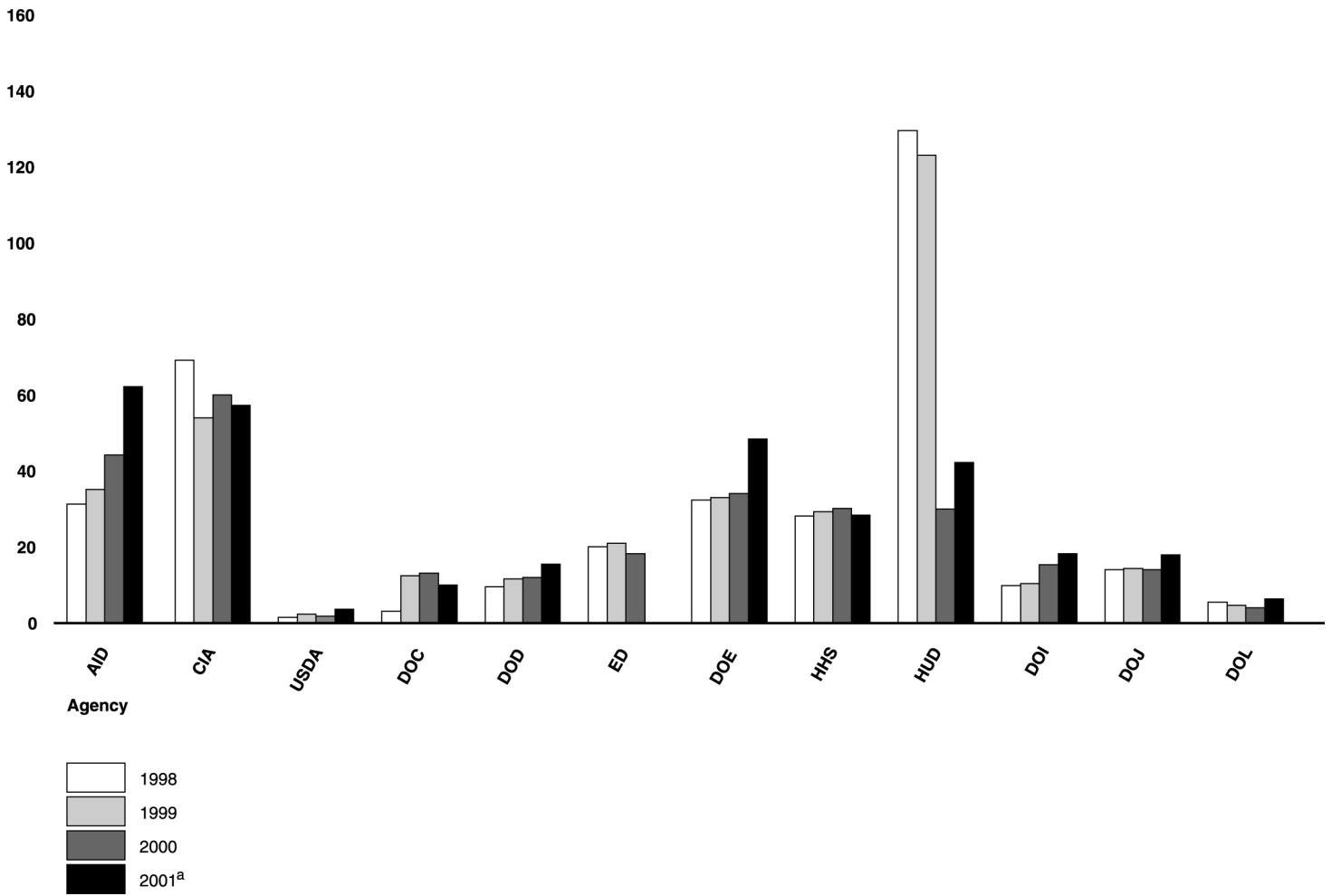
Source: FOIA annual reports for fiscal years 1998-2001 (self-reported data).

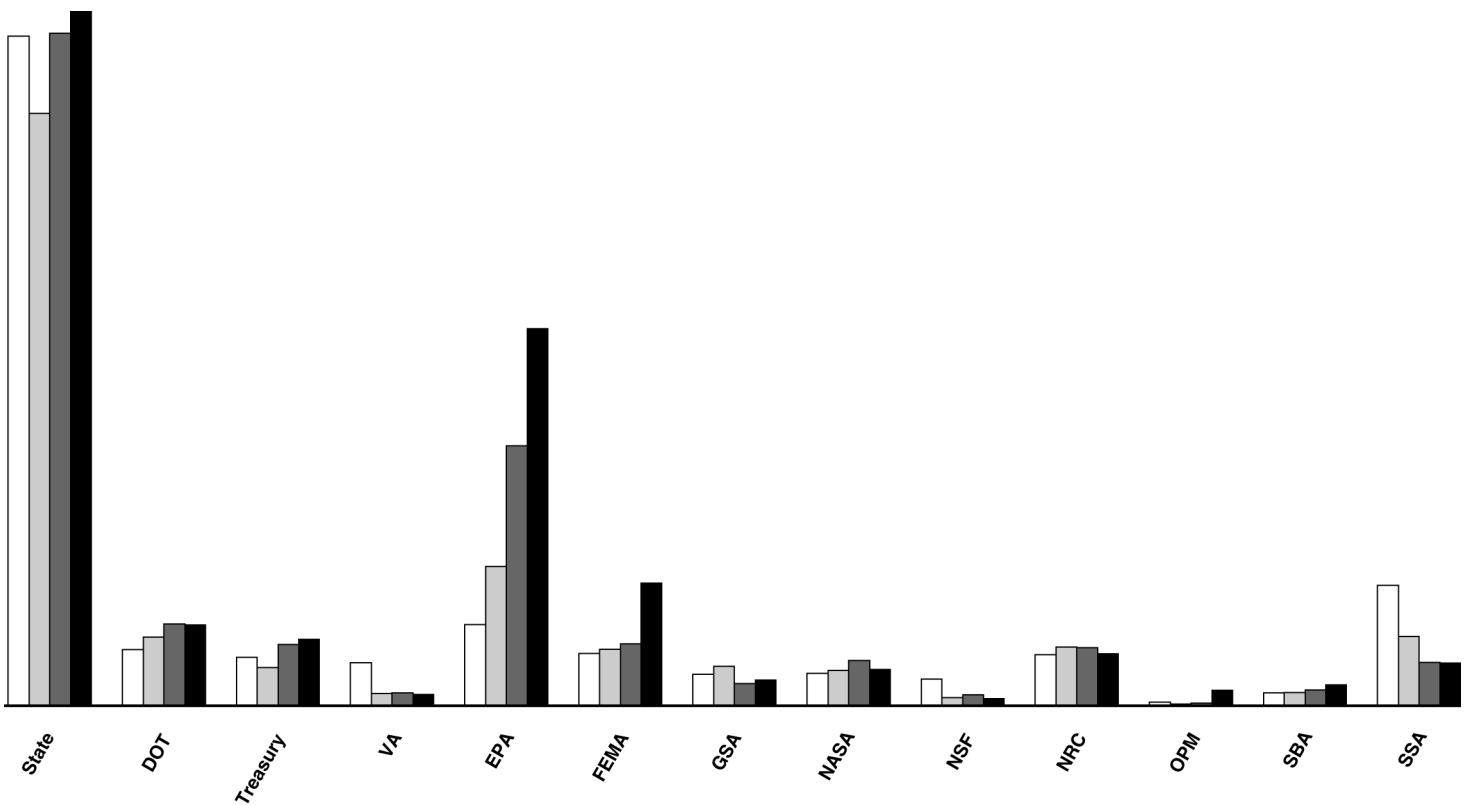
About two-thirds of the agencies have a backlog ratio of about 20 percent or less (see fig. 10). This means that the backlog is, on average, equivalent to the number of requests the agency received in a period of about 10 weeks. Backlog ratio is defined as the number of pending FOIA requests in agency backlogs at the end of a fiscal year, compared with the numbers of requests received in that fiscal year. Some agencies, such as VA and USDA,

that have large volumes of requests may also have large numbers of pending cases that correspond to relatively small backlog ratios. For example, for fiscal years 1999 through 2001, their backlogs were equivalent to less than 5 percent of the requests they received for the year. However, agencies can also have relatively large backlog ratios—for example, in fiscal year 2001, four agencies have ratios greater than 50 percent, and one of these agencies has a backlog ratio greater than 100 percent. This means that the agency over 100 percent has more pending requests than the number of requests received in a year.

Figure 10: Pending Requests Divided by Received Requests

180 Percentage





Note: The backlog ratio is defined as the number of requests pending divided by the number of requests received that year. Agencies with a value over 100% have more backlog than requests received per year.

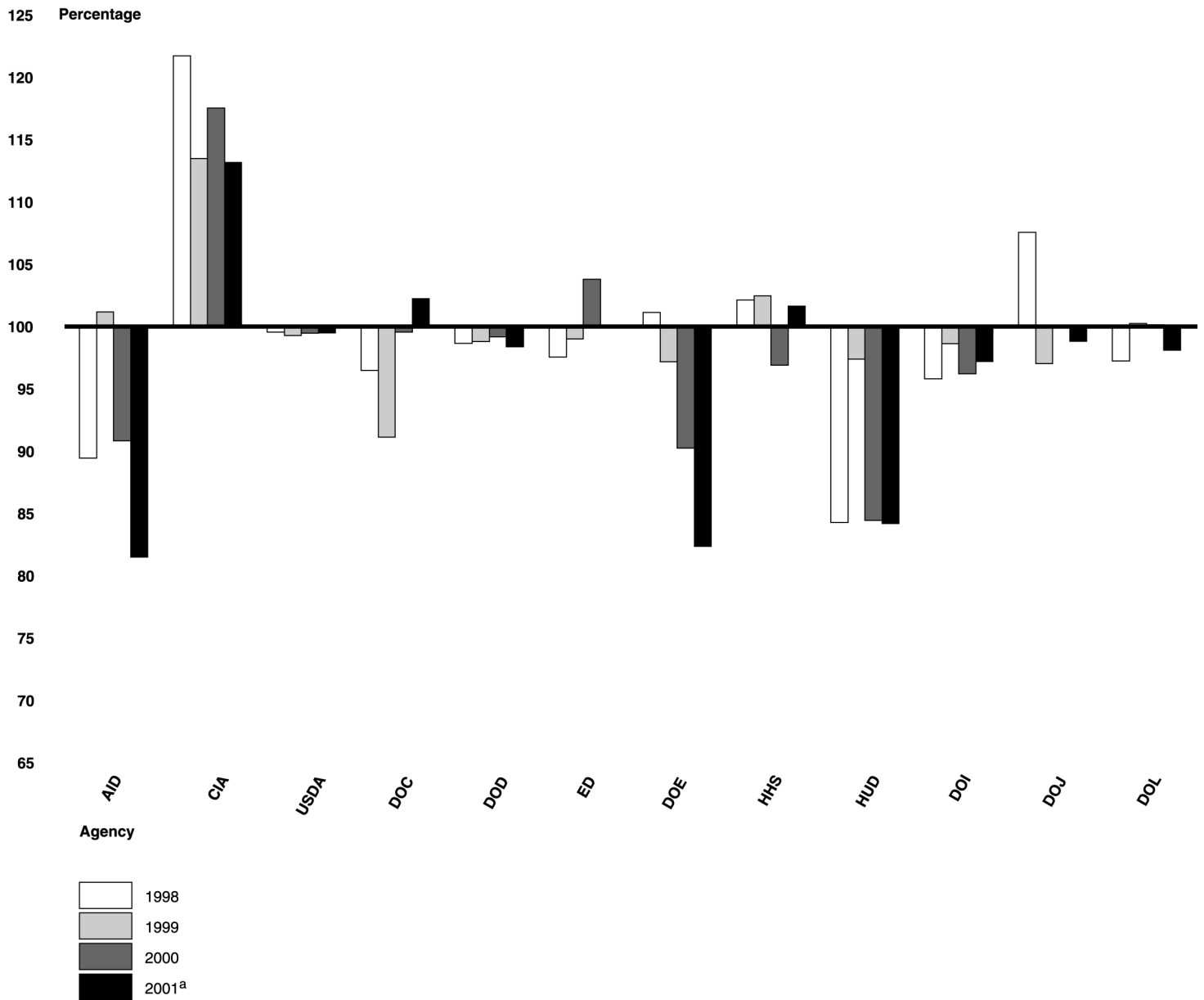
^aYear 2001 includes data for only 24 agencies. The Department of Education fiscal year 2001 FOIA annual report was not available as of July 2002.

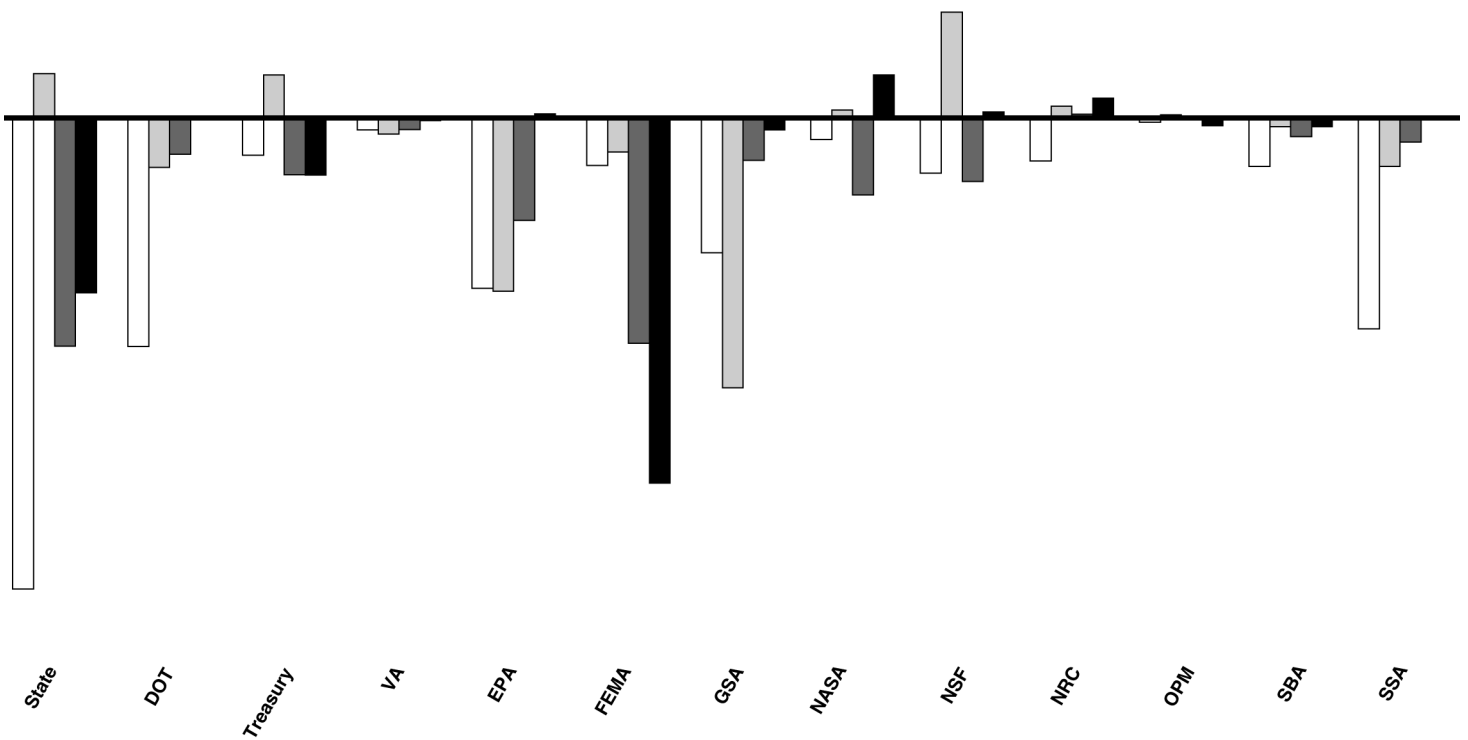
Source: FOIA annual reports for fiscal years 1998-2001 (self-reported data).

Many agencies are processing fewer requests than they receive each year. About a third of the 25 agencies had agency processing rates below 100 percent in fiscal years 1998, 1999, 2000, and 2001, indicating that they

processed fewer requests than they received each year (see fig. 11). The agency processing rate is defined as the ratio of requests processed in a fiscal year to the number received, and requests processed can include pending requests from previous years. The Central Intelligence Agency (CIA) was the only agency with a processing rate over 100 percent in each year for fiscal years 1998, 1999, 2000, and 2001. This means that CIA has made steady progress in reducing its backlog of pending cases (see fig. 9). Seventeen other agencies were able to make at least a small reduction in their backlogs in 1 or more years between fiscal years 1998 and 2001.

Figure 11: Agency Processing Rate for 25 Agencies





Note: The agency processing rate is defined as the percentage of requests an agency processes out of the requests an agency received. An agency processing rate of under 100% is directly related to an increasing number of pending cases.

