



United States Department of Commerce Chief FOIA Officer Report

2017



U.S. Department of Commerce
2017 Chief FOIA Officer Report
Chief FOIA Officer
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Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President’s Freedom of Information Act (FOIA) Memorandum and the Attorney General’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 Training

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

During this reporting period, many of the Department of Commerce’s (DOC’s) FOIA professionals attended FOIA training provided by the Department of Justice (DOJ). The DOJ sessions included:

- **The “Introduction to the Freedom of Information Act”;**
- **The “The Freedom of Information Act for Attorneys and Access Professionals”;**
- **The “FOIA Litigation Seminar”;**
- **The “Advanced Freedom of Information Act Seminar”;**
- **The “FOIA Amendments Training”;** and
- **The “FOIA Public Liaison and FOIA Requester Service Center Training”.**

DOC FOIA professionals also participated in the American Society for Access Professional’s (ASAP’s) 9th National Training Conference. DOC FOIA professionals not only attended DOJ and ASAP training, they also received substantive training provided by the DOC and bureau and operating unit (BOU) FOIA offices.

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

Training conducted by DOJ included topics such as:

- **Best practices in FOIA processing workflow management;**
- **Practical approaches to fee determinations;**



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- **Advanced considerations for Exemptions 6 and 7C;**
- **FOIA case law developments;**
- **Communicating with requesters;**
- **Searching for and reviewing documents;**
- **Preparing final determinations and responses;**
- **The interfaces between the FOIA and the Privacy Act;**
- **An overview of the FOIA's procedural requirements;**
- **An overview of FOIA exemptions;**
- **Basic principles for processing FOIA requests from start to finish;**
- **The FOIA's proactive disclosure requirements;**
- **Workshops on individual FOIA Exemptions; and**
- **Details on the preparation of *Vaughn* Indices and declarations.**

The ASAP offered similar types of training as DOJ did along with additional topics such as:

- **A redaction workshop;**
- **FOIA in the tech age;**
- **Backlog reduction; and**
- **FOIA and Privacy Act case law.**

Topics of training sessions conducted for FOIA professionals at both the agency and BOU levels included:

- **In-depth application of FOIA exemptions;**
- **Communicating with the public;**
- **Processing and responding to FOIA requests;**
- **Maintaining records electronically;**
- **Electronic redaction tools;**
- **Steps to processing FOIA requests;**
- **Overview of agency FOIA regulations;**
- **FOIA best practices;**
- **Classifying simple versus complex FOIA requests;**
- **Backlog reduction;**
- **Proactive disclosures;**
- **Conducting proper searches;**
- **FOIA records retention;**
- **Summary of the FOIA;**
- **Exemption 3 statutes – standardization of selections;**



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- “Still interested” letters;
- Maintaining data in FOIAonline (the DOC’s FOIA tracking system); and
- The FOIA Improvement Act of 2016 and how it would affect the DOC’s FOIA program, as well as new reporting requirements for Annual FOIA Reports.

Additionally, two FOIA training modules created by the DOJ were added to the DOC’s online training portal, known as the Commerce Learning Center (CLC): (1) FOIA for Employees; and (2) FOIA for Professionals.

Census Bureau FOIA staff continued its monthly FOIA Lunch and Learns series for Census Bureau employees, which covered topics that included:

- The definition of a proper FOIA request;
- How to submit a FOIA request; and
- The FOIA Exemptions, what they mean, and how to apply them.

FOIA professionals from the International Trade Administration (ITA) attended in-house group and individual training sessions. Topics for the in-house group training included:

- An overview of the FOIA and the Privacy Act;
- Understanding the different types of FOIA taskers and the internal ITA time limits for taskers;
- How to determine what offices need to be tasked; and
- What officials can sign-off on taskers.

ITA FOIA staff also began a comprehensive FOIA training awareness outreach program for ITA staff. Highlights to date include:

- An internal ITA electronic resource with similar information that is available on ITA Central, but operates much like Wikipedia with the ITA FOIA Office approving content that is posted.
- ITA Central FOIA Resource – an internal ITA electronic repository of information that contains general FOIA information, overview of the FOIA, materials on the FOIA program process specific to ITA, external links, FOIA contacts, and Frequently Asked Questions.
- Individual and small group training classes that cover unique aspects of a particular FOIA request as it may affect a Subject Matter Expert (SME) or



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office with the objective of reducing unnecessary work and ensuring proper compliance with the FOIA.

During this reporting period, the National Oceanic and Atmospheric Administration (NOAA) FOIA Office conducted:

- **Monthly FOIA Legal Experts calls, with FOIA Professionals and NOAA General Counsel participating in regular training on new FOIA case law, DOC policies, statutes, and new considerations in FOIA law.**
- **Regular FOIA Professionals calls, where case processing, exemption applicability, and responsibilities in reasonable segregation are discussed at the level of the staff and line office FOIA Professionals.**
- **Regular semi-weekly training for all new hires receiving orientation, providing a high level overview of the responsibilities of all NOAA employees in fulfilling their FOIA responsibilities.**

Similarly, the National Telecommunications and Information Administration (NTIA) FOIA Office conducted training classes for NTIA staff that included a general overview of the FOIA and procedure, employee responsibilities under FOIA, and recent changes in the law.

