

2024 Chief FOIA Officer Report Guidelines - Agencies Receiving More Than 50 Requests in Fiscal Year 2022

Section I: FOIA Leadership and Applying the Presumption of Openness

The guiding principle underlying the Attorney General's 2022 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?

Answer: Yes.

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

Answer: Nadine N. Mancini, General Counsel

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?

Answer: The Occupational Safety and Health Act of 1970 requires all official acts taken by the Occupational Safety and Health Review Commission (OSHRC) to be "entered of record" and that such records be "open to the public." 29 U.S.C. § 661(g). Accordingly, FOIA principles, such as the presumption of openness, have always been central to OSHRC's mission. The agency proactively posts numerous records on its website and views FOIA as the responsibility of all agency employees. OSHRC continues to incorporate its commitment to transparency and proactive posting of records in both its Strategic Plan and its Performance and Accountability Reports. In addition, OSHRC maintains an Open Government webpage and updated the section of its Open Government Plan explaining our commitment to transparency and administration of the FOIA in both the current reporting period and the last reporting period.

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?

Answer: Yes. Since 2022, OSHRC confirms in every response letter where a FOIA exemption has been applied that it has considered the foreseeable harm standard.

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

Answer: To date, OSHRC has not processed any FOIA requests using a *Glomar* response, so there have been no responses to track.

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

Answer: OSHRC’s FOIA professionals track the various types of responses to all requests in a FOIA Log, including any exemptions asserted in a response. Therefore, if OSHRC were to use a *Glomar* response in the future, that would be tracked in the FOIA Log.

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.

Answer: N/A

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.

Answer: OSHRC’s new employee handbook includes the Office of Information Policy’s (OIP) FOIA Infographic to immediately apprise employees of the role they play in the agency’s FOIA process. In 2022, all agency personnel were asked to complete the new

FOIA training module for agency employees made available by OIP. Additionally, the Chief FOIA Officer and FOIA Public Liaison regularly provide information to our FOIA professionals regarding available substantive and procedural FOIA training opportunities. Finally, after attending FOIA training or Chief FOIA Officer Council meetings, the FOIA Public Liaison provides the FOIA team with a summary of the training that highlights new developments and posts the training materials on the agency's intranet.

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?

Answer: Yes.

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

Answer: Our FOIA professionals attended Litigation and Privacy Considerations Workshops, as well as trainings offered by OIP on the following topics: Administrative Appeals, FOIA Compliance, and Customer Service; Procedural Requirements and Fees; Advanced FOIA; Annual FOIA Report Refresher and Quarterly Report; and Chief FOIA Officer Report. The FOIA Public Liaison also attended a FOIA Advisory Committee meeting, as well as OIP's Sunshine Week meeting and multiple Chief FOIA Officer Council meetings.

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.

Answer: 100% of our FOIA professionals received 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.

Answer: N/A

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?

Answer: In 2022, more than three-quarters of OSHRC employees and contractors completed OIP's FOIA training module for agency employees. Additionally, all agency Executives and FOIA professionals completed OIP's FOIA training module for agency Executives and FOIA professionals. OSHRC's annual Privacy Act training also includes

slides on FOIA administration, as well as a virtual quiz to ensure personnel understand FOIA and Privacy Act requirements. In addition, OSHRC has established a committee comprised of various personnel from each agency office, including the agency's FOIA Public Liaison, tasked with redesigning its website, including the FOIA webpage. Finally, FOIA personnel send search requests and detailed instructions relevant to each FOIA request to agency personnel and update senior leadership with weekly status reports whenever there are pending search requests within their respective offices.

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.

Answer: Yes. The agency's FOIA professionals begin processing requests almost immediately after receipt and reach out to requesters without delay when clarification is necessary or where it is likely that a search will yield voluminous results. For example, on numerous occasions when requesters have asked for "all records" regarding a case over which OSHRC has presided, or is currently presiding, the FOIA Disclosure Officer offers the case docket sheet to requesters, which allows them to review a list of all available records in that case and clarify the specific records they are seeking. Additionally, OSHRC is currently revising its online FOIA request form to better guide requesters in providing all necessary information at the time of their request so that additional clarification is not required.

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.

Answer: Yes. OSHRC's Open Government Plan is posted on a dedicated webpage on the agency website, which also includes OSHRC's designated Open Government email address, so that the public can provide the agency with feedback and suggestions for improving transparency. As OSHRC redesigns its website, including its Open Government webpage, it is soliciting recommendations from every office in the agency. Additionally, as part of its website redesign project, OSHRC is taking into account inquiries from the requester community regarding final agency decisions, as it updates the website's Decision Search feature, broadening the way users can search for such decisions, which will make it easier for the public to locate records without submitting a FOIA request.

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).

