

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

2024



This report is prepared for the Attorney General in compliance of the Freedom of Information Act (FOIA), 5 U.S.C. § 552(j)(2)(D) (2018), about OPM's Chief FOIA Officer's performance in implementing the FOIA.

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Section I: FOIA Leadership and Applying the Presumption of Openness

The guiding principle underlying the Attorney General's FOIA Guidelines is the presumption of openness. The Guidelines also highlight the importance of agency leadership in ensuring effective FOIA administration. Please answer the following questions about FOIA leadership at your agency and describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.

A. Leadership Support for FOIA

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. See 5 U.S.C. § 552(j)(1) (2018). 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.

Kirsten J. Moncada, Executive Director, Office of the Executive Secretariat, Privacy, and Information Management (OESPIM).

3. What steps has your agency taken to incorporate FOIA into its core mission? For example, has your agency incorporated FOIA milestones into its strategic plan?

At OPM, the Associate Directors and Office Heads have delegated authority from OPM's Director to make final determinations on initial requests concerning materials under the custody or control of their programs. In this manner, FOIA is incorporated into the mission of each OPM program.

B. Presumption of Openness

4. The Attorney General's 2022 FOIA Guidelines provides that "agencies should confirm in response letters to FOIA requesters that they have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions." Does your agency provide such confirmation in its response letters?

Yes.

5. In some circumstances, agencies may respond to a requester that it can neither confirm nor deny the existence of requested records if acknowledging the existence of records would harm an interested protected by a FOIA exemption. This is commonly referred to as a Glomar response. If your agency tracks Glomar responses, please provide:

a) the number of times your agency issued a full or partial Glomar response (separate full and partial if possible);

OPM did not issue any Glomar responses in the reporting year.

b) the number of times a Glomar response was issued by exemption (e.g., Exemption 7(C) – 20 times, Exemption 1 – 5 times)

Not applicable.

6. If your agency does not track the use of Glomar responses, are you planning to track this information in the future?

Not applicable.

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

Section II: Ensuring Fair and Effective FOIA Administration

The Attorney General's FOIA Guidelines provide that "[e]nsuring fair and effective FOIA administration requires . . . proper training, and a full understanding of FOIA obligations by the entire agency workforce." The Guidelines reinforce longstanding guidance to "work with FOIA requesters in a spirit of cooperation." The Attorney General also "urge[s] agency Chief FOIA Officers to undertake comprehensive review of all aspects of their agency's FOIA administration" as part of ensuring fair and effective FOIA administration.

A. FOIA Training

1. The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. See 5 U.S.C. § 552(a)(j)(2)(F). Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.

OPM's FOIA program professionals provided ad hoc training to OPM's FOIA points of contact at several program offices on the FOIA's procedural overview, the Department of Justice's guidance on final responses, and specific FOIA/PA exemptions.

In an effort to encourage participation in FOIA training, the FOIA Manager encourages OPM's FOIA professionals to attend training and regularly shares with OPM's FOIA professionals training opportunities offered by the Department of Justice and the American Society for Access Professionals.

2. 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.

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

OPM's FOIA program professionals attended a variety of virtual training events provided by the Department of Justice, specifically: Privacy Considerations, the FOIA Summit, Continuing FOIA Education, training on exemptions 1, 4, 5, and 7,

and Advanced FOIA Training. Additionally, the FOIA Manager participated in the American Society of Access Professionals' FOIA/Privacy Act Training Workshop.

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

One hundred percent of OPM's FOIA program's professionals attended substantive FOIA training.

5. 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.

6. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff; and if senior leaders at your agency received a briefing on your agency's FOIA resources, obligations and expectations during the FOIA process?

OPM leadership is regularly briefed on the agency's FOIA statistics on requests received, closed, and pending. This contributes to both an agency-wide awareness of FOIA operations and program-specific awareness about requests pending action. The FOIA Manager also provided a briefing to OPM senior leaders on the agency's FOIA statistics, procedural refresher, and how leadership can support the FOIA program. OPM's FOIA Council, which comprises the FOIA program's staff and FOIA points of contacts for each office, convened once during the reporting period. Additionally, the FOIA program is developing FOIA training to potentially be included in the onboarding training for new agency employees.

B. Outreach

7. As part of the standard request process, do your FOIA professionals proactively contact requesters concerning complex or voluminous requests in an effort to

clarify or narrow the scope of the request so requesters can receive responses more quickly? Please describe any such outreach or dialogue, and, if applicable, any specific examples.