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

An estimated average of 85% of the DOC's FOIA professionals attended substantive FOIA training during this reporting period. Percentage by BOU:

- **The Office of the Secretary reported 100%;**
- **Bureau of Industry and Security (BIS) reported 0%;**
- **Census Bureau reported 100%;**
- **Economic Development Administration reported 80%;**
- **Economic and Statistics Administration (ESA) reported 100%;**
- **ITA reported 85%;**
- **Minority Business Development Agency (MBDA) reported 50%;**
- **National Institute of Standards and Technology (NIST) reported 80%;**
- **NOAA reported 100%;**
- **NTIA reported 100%;**
- **National Technical Information Service (NTIS) reported 100%;**
- **The Office of Inspector General (OIG) reported 100%; and**
- **United States Patent and Trademark Office (PTO) reported 50%.**

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

While overall DOC exceeded the goal of ensuring that 80% or more of its FOIA professionals attended substantive FOIA training during this reporting period, DOC will continue to emphasize the importance of such training during quarterly FOIA Council meetings and other communications, especially for the BOUs that did not meet the 80% target.

B. Outreach

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

A major outreach accomplishment in 2016 was the fourth annual Sunshine Week event that was held on March 15, 2016 in the DOC auditorium, which was co-hosted by DOC and the Census Bureau. The theme of the event was “Celebrating Openness.” Guest speakers gave presentations about the FOIA, Transparency, Open Data, and Records Management to a cross-section of individuals from DOC FOIA Offices, other Federal government agencies, and the requester community. The Census Bureau also held two days of public workshops on March 16 - 17. The workshops described the components of the DOC’s Open Government Plan.

Another example of outreach with the requester community is FOIA Public Liaisons from ITA constantly dialoging with the requestor community and open government groups regarding how ITA administers the FOIA. Those conversations have indirectly led to improvements in ITA’s FOIA program. For example, after discussions with the groups, increased resources are being devoted to ITA’s FOIA program for the next reporting period.

Another DOC bureau, NIST, worked with the Office of Government Information Services, National Archives and Records Administration, to improve customer service as it relates to the FOIA by assisting with requesters’ questions about the FOIA process.

6. If you did not conduct any outreach during the reporting period, please describe why.



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Not applicable.

C. Other Initiatives

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

ITA held a “FOIA Management Improvement Session” to inform non-FOIA professionals of their obligations under the FOIA. The objective of the session was for ITA FOIA tasker officials to better understand their FOIA roles and responsibilities. The result of this training has led to faster responses to FOIA taskers because those individuals now understand that they do not have to get “no records responses” from offices that would not reasonably have records. As a way to inform non-FOIA professionals of their obligations under the FOIA, the BIS FOIA Officer provided those individuals on the job training along with information and announcements related to FOIA matters. Similarly, on a regular basis, EDA’s Chief FOIA Officer emphasizes the importance of FOIA to non-FOIA professionals through memorandums and FOIA updates communicated to the component’s staff when tasking a request. The email that goes out to ESA staff members tasking them with a response explains the necessity of conducting a reasonable search for responsive material.

Census Bureau FOIA staff sent communications to Census colleagues about the FOIA and employees’ responsibilities under the Act. The Census Bureau FOIA professionals also conducted multiple meeting sessions on the importance of transparency and the federal regulations regarding the agencies obligation to transparency and information publication. For example, one class, “Freedom of Information Act (FOIA) Requests for Title 13 Records,” provided an opportunity for supervisors and managers to become familiar with various FOIA laws and regulations, as they pertain to daily Census Bureau activities. As part of the class, the aforementioned individuals were taught the agency requirements to answer FOIA requests that may include Title 13 records. Title 13 of the United States Code provides strong protection for the information the Census Bureau collects from individuals and businesses, including the release of Title 13 protected information under the FOIA. Managers and Supervisors were also taught the basic steps involved in fulfilling FOIA requests, how the FOIA office responds to requests that include Title 13 protected records, and the general rules every program area should know about the FOIA.



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NIST has undertaken to inform non-FOIA professionals of their obligations under the FOIA through three initiatives. First, the NIST FOIA staff conducts FOIA training upon request to operating units for groups and individuals. Second, NIST Records Management presentations also include FOIA training as it relates to record retention. Third, the FOIA staff educate the program offices as part of the tasking and fulfillment of each FOIA request.

NOAA, in addition to the new employee orientation training, which is geared towards non-FOIA professionals, as well as the Legal Experts call, which is geared towards NOAA Attorneys, conducted site specific trainings across regional, management, legal, and law enforcement audiences. This included on-site trainings for the General Counsel Enforcement Section, the Office of Law Enforcement, the Northwest Section, the General Counsel Honors Attorney training, and the Protected Resources Board. Each of these non-FOIA professional audiences received substantive training on FOIA responsibilities, as well as on how to support the FOIA professionals within their offices. The NOAA Office of General Counsel also provided FOIA training, specifically geared towards the Greater Atlantic Northern Fisheries Office, which was made available to all who wanted to attend.