Answer: Requesters sought assistance from OSHRC's FOIA Public Liaison approximately four times during the fiscal year. In some of these instances, first-time requesters sought assistance before submitting their request to understand the types of records maintained by OSHRC and how to submit a request. In other instances, requesters sought assistance after the final determination of their request to understand why certain types of records did not result from the agency's search, or were redacted or withheld. Additionally, the FOIA Public Liaison proactively provided requesters with assistance, specifically in working with and providing updates to requesters when the records resulting from searches were voluminous, particularly sensitive in nature, and in some cases, both.

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.

Answer: Yes. OSHRC received approximately 60% more FOIA requests during Fiscal Year 2023 than it did in Fiscal Year 2022 and as such, the agency regularly evaluated staffing resources and workloads to ensure that requests continued to be efficiently processed and FOIA exemptions were applied as necessary.

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.

Answer: In preparing its Annual Report and analyzing the raw data to construct the report, OSHRC examines how the number of FOIA requests processed and the processing time for those requests compares to previous years. For example, despite the substantial increase in requests received (and processed) by OSHRC this fiscal year, the FOIA team decreased both the average and highest number of days to complete the processing of simple requests in Fiscal Year 2023 due, in part, to its review of the most efficient methods used to process specific types of FOIA requests in Fiscal Year 2022.

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

Answer: In light of the considerable increase in requests received and processed by the agency during this fiscal year, OSHRC further expanded the duties of the FOIA Public Liaison, including the amount of time spent on FOIA matters, to ensure continued efficiency and accuracy in the processing of FOIA requests.

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.

Answer: All offices within OSHRC work to identify and post proactive disclosures on the agency website. Certain types of records are posted on a regular basis, such as agency decisions and Commission briefing notices, while others are posted because they are of significant public interest, such as select non-merit-based (procedural) ALJ decisions and Commission-level oral arguments. Each office is encouraged to identify records that should be proactively disclosed, which aids the FOIA team in maximizing the number of proactive disclosures. The Chief FOIA Officer and FOIA Public Liaison are often consulted by the Privacy Officer regarding the nature of the information contained in the proactive disclosures.

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

Answer: The timeframe to post a proactive disclosure depends on the nature of the record and the privacy review of that record. On average, OSHRC posts proactive disclosures within a few days of the records being identified. In some instances, records identified for proactive disclosure may be posted almost immediately on the agency's website once they are identified. In others, additional time may be needed to complete redactions before the record can be posted.

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

- If so, what information is contained in the logs?
- Are they posted in CSV format? If not, what format are they posted in?

Answer: No. OSHRC's FOIA logs have been requested less than three times, and sometimes not at all, during any given fiscal year.

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.

Answer: OSHRC maintains a comprehensive e-FOIA Reading Room where the records flagged by the agency's FOIA professionals for proactive disclosure are posted.

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

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

<https://www.oshrc.gov/open-government/>

No records were requested three or more times during this reporting period.

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?

Answer: 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.

Answer: The Chief FOIA Officer and FOIA Public Liaison are providing recommendations to the agency's website redesign committee to ensure that the new website further enables requesters to easily and efficiently locate agency decisions, conduct natural word searches, and accordingly, refine or clarify their FOIA request. The website redesign efforts are also aimed, in part, at ensuring improved ease of access to proactively disclosed records. In addition, OSHRC recently updated the website's Decision Search feature to offer broader methods to locate final decisions, allowing our FOIA team to direct requesters on how to use the website's search features to immediately obtain records they are seeking. This has resulted in requesters more efficiently obtaining records sought and, in some instances, withdrawing (or determining that there is no need to submit) a FOIA request. Finally, records available on OSHRC's dedicated FOIA webpage and in its e-FOIA Reading Room are posted in the most useful format (both PDF and/or HTML file types). OSHRC's FOIA webpage links directly to our Open Government page, where records are also posted in the same format.

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.

Answer: Yes. OSHRC's Office of the Executive Secretary, Office of the Executive Director (within which the agency's IT team resides), and Office of the General Counsel (within which the FOIA team resides) are each responsible for certain types of proactive disclosures on a regular basis. These offices frequently inform one another of additional disclosures, as needed. As a small agency, communication between these offices is easy and efficient, allowing personnel to regularly work in tandem with FOIA professionals to determine which records should be disclosed, the format of such disclosures, and whether redactions are necessary prior to disclosure to protect privacy interests. Additionally,

representatives from all of the aforementioned offices within OSHRC, and the Office of the Chairman, Office of the Commissioner, and Office of the Chief Administrative Law Judge are on OSHRC's website redesign committee to collaborate on how best to efficiently (and increasingly) post records on the redesigned website.

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

Answer: In reviewing records for proactive disclosure, the Privacy Officer works closely with the Chief FOIA Officer, FOIA Public Liaison, and Office of the Executive Secretary in advance of posting such records to ensure that they do not contain information that cannot be disclosed pursuant to the FOIA or Privacy Act. This collaboration streamlines the posting process and ensures that proactive disclosures comply with the applicable statutes.