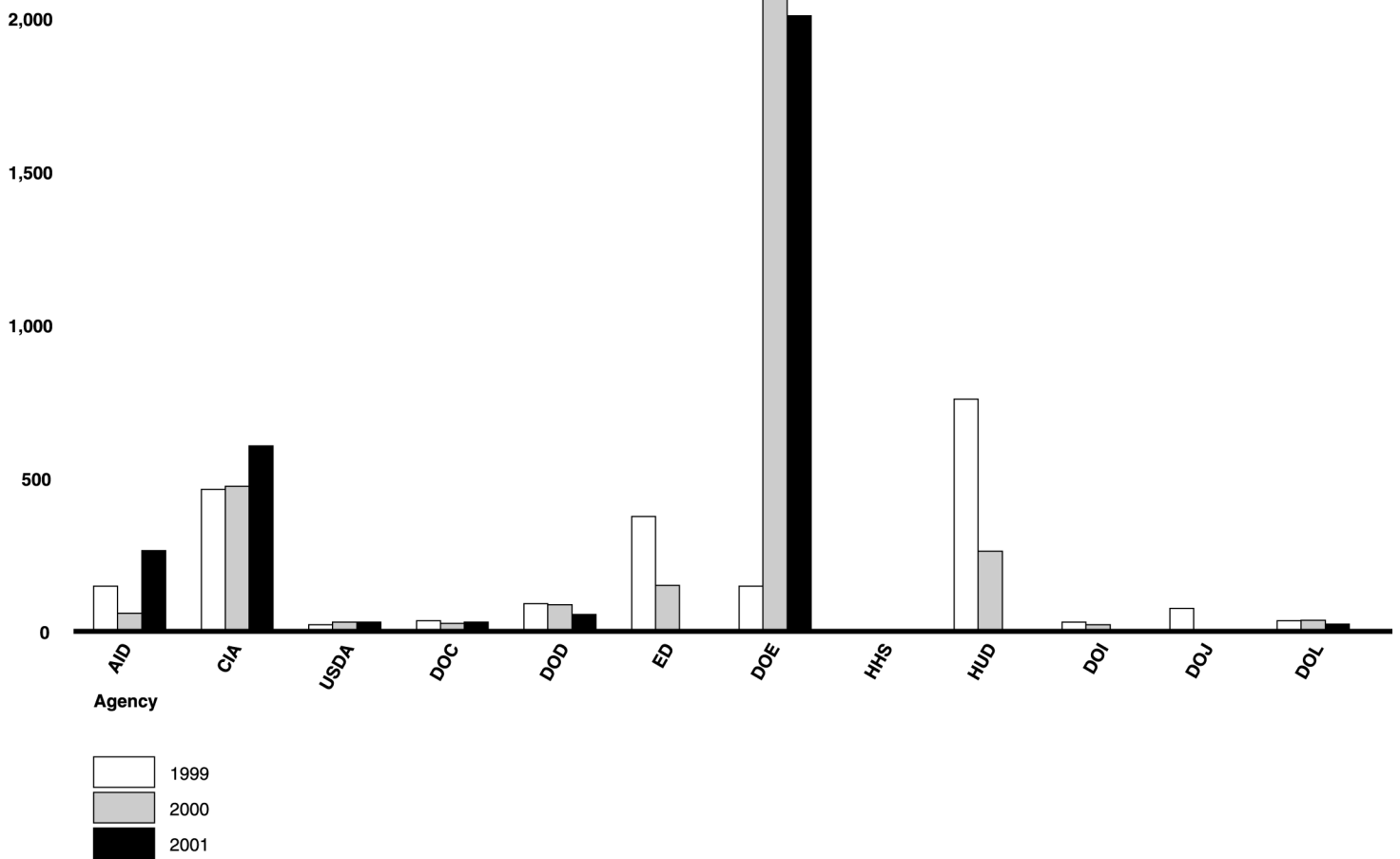
^aYear 2001 includes data for only 24 agencies. The Department of Education fiscal year 2001 FOIA annual report was not available as of July 2002.

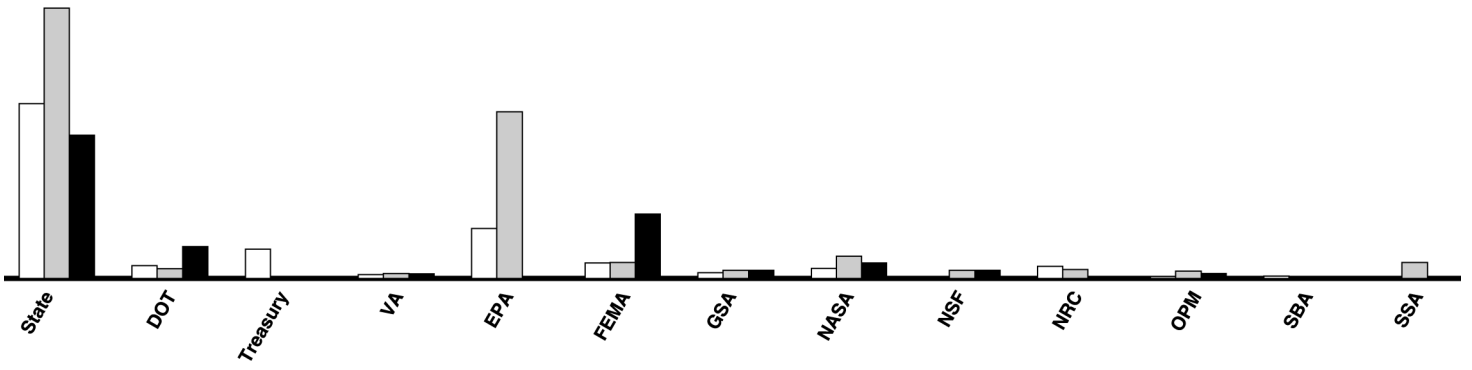
Source: FOIA annual reports for fiscal years 1998-2001 (self-reported data).

A few agencies have backlogs with median ages of 1 year or more (see fig. 12). Fourteen of the 25 agencies had backlogs with median ages of fewer than 100 days in at least 2 years between fiscal years 1999 and 2001; the remaining agencies had backlog ages of over 100 days (see fig. 13).

Figure 12: Median Age of Backlog

2,500 Median days

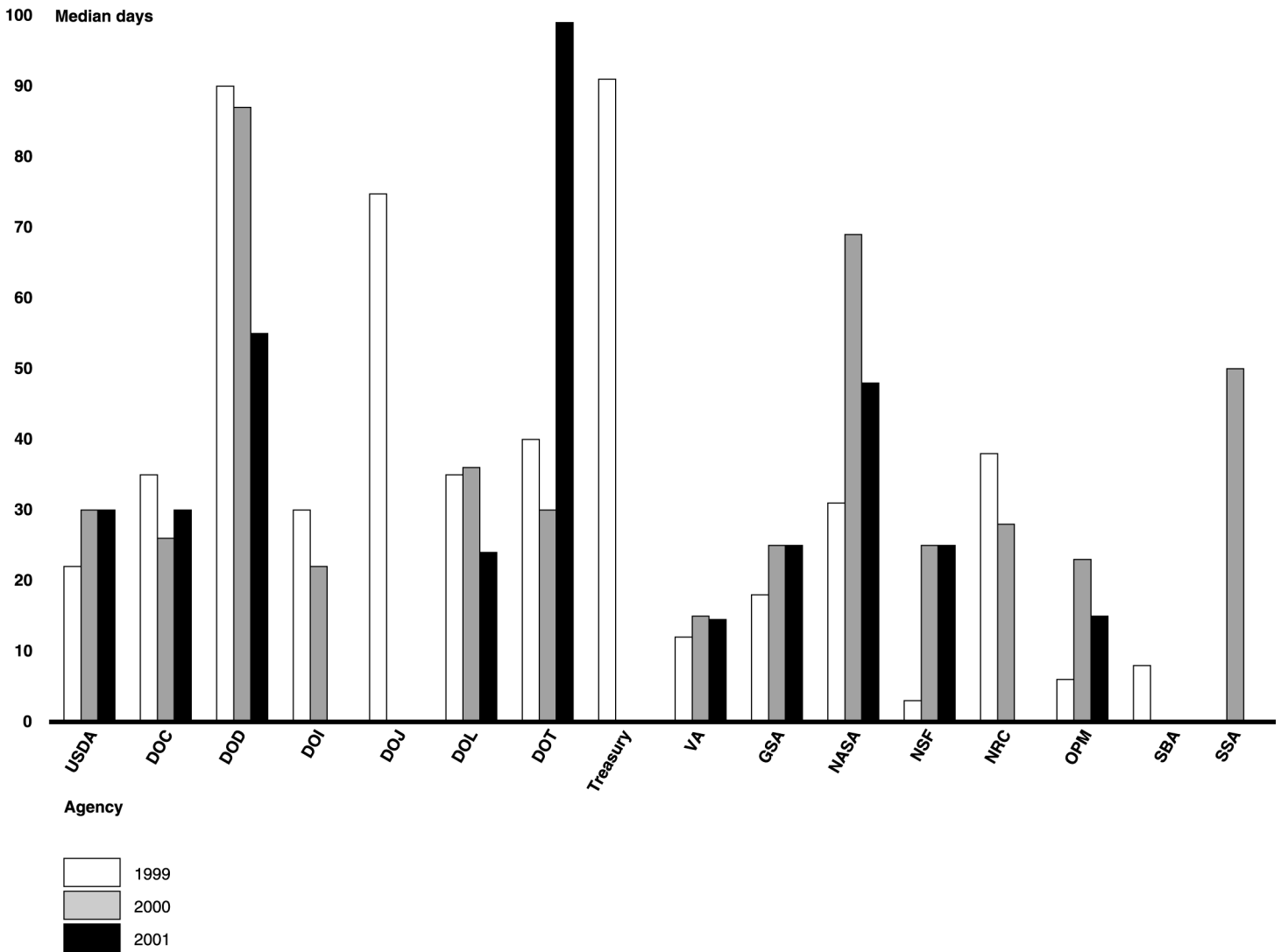




Note: In this figure, many agencies appear to have a median age of backlog that is zero. This is not true. Agencies that report by component and do not provide an agencywide median age do not appear on this figure.

Source: FOIA annual reports for fiscal years 1999-2001 (self-reported data).

Figure 13: Agencies with Pending Median Days Below 100



Source: FOIA annual reports for fiscal years 1999-2001 (self-reported data).

The FOIA officials we interviewed cited several reasons for their growing backlogs. These reasons included the increasing complexity of the requests, a lack of staff resources for FOIA processing, and a lack of agency information technology support. Several agencies also noted these factors in their annual reports.

Progress in On-Line Availability Is Continuing, but Additional Agency Attention Is Needed

Agencies have made progress in on-line availability of the materials required by e-FOIA as well as in using the Web to make materials publicly available and in incorporating Web site features that facilitate public access to government information. However, not all required materials were available on line. In addition, materials were not always easy to find, Web site links to information were not always functioning properly, and some materials that were previously available were no longer on line. This situation appears to reflect a lack of adequate attention and continuing review by agency officials to ensure that these materials are available.

Continuing Progress in On-Line Availability

Agencies continue to make progress in making materials available on line. As shown in figure 14, 18 agencies had all six of the required elements on line during our 2002 Web site review period, compared with 15 agencies during our 2000 review. However, in 2002, seven agency Web sites did not have all of the required elements. During both reviews, all 25 agencies had links to annual reports for recent years.¹⁴ This year, all 25 agencies had policy statements available on line.

¹⁴The Department of Education did not have its fiscal year 2001 annual report on line as of July 2002.

Figure 14: On-Line Availability of Elements as Required by e-FOIA

	AID	CIA	USDA	DOC	DOD	ED	DOE	HHS	HUD	DOI	DOJ	DOL	State	DOT	Treasury	VA	EPA	FEMA	GSA	NASA	NSF	NRC	OPM	SBA	SSA	
2002																										
Agency final opinions	N/A	N/A	○	●	◐ ^d	●	●	●	●	● ^b	●	●	●	◐ ^{a,d}	●	●	●	○	○	○	N/A	● ^a	●	●	●	●
Policy statements/interpretation	●	N/A	●	●	●	●	●	●	● ^a	● ^b	●	●	●	●	●	●	●	●	●	● ^a	●	●	●	●	●	●
Administrative staff manuals	●	N/A	●	●	●	●	●	●	● ^a	● ^b	●	●	●	● ^a	●	○	●	○	●	● ^a	● ^a	●	●	●	●	●
Frequently requested records	●	●	●	●	●	●	●	●	●	● ^b	●	●	○	●	●	○	●	●	●	●	●	●	●	●	●	●
Index of frequently requested records	●	●	●	●	●	●	●	●	●	●	●	●	○	●	●	○	●	●	●	●	●	●	●	●	●	●
FOIA annual reports	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●

- Available
- ◐ Partially available
- Not found
- N/A Not applicable

	AID	CIA	USDA	DOC	DOD	ED	DOE	HHS	HUD	DOI	DOJ	DOL	State	DOT	Treasury	VA	EPA	FEMA	GSA	NASA	NSF	NRC	OPM	SBA	SSA	
2000																										
Agency final opinions	N/A	N/A	●	●	◐	●	◐	●	●	●	●	●	○	●	○	●	●	●	●	◐	N/A	●	●	●	●	
Policy statements/interpretation	●	N/A	●	●	◐	●	●	●	◐	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	
Administrative staff manuals	●	N/A	●	●	●	○	●	●	◐	●	●	●	●	●	●	○	●	●	●	●	●	●	●	●	●	
Frequently requested records	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	○	○	●	●	◐	●	●	●	●	●	
Index of frequently requested records	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	○	○	●	●	◐	●	●	●	●	●	
FOIA annual reports	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	

^aMaterial was not found during our review of agencies' Web sites. Link was provided during the agency Web site verification process.

^bLink was not working during our review of agencies' Web sites but was subsequently restored.

^dMaterial was referred to by the agency but was not available.

Source: GAO.

Agencies are also making progress in using the Web to make materials publicly available. As shown in figure 15, 10 agencies had all eight of these elements on their Web sites this year, compared with 9 agencies in 2000. Also, as shown in figure 15, this year the number of agencies using the Web to meet public availability requirements increased for four of the eight elements, and all 25 agencies had two of the elements (fee schedule and description of record locator system) on their Web sites. Our current review shows that 10 more agencies have an index to major information systems on their Web sites than in our 2000 review.

Figure 15: Use of the Web to Make Reference Material and FOIA Regulations Publicly Available

	AID	CIA	USDA	DOC	DOD	ED	DOE	HHS	HUD	DOI	DOJ	DOL	State	DOT	Treasury	VA	EPA	FEMA	GSA	NASA	NSF	NRC	OPM	SBA	SSA
2002																									
FOIA regulations	●	●	●	●	○	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	○	●	●	
Information on multitrack process	N/A	○	●	●	○	○	N/A	●	N/A	●	○	●	○	●	○	○	N/A	N/A	○	N/A	●	●	N/A	●	
Information on expedited process	●	●	●	●	○	●	○	●	●	●	●	●	○	●	○	○	○	○	○	●	●	●	○	●	
Fee schedule	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	
Index to major information systems	● ^a	N/A	●	● ^c	●	●	●	● ^c	● ^a	○	●	●	●	● ^a	●	●	○	○	●	●	●	●	●	●	
Description of major information systems	● ^a	N/A	●	● ^b	●	●	●	● ^b	● ^a	○	●	●	●	● ^a	○	●	○	○	●	●	●	●	●	●	
Description of record locator systems ^e	■	■	◆	■ ^a	◆	◆	◆ ^c	◆	■	■	◆	■ ^c	■	■	◆	◆	■	■	◆	◆	◆	■	◆	■	
Handbook for obtaining public information	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	○	●	●	●	●	●	●	●	

- Available
- Partially available
- Not found
- First Gov and/or Government Information Locator System (GILS)
- ◆ Agencies with other record locator systems in addition to First Gov and/or GILS
- N/A Not applicable

	AID	CIA	USDA	DOC	DOD	ED	DOE	HHS	HUD	DOI	DOJ	DOL	State	DOT	Treasury	VA	EPA	FEMA	GSA	NASA	NSF	NRC	OPM	SBA	SSA
2000																									
FOIA regulations	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Information on multitrack process	N/A	●	●	○	●	○	○	●	N/A	N/A	●	○	●	●	●	N/A	○	N/A	N/A	○	N/A	●	N/A	N/A	●
Information on expedited process	○	●	●	○	●	○	●	○	●	●	●	●	●	●	●	○	●	●	●	●	●	●	●	○	●
Fee schedule	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Index to major information systems	●	○	●	●	●	●	●	○	○	●	○	●	●	●	●	○	○	○	○	●	●	○	●	●	●
Description of major information systems	●	○	●	○	●	●	●	○	○	●	○	●	●	●	○	●	○	○	○	●	●	●	●	●	●
Description of record locator systems ^f	●	○	●	●	●	●	●	○	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Handbook for obtaining public information	○	●	●	○	○	●	●	●	●	●	●	●	●	●	●	○	○	○	○	○	○	○	○	○	○

^aMaterial was not found during our review of agencies' Web sites. Link was provided during the agency Web site verification process.

^bLink was not working during our review of agencies' Web sites but was subsequently restored.

^cLink was not working during our review of agencies' Web sites but was subsequently restored in response to our assessment.

^eData were not comparable to 2000 review.

^fIndicates that a description of the agency's record locator system (i.e., GILS) was found on the agency's Web site.

Source: GAO.

