

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Chief of Freedom of Information Act (FOIA) Officer's Report 2021



Kellie Cosgrove Riley
Chief Privacy Officer

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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 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.

Kellie Cosgrove Riley, Director, Office of Privacy and Information Management (OPIM)

B. FOIA Training

3. The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.

In August 2020, the OPIM Director conducted Privacy Act training for the Office of Healthcare and Insurance. The training covered how the Privacy Act interacts with FOIA. The FOIA manager provided FOIA training to the FOIA staff and the staff of OPM's Office of Congressional, Legislative, and Intergovernmental Affairs. This training provided attendees with an overview of FOIA, how FOIA Processing is handled at OPM, FOIA Exemptions, and the Privacy Act interaction with FOIA.

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

Yes.

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

Due to the COVID-19 Pandemic, all trainings were held in a virtual format for FY 2020.

Two members of the FOIA staff in OPIM attended the virtual American Society of Access Professionals (ASAP) National FOIA Training Conference. ASAP's National Training Conference is a two-day virtual event covering a multitude of FOIA, Privacy Act, and records management related topics.

In FY2020, the OPIM Director and FOIA Manager conducted two different sessions of FOIA/Privacy Act training for the Office of the Director's leadership and staff.

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

100% of the FOIA staff in the Office of Privacy and Information Management have attended FOIA training virtually.

7. 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

8. 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. Once we have an updated tracking system, we are also looking to establish a searchable reading room for easier access to proactive online disclosures.

D. Other Initiatives

9. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA.

The OPIM Director and FOIA Manager have held training for multiple offices to bring awareness to the FOIA program. This included two sessions with agency leadership and senior staff to ensure they are aware of the FOIA and Privacy Act Request process at OPM. The OPIM Director champions FOIA as often as practicable and has met with the OPM Acting Director, the OPM Chief of Staff, and other office heads to highlight the importance of Privacy, FOIA, and Records Management.

We are also in the process of revising reports to allow each program office to review bi-weekly reports of outstanding FOIA requests to provide visibility and ensure requests are being processed in a timely manner.

Section II: Steps Taken to Ensure an Effective System in Place for Responding to Requests

1. For Fiscal Year 2020, what was the average number of days your agency reported for adjudicating requests for expedited processing.

Not applicable, per Section VIII. A. of the FY 2020 Annual FOIA Report, OPM did not track requests for expedited processing.

2. If your average was above 10 days, describe your plan to ensure that requests for expedited processing are adjudicated within 10 calendar days.

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 FOIA Manager conducted a review of OPIM's FOIA work processes. The Director of OPIM and the FOIA Manager determined that there were areas that could be improved with a new tracking system, including more streamlined data reporting and improved workflow management. OPM is actively engaged in exploring a new tracking system

4. Standard Operating Procedures (SOPs): Having SOPs can improve the consistency and quality of an agency's FOIA process. In addition, describing an agency's standard practices for handling FOIA requests on agency FOIA websites can help requesters better understand how their request will be handled.

a) Does your agency have SOPs that outline general processes for handling FOIA requests and appeals?

Yes

b) If not, does your agency have plans to create FOIA SOPs?

Not applicable.

c) If yes, how often are they reviewed/updated to account for changes in law, best practices, and technology?

We review our processes a minimum of once a year.

d) In addition to having SOPs, does your agency post or otherwise describe your standard processes for handling requests on your website?

No, not at this time.

5. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2020. Please provide a total number or an estimate of the number.

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The FOIA Manager, who serves as the OPM FOIA Public Liaison, received approximately 400 calls and over 500 emails seeking assistance in FY 2020.

6. Does your agency frequently receive common categories of first-party requests? If so, please describe the types of requests and if your agency has explored establishing alternative means of access to these records outside of the FOIA process?

Yes. The first-party requests we receive are generally requests for access to personnel records, retirement records, and clearance records. OPM has not explored an alternative method for access to these records.

7. The FOIA Improvement Act of 2016 required all agencies to update their FOIA regulations within 180 days. Has your agency updated its FOIA regulations in accordance with the FOIA Improvement Act of 2016? If not, what is your agency's plan to update your regulations?

No, OPM has not yet updated its regulations. We plan to update the regulations in FY 2022.

8. Please explain how your agency worked to mitigate the impact of the COVID-19 pandemic on FOIA processing. Examples could include, but are not limited to: altering workflows, implementing new technology, providing notices and instructions or otherwise communicating directly with requesters.

The FOIA Manager and staff were telework ready prior to the maximum telework mandated by the COVID-19 pandemic. This allowed the FOIA team to easily transition to fulltime telework. The FOIA staff forwarded their office phones and have been communicating directly with requesters. Additionally, there is one full-time employee who is regularly present on site at the Theodore Roosevelt Building to process requests that come in via USPS, UPS, and FedEx so that there is no work stoppage on non-electronic FOIA requests.

Section III: Steps Taken to Increase Proactive Disclosures

1. Provide examples of material that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D). Please include links to these materials as well.

In Fiscal Year 2020, OPM posted 2082 pages and 822 electronic documents on [opm.gov](https://www.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. 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?

Not at this time.

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

Not applicable.