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?

Answer: Yes.

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

Answer: OSHRC is currently working with a website designer to redesign the agency website and is employing the designer's expertise and knowledge of new technology to inform and support improvements to its FOIA program. OSHRC's FOIA professionals also frequently engage with personnel in the agency's IT department, who advise them on the use of different technology to search for records for FOIA requests. This collaboration, in conjunction with OSHRC FOIA professionals' use of the agency's mandatory e-filing system, continues to expand record search capability and increase efficiency in the review and redaction of resulting records.

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.

Answer: No. In light of the relatively small number of requests received annually by OSHRC, the FOIA team requires limited technology to automate record processing. In the

instances where the FOIA team is redacting the same information throughout a voluminous number of pages within a record or records, tools to find text and redact in bulk may be used. The use of this technology substantially reduces the amount of time needed to review and redact certain records by the FOIA team, all of whom have duties beyond FOIA related to OSHRC's core mission of adjudication. This is evidenced by the FOIA professionals' ability to maintain the median number of days to respond to simple requests processed in which information was given (and actually, reduce the highest number of days to respond to simple requests processed in which information was given) from Fiscal Year 2022 to Fiscal Year 2023 despite the sizable increase in the number of requests processed.

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?

Answer: Yes. OSHRC is currently redesigning its agency website, including its dedicated FOIA webpage. In 2022, updates to the FOIA webpage were made to highlight useful resources for requesters and provide additional contact information for the submission of FOIA requests, as well as for the agency's FOIA Service Center and FOIA Public Liaison, among other revisions. OSHRC is also currently revising its online FOIA request form, which is posted on its FOIA webpage.

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

Answer: 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.

Answer: N/A

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.

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

Answer: Yes.

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

Answer: This fiscal year, approximately 77% of the FOIA requests received by OSHRC were submitted using either the agency’s online FOIA request form or the National FOIA Portal. OSHRC is adept at processing Portal requests (which accounted for approximately 42% of the total number of FOIA requests the agency received in Fiscal Year 2023) as well as identifying common omissions by requesters using the Portal to promptly request any additional information needed for processing, or to direct requesters to agencies more likely to maintain the records being sought. Additionally, OSHRC is currently revising its online FOIA request form to ensure that the form captures all relevant information necessary to process a request. These revisions should reduce the number of instances where additional clarification is needed from the requester, which will allow FOIA professionals to begin processing requests without delay.

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?

Answer: Detailed instructions on how to request access to first-party records are available on OSHRC’s Privacy webpage, prominently linked to from the agency homepage.

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

Answer: Although requests pursuant to OSHRC’s Privacy Act regulations are infrequent (5 requests last fiscal year), OSHRC’s website provides instructions on how to submit a Privacy Act request, including the required documentation that must accompany the request. A new email address specifically designated for these requests was added in Fiscal Year 2022. Additionally, OSHRC’s Privacy Officer and FOIA Public Liaison work in tandem to ensure the timely processing of requests that require processing under both the FOIA and the Privacy Act.

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

Answer: N/A

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.

Answer: 10 days.

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.

Answer: N/A

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

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

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?

Answer: Yes. The average was 3.9 days.

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

Answer: N/A

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.

Answer: 93.4%

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?

Answer: N/A

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?

Answer: At the close of Fiscal Year 2022, OSHRC had no backlog of requests. At the close of Fiscal Year 2023, OSHRC had a backlog of one request, which was completed at the beginning of the first quarter of Fiscal Year 2024.

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?

Answer: Yes.

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

Answer: OSHRC processed 49% more requests in Fiscal Year 2023 than it did in Fiscal Year 2022. The single request on our backlog at the end of Fiscal Year 2023, which has since been processed, was on our complex track and required the search and review of voluminous records.

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."

Answer: 0.67%

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?

Answer: N/A

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?

Answer: N/A

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

Answer: N/A

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."

Answer: N/A

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?

Answer: N/A

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.

Answer: N/A

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?

Answer: 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.

Answer: N/A

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

Answer: In addition to the significant increase in the overall number of requests received and processed by OSHRC from Fiscal Year 2022 to Fiscal Year 2023, OSHRC had a 166% increase in the number of complex requests processed this fiscal year. Despite that increase, OSHRC had only a minimal increase in the median number of days needed to process complex requests (approximately 7 days). This was achieved, in part, by OSHRC's FOIA team maintaining open and consistent communication with requesters, especially when clarification was necessary to process a request. The agency's FOIA professionals utilize various methods of communication to contact requesters and obtain requisite information to process requests. The FOIA professionals also possess the required skills and experience to foresee when additional resources will be needed to efficiently process a request and are able to adapt and take on different roles within the FOIA process, particularly when processing complex requests.

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?

Answer: N/A

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.

Answer: N/A

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

Answer: N/A

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?

Answer: N/A

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.

Answer: N/A

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.

Answer: N/A

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

Answer: No.