Agencies are making more use of Web features that facilitate public access to information into their Web sites. As shown in figure 16, 9 agencies had all seven of these features on their Web sites this year, compared with 4 agencies in 2000. All 25 agencies had at least four of the seven features on their Web sites during our current review. Also as shown in figure 16, we found that six of the seven features were on more agency Web sites this

year than in 2000. The feature showing the most increase, compared with our 2000 review, was the link to FOIA offices, with 6 more agencies having this on their Web sites.

Figure 16: Features that Facilitate Public Access

	AID	CIA	USDA	DOC	DOD	ED	DOE	HHS	HUD	DOI	DOJ	DOL	State	DOT	Treasury	VA	EPA	FEMA	GSA	NASA	NSF	NRC	OPM	SBA	SSA
2002																									
Information on obtaining public services	●	●	●	●	●	●	●	●	●	● ^b	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
FOIA link on agency home page	●	●	●	●	○	○	●	●	●	●	●	●	●	●	●	○	●	○	●	●	●	○	●	●	
FOIA Web page	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	
Web site search feature	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	
Electronic submittal capability (excluding fax)	○	○	◐	●	●	●	○	●	○	○	○	○	●	○	○	○	○	●	●	●	●	●	●	○	
Link to FOIA offices	●	○	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	
Links to program divisions	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	

- Available
- ◐ Partially available
- ◑ Department-level Web site does not use e-submission but indicated that components do
- Not found
- N/A Not applicable

	AID	CIA	USDA	DOC	DOD	ED	DOE	HHS	HUD	DOI	DOJ	DOL	State	DOT	Treasury	VA	EPA	FEMA	GSA	NASA	NSF	NRC	OPM	SBA	SSA
2000																									
Information on obtaining public services	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
FOIA link on agency home page	●	●	●	●	○	○	●	○	●	●	●	●	●	●	●	○	○	○	●	●	●	●	●	●	●
FOIA Web page	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Web site search feature	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	○	●	●	●
Electronic submittal capability (excluding fax)	○	○	○	●	○	●	●	○	●	○	○	○	○	○	○	○	○	○	●	●	●	●	●	●	○
Link to FOIA offices	N/A	N/A	●	○	●	○	●	○	N/A	●	●	N/A	●	●	○	●	○	○	●	N/A	N/A	○	N/A	N/A	
Links to program divisions	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	N/A	○	●	●	●

^bLink was not working during our review of agencies' Web sites but was subsequently restored.
Source: GAO.

Additional Attention to Ease of Use and Continued Availability Needed

The Web sites varied in terms of how easy or difficult it was to find the required elements as well as the elements that agencies made publicly available on line. Specifically, we were unable to find some of the elements within the 30-minute time period we allowed for searching each agency Web site. We were unable to find up to two of the required elements on five agency Web sites; these are indicated by a notation in figure 14 (note a). Also, as indicated by a notation in figure 15 (note a), we did not find up to two of the “publicly available” elements on four agency Web sites. Web site links for these elements were subsequently provided by the agencies during their comment period.

During our current Web site review, four agency sites had links to elements that the agency had intended to make available on line but that were not functioning properly (broken). These 11 broken links are indicated by a notation (note b) in figures 14 through 16. Specifically:

- One agency indicated that four of its Web site links to required elements, which were broken during our review, had subsequently been repaired.¹⁵
- Three agencies indicated that broken links to publicly available elements that were not working during our review had subsequently been repaired.
- One agency Web site had one broken link to information on obtaining public services, which was subsequently repaired.

Three agencies restored their broken links in response to our assessment; these are indicated by a notation in figure 15 (note c).

Certain agencies no longer had material that had been available during the 2000 review posted on their Web sites this year. Specifically:

- Four agencies had up to two of the required elements available on their Web sites during our 2000 review but no longer had them available.
- Eight agencies had one or two publicly available elements on their Web sites during our 2000 review but no longer had them available.
- One agency did have a FOIA link on the agency home page in 2000, but not this year.

Agencies are not devoting sufficient attention to the on-line availability of materials and ensuring that Web site content is adequately maintained, including accuracy and currency of the material and Web site links. A few of the agency officials we spoke with during our review said that some elements were not available on line because the agencies have had difficulty in regularly updating their sites. FOIA officials from several of the agencies said that difficulties in obtaining Webmaster and other technical support, restrictions on server space, and insufficient FOIA staff

¹⁵This agency's Web site was partially closed this year due to a court order.

are factors that make it difficult to post additional material on their Web sites.

Views of FOIA Officials and FOIA Requesters Differ Regarding Impact of the Post-September 11 Environment

The FOIA officials and requesters viewed the impacts of the post-September 11 environment on e-FOIA implementation differently. Except for mail delays resulting from the anthrax attacks, the agency officials characterized the effects of the September 11 terrorist attacks on operations as relatively minor. These officials focused on specific changes in operations and compliance, rather than on general changes in their agencies' proactive information dissemination policies and practices. In contrast, requesters expressed considerably more concern, especially in a broader sense, about public access to government information.¹⁶ Requesters did not differentiate between specific concerns about FOIA compliance and their more general concerns about government information dissemination and public access.

The impacts of the post-September 11 environment and current policy climate are ongoing. Some of the impacts on how agencies respond to FOIA requests, disseminate information to the public, and provide electronic access to information will only surface in the future. It is not yet clear how current and prospective requesters will respond to changes in the policy environment and to changes in agency practices. According to the requesters we met with, some portion of the long-term impact may be masked by as-yet-unknown (or never-known) changes in the mix of FOIA requests and by any perceived "chilling effect" on requesters that results in some potential requests not being made.

FOIA Officials Reported Relatively Minor Changes to FOIA Operations

In six of eight agencies, the FOIA officials reported substantial delays in receiving mailed requests, resulting from the anthrax situation. These agencies had large portions of their requester mail processed through affected facilities. The two remaining agencies did not report major delays;

¹⁶The FOIA requesters we contacted are widely recognized for their expertise in using the FOIA process. They make frequent and/or complex FOIA requests and advocate open public access to government information. Individuals from the following organizations met with us and/or provided written information (see app. I): Federation of American Scientists, Access Reports, American Library Association, Cohn & Marks (representing American Society of Newspaper Editors), OMB Watch, Reporters Committee for Freedom of the Press, Electronic Privacy Information Center, and National Security Archive.

for example, SSA's mail does not go through the affected U.S. Postal Service facilities.

The officials reported that they had not made major changes to their FOIA processes or decision criteria since the period covered by our prior report, including in response to September 11 and anthrax. They also did not report significant impacts on the FOIA-related content on their agencies' Web sites. The changes the officials described include the following examples:

- Following the October 12, 2001, Attorney General guidance on FOIA, SSA no longer requires a memorandum on "harm" as rationale for not making a discretionary disclosure. DOD issued a new guidance memorandum covering the new Attorney General guidance and use of exemptions; the agency memorandum noted that discretionary disclosures were no longer encouraged.
- One agency component (USDA's Animal and Plant Health Inspection Service) reported that it had removed a frequently requested record from its Web site because of industry concern over the safety of animal researchers and research facilities that were identified in the document. Other agencies' FOIA officers reported redacting or modifying frequently requested records (e.g., lists of government purchase card holders) to avoid disclosing employees' names and/or locations.
- HHS reported receiving new security classification authority that would allow the agency to withhold classified information if it were requested under FOIA.

A few of the agencies' FOIA officers were aware of general agency reviews of Web site content as part of an overall review of information dissemination (not specific to the agencies' FOIA-related Web site content or designated "electronic reading rooms"). Several of the officials reported that documents in general are being more closely scrutinized for sensitivity and in a few cases are not being posted on line because of security concerns (e.g., building blueprints).

FOIA Requesters Were Concerned with Public Access to Government Information

The eight FOIA requesters we contacted focused on what they perceived as a changing policy climate, which some of them characterized as a shift from a “right to know” standard (i.e., FOIA) to a “need to know” standard (i.e., discretionary agency information dissemination). The requesters reported expecting more delays in the process, more use of exemptions, and fewer discretionary disclosures. These requesters also were concerned about changes in access to government information on line as a result of agency actions that they knew about—for example, certain public interest groups continue to compile and publish lists of content that was removed (“scrubbed”) from government Web sites after September 11. However, they did not make clear distinctions—or know—whether the government Web site scrubbing they knew about included materials that e-FOIA requires to be made available on line, as opposed to other agency information products and publications.

The six requesters we met with, who advocate open public access to government information, expressed strong concerns regarding what they perceived as changes in the policy climate surrounding FOIA. One focus of their concern was how the March 2002 guidance from OIP and the Information Security Oversight Office on protecting “sensitive but unclassified” information would affect release of information in response to requests.¹⁷ Another focus of their concern was the potential for the new policy guidance to discourage some potential requesters (e.g., reporters) from trying to use FOIA. They characterized this as a potential “chilling effect” on requesters and anticipated that some requesters would therefore turn to other means (e.g., use “leakers” or “whistleblowers”) to get information about government activities. The requesters we contacted noted that the net effects of the post-September 11 environment on e-FOIA implementation would be hard to quantify or measure and that some effects would not be visible until specific FOIA cases are appealed and litigated.

¹⁷The March 19, 2002, White House Chief of Staff memorandum forwarded additional guidance from OIP and the Information Security Oversight Office that described “sensitive but unclassified” information and anticipated “FOIA-related homeland security issues” related to the need to protect sensitive information from inappropriate disclosures.

Justice Is Continuing Actions to Implement Our Recommendations

Justice's OIP has acted to implement our recommendations, and agencies gave us positive feedback about these efforts. As a result, agencies have made progress in improving data quality in their annual reports and in making materials available on line. However, numerous data anomalies remain. In addition, agencies have not maintained sufficient attention to their Web sites to ensure that materials are easy to locate, that links to information are functioning properly, and that access to FOIA-related materials is continued over time. Justice recognizes that agencies need to make further improvements in the quality of their reporting and on-line availability. As a result, Justice is continuing its efforts to encourage agencies to make these improvements.

Justice Has Taken Action on Our Recommendations

To improve the public's access to government records and information, our March 2001 report¹⁸ included recommendations that the Attorney General direct Justice's Office of Information and Privacy (OIP) to

- improve the reliability of agencies' data in their FOIA annual reports by providing guidance that addresses data quality issues and by reviewing agencies' annual report data for completeness and consistency and
- encourage agencies to make all required materials available electronically.

To address the recommendations in our March 2001 report, OIP augmented its FOIA training programs—including the basic and advanced courses it offers to attorneys and FOIA coordinators—to include subjects raised by the recommendations. OIP also has taken additional, specific actions to address each of our recommendations.

FOIA officials gave us positive feedback about the quality of OIP's training courses and their FOIA guidance. Most agency officials that we interviewed stated that they would want OIP to offer greater training capacity (i.e., more seats) for its courses, as well as training in more convenient locations.

¹⁸[GAO-01-378](#).

Justice Continues to Encourage Agencies to Improve Data Quality

In August 2001, OIP issued supplemental guidance, via *FOIA Post*, on how to prepare annual agency FOIA reports. This guidance, among other things, reinforced that all agencies should use the standardized annual report template for uniform agency reporting and outlined several methods that agencies should use to confirm the accuracy of their data. The Justice guidance was straightforward about how agencies should calculate and/or total their data to ensure accuracy.

For fiscal year 2001, fewer agency FOIA reports had data quality and consistency problems, compared with fiscal year 2000. Nevertheless, some of the fiscal year 2001 reports did have anomalies, with no explanations provided. For example:

- OIP's annual report guidance states that the total of the categories, "total grants," "partial grants," "denials," and "other reasons for nondisclosure" should equal the total number of processed requests. But when we reviewed fiscal year 2001 data for the 25 agencies, we found that three agency annual reports included totals by disposition that did not equal the number of total requests processed. For the fiscal year 2000 annual reports, 14 of the 25 annual reports had inconsistent totals.
- OIP's guidance is also clear that the total number of agency full-time-equivalent (FTE) staff reported should equal the sum of FTEs for full-time FOIA staff plus the total FTEs for staff working part time on FOIA. In fiscal year 2000, FTEs reported in four annual reports did not total accordingly. In fiscal year 2001, only one annual report's FTE total was anomalous.
- One annual report's FOIA staffing level was much higher for fiscal year 1999 than for subsequent years. This anomaly prompted us to contact the agency, which provided us with a corrected value for total fiscal year 1999 FTEs that was smaller by a factor of six. Another agency annual report showed a fiscal year 2001 FTE figure that was only about one-third of the prior-year levels. When contacted, this agency indicated that the fiscal year 2001 figure was correct and that the anomaly was due to FTE data that was inaccurately reported in the previous years. However, a third agency's annual report showed a much higher total FTE figure for fiscal year 2000 than for fiscal years 1999 and 2001. We contacted the agency, which told us that the fiscal year 2000 figure reflected an increase in requests associated with an ongoing legal settlement; thus, the data had been reported correctly.

-
- OIP's guidance states that the total number of requests reported by track in the "Median Processing Time" segment of the annual report should equal the number of requests processed that year. For fiscal year 2001, we found that five agency annual reports included a number for total number of requests processed by track that was different from the total number of requests reported processed in the "Initial FOIA/PA Access Requests" section of the report. One of the annual reports showed a substantial difference in these figures. Six agencies' annual reports had this type of anomaly for fiscal year 2000.

OIP reported that it had implemented a process, beginning in the fall of 2000, to review all agency annual reports as they are submitted for posting on OIP's Web page. OIP's report review continued, taking our 2001 report into account, for the fiscal year 2001 reports. OIP told us that its staff generally discusses issues or discrepancies it identifies with individual agencies. FOIA officials in four of the eight agencies we interviewed indicated they had received such calls and did address OIP's questions or concerns about data quality; the rest said that they were not contacted by OIP regarding data quality. A couple of agencies that were contacted by OIP told us that the data quality issues raised by OIP were different than those that we found in our analysis. Justice officials indicated that they would continue to review agency reports and provide agencies with feedback on data quality.

Justice Is Continuing to Encourage Agencies to Improve On-Line Availability

Immediately following issuance of our March 2001 report, OIP issued supplementary guidance to all federal agencies on making the elements required by e-FOIA electronically available. This guidance reminded agencies that "careful vigilance" in setting up and maintaining on-line availability of materials is needed. In the fall of 1996, following enactment of e-FOIA, OIP guidance advised agencies to have Internet or Web sites to meet on-line access requirements. OIP issued recommendations on Web site development to agencies in 1997 and 1998; OIP also spotlighted model agency Web practices during that period. The 1997-98 Web site guidance noted the need for periodic review of FOIA-related Web pages to ensure ease of use and maintain accurate content and functional Web site links. In 1999, the Attorney General reinforced the importance of agency FOIA officers and information resources management personnel working together to implement e-FOIA efficiently. OIP emphasized this by disseminating the Attorney General's memorandum through its *FOIA Update* publication.

Agencies progressed in making elements available on line, but further improvements are needed. About a quarter of the agencies whose Web sites we reviewed did not have all the materials required by e-FOIA electronically available. Some elements that were on the Web sites were hard to find (see items indicated by a notation in figs. 14 and 15 (note a)). Continued availability of elements remains an issue—most agency Web sites have been updated, revised, and/or redesigned since our 2000 review. Four agency sites had broken links to information and some agency Web sites included certain elements in 2000 that were missing in 2002. These problems indicate a lack of agency attention and review, especially in the face of general agency Web site changes and modifications.

Justice recognizes the need for additional agency attention to e-FOIA Web sites. OIP officials told us that Justice is continuing, through training and on-line publications, to reinforce the need for full e-FOIA compliance by agencies and facilitate sharing of best practices among agencies. These activities include OIP's Advanced FOIA Seminar and FOIA Administrative Forum, which are each offered twice yearly, and include topics related to implementation of OIP's Web site guidance and agency best practices. OIP also spotlights agency success stories and best practices in "Web Site Watch." This feature was included in OIP's former publication, *FOIA Update*, and OIP officials told us that it would be featured again in forthcoming issues of its *FOIA Post* Web site.

Conclusions

Although we were unable to identify any clear trends in the timeliness of processing FOIA requests, the reporting changes that Justice has encouraged agencies to make are improving the quality and usefulness of the annual reports. These changes should, over time, allow Congress and the public better information about timeliness, which has been a long-standing issue. However, the growing backlog of pending requests is a concern.

On-line availability of FOIA materials continues to improve. However, agencies are not yet adequately ensuring that these materials are properly maintained as agency Web sites change over time. These materials contribute to public understanding of agency FOIA procedures, the types of records and information an agency produces, and how to formulate requests. Without continuous agency attention to on-line availability, such public understanding may be impeded.

Regarding the events of September 11, FOIA officials and requesters view the impacts very differently. Nevertheless, the full impact of the post-September 11 environment will not be known for some time—until data become available, trends are analyzed, and denials are litigated and decided. Understanding this impact will be important as the government continues to oversee and refine its information access and dissemination policies and guidance.

Justice's efforts to implement our previous recommendations have resulted in improvements to both the quality of agencies' annual reports and on-line availability of information. However, data anomalies remain and not all required information is easily and continuously available. Justice recognizes that agencies need to make further improvements in these areas. Its plans to continue review of annual reports for data quality and encourage on-line availability of FOIA materials appear reasonable and should help agencies make the needed improvements. In view of these continuing actions, we believe no further recommendations are warranted at this time.

