



2024 CHIEF FOIA OFFICER REPORT



Photo of Tule Lake Lower Marsh by U.S. Fish and Wildlife Service.

Contents

Section I: FOIA Leadership and Applying the Presumption of Openness 3

- A. Leadership Support for FOIA..... 3
- B. Presumption of Openness 3

Section II: Ensuring Fair and Effective FOIA Administration 4

- A. FOIA Training 5
- B. Outreach..... 7
- C. Other Initiatives 8

Section III: Proactive Disclosures 9

Section IV: Steps Take to Greater Utilize Technology..... 13

Section V: Steps Taken to Remove Barriers to Access, Improve Timeliness in Responding to Requests, and Reduce Backlogs..... 15

- A. Remove Barriers to Access 15
- B. Timeliness 15
- C. Backlogs 17
- D. Backlog Reduction Plans..... 19
- E. Reducing the Age of Requests, Appeals, and Consultations 19
- F. Additional Information about FOIA Processing 21

Section I: FOIA Leadership and Applying the Presumption of Openness

The guiding principle underlying the Attorney General’s 2023 [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.

Robert T. Anderson, Solicitor.

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?

As previously reported, the Department established the Departmental FOIA Office (DFO) in 2020 to improve the quality and efficiency of FOIA request processing at the Department by providing central governance and support to the Department’s fourteen FOIA request processing offices. This reporting period, the Department funded two additional FTEs for the DFO, increased funding to upgrade the Department’s FOIA request tracking and case management system, approved mandatory FOIA training for all employees, and developed standardized position descriptions for FOIA personnel that raise the professional standards for those positions.

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. The Department has issued required language to ensure our FOIA processors provide this confirmation in our response letters.

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:

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

Full: eight times

Partial: three times

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

Exemption 5: five times

Exemption 6: seven times

Exemption 7(C): seven times

Exemption 7(A): eight times

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.

The Department has issued comprehensive guidance to FOIA processors to assist them in applying the FOIA's Foreseeable Harm requirement to ensure that FOIA processing determinations at the Department are made in favor of maximum responsible disclosure. The DFO also provides training regarding the presumption of openness and Foreseeable Harm requirement in its FOIA Foundations course for new FOIA processors and its mandatory training for political appointees and staff. DOI has also made training mandatory that covers the presumption of openness as described in Section II below.

Section II: Ensuring Fair and Effective FOIA Administration

The Attorney General's 2022 [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.

DOI incorporated the three FOIA training modules developed by DOJ (along with DOI-specific supplemental materials) into the Department's online training platform and made the training mandatory for all full-time employees with a biennial recertification requirement.

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.

The DFO hosted an in-person FOIA Officer's Training Summit in Washington D.C. for the FOIA Officers who lead the Department's fourteen FOIA request processing offices (FOIA offices). Topics included agency specific requirements for intake, the Attorney General's FOIA guidelines, FOIA Requester Service Centers and customer service, utilizing metrics to measure staff performance, FOIA related technology, and examining the results of self-assessments. Guest panelists and presenters included the Office of Government Information Services Director, the Office of Information Policy Director, the Veterans Administration FOIA Director, and the Chief of the Programs and Policies Division from Department of State's Office of Information Programs. In addition, the Department's FOIA & Privacy Act Appeals Officer, in collaboration with the DFO and the Division of General Legal Services, conducted two multi-day in-person training events for the Department's FOIA community in Denver, Colorado and Minneapolis, Minnesota that covered all phases of FOIA request processing, as well as administrative appeals, and litigation. In addition,

DOI FOIA personnel attended DOJ's virtual trainings, including Exemptions 4 and 5, Advanced FOIA, and Privacy Considerations.

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.

94%

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?

As noted above, all DOI employees must complete the DOJ developed FOIA Training for All Federal Employees and review DOI specific supplemental information. New employees must complete this training as part of New Employee Training and all employees are required to recertify biennially.

The DFO also provides mandatory FOIA training to all incoming political appointees and staff to ensure they understand their legal obligations under the FOIA as well as the practical and logistical aspects of FOIA request processing. This training describes the mission and functions of the DFO and underscores the Secretary's expectation that senior leaders make FOIA compliance a priority in their organizations.

Given the decentralized nature of DOI's FOIA operations, bureau FOIA officers play a key role in outreach to non-FOIA professionals. Bureau FOIA officers reported providing training to non-FOIA professionals on the following topics:

- Record custodians' FOIA obligations
- Expectations for searches
- Risks associated with untimely responses
- Benefits of proactive disclosures

- General briefings on the FOIA process during New Employee Onboarding
- Briefings to bureau executives on the status of the FOIA program

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.

