

CHIEF FOIA OFFICER REPORT - AGENCY RECEIVED MORE THAN 50 REQUESTS

High-Volume Agencies Receiving More Than 50 Requests in FY18

Content of 2020 Chief FOIA Officer Reports

Section 1: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying DOJ's [FOIA Guidelines](#) is the presumption of openness.

Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

A. FOIA Leadership

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

Answer: Yes.

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

Answer: Nadine N. Mancini, General Counsel.

B. FOIA Training

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

Answer: Yes.

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

Answer: Our FOIA professionals attended the Advanced FOIA Seminar, Best Practices Workshop on Administrative Appeals, FOIA Litigation Seminar, Annual FOIA Report Training, and Chief FOIA Officer Report Training offered by the Office of Information Policy (OIP). The FOIA Public Liaison participated in the Chief FOIA Officer Council meetings held by OIP.

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

Answer: 100% of our FOIA professionals received substantive FOIA training.

6. OIP has directed agencies to “take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year.” If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency’s plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

Answer: N/A.

C. Outreach

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

Answer: Two recent accomplishments demonstrate the agency’s outreach to the FOIA requester community. First, OSHRC updated and revised its FOIA Reference Guide. Second, our website was revamped to include a FOIA dropdown menu on the homepage linking visitors directly to important resources like the revised Reference Guide. OSHRC’s e-FOIA Reading Room is also featured prominently on the website’s new dropdown menu and continues to invite the public to contact the FOIA Requester Service Center with any suggestions for improvement. Additionally, our FOIA team of professionals maintains a dialogue with most requesters and most certainly, with our frequent requesters. For instance, OSHRC’s FOIA Disclosure Officer typically explains to requesters how OSHRC’s records are organized and the mechanics of searching these records, thus allowing requesters to better formulate their requests. OSHRC’s FOIA professionals are available to assist and communicate with requesters throughout the entire FOIA process.

D. Other Initiatives

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

Answer: OSHRC recently updated and revised its internal FOIA Directive to reflect not only the agency’s revised regulations implementing FOIA, but also OIP guidance and the recently revised DOJ Guide to the FOIA. All OSHRC employees were provided with a link to the revised Directive, made available on the agency’s intranet, and encouraged to review its contents. OSHRC also updated its Privacy Act training for all agency employees to include information on the administration of FOIA. OSHRC’s handbook for new employees includes OIP’s FOIA Infographic to immediately apprise employees of the role they play in the agency’s FOIA process. Additionally, OSHRC provides search requests and detailed instructions relevant to each request to its non-FOIA personnel to assist in the processing of FOIA requests.

9. 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.

Answer: N/A.

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

DOJ's [FOIA Guidelines](#) emphasize that "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies effectively manage their FOIA program.

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

1. For Fiscal Year 2019, 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 2019 Annual FOIA Report.

Answer: 2 days.

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.

Answer: 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.

- Note: In September 2017, OIP released a FOIA Self-Assessment Toolkit as a resource for agencies conducting a self-assessment of their FOIA program. The Toolkit is available on OIP's website for all agencies to use.

Answer: OSHRC used the FOIA Self-Assessment Toolkit while reviewing and revising both our FOIA Directive and FOIA Reference Guide. For example, OSHRC now specifically explains in both revised documents that (1) requests are generally processed within each track on a first-in, first-out basis; (2) receipt of requests are promptly acknowledged; and (3) a requester is provided with an explanation of the services for which they are being charged whenever the payment of fees is required. Additionally, our FOIA program is evaluated in light of information provided at any training attended by our FOIA professionals as well as any guidance from OIP.

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 2019 (please provide a total number or an estimate of the number).

Answer: There was one instance when a requester sought assistance from the FOIA Public Liaison regarding the types of records maintained by OSHRC. Additionally, such assistance was provided proactively in various instances.

5. Optional -- Please describe:

- Best practices used to ensure that your FOIA system operates efficiently and effectively
- Any challenges your agency faces in this area

Answer: OSHRC revised its Rules of Procedure to include provisions that address how the public submits records containing private information to the agency. These rules now specifically identify the types of sensitive information (such as Social security numbers, driver's license numbers, passport numbers, etc.) and records (such as medical records, employment history, individual financial information, etc.) that should be redacted or excluded before being submitted to OSHRC. Reducing or eliminating such information in agency records should reduce the processing and response time associated with FOIA requests for such records. Additionally, our team works diligently to continue improving the efficiency of processing FOIA requests by, for example: (1) staying in close contact with the agency offices that maintain requested records to process requests within the statutorily required response times; (2) utilizing OSHRC's now mandatory e-filing system to improve search capabilities when processing FOIA requests that seek records associated with OSHRC cases; and (3) providing a Spanish language version of OSHRC's online FOIA request form on the agency's FOIA webpage. This fiscal year, 48% of our FOIA requesters submitted their requests using OSHRC's online FOIA request form, which helps to streamline processing. In fact, more than 60% of our requesters used either OSHRC's online FOIA request form or the form provided online by the National FOIA Portal to submit a request.