Agency Comments and Our Evaluation

We requested comments on a draft of this report from the Acting Assistant Attorney General for Administration or his designee. On August 2, 2002, a codirector of the Department of Justice's OIP provided us with oral comments on the draft, stating that the department generally agreed with the report's findings and conclusions. The OIP official also made a number of technical comments, which we incorporated as appropriate.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the date of this letter. At that time, we will send copies to the Ranking Minority Member, Senate Committee on the Judiciary, and the Ranking Minority Member, Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations, House Committee on Government Reform. In addition, we will provide copies to the Director, Office of Management and Budget, and the Attorney General. We will make copies available to others upon request. This report is also available without charge on our home page at <http://www.gao.gov>.

If you have any questions on matters discussed in this report, please contact me at (202) 512-6240 or by E-mail at koontzl@gao.gov. Key contributors to this report were Joanne Fiorino, Michael P. Fruitman, Laurence Gill, Katherine Howe, Min S. Lee, Glenn R. Nichols, David Plocher, and Joan D. Winston.



Linda D. Koontz
Director, Information Management Issues

Scope and Methodology

Together, the 25 agencies included in our analysis of annual reports and Web site content handle over 97 percent of the Freedom of Information Act (FOIA) requests governmentwide. To the extent possible, we replicated the assessment methodologies used for our March 2001 report.¹⁹

To gauge agencies' progress in processing requests, we analyzed the workload data (through fiscal year 2001) included in the 25 agencies' annual FOIA reports to assess trends in the volume of requests processed, median processing times, and backlogs of pending cases. All agency workload data were self-reported in the annual reports submitted to the Attorney General; we did not verify these data. We also analyzed FOIA processes and experiences in implementing the 1996 Electronic Freedom of Information Act (e-FOIA) Amendments in the eight major agencies we focused on in our previous report since the period covered by that report. To obtain this update, we used an interview guide and a standard set of questions to interview FOIA officers in eight agencies: the Central Intelligence Agency (CIA), Department of Agriculture (USDA), Department of Defense (DOD), Department of Health and Human Services (HHS), Department of Justice, Department of State, Department of Veterans Affairs (VA), and the Social Security Administration (SSA). These include the six agencies reporting the largest number of requests during the period of fiscal years 1998 through 2001, plus two agencies identified as having long-standing problems with backlogged requests. We also used interview guides to interview officials in Justice's Office of Information and Privacy (OIP) and the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs for an update on FOIA coordination, guidance, training, and support.

To assess the extent to which elements that e-FOIA requires to be available on line were available on the 25 agency Web sites during May through June, 2002, we reviewed their department-level Internet and FOIA-related Web site content. We compared the results of our 2002 Web site review with a similar review that we conducted in summer 2000 and reported on in March 2001.

Our Web site review looked for a total of 21 target elements. Six of these are elements that e-FOIA requires agencies to make available on line. Eight

¹⁹U.S. General Accounting Office, *Information Management: Progress in Implementing the 1996 Electronic Freedom of Information Act Amendments*, [GAO-01-378](#) (Washington, D.C.: Mar. 16, 2001).

are elements that the law requires agencies to make publicly available (although not necessarily on line); we included them in our review to assess the extent to which agencies are using the Web to make them publicly available. The remaining 7 elements, which OIP and OMB guidance also encourage agencies to incorporate, are features that facilitate public access to government information via their Web sites. We also assessed the presence of these features as part of our Web site review.

The results of our Web site review indicate whether material corresponding to an element was available on the agency Web site. We did not evaluate the merits or adequacy of this material. For each of the 21 target elements, we determined whether the material was

- available—that is, we found material corresponding to the element;
- partially available—that is, we found a portion of material corresponding to the element;
- not found—that is, we did not find material corresponding to the element; or
- not applicable—that is, for the particular agency.

During our spring 2002 Web site assessment, we attempted to locate the target elements by starting from the department-level home page and/or the FOIA-related sections of the Web site. If an item could not readily be found via these pages, we attempted to locate the item in other sections of the Web site, starting from the main home page or other associated Web pages (e.g., reviewing an agency’s Office of General Counsel section to look for agency final opinions). Our review had a time limit of 30 minutes per Web site. During June 2002, the 25 agencies each had an opportunity to verify and comment on a draft assessment of their Web sites.

Our agency interviews included questions on the impact of the post-September 11 environment. To explore requesters’ perspectives on this subject, we conducted literature reviews and contacted selected members of the FOIA requester community. The eight members of the requester community we contacted, most of whom had also been identified during our previous study, are widely recognized for their expertise and involvement in FOIA issues and advocate public access to government information. According to the requesters, many of them make relatively complex requests involving significant agency search and review,

frequently of large amounts of material. We invited these requesters to share their perspectives on a standard set of topics: annual agency FOIA reports, measures of “timeliness” in FOIA responses, experiences with different agency approaches to e-FOIA, usefulness of the FOIA elements on agencies’ Web sites, pre- and post-September 11 concerns regarding e-FOIA implementation, and their “top 2” concerns regarding e-FOIA implementation and/or FOIA overall. The information we obtained was anecdotal, and we did not verify the data. Requester community members from the following organizations met with us and/or provided written information:

- Federation of American Scientists (written comments, Apr. 8, 2002);
- Access Reports, American Library Association, Cohn & Marks (representing American Society of Newspaper Editors), OMB Watch, and Reporters Committee for Freedom of the Press (group meeting, Apr. 9, 2002);
- Electronic Privacy Information Center (interview, Apr. 18, 2002); and
- National Security Archive (written comments, May 13, 2002).

To determine what actions Justice has taken on the recommendations in our March 2001 report, we interviewed OIP officials and analyzed new guidance and other documentation issued by that office to assist in agency e-FOIA implementation. We explored the efficacy of Justice’s actions through our interviews with the eight major agencies and OIP and through our analysis of the 25 agencies’ annual FOIA reports and our Web site review. We also interviewed officials at OMB.

Our work was performed from January through June, 2002, in accordance with generally accepted government auditing standards.

Overview of Agency FOIA Processing

The process begins when an agency receives a written FOIA request from a requester, who could be any member of the public or an organization. From that point, the request goes through several phases, which include: processing the request letter, searching for and retrieving records, preparing records for release, approving the release of records, and releasing the records to the requester. A request being processed is often referred to as a “case.” Agencies may deny access to requested material (e.g., by withholding records or redacting information) that falls within the statutory exemption categories shown in table 3.

Table 3: Freedom of Information Act Exemptions

Exemption number	Matters that are exempt from FOIA
(1)	(A) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order
(2)	Related solely to the internal personnel rules and practices of an agency
(3)	Specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld
(4)	Trade secrets and commercial or financial information obtained from a person and privileged or confidential
(5)	Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency
(6)	Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy
(7)	Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information
(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, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by 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 if such disclosure could reasonably be expected to risk circumvention of the law
(F)	Could reasonably be expected to endanger the life or physical safety of any individual
(8)	Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions
(9)	Geological and geophysical information and data, including maps, concerning wells

Source: 5 U.S.C. § 552(b)(1) through (b)(9).

Some FOIA requests are relatively simple to process, for example, requests for specific pieces of information that the requester sends directly to the appropriate agency office, with no redaction required and minimal fees. Other requests require more extensive processing, depending on the complexity of the request, the volume of information involved, the need to route the request to the appropriate offices, the need for a FOIA officer to work with program offices to find and obtain information, the need for a FOIA officer to review and redact information in the responsive material, the need to communicate with the requester about the scope of the request, and the need to communicate with the requester about the fees that will be charged for fulfilling the request (or whether fees will be waived). FOIA processing, especially review of classified, sensitive, or privacy-related material, is labor-intensive.

Agency FOIA offices also face several internal challenges to processing FOIA requests rapidly. The FOIA officers we interviewed reported a number of processing challenges, including a lack of information technology support from the agency, insufficient staff, inefficient record keeping that hinders information retrieval, and unresponsive program offices (resulting from a lack of available staff time or a lack of knowledge about FOIA).

Agency processes for handling FOIA requests vary widely. While some agencies have centralized FOIA processing in one main office, other agencies have decentralized their FOIA processing and have separate FOIA offices for each agency component and field office. Agencies also vary in how they allow requesters to make FOIA requests. Depending on the agency, requesters can submit requests by telephone, fax, letter, E-mail, and/or the Web. Finally, not all FOIA offices respond to requesters in the same way. A few of the agency FOIA officers we interviewed told us that their agencies do not routinely provide the statutory 20-day determination notification to requesters, because that extra step takes time away from the actual processing of the request and/or because they expect to fulfill the request in close to 20 days. Other officials told us that they notify requesters that their requests have been received and are being processed.

FOIA officers in six of the eight agencies told us that for internal management purposes, they do not usually evaluate their agencies' progress using e-FOIA's reporting metric—the median processing time. Instead, those agencies use other measures, such as the number of requests they have pending or the number of requests that have been pending over a set number of days (e.g., cases over 30 days, 60 days, or 90 days). Agency

Appendix II
Overview of Agency FOIA Processing

FOIA officers said that the only time they calculate the median processing time is when they are preparing their annual reports.

Further Details Regarding Agency Workload Analysis

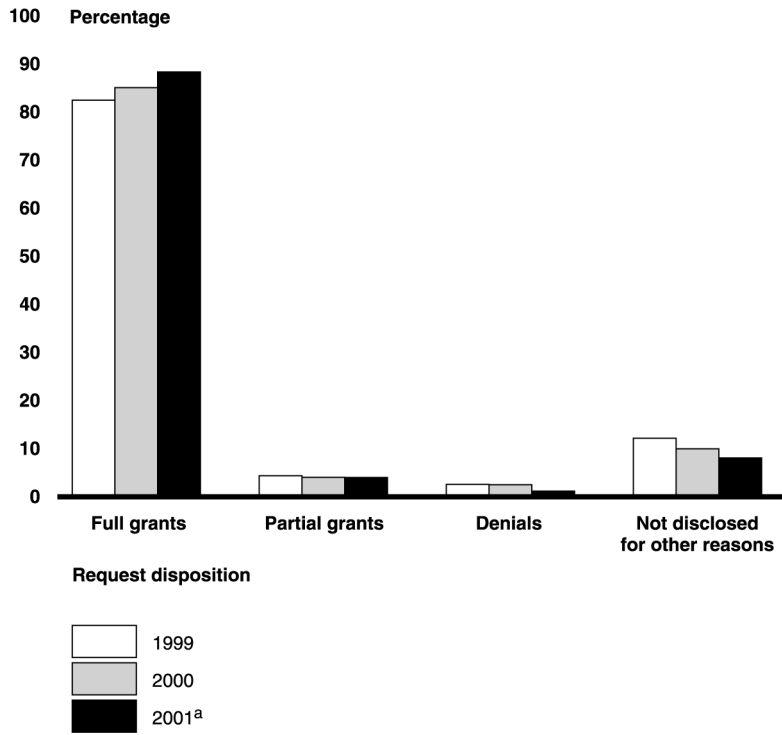
Agency annual FOIA reports also include data on the disposition of processed requests, the use of exemptions to justify withholding information, the outcome of administrative appeals, the fees collected from requesters, the costs the agency attributes to FOIA processing, and the number of full-time equivalents (FTE) devoted to FOIA processing. Annual reports from agencies with decentralized operations increasingly include component-level reporting.

Disposition of Requests

Most of the 25 agencies' FOIA requests resulted in agency responses that were full or partial grants of the requested information (see figs. 17 and 18). Figure 19 shows full grants as a percentage of total dispositions for the 25 agencies, where total dispositions include full grants, partial grants, denials, and other nondisclosures (e.g., because of withdrawn requests, no records found, fee-related reasons, etc.) Three agencies have full-grant ratios of over 90 percent. Only 4 have total grant ratios under 40 percent for all years. Figures 20, 21, and 22 show partial grants, denials, and nondisclosures for other reasons as a percentage of total dispositions for the 25 agencies. We did not verify the data provided in the agencies' annual FOIA reports.

**Appendix III
Further Details Regarding Agency Workload
Analysis**

Figure 17: Disposition of Initial Requests

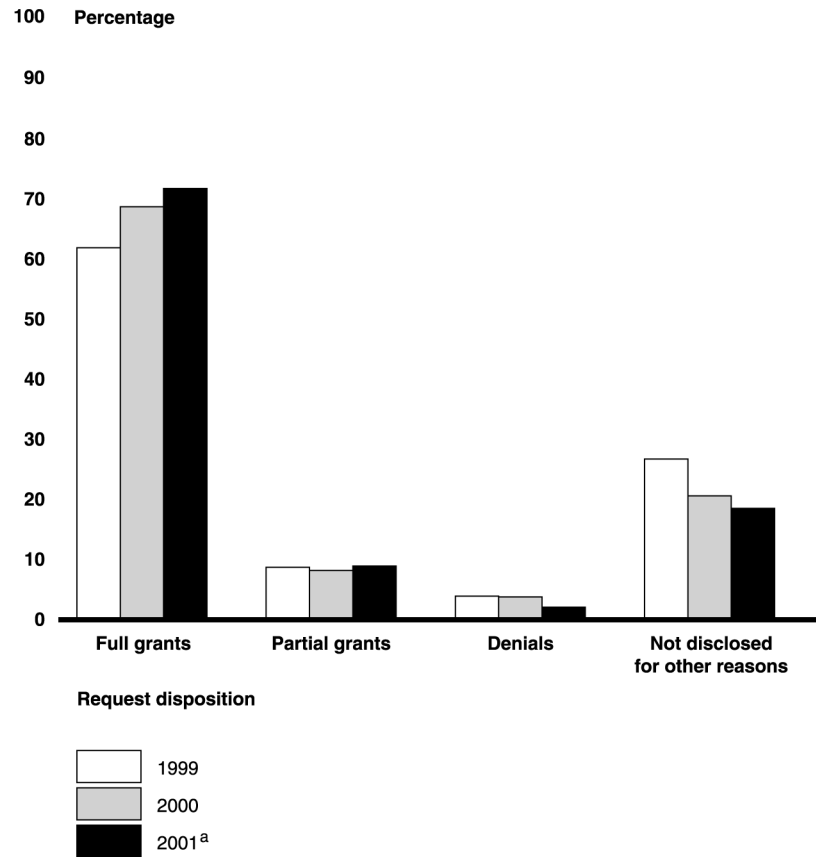


^aYear 2001 total includes data for only 24 agencies. The Department of Education fiscal year 2001 FOIA annual report was not available as of July 2002.

Source: FOIA annual reports for fiscal years 1999-2001 (self-reported data).

**Appendix III
Further Details Regarding Agency Workload
Analysis**

Figure 18: Disposition of Initial Requests (Without VA)



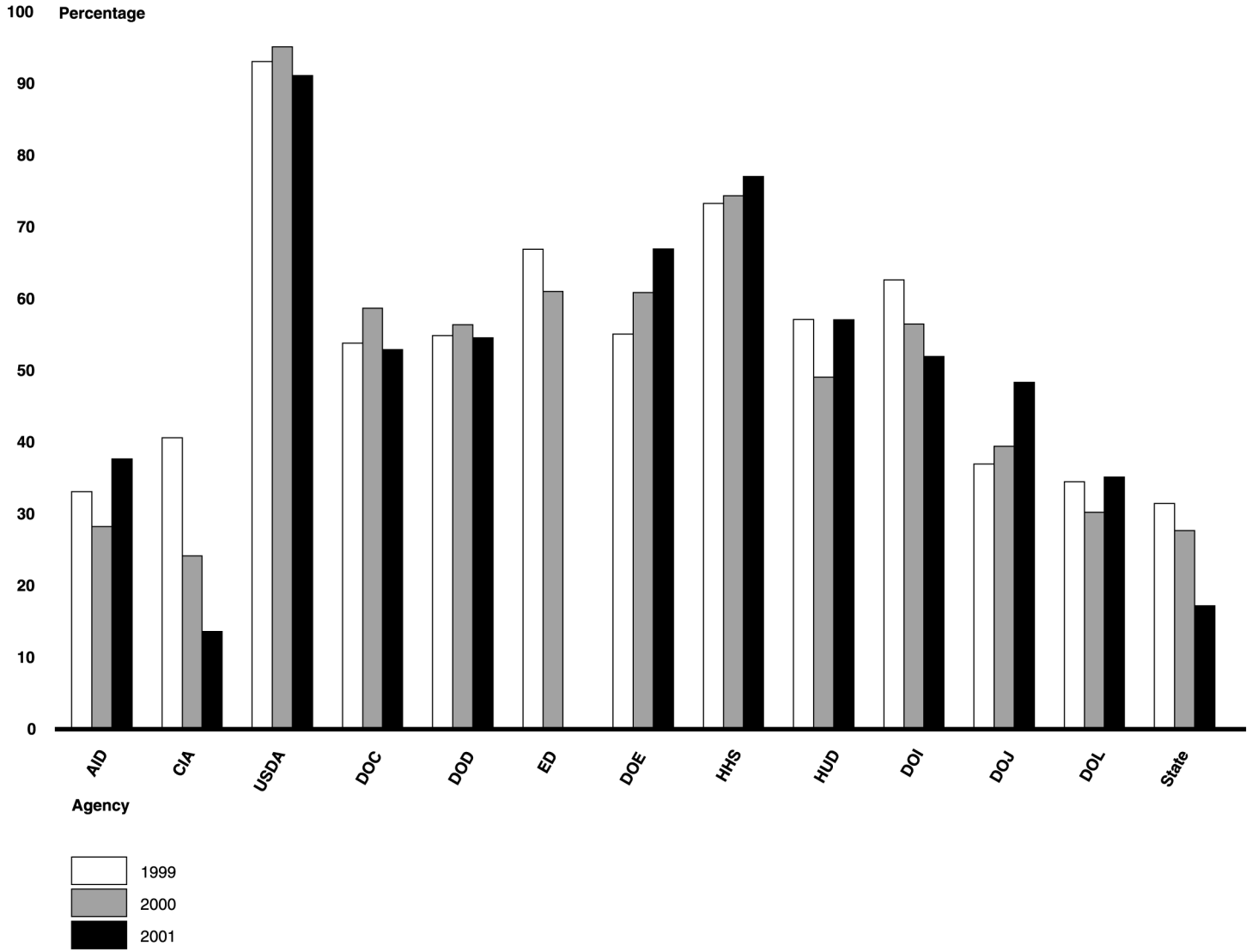
^aYear 2001 total includes data for only 24 agencies. The Department of Education fiscal year 2001 FOIA annual report was not available as of July 2002.