The Department's FOIA professionals routinely engage with requesters to clarify, narrow, or otherwise streamline the scope of incoming FOIA requests and ensure requesters receive the records sought. FOIA professionals typically consult with program subject matter experts to understand the likely scope of the requests and then meet with requesters to seek clarification when needed, target requests whenever possible, set realistic expectations, and establish interim release schedules.

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.

Three members of the DOI FOIA community served on the Chief FOIA Officers Council, Technology Committee, that studies the use and deployment of FOIA technology to identify best practices and make recommendations that can be implemented across agencies. Additionally, one member served on the Chief FOIA Officers Council, Committee of Cross-Agency Collaboration and Innovation that seeks to improve federal career paths for FOIA professionals and promote models to align agency resources with agency transparency.

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).

We estimate requesters sought assistance from the FOIA Public Liaison approximately 135 times during FY 2023.

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.

An ongoing initiative of the DFO is to conduct targeted assessments of the FOIA processing offices in the Department's component bureaus and issue data-driven recommendations to bureau leaders for improving FOIA processing staffing and operations. This year, the DFO assisted senior leadership in the National Park Service (NPS) with the launch of a new function, the Office of Public Trust (OPT), to process FOIA requests seeking law enforcement records of the National Park Service, beginning with the U.S. Park Police (USPP). The DFO conducted a comprehensive analysis and provided leadership with a metrics-based staffing plan, workflow analysis, and preliminary evaluation of the USPP FOIA request backlog identifying broad categories of pending requests that could be strategically addressed. The National Park Service used this analysis to effectively staff the new function and close a substantial number of backlogged requests.

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.

The DFO has developed a baseline predictive model for expected performance, based on the historical data of each of its FOIA request processing offices. The model enables us to recognize and learn from our high performing FOIA offices and provide appropriate assistance to offices that are not performing as well as expected. In addition, the Department recently acquired a new tracking and case management system and is utilizing the data, tools, and reporting features in that system to help track key information for program administration and monitor requests by bureau, region, and FOIA professional staff. Both the new tracking system and the Department's newly acquired document review platform include features that we hope will enable us to improve the performance expectations from the baseline model and provide us with additional insights into the effectiveness of these interventions.

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

As discussed in C.10 above, the OPT has been established within NPS to help strengthen the legitimacy of NPS's law enforcement programs and relationships with the communities they serve. OPT's mission is to become a one stop shop for stakeholders to obtain information about NPS law enforcement programs and activities. This new office handles FOIA and other public requests for NPS law enforcement information and records including, for example, incident reports for auto accidents, records pertaining to high-profile events, body-worn camera footage, and data regarding criminal activity and law enforcement response.

Section III: Proactive Disclosures

The Attorney General's 2022 [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.

The bureaus routinely evaluate requests to identify categories of frequently requested records that may be proactively disclosed. Some specific examples are below:

The U.S. Geological Survey (USGS) FOIA program monitors updates to USGS directives, Survey Manual chapters, and Instructional Memorandum that are posted each quarter to the USGS website (<https://www.usgs.gov/survey-manual/whats-new>). These updates include administrative staff manuals and instructions to staff that affect a member of the public. The USGS FOIA team also tracks Technical Announcements posted to the USGS website. These announcements share technical news with the public that focuses on data and methodologies. The USGS posts and publishes a large amount of data and information, and its FOIA team reviews information posted by programs to determine what else may be appropriate for an (a)(2) proactive disclosure.

The Bureau of Ocean Energy Management's (BOEM) FOIA team reviews FOIA requests to identify frequently requested data and information while working with

program offices to prioritize records for posting. The FOIA team also collaborates with the BOEM Office of Communications, which engages with regional and Headquarters offices to identify items of interest to the public, identifies records that are of significant public informative value, and routinely places them on BOEM's website. This included records about final decisions, Construction and Operations Plans, leasing documents, studies, and public versions of company submitted documents. When there is a high demand for information, BOEM develops and provides Frequently Asked Questions to minimize the need for public requests for information.

U.S. Fish and Wildlife Service (FWS) regional and program employees routinely collaborate with the FWS FOIA Office for guidance on how to release high interest records prior to receiving a FOIA request. The records are generally provided to the FOIA Office for review and then posted on the FOIA website and program websites. Additionally, FWS has several web-based systems that allow the public to not only interact with the FWS, but search for and obtain information concerning the management and conservations of wildlife and the environment. For example, The Environmental Conservation Online System allows the public to search and create reports related to Threatened and Endangers Species; the Information for Planning and Consultation is a tool that not only facilitates the Endangered Species Act consultation process, but the public can explore listed species and habitat by area; and The Wildlife & Environmental Contaminants Mapper displays the locations of over 100,000 samples from the "Environmental Contaminants Database Management System."