Section IV: Steps Taken to Greater Utilize Technology

1. Please briefly describe the types of technology your agency uses to support your FOIA program. In addition, please highlight if your agency is leveraging or exploring any new technology that you have not previously reported. If so, please describe the type of technology.

OPM currently uses Serena Business Manager to track FOIA Requests. The FOIA Manager and the Director of OPIM are in the process of reviewing potential new tracking systems to replace OPM's current FOIA tracking system.

2. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in OIP's guidance?

Yes.

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2020?

No.

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 2020.

OPM is working with the Office of the Chief Information Officer to post the quarterly reports in FY 2021.

5. Please provide the link to this posting for your agency's Fiscal Year 2019 Annual FOIA Report and, if available, for your agency's Fiscal Year 2020 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>.

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

A. Simple Track

1. Does your agency utilize a separate track for simple requests?

Yes.

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2. If so, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2020?

Yes.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2020 that were placed in your simple track.

95.3%

4. If your agency does not track simple requests separately, was your average for all non-expedited requests 20 working days or fewer?

Not applicable.

B. Backlogs - Requests

5. If you had a backlog of requests at the close of FY 2020, did that backlog decrease as compared to the end of FY 2019?

Yes.

6. If not, did your agency process more requests during Fiscal Year 2020 than it did during Fiscal Year 2019?

Not applicable.

7. If your agency's request backlog increased during Fiscal Year 2020, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. Indicate if any of the following were contributing factors: Increase in number of requests, Loss of staff, increase in complexity of requests or any other reasons – please briefly describe or provide examples

Not applicable.

8. If you had a request backlog, report the percentage of requests that make up the backlog out of the total number of requests received by your agency in FY 2020.

2.5%

C. Backlogs - Appeals

9. If your agency had a backlog of appeals at the close of Fiscal Year 2020, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2019?

Yes, the backlog decreased.

10. If not, did your agency process more appeals during Fiscal Year 2020 than it did during Fiscal Year 2019?

Not applicable.

11. If your agency's appeal backlog increased, explain why. 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 or any other reasons – please briefly describe or provide examples when possible.

Not applicable.

12. If you had an appeal backlog, report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2020.

4.8%

D. Backlog Reduction Plans

13. In the 2020 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2019 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your 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 2020?

Not applicable.

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2020, what is your backlog reduction plan for Fiscal Year 2021?

Not applicable.

E. Status of Oldest Requests, Appeals, and Consultations

TEN OLDEST REQUESTS

15. In Fiscal Year 2020, did your agency close its ten oldest pending requests from Fiscal Year 2019?

No.

16. If no, provide the number of these requests you were able to close by the end of the FY. If you had less than 10 total oldest requests to close, please indicate that.

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OPM was able to close out 9 of the 10 oldest requests in FY 2020.

17. 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 Manager runs bi-weekly backlog and completed reports. This bi-weekly report allows the FOIA Manager to monitor the number of requests closed within that period of time. The FOIA staff periodically sends Pending Requests reports to program offices as a reminder that requests need to be processed in a timely manner. The FOIA team also reviews the oldest outstanding requests and make every effort to contact the requester to ensure that they are still interested in the information and whether it could be more narrowed in scope to make processing more efficient for the program offices.

The FOIA Staff also takes proactive measures to contact requesters and program office staff to ensure workflow progress and that completed requests are routed up for proper signature in a timely manner.

TEN OLDEST APPEALS

18. In Fiscal Year 2020, did your agency close the ten oldest pending appeals from Fiscal Year 2019?

Yes.

19. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year. If you had less than ten total oldest appeals to close, please indicate that.

Not applicable.

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

The Office of General Counsel concentrated the FOIA appeals workload in the hands of fewer attorneys with more expertise to speed decision making.

TEN OLDEST CONSULTATIONS

21. In Fiscal Year 2020, did your agency close the ten oldest pending consultations from FY 2019?

Yes.

22. If no, provide the number of these consultations you were able to close by the end of the FY. If you had less than 10 oldest consultations to close, please indicate that.

Not applicable.

F. Additional Information on Ten Oldest

23. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2019.

Obstacles included employee turnover in program areas.

24. If unable to close any of your 10 oldest requests because you were waiting to hear back on consultations, provide the date the request was initially received, date you sent the consultation, and date you last contacted the agency where the consultation was pending.

Not applicable.

25. If your agency did not close its ten oldest pending requests, appeals, or consultations, provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2020.

We are finalizing an improvement plan to work with the appropriate staff to gather responsive data and records to respond to these requests. We also have communicated to program offices about actively reducing the backlog starting with the oldest outstanding requests. We are looking to close the oldest request remaining in FY2020 in early FY2021.

G. Success Stories

Out of all the activities undertaken by your agency since March 2020, briefly describe at least one success story that you would like to highlight as emblematic of your agency's efforts in FOIA.

OPIM has been operating on a maximum telework schedule due to the COVID-19 pandemic. The staff has worked diligently not to incur any major delays in processing FOIA requests. The Director of OPIM has communicated to the leadership team about the benefits of a more modern tracking system and is looking to implement a new system to help streamline requests and reporting as well as be interoperable with the National FOIA portal.



U.S. Office of Personnel Management

Office of Privacy & Information Management

1900 E Street, NW, Washington, DC 20415

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