Source: FOIA annual reports for fiscal years 1999-2001 (self-reported data).

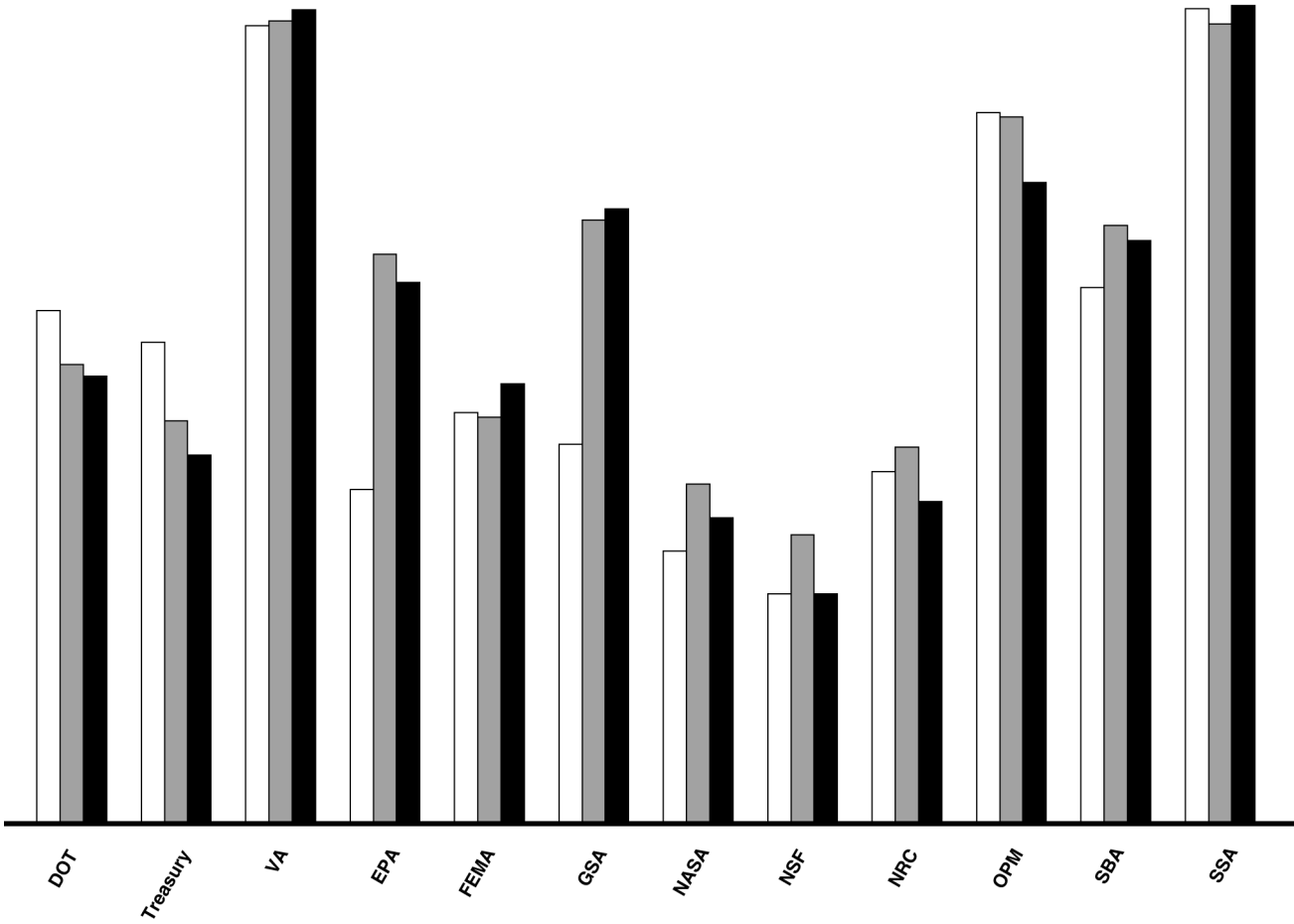
**Appendix III
Further Details Regarding Agency Workload
Analysis**

Appendix III
 Further Details Regarding Agency Workload
 Analysis

Figure 19: Total Grants as a Percentage of Total Disposition



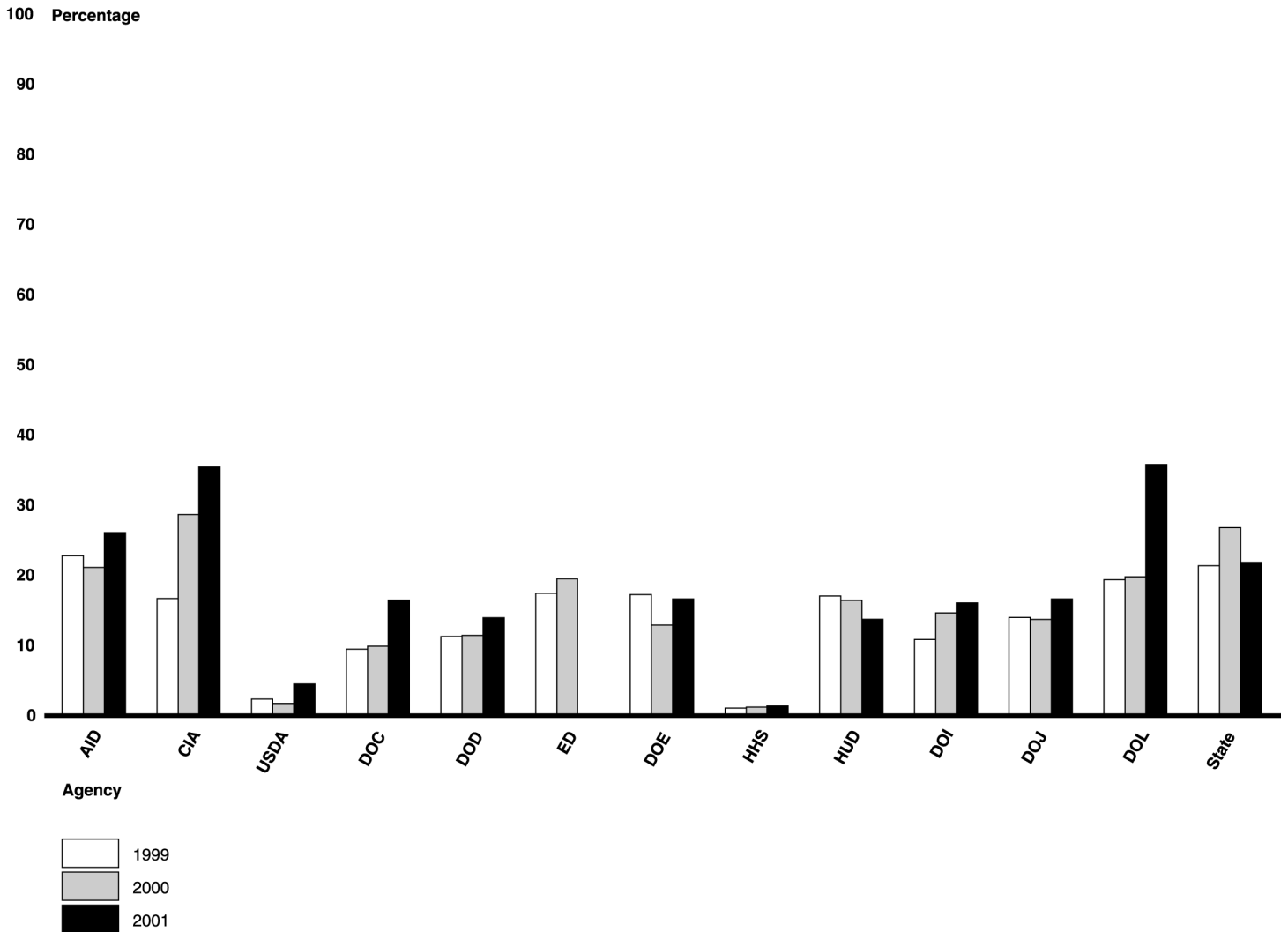
**Appendix III
Further Details Regarding Agency Workload
Analysis**



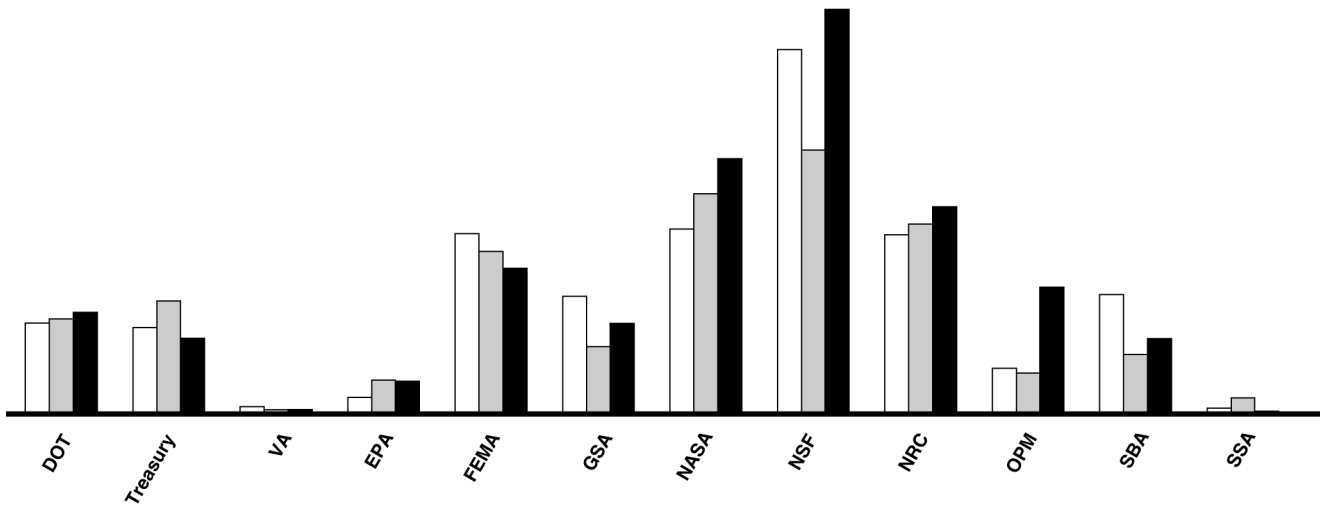
Source: FOIA annual reports for fiscal years 1999-2001 (self-reported data).

Appendix III
 Further Details Regarding Agency Workload
 Analysis

Figure 20: Partial Grants as a Percentage of Total Disposition



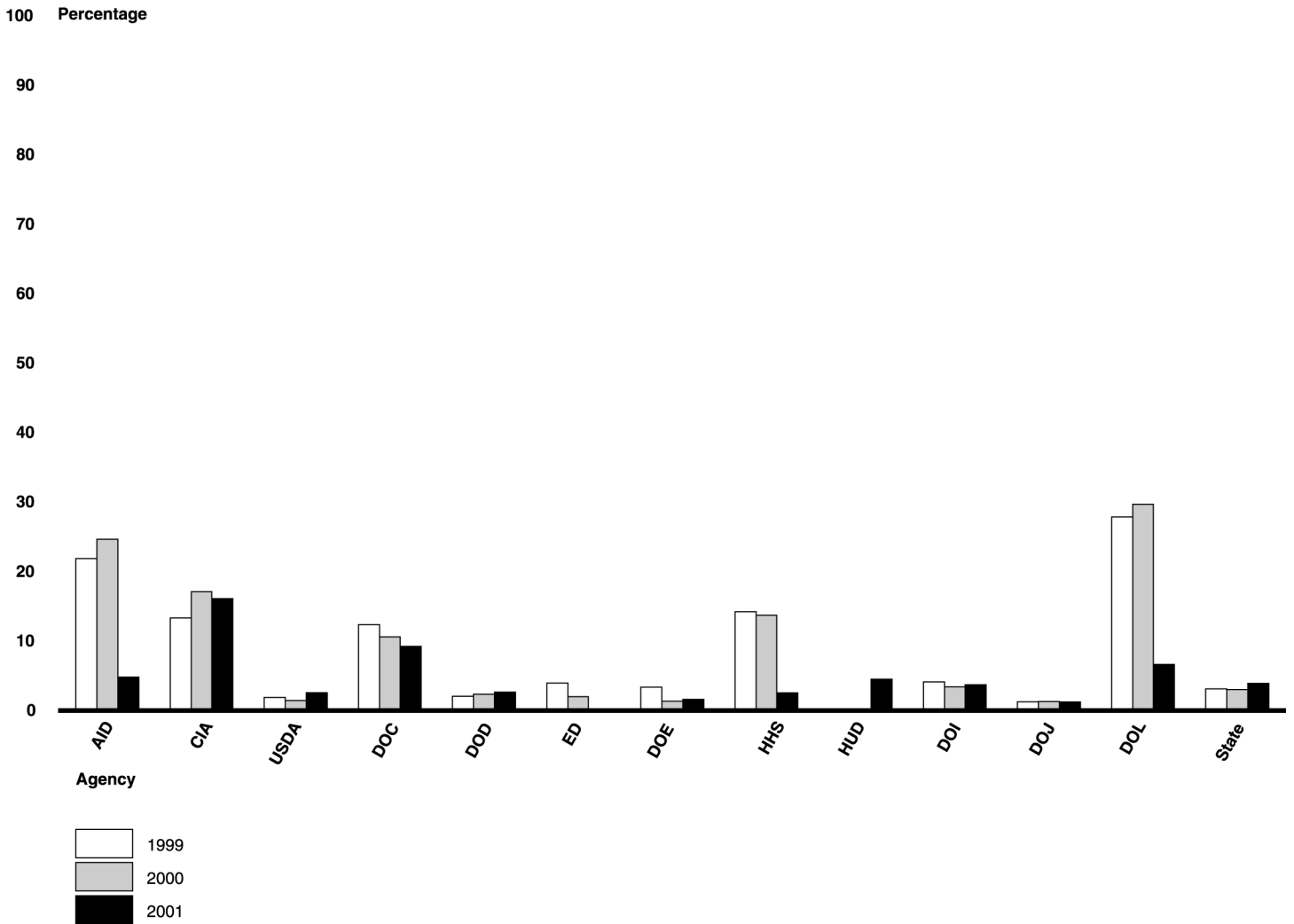
**Appendix III
Further Details Regarding Agency Workload
Analysis**



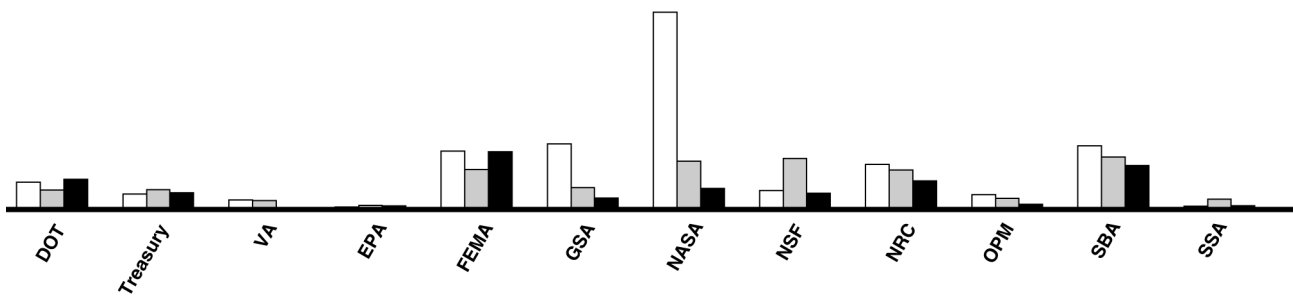
Source: FOIA annual reports for fiscal years 1999-2001 (self-reported data).