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

The time it takes to post records identified for proactive disclosure primarily depends upon the nature of the information in the records. For example, simple records may be posted within a matter of days while more complex records may take many months to prepare for proactive release.

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

Yes. Currently eight of our components are posting FOIA logs, and we are working to have all of them posting the logs during FY 2024.

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

Currently the posted FOIA logs vary somewhat within the components. Items commonly included are request number, submission dates, received dates, request description and status. Now that the transition to our new tracking system is complete, the DFO has provided the Bureau FOIA Officers with guidance and training on using the robust reporting capability to generate FOIA logs for posting on the bureau websites.

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

Current FOIA logs are in PDF and/or CSV format. Advancing the plan to use available reporting tools, future FOIA logs will include a CSV formatted version.

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.

The Bureau of Safety and Environmental Enforcement (BSEE) proactively posts Pacific Regions Applications for Permit to Modify as well as alternate compliance, departures, and time extension approvals for activities at oil facilities. <https://www.bsee.gov/stats-facts/ocs-regions/pacific/pacific-region-completed-applications-for-permit-to-modify-apm> and <https://www.data.bsee.gov/Company/Approvals/Default.aspx>.

The Bureau of Land Management (BLM) manages a National Environmental Policy Act (NEPA) register which allows the public to review and comment on NEPA analyses for BLM's planning and implementation projects online. This site also simplifies document searches by enabling searches by geographic location, project resource type, project year, and other specific fields. Projects from Calendar Year 2015 are available on the map search feature. The register is located at <https://eplanning.blm.gov/eplanning-ui/home>

On September 29, 2023, the Bureau of Ocean Energy Management, published the National OCS Oil and Gas Leasing Program Proposed Final Program (PFP). The PFP covers the 5-year period starting on July 1, 2024, and continues through June 30, 2029. The PFP schedules three potential oil and gas lease sales in the Gulf of Mexico (GOM) Program Area. The Secretary approved the 2024–2029 program via a combined decision memo and Record of Decision (ROD). The three GOM sales are scheduled to occur over the 5 years of the 2024–2029 program, with one sale each in 2025, 2027, and 2029. The ROD, 2024-2029 PFP, and Programmatic Environmental Impact Statement are all available at <https://www.boem.gov/oil-gas-energy/national-program/national-ocs-oil-and-gas-leasing-program>.

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?

Yes.

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.

The Department is committed to making information and communication technology accessible in open, machine-readable formats. For example, the Office of Natural Resource Revenue (ONRR) website is built and maintained by open-source code in GitHub repositories. ONRR publishes all datasets in Excel and CSV formats.

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.

The BLM, Bureau of Reclamation, BSEE, FWS, NPS and ONRR in the Office of the Secretary all indicated they collaborate with IT, public affairs, or communications professionals within their organizations when posting documents to their reading rooms or bureau websites. These interactions are focused on mutual clearance of documents, Section 508, and identifying records to consider for inclusion on the bureau FOIA reading rooms and program specific websites.

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

The Department emphasizes the importance of proactive disclosures in formal and informal training. We understand increased proactive disclosures lead to increased transparency, although it is challenging to make proactive disclosure when the FOIA staff (who would typically be making the proactive disclosures) are focusing on reducing backlogs, incoming requests, and/or processing FOIA requests in the context of litigation. We also note that the competing obligations of Section 508 of the Rehabilitation Act and FOIA are a continued unresolved challenge.

In many cases, analytics are collected from public facing websites to evaluate the information the public is looking for. This information is used to assist in identifying potential proactive disclosures. For example, the BOEM's Office of Communications regularly works with program offices regarding upcoming initiatives, rules, lease sales,

drafts for publication and federal register notices that could be posted as soon as they are finalized. As another example, when the public visits BSEE's website, it automatically collects and stores information about the visit. BSEE uses the information to help evaluate what information the public is seeking and improve the user experience.

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 DFO's FOIA Technology Working Group, made up of FOIA and IT professionals from across the Department, continually reviews technological capabilities and needs.

2. Please briefly describe any new types of technology your agency uses to support your FOIA program.

In 2023, the Department transitioned to a new FOIA request tracking and case management system and launched a new portal to enable the public to create accounts and submit requests directly to the new system. The Department also transitioned to a new document review platform, and we are currently exploring its utility for processing our higher volume voluminous requests.

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.

The Department has acquired and configured two new technologies to help our FOIA professionals facilitate the conversion and deduplication of email records and identify non-responsive records. We anticipate fully launching these tools to our end users in 2024.

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?

Yes.

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

Yes.

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 2024.

Not applicable.

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.

