

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Chief of Freedom of Information Act (FOIA) Officer's Report 2019



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Section I: Steps Taken to Apply the Presumption of Openness

A. FOIA Leadership

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at least at the Assistant Secretary or equivalent level. Is your agency's Chief FOIA Officer at or above this level?

Yes.

2. Please provide the name and title of your agency's Chief FOIA Officer.

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B. FOIA Training

3. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any substantive FOIA training or conference during the reporting period such as that provided by the Department of Justice?

Yes.

4. If yes, please provide a brief description of the type of training attended or conducted and the topics covered.

In April 2018, staff from the Department of Justice's Office of Information Policy (OIP) provided FOIA training at the Office of Personnel Management (OPM). Some of the topics included the newest developments in FOIA, the National FOIA Portal, FOIA Process Best Practices, and an Overview of FOIA Exemptions.

One of the FOIA Professionals attended OIP's Freedom of Information Act for Attorneys and Access Professionals training in July 2018.

On December 3, 2018, the OPM FOIA Requester Service Center conducted FOIA training specifically tailored for the OPM Office of Communications.

5. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

We estimate that 80% of the FOIA professional and staff attended FOIA training during this reporting period.

6. OIP has directed agencies to "take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year." If your response to the previous question

is that less than 80% of your FOIA professionals attended training, please explain your agency's plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

Not applicable.

C. Outreach

7. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency's FOIA administration.

Yes, OPM's FOIA Public Liaison and FOIA Specialists routinely engage in dialogue with FOIA requesters through email and telephone.

D. Other Initiatives

8. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In 2016, the Department publicized FOIA-related performance standards for employees that have any role in administering the FOIA, including non-FOIA professionals. Please also indicate whether your agency has considered including FOIA-related performance standards in employee work plans for employees who have any role in administering the FOIA.

On May 10, 2018, the OPM FOIA Requester Service Center participated in the OPM Fair held in honor of Public Service Recognition Week. The OPM FOIA Staff used the opportunity to inform non-FOIA professionals of the agency's obligations under the FOIA. At this time, OPM is not considering adding FOIA-related performance standards to employee work plans for employees who have a cursory role in administering the FOIA.

9. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

Not applicable.

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

Please answer the following questions to describe the steps your agency has taken to ensure that the management of your FOIA program is effective and efficient. You should also include any additional information that that describes your agency's efforts in this area.

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1. For Fiscal Year 2018, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2018 Annual FOIA Report.

Not applicable, per Section VIII. A. of the FY 18 Annual FOIA Report, OPM did not track requests for expedited processing.

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Not applicable.

3. During the reporting period, did your agency conduct a self-assessment of its FOIA program? If so, please describe the methods used, such as reviewing Annual Report data, using active workflows and track management, reviewing and updating processing procedures, etc.

Yes, the OPM FOIA Requester Service Center conducted a self-assessment of its FOIA program. The FOIA Intake process and OPM FOIA staff case workload were reviewed. In response to feedback from various offices, the OPM FOIA Requester Service Center revised some of the FOIA Intake workflow processes.

In May 2018, OPM concluded its formal review of the missions, existing processes, and potential areas for improvement of OPM's Freedom of Information Act, Privacy, Records Management, Controlled Unclassified Information, Paperwork Reduction Act, and Section 508. An assessment report was submitted to OPM's senior leadership for consideration.

4. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2018.

The OPM FOIA Public Liaison received approximately 300 requests for assistance.

5. Please describe the best practices used to ensure that your FOIA system operates efficiently and effectively and any challenges your agency faces in this area.

The OPM FOIA Requester Service Center routinely evaluates its FOIA processes to determine if there are areas that could be improved.

The two primary challenges that the OPM FOIA Requester Service Center faced in this area this year were sufficient technological resources and adequate staffing. The technological resource challenge was addressed by purchasing and installing a network printer/scanner that is centrally located within the

OPM FOIA Office. The FOIA Office continues to evaluate what other technologies might be utilized to improve tracking, timeliness and delivery of responses and responsive records.

Section III: Steps Taken to Increase Proactive Disclosures

The Department of Justice has long focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

1. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material.

In Fiscal Year 2018, OPM posted 2107 pages and 290 electronic documents on opm.gov. Links to the posted material is available through OPM's "Document Count" tool located at <https://www.opm.gov/utilities/document-count/>.

2. Please describe how your agency identifies records that have been requested and released three or more times (and are therefore required to be proactively disclosed pursuant to 5 U.S.C. § 552(a)(2)(D)).

OPM relies on the subject matter experts within OPM's Program Offices to identify which records might be of interest to the public, which records have been or will be frequently requested, and whether those records would be appropriate for posting.

3. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?

No.

4. If yes, please provide examples of such improvements.

Not applicable.

5. Please describe the best practices used to improve proactive disclosures and any challenges your agency faces in this area.

The OPM FOIA Requester Service Center reminds program offices about the requirement to post frequently requested materials, particularly where there are voluminous records involved or a matter concerning heightened public interest.

Section IV: Steps Taken to Greater Utilize Technology

A key component of FOIA administration is using technology to make information more accessible. In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that that describes your agency's efforts in this area.