Appendix III
 Further Details Regarding Agency Workload
 Analysis

Figure 21: Denials as a Percentage of Total Disposition



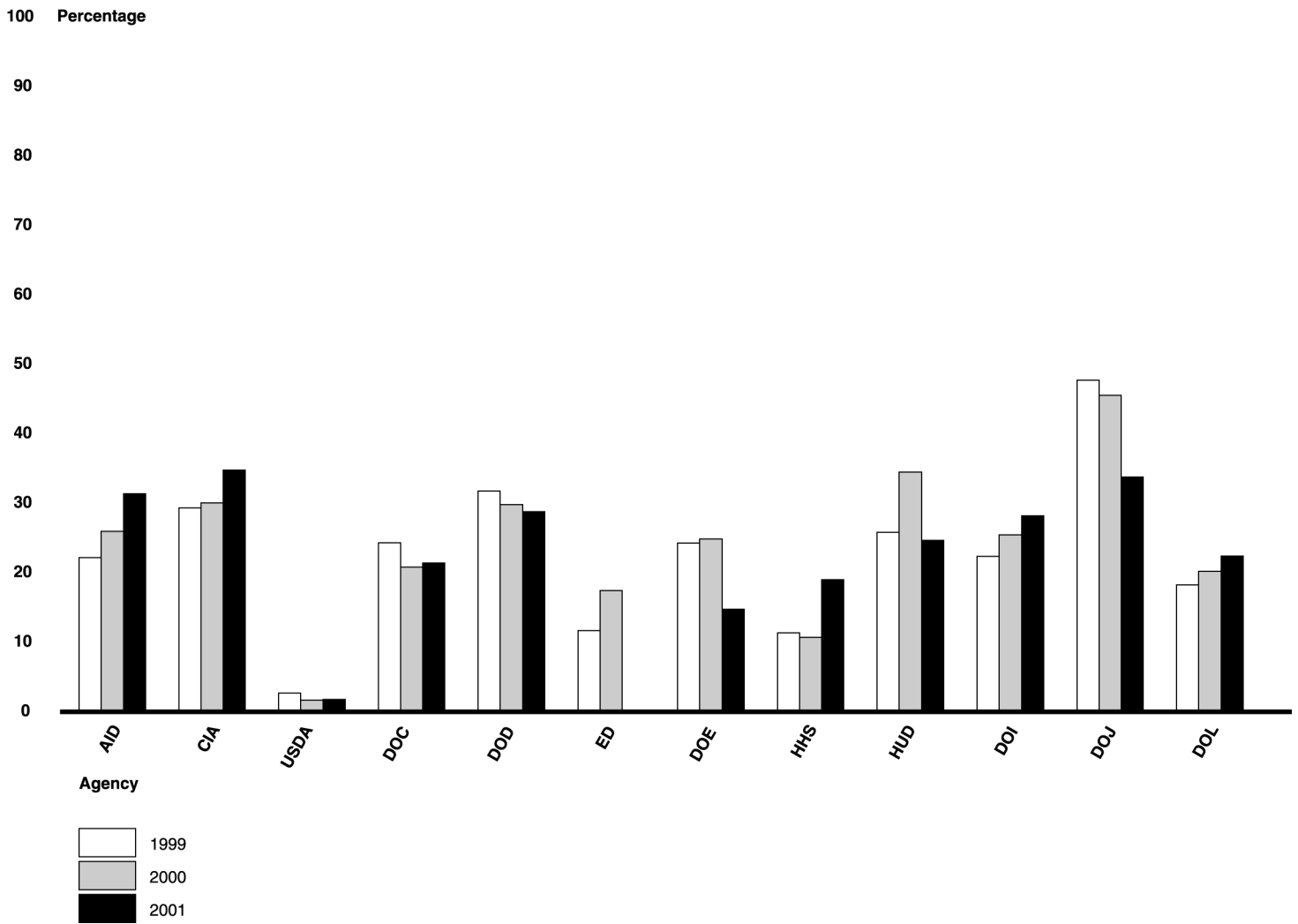
Appendix III
Further Details Regarding Agency Workload
Analysis



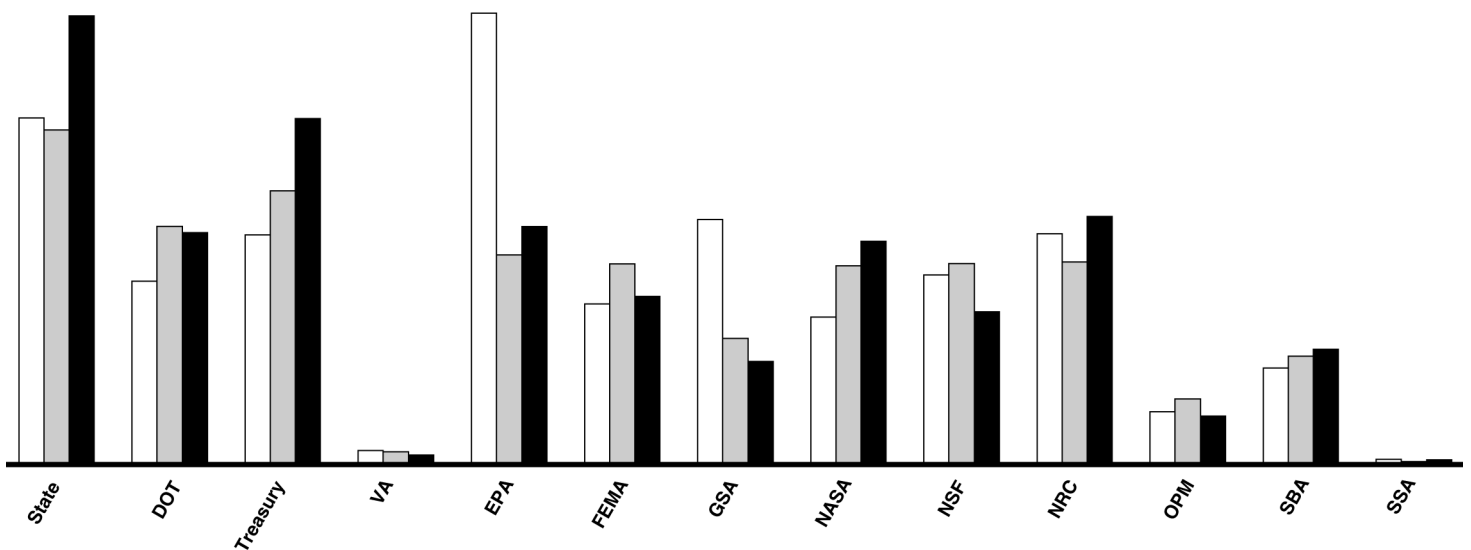
Source: FOIA annual reports for fiscal years 1999-2001 (self-reported data).

Appendix III
 Further Details Regarding Agency Workload
 Analysis

Figure 22: Nondisclosures as a Percentage of Total Disposition



Appendix III
Further Details Regarding Agency Workload
Analysis



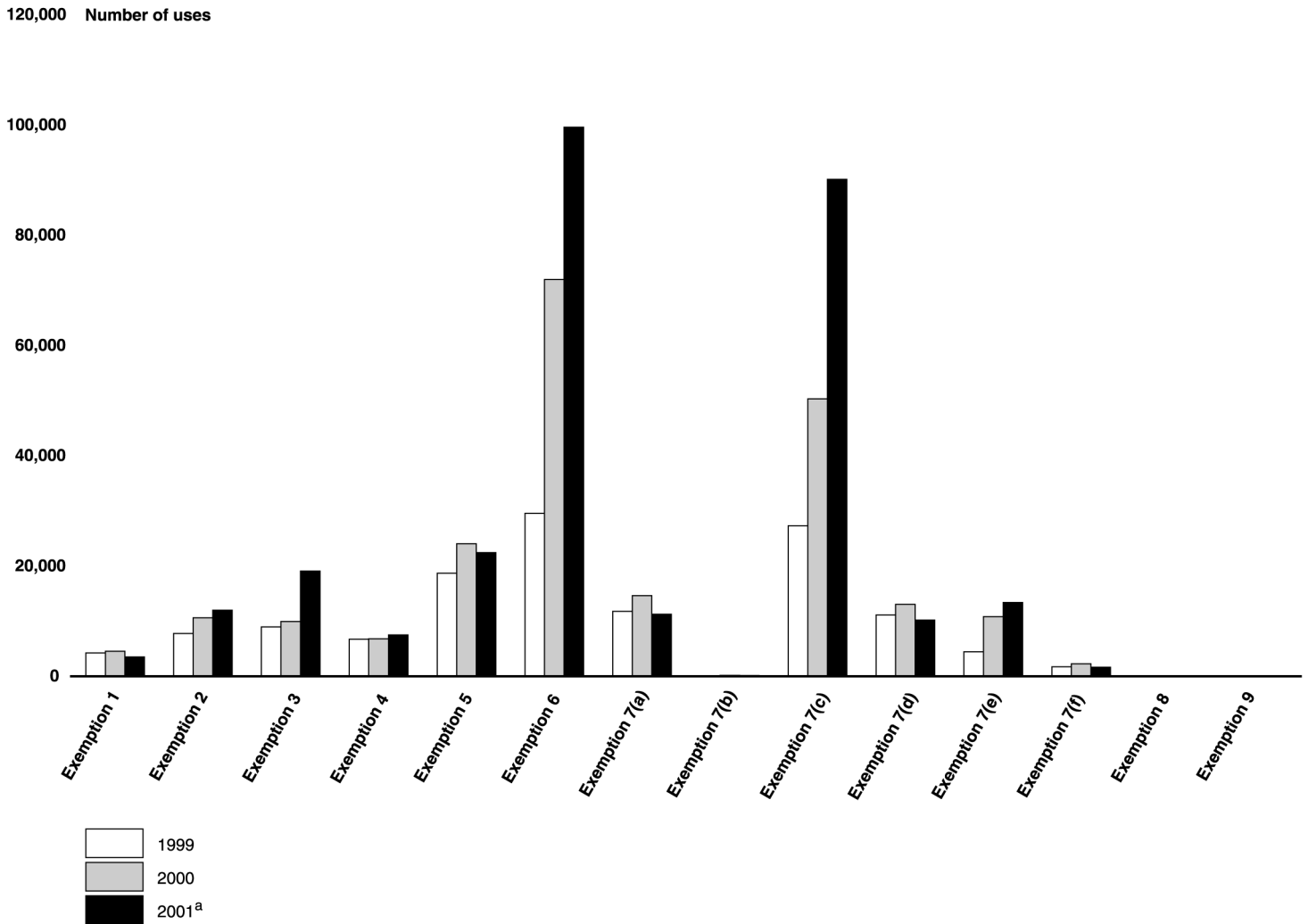
Source: FOIA annual reports for fiscal years 1999-2001 (self-reported data).

Use of Exemptions

The exemptions most commonly reported by the 25 agencies were the privacy-related exemptions: exemption 6 and exemption 7(C). Figure 23 aggregates the reported exemptions used to justify denials or partial grants of requested information (see table 3 in app. II).

Appendix III
 Further Details Regarding Agency Workload
 Analysis

Figure 23: Exemptions Used by 25 Agencies



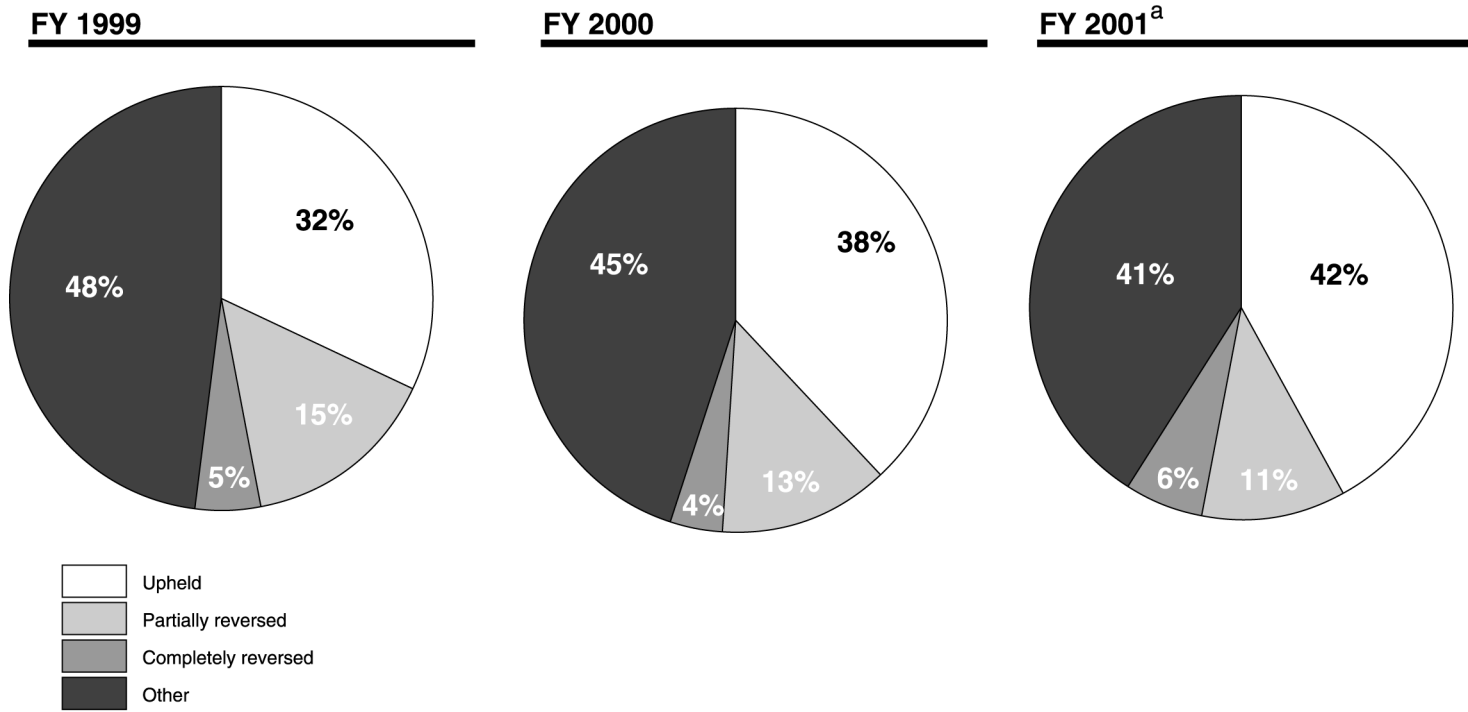
^aYear 2001 total includes data for only 24 agencies. The Department of Education fiscal year 2001 FOIA annual report was not available as of July 2002.

Source: FOIA annual reports for fiscal years 1999-2001 (self-reported data).

Administrative Appeals

FOIA requesters can file administrative appeals with the agencies. Figure 24 shows aggregated data on the disposition of appeals for the 25 agencies.

Figure 24: Aggregated Data on the Disposition of Appeals



^aYear 2001 total includes data for only 24 agencies. The Department of Education fiscal year 2001 FOIA annual report was not available as of July 2002.

Source: FOIA annual reports for fiscal years 1999-2001 (self-reported data).

Fees

Fees reported as collected from FOIA requesters typically amount to only a few percentages of overall costs. In many cases, fees are not charged because they are minimal or because fees have been reduced or waived by the agency according to statute and guidance. Table 4 summarizes the FOIA-related FTEs, costs, and fees collected, as reported by the 25 agencies. Figure 25 illustrates the costs reported for the agencies, and figure 26 compares the fees that agencies reported collecting with their reported FOIA costs. We did not verify the cost and fee data included in the agencies' annual FOIA reports.