Yes. OPM's FOIA program professionals proactively reach out to requesters from the time a request is received and in an ongoing manner, as necessary. This includes outreach at the time a request is received when it is not reasonably described or requires clarification or additional information to be perfected, as well as when the results of a search require further narrowing of the scope. When a request is not reasonably described or is unclear, OPM's FOIA program professionals specifically identify those parts or aspects of the request that are deficient or unclear. They often consult with the relevant subject matter experts and record custodians to determine whether and to what extent OPM maintains the records sought in order to help the requester tailor the request or receive the most useful responses.

8. Outside of the standard request process or routine FOIA Liaison or FOIA Requester Service Center interactions, did your FOIA professionals engage in any outreach or dialogue, with the requester community or open government groups regarding your administration of the FOIA? For example, did you proactively contact frequent requesters, host FOIA-related conference calls with open government groups, or provide FOIA training to members of the public? 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.

OPM's FOIA program professionals have not engaged in outreach or dialogue, outside of the standard request process, with the requester community or open government groups regarding OPM's administration of the FOIA.

9. 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 Fiscal Year 2023 (please provide a total number or an estimate of the number for the agency overall).

OPM's FOIA Public Liaison has been contacted by requesters seeking assistance an estimated fifty times during the reporting period.

C. Other Initiatives

10. Has your agency evaluated the allocation of agency personnel resources needed to respond to current and anticipated FOIA demands? If so, please describe what changes your agency has or will implement.

Yes. In January 2023, OPM hired a new Government Information Specialist for the FOIA Intake Analyst position. This position was staffed through January 2024. At the time of reporting, however, the position is vacant and OPM is in the process of hiring a new FOIA Analyst to serve in this role. It remains a necessary resource for responding to OPM's current and anticipated FOIA demands.

11. How does your agency use data or processing metrics to ensure efficient management of your FOIA workload? For example, case management reports, staff processing statistics, etc. In addition, please specifically highlight any data analysis methods or technologies used.

Data on the number of requests received by agency offices and staff processing statistics were used to reallocate workloads among the FOIA staff. This resulted in increased request closures for the offices impacted. Additionally, during Fiscal Year 2023, OPM used data on the average number of FOIA requests pending and received to determine both the number of closures required to remain at the current level of pending requests and to determine the additional number of closures needed to achieve a specific backlog reduction goal. OPM continues to track requests received and closed on a weekly basis to maintain and improve upon the backlog reduction achieved in FY 2023.

12. Optional -- If there are any other initiatives undertaken by your agency to ensure fair and effective FOIA administration, please describe them here.

Section III: Proactive Disclosures

The Attorney General's FOIA Guidelines emphasize that "proactive disclosure of information is fundamental to the faithful application of the FOIA." The Guidelines direct agencies to post "records online quickly and systematically in advance of any public request" and reiterate that agencies should post records "in the most useful, searchable, and open formats possible."

1. Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures.

OPM's FOIA program assigns each OPM office to a single FOIA Specialist who handles all requests seeking that office's records. Each analyst is, therefore, closely aware of the types of requests and records processed for their assigned offices. If records have been requested at least 3 times or are likely to be requested again, the FOIA Specialist flags records for potential posting to the FOIA Reading Room. Additionally, the FOIA program reviews the agency's FOIA logs on a quarterly basis to identify records for proactive disclosure.

2. How long after identifying a record for proactive disclosure does it take your agency to post it?

OPM does not routinely post records for proactive disclosure. This is an area of growth that we seek to improve.

3. Does your agency post logs of its FOIA requests?

Yes.

- If so, what information is contained in the logs?

At a minimum, FOIA logs contain the request tracking number, date received, and the request description. Additional information may also be reported.

- Are they posted in CSV format? If not, what format are they posted in?

FOIA request logs are posted in PDF format.

4. Provide examples of any 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.

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OPM did not post records for proactive disclosure. This is an area of growth that we seek to improve.

5. 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.

6. If yes, please provide examples of such improvements. In particular, please describe steps your agency is taking to post information in open, machine-readable, and machine-actionable formats, to the extent feasible. If not posting in open formats, please explain why and note any challenges.

Not applicable.

7. Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office, such as IT or data personnel? If so, describe this interaction.

