

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Chief of Freedom of Information Act (FOIA) Officer's Report Fiscal Year 2018



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Section I: Steps Taken to Apply the Presumption of Openness

A. FOIA Training

1. 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. The U.S. Office of Personnel Management (OPM) Freedom of Information Act (FOIA) professionals and personnel who have FOIA responsibilities did attend FOIA training.

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

In honor of Sunshine Week, a 1-day, OPM-wide FOIA and Privacy Act training program was scheduled to be held on March 15, 2017. The training program was a pre-recording of the prior year's live training program provided by the U.S. Department of Justice (DOJ), Office of Information Policy (OIP) senior staff. The training program was rescheduled due to inclement weather and was held on September 27. The training agenda was as follows:

- Achieving a New Era of Open Government—Melanie Pustay, Director DOJ, Office of Information Policy (OIP)
- Overview of Procedural Requirements—Carmen Mallon, DOJ, OIP
- Overview of FOIA Exemptions—Matthew Hurd, DOJ, OIP
- FOIA Appeals and Litigation—Sean O'Neill, DOJ, OIP
- The Privacy Act of 1974—Todd Walls, U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS)
 - I Overview
 - II Comparison of the Privacy Act vs. FOIA
 - III Exemption
 - IV Pertinent Court Decisions
 - V OMB Policy Guidance

- Questions and Answers

In addition, several attorneys in the Office of the General Counsel who work on FOIA matters attended training sessions offered by DOJ in Fiscal Year (FY) 2017.

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

In 2017, OPM conducted agency-wide training using materials and recordings of the live training events conducted by DOJ in 2016. Approximately 80 percent of the agency's staff who work on FOIA matters attended or dialed into the FOIA training program or attended tailored FOIA training provided by the OPM FOIA Team. In addition to the training sessions described earlier, training was provided throughout the year to six major program offices, and two training opportunities were provided to senior staff in the Director's office.

OPM has a FOIA Council, established in 2013 to promote coordination, communication, and cooperation among all FOIA Officers, program office FOIA points of contact (POCs), and subject matter experts. The FOIA Council is led by the Chief FOIA Officer and serves as a governing body for FOIA matters within the agency. In addition to its other meetings, the Council held two meetings that served as training on the application and implementation of the FOIA Improvement Act.

4. 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.

N/A

B. Outreach

5. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA?

No, however OPM maintains two hotline telephone numbers that the public uses to make comments, as well as seek information and assistance. This allows us to dialogue with the requester community on a variety of issues regarding the administration of our FOIA and Privacy programs. The FOIA Team and Public Liaison have prioritized excellent customer service by its commitment to respond to all calls within 24 hours of receipt.

Finally, we receive public comments from the OPM website at <https://opm.gov/FAQs>. Ordinarily, the OPM Public Liaison responds to these immediately upon receipt.

In all aspects of responding to comments from the public, we strive to address any concerns and rectify any problems as quickly and efficiently as possible.

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

In honor of Sunshine Week, the OPM FOIA Team conducted an outreach program for non-FOIA professionals (originally scheduled for March 18, 2017, re-scheduled due to inclement weather) on June 8, 2017. The outreach program included program staff from Records Management, Open Government, and Information Technology (IT). The IT staff provided much needed information on protecting data and cybersecurity. This was a welcomed subject area apprising FOIA staff and other professionals on the protection of data and awareness of potential areas for the breach of personally identifiable information (PII). The program succeeded in providing attendees with information about Open Government, the need for transparency (subject to privacy requirements), Sunshine Week, FOIA, and Records Management.

In addition, the Public Liaison and members of the FOIA Team attended the Open Government workgroup meetings in person and by telephone. bi-monthly status report is sent to Senior Management and their FOIA POCs. The report is designed to highlight backlogged requests and to provide status updates on activities for each pending request. The report provides

Senior Management and FOIA POCs with an easy-to-use, at-a-glance numerical and graphic accounting of each program office's FOIA activities, thereby incentivizing program offices to increase their efforts to process and close out their FOIA backlogs.