**Appendix III
Further Details Regarding Agency Workload
Analysis**

Table 4: Agency FOIA FTEs, Total Reported Costs, and Reported Fees Collected (Self-Reported)

Agency	Total FTEs			Total costs			Fees collected		
	1999	2000	2001	1999	2000	2001	1999	2000	2001
AID	7	5.75	5.25	\$423,400	\$307,400	\$327,400	\$7,000	\$2,470	\$780
CIA	65	77.8	74.8	9,600,000	9,800,000	8,800,000	1,395	1,759	1,012
USDA	263	533	275.2	6,939,586	8,165,912	21,351,391	132,718	117,530	109,332
DOC	19	27	27	2,199,282	2,279,662	1,869,965	38,119	15,163	55,560
DOD	776	890	870.77	32,618,179	36,526,671	39,712,317	834,816	666,362	652,516
ED	10.7	9	0	554,978	454,379	0	30,955	22,409	0
DOE	56	58.5	69.7	3,641,888	2,442,974	3,179,599	20,956	57,079	82,365
HHS	175	244	234.407	11,037,990	10,806,267	13,213,667	992,198	1,120,221	964,711
HUD	16	40	39.8	1,067,431	2,191,000	2,692,271	21,572	29,794	15,655
DOI	128	131	167	5,346,161	5,190,926	5,685,147	105,666	123,985	102,726
DOJ	1,047	1,069.1	1,055.98	59,234,089	69,269,121	74,336,344	89,432	126,339	179,086
DOL	201	229	183	4,950,000	5,700,000	5,450,000	199,766	227,731	218,862
State	124	136	152	10,003,435	11,692,372	12,427,914	5,822	5,822	6,352
DOT	182	110.7	117.7	7,409,693	7,942,682	9,040,227	266,540	328,356	366,592
Treasury	181	200.9	201.51	11,900,962	13,725,724	13,417,024	463,685	549,495	583,445
VA	496.5	492	790.83	46,032,578	24,735,547	29,217,098	272,436	334,831	372,162
EPA	623	630	191.52	6,203,195	7,628,076	12,297,495	457,534	394,970	440,064
FEMA	3	1.5	3.8	123,123	106,659	194,724	6,224	1,541	7,470
GSA	19	18	14	0	0	830,000	30,665	32,552	32,552
NASA	19	18	18.5	550,545	672,237	696,088	33,003	34,578	44,428
NSF	2	1.8	1.8	139,465	146,710	171,753	6,462	1,491	1,227
NRC	15	14	12.5	1,362,159	1,393,465	1,246,803	34,513	23,059	21,036
OPM	5	4.896	7.392	191,243	326,126	600,275	39,064	40,515	21,427
SBA	30	31.2	33.5	281,428	338,812	341,902	11,458	10,917	20,862
SSA	111	142.5	147	4,421,154	16,218,513	14,676,122	1,441,000	2,487,319	2,798,000
Total	4,574	5,116	4,695	\$226,231,964	\$238,061,234	\$271,775,526	\$5,542,999	\$6,756,287	\$7,098,222

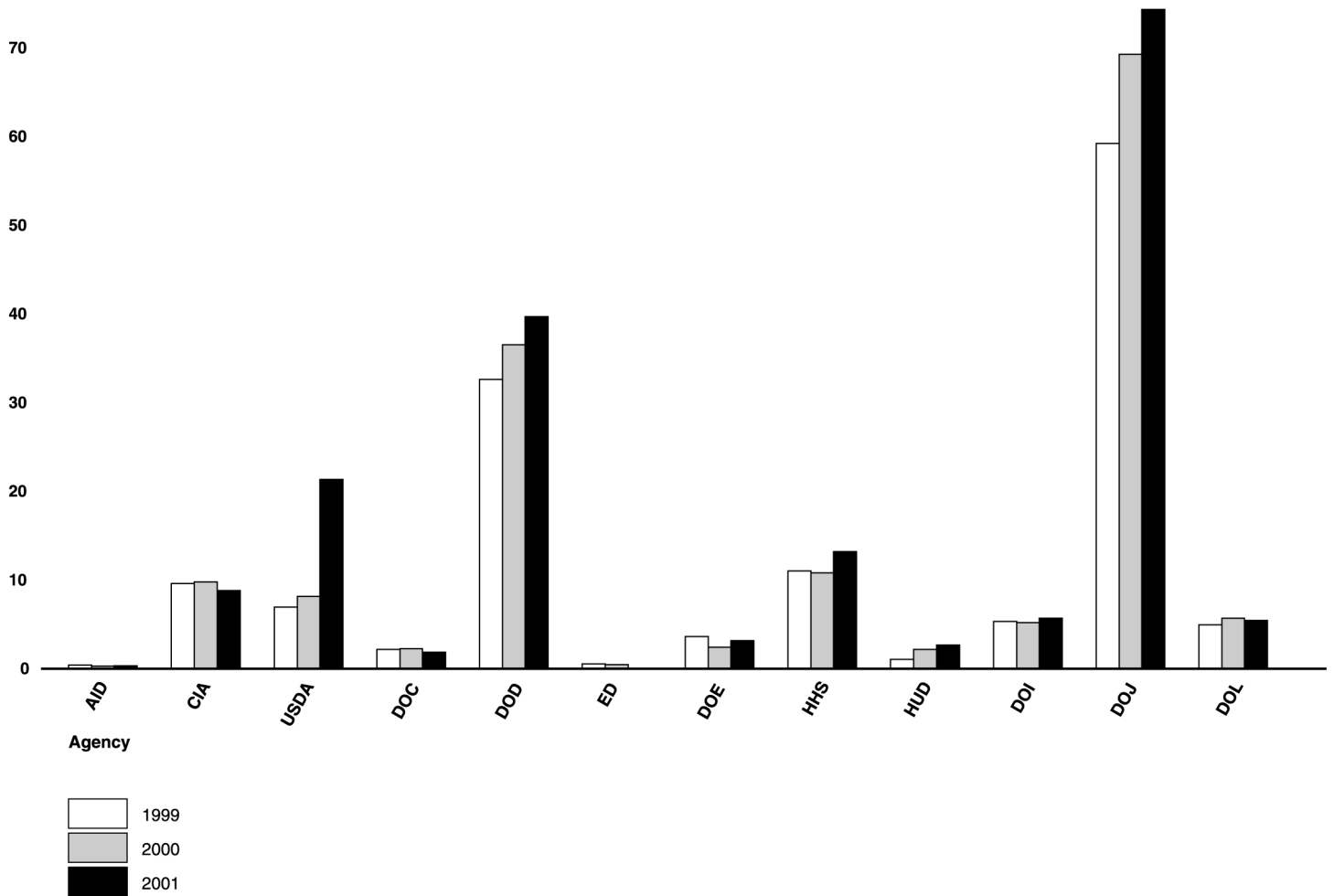
Source: FOIA annual reports for fiscal years 1999-20001 (self-reported data).

**Appendix III
Further Details Regarding Agency Workload
Analysis**

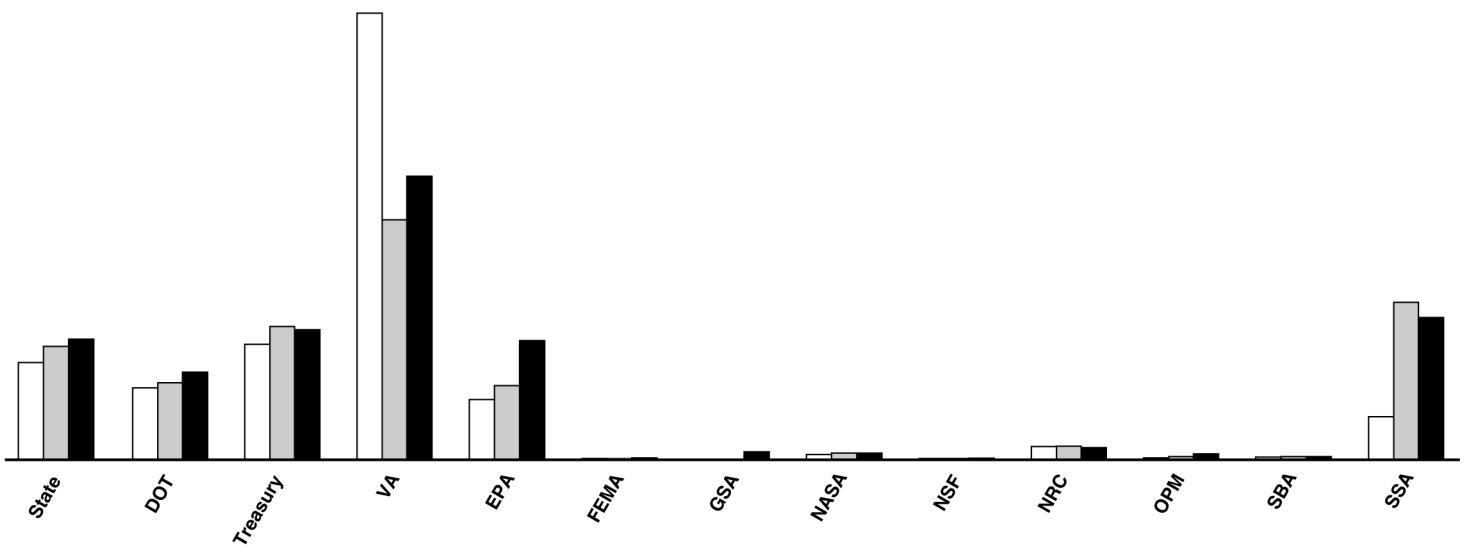
Appendix III
 Further Details Regarding Agency Workload
 Analysis

Figure 25: Total Agency Reported Costs

80 Dollars in millions



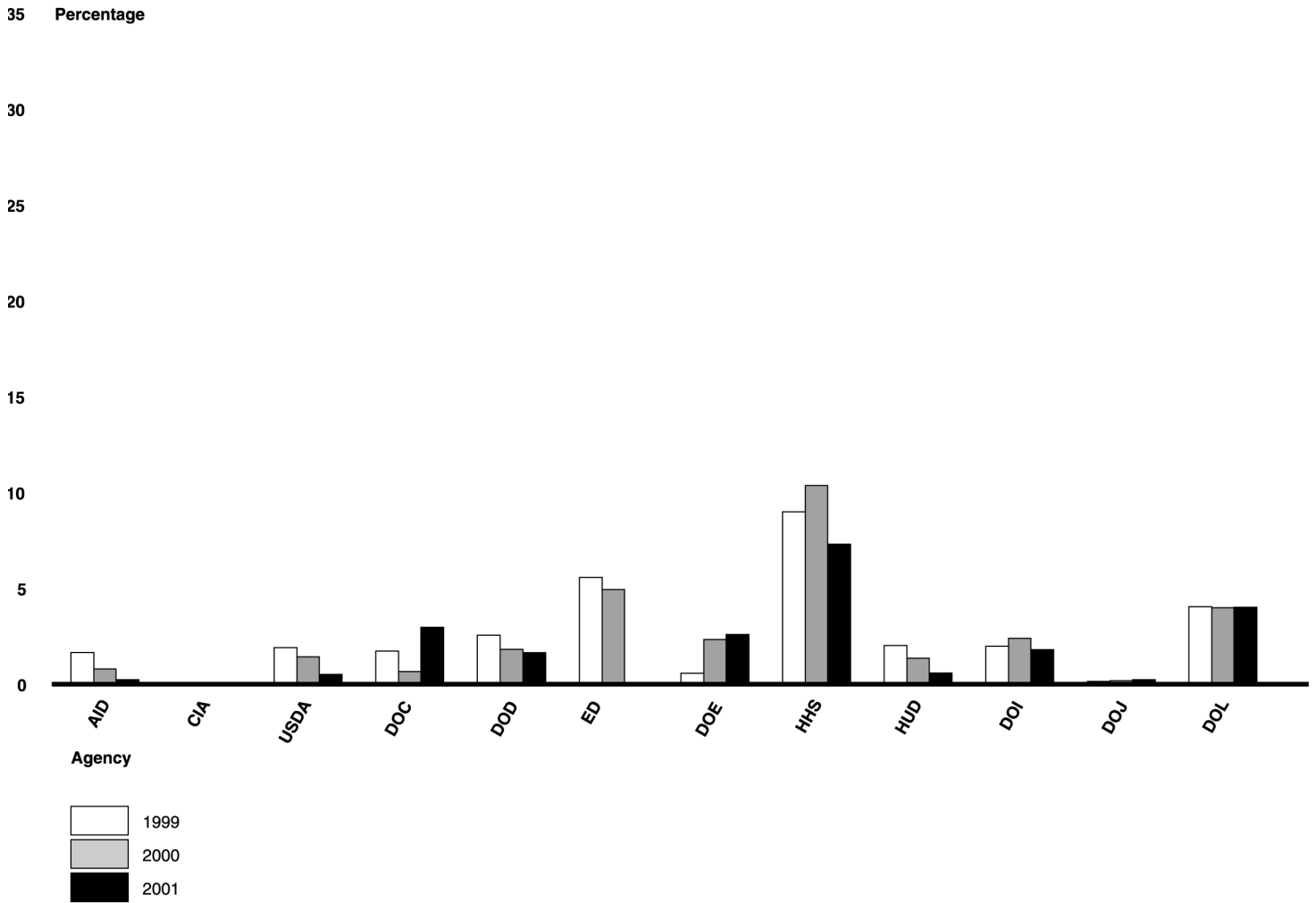
**Appendix III
Further Details Regarding Agency Workload
Analysis**



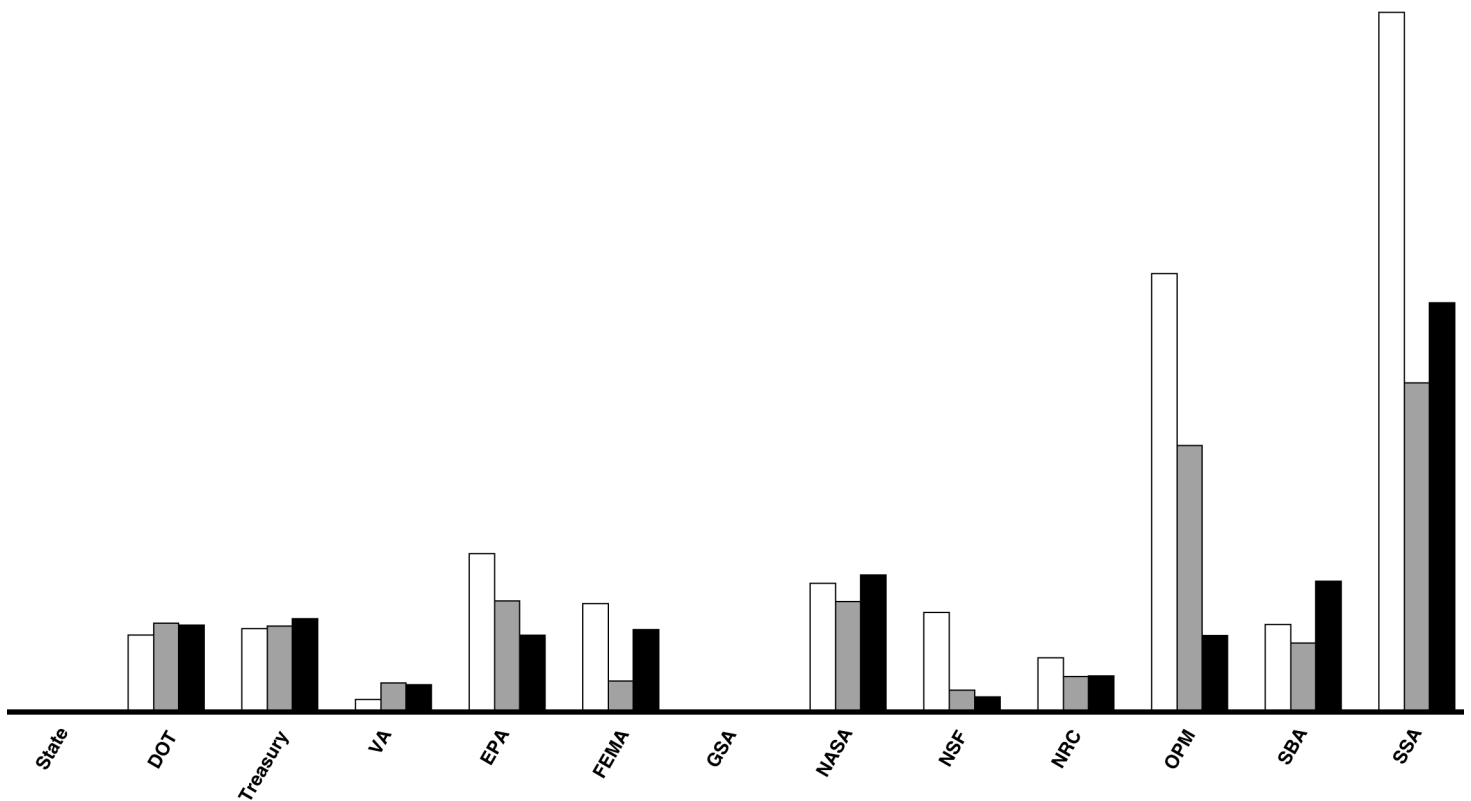
Source: FOIA annual reports for fiscal years 1999-2001 (self-reported data).

Appendix III
 Further Details Regarding Agency Workload
 Analysis

Figure 26: Fees as Percentage of Agency's Reported Costs



**Appendix III
Further Details Regarding Agency Workload
Analysis**



Source: FOIA annual reports for fiscal years 1999-2001 (self-reported data).

Costs

Agencies' average costs per FOIA request vary widely. Figure 27 indicates agencies' average costs per request, calculated from the data in their annual reports. As figure 28 shows, including the VA requests in a 25-agency, average-cost-per-request calculation yields a figure less than half the average cost per request calculated for the other 24 agencies. VA's

**Appendix III
Further Details Regarding Agency Workload
Analysis**

average cost per request is under \$50, while the other agencies' average costs vary widely.