<https://www.doi.gov/foia/DOI-FOIA-Annual-Reports>

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.

The decentralized nature of the Department's FOIA Program presents challenges for fully utilizing FOIA technology. The Department has fourteen FOIA offices that process FOIA requests for the Department's component bureaus and offices. Some offices receive as little as 100 requests a year while others receive more than a thousand requests. Some of the offices are centralized and staffed by full-time FOIA personnel, while other offices operate across broad geographical regions and have staff who process FOIA requests as a collateral duty. In addition, the Information Technology functions of the bureaus and offices are decentralized, so technology available for use in one bureau or office may not

be available or supported in another. The DFO is approaching these challenges by acquiring Department-wide technology solutions for FOIA, developing comprehensive training materials and guidance for end users, and providing ongoing support for those systems.

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 typical FOIA or Privacy Act process?

No.

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

Pursuant to Executive Order 14074, the Department issued a policy requiring the expanded use of body worn cameras (BWC) by its law enforcement components. The policy further directed the bureaus to develop policies and procedures for expediting public release of BWC footage following incidents involving serious bodily injury or death outside of the FOIA process.

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

A benefit of transitioning to our new tracking and case management system is access to a public portal. Through this portal, requesters can submit requests, track the status of requests, and communicate with the processing component. The portal also include links to our FOIA libraries and reading rooms, and information on appeals, and fees.

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.

47

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 2023 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.

During FY 2023 the DFO expanded its compliance team that is monitoring the status of expedited processing requests and working with the FOIA Officers to meet the 10-day target for responding to these requests. We hope and expect that the Department's transition to the new tracking system, which offers more robust reporting capabilities than our prior system, will facilitate this effort.

Specific steps taken by our FOIA offices to improve timeliness for adjudicating expedited processing include: The Assistant Secretary – Indian Affairs and Bureau of Indian Affairs (BIA) have updated the intake sections of their Standard Operating Procedures to prioritize issuing responses concerning expedited processing and fee waivers. The BSEE FOIA Officer plans to leverage the capabilities of the new tracking system to review and monitor requests for expedited processing and assist her staff to reduce adjudication response times. FWS now utilizes an intake process where expedited requests are identified and reviewed to ensure the timely processing. The goal for FY 2024 is to adjudicate expedited requests in 2-3 days.

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?

No.

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

No.

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.

61%

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 2022?

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 2022?

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
- 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)
- Litigation
- 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."

61%

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?

Yes.

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?

Not applicable.

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
- 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)
- Litigation
- 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."

106%

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?

Consistent with the Attorney General's March 2022 government-wide directive on the fair and effective administration of FOIA, the DFO is addressing the root causes of backlogs by providing comprehensive FOIA training, modern technology and technological support, uniform policies and procedures based on best practices, workforce planning, enhanced hiring, and performance standards, increased accountability through oversight/compliance monitoring, and providing targeted operational assistance. In FY 2023, our biggest success stories were NPS (40% reduction), SOL (26% reduction), and OS (20% reduction). The largest backlog increases occurred in the FOIA offices of the BIA (77% increase) and the BLM (16% increase). Accordingly, the DFO will be shifting its resources to providing targeted assistance to those offices in FY 2024.

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.

In 2023, the DFO began collaborating with stakeholders to develop a department-wide backlog reduction plan. The Plan will be issued in FY 2024 and include strategic goals to systematically reduce and address the causes of our backlog.

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 2022 Annual FOIA Report?

Yes.

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

Not applicable.

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

Each bureau was challenged to close their 10 oldest requests, even if those requests were not on the Department's 10 oldest request list.

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?

Yes.

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

Not applicable.

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

Ongoing adjudication of open appeals resulted in a year over year reduction in the age of the oldest appeal by 53 days.

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 2022 Annual FOIA Report?

No.

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.*

Four.

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.*

While the Department celebrates closing both the ten oldest requests and appeals, six of the ten oldest consultations remained open as of the end of the fiscal year. For FY 2023, the ten oldest consultations were assigned to the Office of the Secretary FOIA Program (OS FOIA). To ensure better management of the consultation process, OS FOIA allocated additional staff to assure improvement for FY 2024.

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*
- *Any other information to illustrate the impact of litigation on your overall FOIA administration*

Yes. The Department currently has more than 60 matters in litigation. The most common cause for litigation is timeliness and the most frequent plaintiffs involved in these matters are public interest groups and news media. Requests sent by these savvy FOIA requesters are often complex, multi-subject, requests involving thousands of potentially responsive pages. Processing the underlying FOIA requests pursuant to aggressive production schedules sought by the plaintiffs and set by the courts, strains FOIA staff and diminishes their ability to timely respond to non-litigated requests which in turn leads to more litigation.