Beginning in May and ending in September of each year, monthly notices are also sent program-wide throughout OPM. These notices tell FOIA POCs of the need to reduce their FOIA request backlog. During the FOIA Council meetings, the FOIA Team strongly encourages program offices to work with their FOIA Specialists to strategize on the processing and proper closing out of backlog requests.

Throughout the year, the Public Liaison met with various program office management staff on the need for closing out backlogged FOIA requests within their individual program offices.

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

N/A

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

1. For Fiscal Year 2017, what was the average number of days your agency reported for adjudicating requests for expedited processing?
OPM did not adjudicate any expedited processing requests this fiscal year.

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.

N/A

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 Team conducted assessments of its processes, policies, and backlog issues throughout the reporting period.

For example, the FOIA Team drafted revisions to OPM's FOIA regulations (which are currently under review) based on an assessment of the FOIA program, and in consideration of programmatic needs, as well as to meet the requirements established by the FOIA Improvement Act.

In response to constant input and critique from the offices we serve throughout the year, the FOIA Team was regularly required to evaluate and revise workflow protocols and processes. Our goals in these efforts were to help produce timely outcomes and an accurate accounting of our activities at the end of the fiscal year.

We are also undergoing a Lean Six Sigma review with an emphasis on our workflow processes. Upon the completion of the analysis, we plan to make further revisions to our processes.

We have worked with some of the program offices, such as the Administrative Law Judges (ALJ) Office and the Office of Congressional, Legislative, and Intergovernmental Affairs (CLIA), to close out the majority, if not all, of their backlogged requests.

We also provided insights regarding possible ways to reduce backlog and improve timeliness for Retirement Services (RS). As a result, RS has seen a decrease of approximately 40 percent in backlogged requests. That office is also undergoing an independent Lean Six Sigma review for improvement to their internal FOIA processes.

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 2017 (please provide a total number or an estimate of the number).

The FOIA Public Liaison received approximately 1,250 requests for assistance during FY 2017.

5. Optional Survey Question: If possible, please provide an estimate of the average number of pages that your agency processes for each request. You may provide estimates for each track.

Because of the range of kinds of requests and types of records requested, the quantity of pages varies greatly. Simple track requests, normally insurance information requests, usually result in a single page of responsive records. Procurement and more complex types of requests can vary from about 100 pages to more than 144,000 pages.

6. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as improving search processes, eliminating redundancy, etc., please describe them here.

N/A

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 links to the posted material.

OPM makes an effort to be proactive in placing records on program offices' pages on opm.gov, when Program Offices determine that these records might be of interest to the public or may be records that have been or will be frequently requested, and a determination is made that the materials are otherwise appropriate for online posting.

OPM also strives to be proactive in posting publicly sought records and data, as appropriate. Our internet "Document Count" tool, developed in 2015, is located at <https://www.opm.gov/utilities/document-count/>. For fiscal year 2017, we posted over 307 documents on opm.gov. Since its inception in 2015, we have posted a total of 5,280 documents.

A few of the records proactively posted are as follows:

- [OPM Grants Grace Period for CFC Charities Affected by Hurricanes](#)
- [2017 Personal Identification Verification \(PIV\) Statistics](#)
- [OPM Releases Veteran Employment Data](#)

OPM also has a Publications Database tool on the internet located at <https://www.opm.gov/news/reports-publications/publications-database/publication-listings>.

This tool provides the public with access to hundreds of reports, going back as far as 1989.

2. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If yes, please describe these efforts.

Yes. In addition to the examples provided above, OPM has a social media presence and attempts to provide information proactively, as appropriate, on Twitter, Facebook, blogs, feeds and YouTube, among others. They are as follows:

Facebook pages:

- <http://www.facebook.com/USOPM>
- <https://www.facebook.com/pages/Feds-Hire-Vets/262183904582>
- <http://www.facebook.com/usajobs>
- <http://www.facebook.com/combinedfederalcampaign>
- <https://www.facebook.com/FEIONLINE/>

Twitter handles:

- <https://twitter.com/USOPM>
- <https://twitter.com/USAJOBS>
- <https://twitter.com/fedshirevets>
- <https://twitter.com/NBIBgov>
- <https://twitter.com/CFC>
- <https://twitter.com/LABOPM>

Instagram handle:

<https://www.instagram.com/usopm>

LinkedIn handles:

- <https://www.linkedin.com/company/opm>
- <https://www.linkedin.com/company/usajobs/>

Google+ handles:

<https://plus.google.com/+usajobs>

YouTube channels:

- <http://www.youtube.com/USOPM>
- <https://www.youtube.com/user/usajobsapp>

Blogs:

- [Director's Blog](#)
- [Retirement Information Center](#)

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?