Section III: Steps Taken to Increase Proactive Disclosures

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

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

1. Provide examples of 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.

Answer: OSHRC maintains a comprehensive e-FOIA Reading Room where the records flagged by our FOIA professionals for proactive disclosure are posted. This year, OSHRC

received a petition seeking review of a matter believed to be of public interest and as such, the petition was proactively posted in OSHRC's e-FOIA Reading Room.

<https://www.oshrc.gov/foia/oshrc-e-foia-reading-room/>

Additionally, OSHRC continues to proactively disclose other records, such as reports concerning monthly dockets, case activity, and new cases received; decisions, both final and pending, issued by administrative law judges, as well as significant interlocutory orders; briefing notices for cases that the Commission has exercised its discretionary authority to review; and final decisions issued by the Commission.

<https://www.oshrc.gov/decisions/index.html>
<https://www.oshrc.gov/documentlisting/?CategoryId=4>

OSHRC also posted revised guides to its proceedings and procedures, as well as the revised the Rules of Procedure themselves.

<https://www.oshrc.gov/rules-guides/>

OSHRC posted a Spanish language version of the revised Rules of Procedure as well.

<https://www.oshrc.gov/assets/1/6/New-Commission-Rules-ES.pdf>

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

Answer: Yes.

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

Answer: OSHRC's recently revamped website now contains streamlined dropdown menus for various topics, such as our Rules and Guides, Decisions, and FOIA. Decisions issued by both levels of adjudication at OSHRC are available on the agency's homepage, which has a dropdown menu that reflects our two-tier system of adjudication. This menu allows for decisions to be located based on level of adjudication and then refined by year issued. The website's search function allows visitors to research a topic of interest using natural word searches. Also, records that OSHRC posts on its dedicated FOIA webpage and in its e-FOIA Reading Room are posted in the most useful format (both PDF and/or HTML file types). Records are also posted in the same format on the website's Open Government page.

4. Optional -- Please describe:

- Best practices used to improve proactive disclosures
- Any challenges your agency faces in this area

Answer: OSHRC’s revised FOIA Reference Guide continues to provide hyperlinks to our e-FOIA Reading room. In addition, OSHRC’s email alert system, launched in 2018, allows the public to sign-up for and receive emails notifying them when new information is posted on our website, including links to final decisions, as well as open government information. The homepage of OSHRC’s website also displays the agency’s “Latest News & Information,” which primarily includes hyperlinks to recently issued decisions. Additionally, in the event a requester is unaware of a pertinent proactive disclosure, OSHRC’s FOIA professionals maintain a policy of notifying requesters when records related to their request are already available for download from the agency’s website. Further, the Chief FOIA Officer works to maintain open lines of communication between the FOIA Requester Service Center and key agency personnel.

Section IV: Steps Taken to Greater Utilize Technology

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

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

1. Is your agency leveraging or exploring any new technology to facilitate efficiency in its FOIA administration that you have not previously reported? If so, please describe the type of technology.

Answer: This year, OSHRC explored various platforms to more efficiently redact non-disclosable information from records responsive to FOIA requests. This process began with contacting OIP and FOIA service centers of other federal agencies to discuss the technology they use for redacting information. Armed with this information, our FOIA team then consulted with the agency’s IT department to determine the most useful platform for our FOIA Requester Service Center’s redaction needs, and then to locate appropriate training for our FOIA professionals on the use of this new platform. Additionally, OSHRC’s now mandatory e-filing system has increased efficiency by expanding record search capability for our FOIA professionals.

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

Answer: OSHRC recently revamped its entire website, including its dedicated FOIA webpage. The homepage now contains streamlined dropdown menus with information about our FOIA program generally and access to our online FOIA request form, e-FOIA Reading Room, and FOIA Reference Guide.

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2019?

Answer: Yes.

4. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2020.

Answer: N/A.

5. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2018 Annual FOIA Report and, if available, for your agency's Fiscal Year 2019 Annual FOIA Report.

Answer: <https://www.oshrc.gov/foia/oshrc-annual-foia-reports/>

6. Optional -- Please describe:

- Best practices used in greater utilizing technology
- Any challenges your agency faces in this area

Answer: OSHRC's online FOIA request form, used by almost half of this year's requesters, has facilitated overall FOIA efficiency. When requesters complete and submit this form, our FOIA professionals are usually able to begin processing requests immediately without needing further clarification from requesters. OSHRC is also adept at processing requests sent through the National FOIA Portal. Additionally, OSHRC's dedicated FOIA email address has enabled our FOIA professionals to more efficiently clarify requests and thus, begin processing requests with little delay.

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

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

For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2019 Annual FOIA Report and, when applicable, your agency's 2018 Annual FOIA Report.

A. Simple Track

Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a

category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

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

Answer: OSHRC utilizes a multi-track system where requests are categorized as simple, complex, or expedited.

2. If your agency uses a separate track for simple requests, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2019?

Answer: Yes.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2019 that were placed in your simple track.

Answer: 95.7%.

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?

Answer: N/A.

B. Backlogs

Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2018 and Fiscal Year 2019 when completing this section of your Chief FOIA Officer Report.