**Appendix III
Further Details Regarding Agency Workload
Analysis**

Appendix III
 Further Details Regarding Agency Workload
 Analysis

Figure 27: Reported Cost per Request

4,000 Dollars

3,500

3,000

2,500

2,000

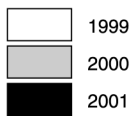
1,500

1,000

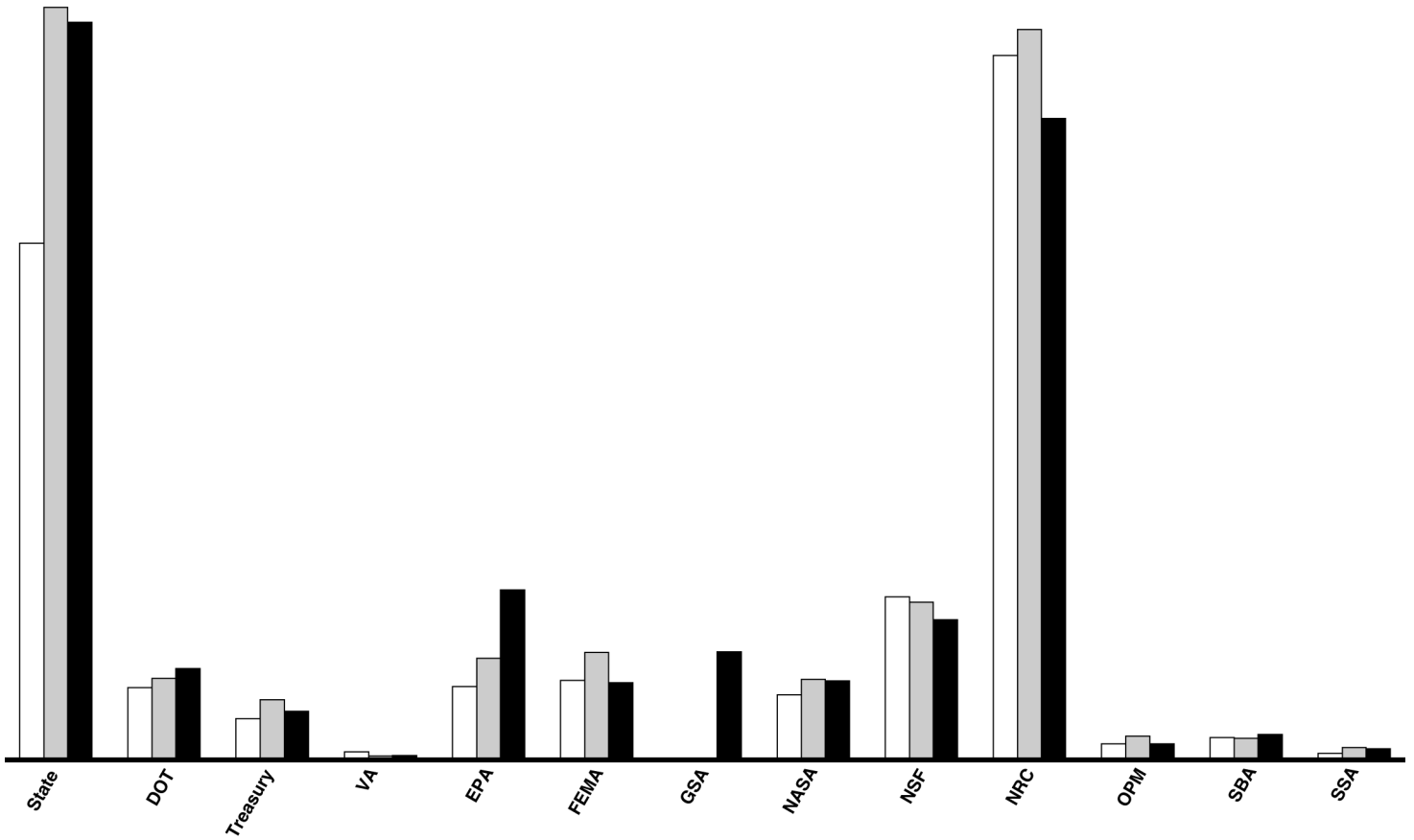
500

0

Agency

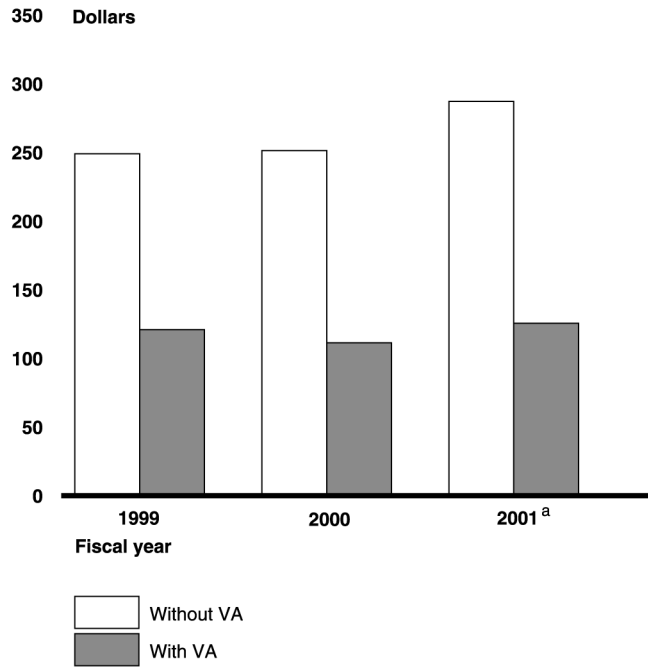


**Appendix III
Further Details Regarding Agency Workload
Analysis**



Source: FOIA annual reports for fiscal years 1999-2001 (self-reported data).

Figure 28: Reported Cost per Request Comparison



Note: The inclusion of VA's requests (which are mostly Privacy Act requests counted as FOIA requests) cuts the governmentwide cost per request by more than half each year.

^aYear 2001 total includes data for only 24 agencies. The Department of Education fiscal year 2001 FOIA annual report was not available as of July 2002.

Source: FOIA annual reports for fiscal years 1999-2001 (self-reported data).

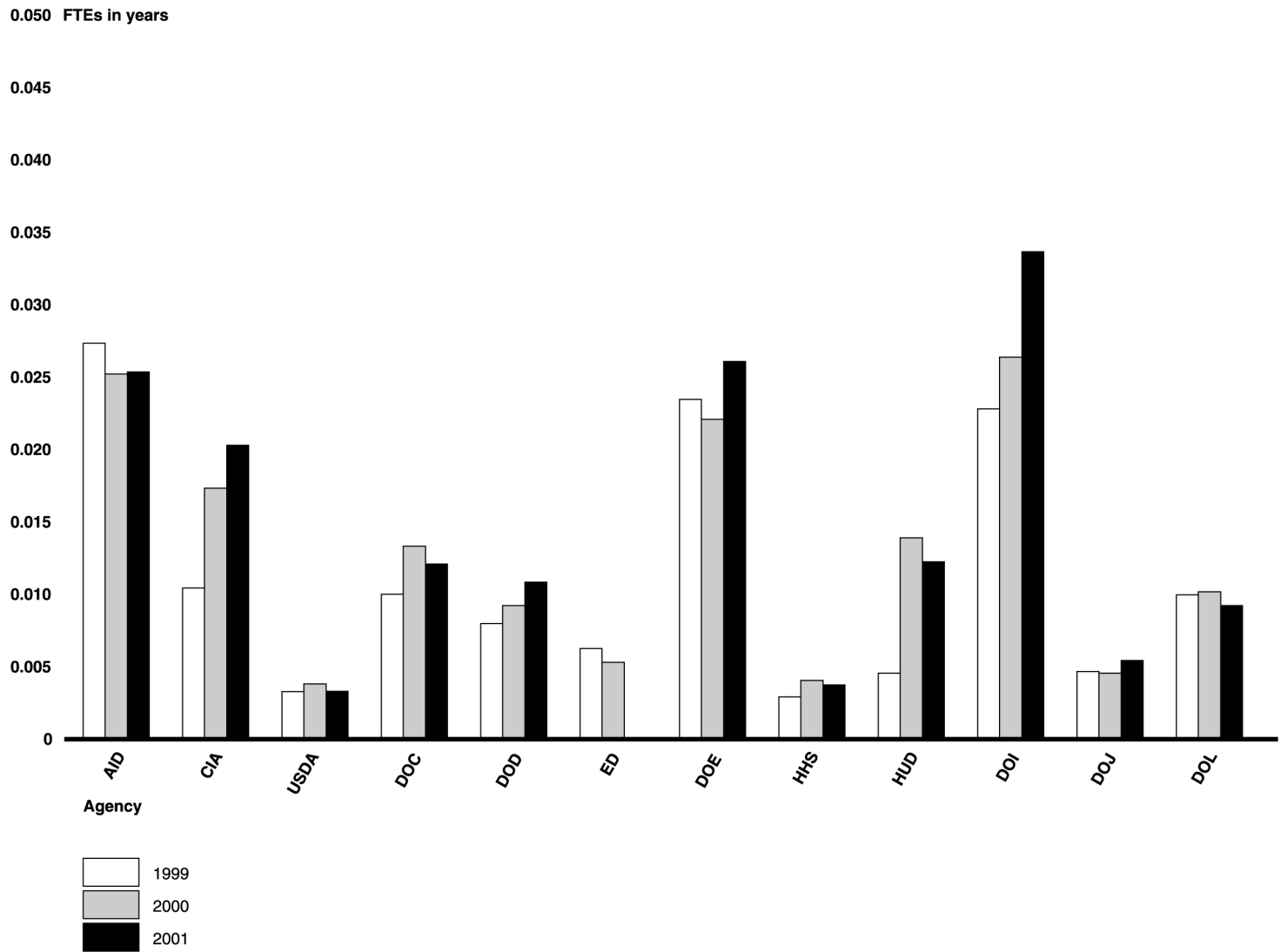
Staffing (FTE)

The average number of FTEs reported per request also varies widely by agency. Figure 29 compares the agencies' FTE-per-request ratios, calculated from annual FOIA report data. There is considerable variation in the FTE-per-request ratios. There is also variation in the nature of the FOIA requests that agencies and their components receive and the extent of search, review, and redaction required. We did not verify the FTE data provided in the agencies' annual FOIA reports.

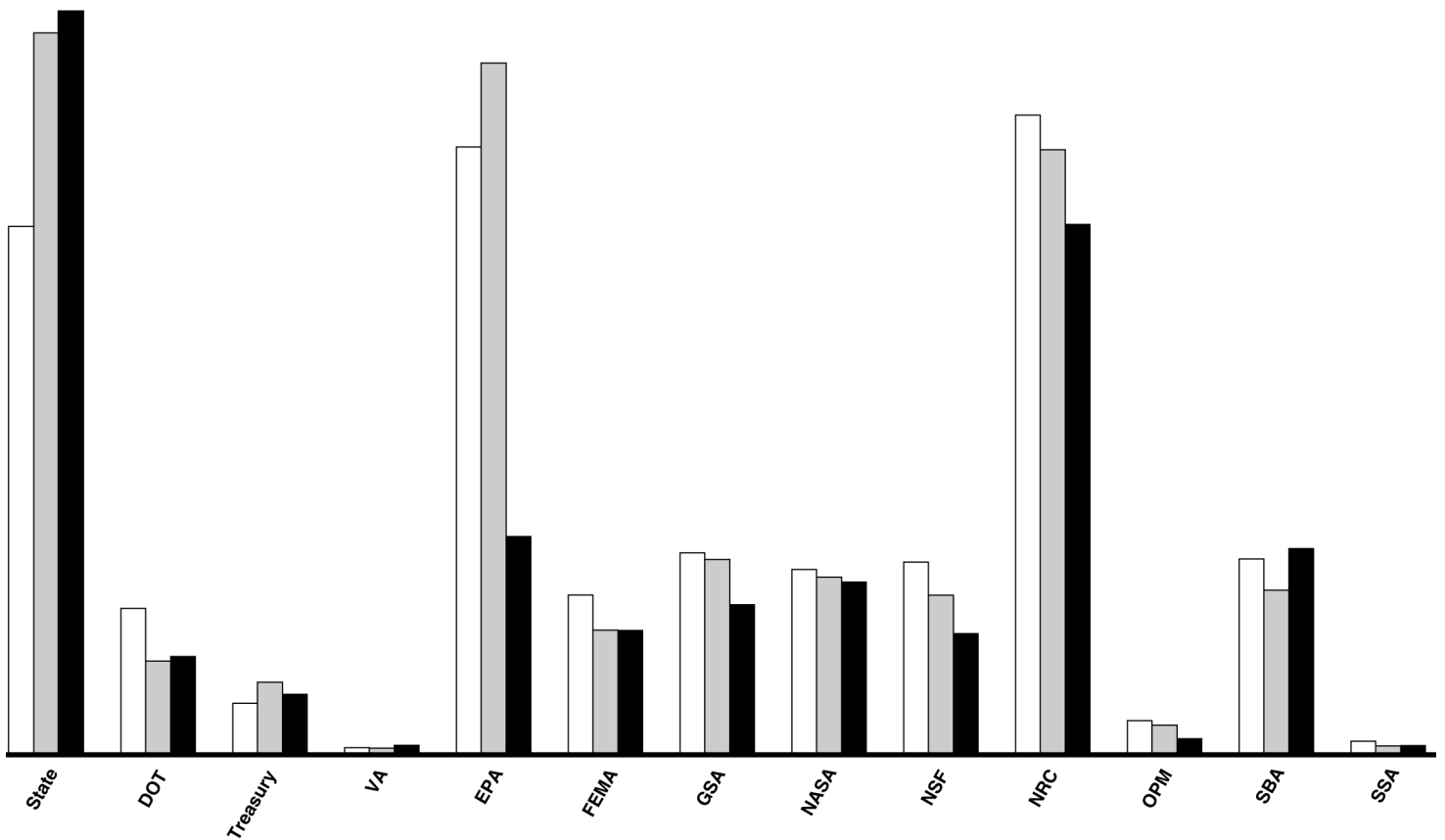
**Appendix III
Further Details Regarding Agency Workload
Analysis**

Appendix III
 Further Details Regarding Agency Workload
 Analysis

Figure 29: Reported FTEs per Request, by Agency



Appendix III
Further Details Regarding Agency Workload
Analysis



Source: FOIA annual reports for fiscal years 1999-2001 (self-reported data).

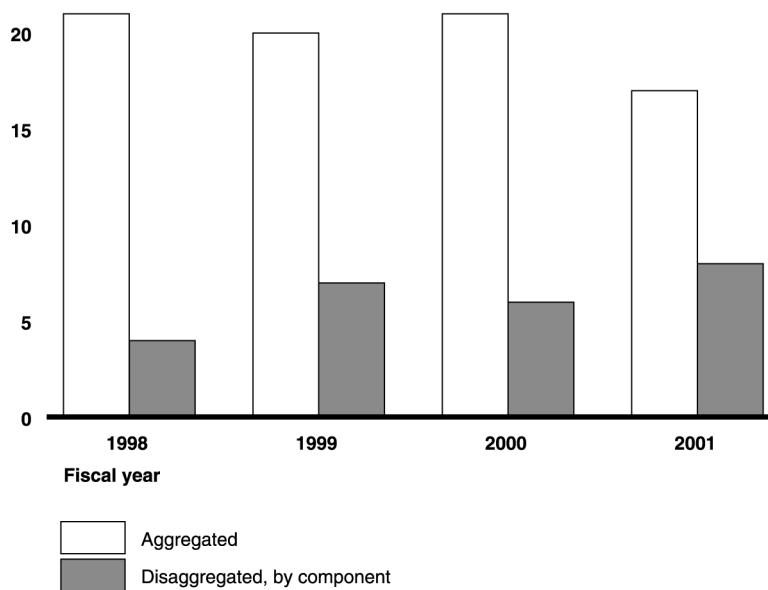
Component-Level Reporting

Following new OIP guidance, agencies that use decentralized processing have increasingly reported annual data by component. Figure 30 shows that the number of annual reports that include workload data by component has increased from fiscal years 2000 to 2001.

**Appendix III
Further Details Regarding Agency Workload
Analysis**

Figure 30: Trend Toward Component-based Reporting of FOIA Data

25 Agencies reporting



Note 1: Fewer agencies are providing aggregated, agencywide FOIA processing time data. While a couple of agencies are reporting data by component and agencywide data, more are moving toward providing only component data, giving no clear indication of the health of agencywide FOIA efforts.

Note 2: Total aggregated plus disaggregated by component may not equal 25 agencies, due to some agencies that provide both aggregated and disaggregated data.

Note 3: Year 2001 total includes data for only 24 agencies. The Department of Education fiscal year 2001 FOIA annual report was not available as of July 2002.

Source: FOIA annual reports for fiscal years 1998-2001 (self-reported data).

GAO's Mission

The General Accounting Office, the investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through the Internet. GAO's Web site (www.gao.gov) contains abstracts and full-text files of current reports and testimony and an expanding archive of older products. The Web site features a search engine to help you locate documents using key words and phrases. You can print these documents in their entirety, including charts and other graphics.

Each day, GAO issues a list of newly released reports, testimony, and correspondence. GAO posts this list, known as "Today's Reports," on its Web site daily. The list contains links to the full-text document files. To have GAO e-mail this list to you every afternoon, go to www.gao.gov and select "Subscribe to daily E-mail alert for newly released products" under the GAO Reports heading.

Order by Mail or Phone

The first copy of each printed report is free. Additional copies are \$2 each. A check or money order should be made out to the Superintendent of Documents. GAO also accepts VISA and Mastercard. Orders for 100 or more copies mailed to a single address are discounted 25 percent. Orders should be sent to:

U.S. General Accounting Office
441 G Street NW, Room LM
Washington, D.C. 20548

To order by Phone: Voice: (202) 512-6000
 TDD: (202) 512-2537
 Fax: (202) 512-6061

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Web site: www.gao.gov/fraudnet/fraudnet.htm

E-mail: fraudnet@gao.gov

Automated answering system: (800) 424-5454 or (202) 512-7470

Public Affairs

Jeff Nelligan, managing director, NelliganJ@gao.gov (202) 512-4800
U.S. General Accounting Office, 441 G Street NW, Room 7149
Washington, D.C. 20548

**United States
General Accounting Office
Washington, D.C. 20548-0001**

**Official Business
Penalty for Private Use \$300**

Address Service Requested

**Presorted Standard
Postage & Fees Paid
GAO
Permit No. GI00**