Yes. OPM strives to make posted information as useful as possible. The ultimate goal is to provide as much information as it properly can to the public in a user-friendly manner, including through conformance with the §508 accessibility standards. The Public Liaison has received many positive responses from requesters who have searched online for information and records and were surprised that they were able to obtain the records that they wanted.

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

New material being posted is already available in its most useful format. See the answer for questions 1-2 for examples.

5. If there are any other steps your agency has taken to improve proactive disclosures, please describe them here. For example, has your agency engaged requesters in determining how and what to post? Has your agency used web analytics to determine will be your proactive disclosures?

At the FOIA Council meetings held on 12/2/16, 2/23/17, 6/15/17, and 8/15/17, we emphasized seeking collaborative avenues as well as educating the FOIA POCs and management on the need for proactive disclosures, after appropriate review, especially the posting of FOIA-processed responsive records.

We conducted a survey of program offices and found that duplicative requests are rare. This is due to the very nature of our records. A great portion of our requests are Privacy Act requests in which requesters seek health and retirement benefits information, background investigation records, and human resource records pertaining to themselves. Apart from requests for those records, the most frequent requests are for OPM's FOIA logs, which we post in our FOIA electronic reading room on a quarterly basis. This year we had a repeat request for records pertaining to OPM's FOIA and appeal processes. Our response is being prepared for posting in the FOIA reading room.

We do not use web analytics to determine what proactive disclosures to make. As demonstrated in our response to Section III, Question 2, OPM strives to be proactive in posting publicly sought records and data as evidenced on our web "Document Count" tool.

Section IV: Steps Taken to Greater Utilize Technology

1. Has your agency identified any best practices to leverage technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents? If yes please describe the best practices, the types of technology used and the impact on your agency's processing.

Yes. As reiterated in Success Story #2, limited storage space and voluminous records for review presented a major delay in the Q&A review of responsive records by the FOIA Team. A shared drive was determined to be the best method of receiving voluminous records from the program offices. Each program office has its own sub-folder on the new shared drive, and each program office FOIA POC can submit their records for Q&A review into the proper sub-folder. Access for the review of voluminous records has thus been resolved, greatly diminishing delays in the final review process.

2. Did your agency successfully post all four quarterly reports for Fiscal Year 2017?

Yes, OPM posted the report but, they did not appear on FOIA.gov. OPM will ensure successful posting for FY18.

3. 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 2018.

N/A

4. 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 2016 Annual FOIA Report and, if available, for your agency's Fiscal Year 2017 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>.

5. If there any other steps your agency has taken to improve use of technology in FOIA, please describe them here.

OPM's Secure Messaging Portal provides employees the capability to send potentially sensitive data to external recipients via a web based portal. The portal allows for a quicker delivery than postal and is more secure than regular email.

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.

2. If so, for your agency overall in Fiscal Year 2017, was the average number of days to process simple requests twenty working days or fewer?

Yes. The average number of days to process simple requests for FY 2017 was 3.1.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2017 that were placed in your simple track.

72.36 percent.

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?

N/A

B. Backlogs

Backlogged Requests

5. If your agency had a backlog of requests at the close of Fiscal Year 2017, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2016?

The backlog increased by 40 percent, from 129 backlogged requests in 2016 to 181 backlogged requests in 2017. We processed fewer requests. Between the central FOIA Processing Service Center and the National Background Investigations Bureau (NBIB) for FY 17, we processed a total of 9,966 FOIA/PA requests. This was mostly due to fewer requests being processed by NBIB and the Retirement Operations Center (ROC), which handles FOIA requests regarding life insurance. However, there was a noteworthy increase in the number of requests received and processed within the central FOIA Office.