OPM's current proactive disclosure process does not require the intervention of agency staff outside the FOIA office. Future efforts at increased proactive disclosures may include collaboration with agency staff outside of the FOIA office for purposes of making material accessible and where possible offer diverse formats for certain records to be publicly posted.

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

Section IV: Steps Take to Greater Utilize Technology

A key component of FOIA administration is using technology to make information available to the public and to gain efficiency in FOIA processing. The Attorney General's 2022 FOIA Guidelines emphasize the importance of making FOIA websites easily navigable and complying with the FOIA.gov interoperability requirements. Please answer the following questions to describe how your agency is using technology to improve its FOIA administration and the public's access to information.

1. Has your agency reviewed its FOIA-related technological capabilities to identify resources needed to respond to current and anticipated FOIA demands?

Yes. The need for a solution to convert email and attachments to PDF in a collated manner was identified. OPM is planning to procure a software solution to address this need.

2. Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program.

OPM did not begin using any new technology to support the FOIA program during the reporting period.

3. Does your agency currently use any technology to automate record processing? For example, does your agency use machine learning, predictive coding, technology assisted review or similar tools to conduct searches or make redactions? If so, please describe and, if possible, estimate how much time and financial resources are saved since implementing the technology.

OPM does not currently use any technology to automate record processing.

4. 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?

OPM reviewed its FOIA website to confirm that it addresses the elements noted in the OIP's guidance and also identified areas of improvement to increase its helpfulness to the public. Efforts are underway to update OPM's FOIA website.

5. Did all four of your agency's quarterly reports for Fiscal Year 2023 appear on FOIA.gov?

Quarterly Reports for quarters 2, 3 and 4 were posted.

6. If your agency did not successfully post all quarterly reports on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2023.

The failure to post the Quarterly Report for quarter 1 was inadvertent and was corrected.

7. 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 2022 Annual FOIA Report and, if available, for your agency's Fiscal Year 2023 Annual FOIA Report.

The raw statistical data used to compile the Annual FOIA Reports for Fiscal Year 2022 and Fiscal Year 2023 is available [here](#).

8. In February 2019, DOJ and OMB issued joint Guidance establishing interoperability standards to receive requests from the National FOIA Portal on FOIA.gov. Are all components of your agency in compliance with the guidance?

Yes.

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

Section V: Steps Taken to Remove Barriers to Access, Improve Timeliness in Responding to Requests, and Reduce Backlogs

The Attorney General's 2022 FOIA Guidelines instruct agencies "to remove barriers to requesting and accessing government records and to reduce FOIA processing backlogs." Please answer the following questions to describe how your agency is removing barriers to access, improving timeliness in responding to requests, and reducing FOIA backlogs.

A. Remove Barriers to Access

1. Has your agency established alternative means of access to first-party requested records outside of the FOIA process?

During the reporting period OPM did not establish alternative means of access to first-party requested records beyond those that are already in place for personnel records and retirement records concerning survivor benefits.

2. If yes, please provide examples. If no, please indicate why not. Please also indicate if you do not know.

Not applicable.

3. Please describe any other steps your agency has taken to remove barriers to accessing government information.

OPM is engaging in a multi-program effort to identify information commonly requested from Retirement Services and the mechanisms available to obtain such information to find solutions for streamlining access and improving customer service.

B. Timeliness

4. For Fiscal Year 2023, 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 2023 Annual FOIA Report.

It took 0.8 days to adjudicate requests for expedited processing in Fiscal Year 2023.

5. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2022 Annual FOIA Report, 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.

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

Yes.

7. If your agency uses a separate track for simple requests, according to Annual FOIA Report section VII.A, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2023?

The agency overall average number of days to process simple requests was 43 days.

8. If not, did the simple track average processing time decrease compared to the previous Fiscal Year?

Yes.

9. Please provide the percentage of requests processed by your agency in Fiscal Year 2023 that were placed in your simple track. Please use the following calculation based on the data from your Annual FOIA Report: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) x 100.

Eighty-six percent of requests processed by OPM in Fiscal Year 2023 were placed in the simple track.

10. 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.

C. Backlogs

Backlogged Requests

11. If your agency had a backlog of requests at the close of Fiscal Year 2023, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2023?

Yes.

12. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2023 than it did during Fiscal Year 2023?

Not applicable.