1. Is your agency leveraging technology to facilitate efficiency in conducting searches, including searches for emails? If so, please describe the type of technology used. If not, please explain why and please describe the typical search process used instead.

Yes, this is particularly a priority to research and implement new tools to address email management which will assist the agency to implement Federal Records Act requirements as well as increase FOIA responsiveness. Currently, the OPM FOIA Requester Service Center strives to work with the requester to ensure that the request reasonably describes the records sought. Once the request adequately describes the records sought, the OPM FOIA Intake Specialist assigns the request to the program office(s) most likely to have responsive records. The program offices utilize a variety of search processes to locate responsive records.

2. OIP issued guidance in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?

Yes.

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2018?

Yes.

4. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2019.

Not applicable.

5. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2017 Annual FOIA Report and, if available, for your agency's Fiscal Year 2018 Annual FOIA Report.

The URL for the posting site for all such reports is <https://www.opm.gov/information-management/freedom-of-information-act/#url=Reports>.

6. Please describe the best practices used in greater utilizing technology and any challenges your agency faces in this area.

Please refer to response 1 above. OPM also utilizes Serena Business Manager, a software application for the input, tracking, and reporting of FOIA requests and responses. Our agency's primary challenge in utilizing upgraded and better technology is the limitation on funding and other resources.

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

The Department of Justice has emphasized the importance of improving timeliness in responding to requests. This section of your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations.

A. Simple Track

Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

1. Does your agency utilize a separate track for simple requests? If your agency uses a multi-track system beyond simple, complex, and expedited to process requests, please describe the tracks you use and how they promote efficiency.

Yes.

2. If your agency uses a separate track for simple requests, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2018?

Yes.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2018 that were placed in your simple track.

71.8%

4. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?

Not applicable.

B. Backlogs

Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2016 and Fiscal Year 2017 when completing this section of your Chief FOIA Officer Report.

BACKLOGGED REQUESTS

5. If your agency had a backlog of requests at the close of Fiscal Year 2018, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2017?

No.

6. If not, did your agency process more requests during Fiscal Year 2018 than it did during Fiscal Year 2017?

Yes.

7. If your agency's request backlog increased during Fiscal Year 2018, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog.

Both the loss of staff and the increase in the complexity of the requests received contributed to the increased backlog.

8. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2018. If your agency has no request backlog, please answer with "N/A."

2%

BACKLOGGED APPEALS

9. If your agency had a backlog of appeals at the close of Fiscal Year 2018, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2017?

Yes.

10. If not, did your agency process more appeals during Fiscal Year 2018 than it did during Fiscal Year 2017?

Not applicable.

11. If your agency's appeal backlog increased during Fiscal Year 2018, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming appeals.
- A loss of staff.
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Any other reasons – please briefly describe or provide examples when possible.

Not applicable.

12. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2018. If your agency did not receive any appeals in Fiscal Year 2018 and/or has no appeal backlog, please answer with "N/A."

95.7%. Although the backlog decreased in 2018 compared to 2017, this percentage is high because there was a decrease in the number of appeals received in 2018.

C. Backlog Reduction Plans

13. In the 2018 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2017 was asked to provide a plan for achieving backlog reduction in the year ahead. Did you agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2018?

No, not applicable.

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2018, what is your agency's plan to reduce this backlog during Fiscal Year 2019?

Not applicable.

D. Status of Oldest Requests, Appeals, and Consultations

Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your

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Annual FOIA Reports for both Fiscal Year 2016 and Fiscal Year 2017 when completing this section of your Chief FOIA Officer Report.

OLDEST REQUESTS

15. In Fiscal Year 2018, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2017 Annual FOIA Report?

No.

16. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2016 Annual FOIA Report. If you had fewer than ten total oldest requests to close, please indicate that.

8 of the 10 requests were closed.

17. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?

None of the requests were closed as withdrawn.

18. Beyond work on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests.

The FOIA Requester Service Center periodically sent reports to program office heads to remind them of overdue FOIA requests.

TEN OLDEST APPEALS

19. In Fiscal Year 2018, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2017 Annual FOIA Report?

No.

20. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2017 Annual FOIA Report. If you had fewer than ten total oldest appeals to close, please indicate that.

6 of 10 were closed.

21. Beyond work on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.

Staff that work on FOIA appeals were asked to apprise management of the status of all appeals that are outside of the statutory timeframe for response on a monthly basis. Additional support for processing more complex appeals was provided, as needed and according to available resources.

TEN OLDEST CONSULTATIONS

22. In Fiscal Year 2018, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2017 Annual FOIA Report?

Not applicable.

23. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2017 Annual FOIA Report. If you had fewer than ten total oldest consultations to close, please indicate that.

E. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans

24. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2018.

The increase in the number of requests received and processed and the loss of staff were the obstacles that OPM faced in Fiscal Year 2018.

25. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

Not applicable.

26. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2018.

OPM intends to hire a FOIA Officer to assist in garnering the Program Office management support necessary to complete the remaining "ten oldest" requests and appeals.

F. Success Stories

Out of all the activities undertaken by your agency since March 2018 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency's efforts.

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In an effort to improve efficiency, promote visibility and encourage collaboration, OPM is realigning its Privacy, Records Management, other Information Management and the FOIA functions into a unified office that reports directly to the Director of OPM.



U.S. Office of Personnel Management

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