6. If not, 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 requests.**
- **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.**

OPM's backlog was influenced by numerous factors. We experienced an increase in the complexity of requests, often covering multiple program offices. A great deal of these requests were large in scope, requiring extensive man hours to research and review the responsive records. A great many of these requests sought data pertaining to procurement activities within OPM, with some exceeding 140,000 pages of responsive records.

Enhanced security measures in the delivery of information contributed to processing delays. After internal deliberations, and as referenced in our response to Section IV, Question 5, we acquired the requisite software to enable the burning of CDs to send to requesters or internal customers.

7. 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 FY 2017.

1.8 percent.

Backlogged Appeals

8. If your agency had a backlog of appeals at the close of Fiscal Year 2017, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2016?

No. The backlog increased slightly, from 54 pending appeals in FY 2016 to 60 in FY 2017.

9. If not, 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/resources.** Resources have been restricted and there have been competing priorities, e.g., requests relating to congressional oversight and litigation.

- **An increase in the complexity of the requests and consequent appeals 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.**

10. 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 FY 2017. If your agency did not receive any appeals in Fiscal Year 2017 and/or has no appeal backlog, please answer with "N/A."

The percentage of appeals backlogged out of the total number of appeals received by OPM in FY 2017 is 157.9%. The backlog at the end of the fiscal year was 60 appeals. The Office of the General Counsel received only 38 appeals during the year, but the percentage is high because there were more backlogged appeals than what was received.

C. Backlog Reduction Plans

11. In the 2017 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2016 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 2017?

N/A

12. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2016, what is your agency's plan to reduce this backlog during Fiscal Year 2017?

N/A

D. Status of Ten Oldest Requests, Appeals, and Consultations

Ten Oldest Requests

13. In Fiscal Year 2017, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

No. One of the ten oldest FY 2016 requests was not closed.

14. 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 2015 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

We closed nine of the 10 oldest requests.

15. 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?

One request was closed due to the request being withdrawn. An interim response was not provided for that request.

Ten Oldest Appeals

16. In Fiscal Year 2017, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

Yes.

17. 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 2016 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

N/A

Ten Oldest Consultations

18. In Fiscal Year 2017, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

Yes.

19. 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 2016 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

N/A

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

20. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2017.

Limited resources to search for responsive records and programmatic changes greatly affected the development of internal strategies for providing a means to respond more quickly to FOIA requests and appeals.

21. 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.

N/A

22. 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 2017.

We are finalizing a strategic plan to work with the appropriate staff to gather responsive data and records to respond to these requests. The plan is

inclusive of using the FOIA Reading Room to place information for the requesters as well as the public.

F. Success Stories

Out of all the activities undertaken by your agency since March 2017 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. The success story can come from any one of the five key areas. As noted above, OIP will highlight these agency success stories during Sunshine Week. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

Success Story 1

- OPM's Administrative Law Judges (ALJ) program has consistently had a major backlog
- This is because of:
 - Privacy concerns of each administrative law applicant
 - The complexity of requests and applicable statutes
 - The extensive nature of review process for each request
- To reduce the backlog, the Public Liaison suggested that the program office use a form letter or checklist to allow for a faster response while meeting the programmatic needs and policies of the program.
- ALJ devised a checklist letter in which the pertinent FOIA exemptions, applicable statutes, and HR policies were listed in the final response.
- The letter is now in use. We are hopeful that this will bring a reduction in ALJ's backlog.

Success Story 2

- The FOIA Team and program offices had a problem with storage capacity and the ability to receive and provide reviews of voluminous responsive records.
- Thumb drives were prohibited as a security risk.

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- A shared drive was determined to be the best method of receiving voluminous records.
- With the new shared drive:
 - Each program office has its own sub-folder on the shared drive.
 - Each FOIA POC can now submit records for review into the proper sub-folder.
 - Approved programmatic FOIA POCs have limited access to the placement of the records into their respective sub-folders.
 - The FOIA Team has full access and working rights to all of the folders.



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