13. If your agency's request backlog increased during Fiscal Year 2023, 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 requests
Not applicable.
- A loss of staff
Not applicable.
- 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)
Not applicable.
- Impact of COVID-19 and workplace and safety precautions
Not applicable.
- Any other reasons – please briefly describe or provide examples when possible
Not applicable.

14. 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 2023. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. This number can be greater than 100%. If your agency has no request backlog, please answer with “N/A.”

Seventeen percent of requests make up the backlog out of the total number of requests received by OPM in Fiscal Year 2023.

Backlogged Appeals

15. If your agency had a backlog of appeals at the close of Fiscal Year 2023, according to Section XII.E.2 of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2022?

No.

16. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2023 than it did during Fiscal Year 2022?

No.

17. If your agency's appeal backlog increased during Fiscal Year 2023, 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

Not applicable.

- A loss of staff

A number of personnel handling appeals have departed recently, and it has taken time to train staff. Concurrently, there has been a shortage of staff generally, largely remedied after Fiscal Year 2023. Therefore, OPM has operated with a backlog of matters that the agency expects to address this fiscal year.

- 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)

Not applicable.

- Impact of COVID-19 and workplace and safety precautions

Not applicable.

- Any other reasons – please briefly describe or provide examples when possible.

Not applicable.

18. 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 2023. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received from Section VI.A) x 100. This number can be greater than 100%. If your agency did

not receive any appeals in Fiscal Year 2023 and/or has no appeal backlog, please answer with "N/A."

Out of the total number of appeals received by OPM in Fiscal Year 2023, one hundred percent make up the backlog.

D. Backlog Reduction Plans

19. In the 2023 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2022 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 2023?

OPM did not have a backlog of over 1000 requests in Fiscal Year 2022. OPM, nonetheless, implemented a backlog reduction plan in Fiscal Year 2023. A goal of a ten percent reduction in the backlog from Fiscal Year 2023 was established; ultimately, a twenty percent reduction was achieved. OPM prioritized closing the oldest requests and simple requests. The FOIA specialists engaged closely with agency record custodians to ensure the scope of requests was reasonably described and to support search and review efforts. They also conducted requester outreach to determine continued interest and to assist requesters in narrowing the scope of requests in an effort to expedite processing. Additionally, the hiring of an intake analyst who closely reviewed requests at the time of receipt helped avoid the logging of requests that were improper under FOIA, did not seek OPM agency records, or were duplicative.

20. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2023, please explain your agency's plan to reduce this backlog during Fiscal Year 2024.

Not applicable.

E. Reducing the Age of Requests, Appeals, and Consultations

Ten Oldest Requests

21. In Fiscal Year 2023, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2023 Annual FOIA Report?

No.

22. 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 2023 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

OPM was able to close eight of out the ten oldest pending perfected requests reported in Fiscal Year 2022.

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

Beyond working on the ten oldest requests, OPM prioritized closing requests pending for more than a fiscal year and simple requests. The FOIA specialists engaged closely with agency record custodians to ensure the scope of requests was reasonably described and to support search and review efforts. They also conducted requester outreach to determine continued interest and to assist requesters in narrowing the scope of requests in an effort to expedite processing.

Ten Oldest Appeals

24. In Fiscal Year 2023, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2022 Annual FOIA Report?

No.

25. 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 2023 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

In its Fiscal Year 2022 Annual FOIA Report, OPM reported four appeals pending closure. In Fiscal Year 2023, OPM closed two of those four appeals reported as pending in Fiscal Year 2022.

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

During the reporting period, OPM hired and trained additional personnel to help address workloads that include handling FOIA appeals.

Ten Oldest Consultations

27. In Fiscal Year 2023, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2023 Annual FOIA Report?

Yes.

28. 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 2022 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

Not applicable.

Additional Information Regarding Ten Oldest

29. If your agency did not close its ten oldest pending requests, appeals, or consultations, please explain why and provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2024.

FOIA professionals will proactively communicate with the requesters and program offices to coordinate any necessary clarification or narrowing; help facilitate, to the extent possible, the search and review efforts; and understand particular challenges and how those may be addressed.

F. Additional Information about FOIA Processing

30. Were any requests at your agency the subject of FOIA litigation during the reporting period? If so, please describe the impact on your agency's overall FOIA request processing and backlog. If possible, please indicate the number and nature of requests subject to litigation, common causes leading to litigation, and any other information to illustrate the impact of litigation on your overall FOIA administration.

There were not any requests at OPM that were the subject of FOIA litigation during the reporting period.



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