BACKLOGGED REQUESTS

5. If your agency had a backlog of requests at the close of Fiscal Year 2019, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018?

Answer: OSHRC had no backlog at the end of Fiscal Year 2018. At the close of Fiscal Year 2019, there was a backlog of only one request.

6. If not, did your agency process more requests during Fiscal Year 2019 than it did during Fiscal Year 2018?

Answer: OSHRC processed more requests during Fiscal Year 2019 than it did during Fiscal Year 2018. Additionally, OSHRC received 89 requests during Fiscal Year 2019, as compared to 69 requests during Fiscal Year 2018.

7. If your agency's request backlog increased during Fiscal Year 2019, 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.
- Any other reasons – please briefly describe or provide examples when possible.

Answer: OSHRC had an almost 29% increase in requests received in Fiscal Year 2019 compared to Fiscal Year 2018. The one request in backlog at the close of Fiscal Year 2019 is being processed on our complex track and requires a complicated search and review of voluminous records containing sensitive information.

8. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2019. If your agency has no request backlog, please answer with "N/A."

Answer: 1.1 %.

BACKLOGGED APPEALS

9. If your agency had a backlog of appeals at the close of Fiscal Year 2019, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018?

Answer: N/A.

10. If not, did your agency process more appeals during Fiscal Year 2019 than it did during Fiscal Year 2018?

Answer: N/A.

11. If your agency's appeal backlog increased during Fiscal Year 2019, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

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

Answer: N/A.

12. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2019. If your agency did not receive any appeals in Fiscal Year 2019 and/or has no appeal backlog, please answer with "N/A."

Answer: N/A.

C. Backlog Reduction Plans

13. In the 2019 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2018 was asked to provide a plan for achieving backlog reduction in the year ahead. Did you[r] 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 2019?

Answer: N/A.

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2019, what is your agency's plan to reduce this backlog during Fiscal Year 2020?

Answer: N/A.

D. Status of Oldest Requests, Appeals, and Consultations

Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2018 and Fiscal Year 2019 when completing this section of your Chief FOIA Officer Report.

OLDEST REQUESTS

15. In Fiscal Year 2019, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2018 Annual FOIA Report?

Answer: OSHRC closed the one request pending at the end of Fiscal Year 2018 when the results of the consultations required to process the request were received.

16. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2018 Annual FOIA Report. If you had fewer than ten total oldest requests to close, please indicate that.

Answer: N/A.

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

Answer: Given the relatively small number of FOIA requests received per year at OSHRC, our FOIA professionals are able to begin processing requests almost immediately after receipt and promptly reach out to requesters when clarification is necessary. This resulted in a 20% decrease in the median number of days to complete processing of simple track requests from 5 days in Fiscal Year 2018 to 4 days in Fiscal Year 2019, despite a significant increase (almost 29%) in the number of requests received by OSHRC this year.

TEN OLDEST APPEALS

18. In Fiscal Year 2019, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2018 Annual FOIA Report?

Answer: N/A.

19. 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 2018 Annual FOIA Report. If you had fewer than ten total oldest appeals to close, please indicate that.

Answer: N/A.

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

Answer: OSHRC had no pending appeals at the end of Fiscal Year 2018. OSHRC closed the one appeal it received in Fiscal Year 2019 in 5 days.

TEN OLDEST CONSULTATIONS

21. In Fiscal Year 2019, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2018 Annual FOIA Report?

Answer: N/A.

22. 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 2018 Annual FOIA Report. If you had fewer than ten total oldest consultations to close, please indicate that.

Answer: N/A.

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

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

Answer: For a FOIA request that necessitated consultations with two federal agencies, OSHRC did not receive the results of one of the consultations for 81 days, despite frequent contact with the agency where the consultation was pending.

24. 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.

Answer: N/A.

25. 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 2020.

Answer: N/A.

F. Success Stories

Out of all the activities undertaken by your agency since March 2019 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.

Answer:

- **OSHRC’s revamped website now contains streamlined dropdown menus for various topics and documents, providing increased transparency for not just FOIA requesters, but all visitors to our website. Our homepage now contains a dedicated dropdown menu for FOIA that provides information about OSHRC’s program generally and direct access to our online FOIA request form, e-FOIA Reading Room, and FOIA Reference Guide. This allows requesters to more easily navigate our FOIA program and better understand the procedure for submitting requests.**
- **OSHRC’s comprehensive updates of its FOIA Reference Guide and FOIA Directive provided an opportunity to review our FOIA program generally, including identifying areas with the potential for improvement using the FOIA Self-Assessment Toolkit. This also allowed OSHRC to ensure that our Reference Guide and Directive conform with our revised regulations implementing FOIA, as well as OIP guidance and the recently revised DOJ Guide to the FOIA.**
- **Since its launch in 2018, OSHRC’s email alert system has successfully provided immediate notification to the public whenever agency records are posted on the website. Additionally, the agency continues to maintain a social media presence on**

Twitter which allows OSHRC's Chairman to post real-time information regarding the content and availability of issued OSHRC decisions, as well as upcoming agency events.