NTIA attorneys work with NTIA staff regarding their FOIA obligations under the FOIA. Furthermore, each request for a fee estimate or search includes detailed instructions regarding how to conduct a proper fee estimate or search. On a case by case basis, FOIA training materials are provided to new staff or those that are seeking particular information regarding their FOIA obligations. NTIA attorneys also regularly answer questions regarding FOIA and provide assistance when asked. Along those lines, the NTIA FOIA Officer has worked with keeping agency Senior Staff apprised of FOIA issues and their roles in providing feedback for FOIA responses.

The OIG FOIA Officer circulated relevant items of interest to various groups of non-FOIA professionals in the OIG. These efforts included making available to OIG employees the FOIA infographic developed by OIP, OIP's FOIA for Federal Employees eLearning module, the President's FOIA Memorandum, and the Attorney General's FOIA guidelines. The OIG FOIA Officer also provided status updates on FOIA activities to management and other OIG personnel and advised pertinent OIG personnel regarding their FOIA obligations.

The PTO FOIA Office conducted a training session for its senior leadership. In addition, the PTO FOIA Office conducted training sessions for personnel within the Office of the Chief Communication Officer, the Patent Trial and Appeal Board, the



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Office of Governmental Affairs, and the PTO's Regional Offices in Dallas and Detroit. The PTO FOIA Office also makes itself available at all times for requests for group or one-on-one FOIA training.

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

Examples of other initiatives undertaken by DOC to ensure that the presumption of openness is being applied include:

- EDA's joint Chief Counsel and Regional Counsel review of items flagged for redaction or withholding under FOIA exemptions, with an emphasis on the presumption of openness.
- ESA maintains a subscription service for news and updates to email subscribers. ESA also has links to Privacy, FOIA and Plain language policies. All can be found on their home page: <http://www.esa.gov/>.
- ITA provided individual and small group training classes that were geared to the unique aspects of particular FOIA requests to ensure proper searches are conducted and that the foreseeable harm reviews are done with a presumption of openness.
- MBDA initiated a plan to post each successful grant application.
- NOAA has provided reviews on the amendment of DOC regulations, spoke before the Congressional Oversight Committee on FOIA fees, and has expanded the use of eDiscovery tools to increase FOIA productions across multiple line offices. Additionally, NOAA has requested DOJ training modules, which it intends to implement in the Commerce Learning Center to make FOIA training available across NOAA, both for FOIA and non-FOIA professionals.
- NTIA continued to have a proactive openness policy with respect to agency records and informational material made available to the public through its website and social media, including blogs and press releases. For example, NTIA works diligently to post grants, contracts, other agreements, reports, key correspondence, advisory committee minutes, speeches, Congressional testimony, public notices and other regulatory matters, and comments in Federal Communications Commission proceedings.
- OIG, outside of the context of FOIA, has a formalized process to ensure that OIG audit and evaluation reports undergo a public release review to allow these OIG products to be publicly released and posted on the OIG website; this process helps to ensure the public availability of information.

- **PTO continued to proactively release other records of interest such as government contracts (following review by submitters), notices of suit, judicial decisions of interest, and data points related to patents and trademarks, available at: http://www.uspto.gov/ip/boards/foia_rr/index.jsp. Finally, the PTO FOIA Office always highlighted the presumption of openness in its training materials and training presentations for Business Units and individual employees.**

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

As the Attorney General emphasized in his [FOIA Guidelines](#), "[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 your 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.

A. Processing Procedures

1. For Fiscal Year 2016, 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 2016 Annual FOIA Report.

The average number of days for DOC to adjudicate an expedited request in FY 2016 was 5.44 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.

For Fiscal Year 2016, the DOC's average number of days for adjudicating expedited processing was less than ten calendar days.

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.

DOC used reviews of Annual Report data to identify trends that may point to a need to streamline and improve its processes to increase the timeliness of its responses. In



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particular, DOC noted that in Fiscal Year 2015, the average for processing requests in the simple track exceeded the statutory processing time limit by 25 days. An analysis of Annual Report data along with discussions with DOC FOIA professionals revealed that in many cases, requests were improperly placed in the simple track. DOC made adjustments to its processes, which resulted in the processing time for simple requests to be reduced on average nine days per request during Fiscal Year 2016. The process adjustments also led to a slight decrease in the average processing time for complex requests from Fiscal Year 2015 to Fiscal Year 2016.

The same review of Annual Report data helped DOC make process improvements that resulted in the agency closing all of its ten oldest requests during Fiscal Year 2016, as well as reducing the DOC backlog by 20% from the beginning to the end of the fiscal year. Improvements included conducting periodic meetings and assessments of DOC FOIA programs and identifying areas of concern that may lead to processing delays for requests. Meetings also usually included discussions of individual cases, case load, work flow, and suggestions for process improvements.

4. Please provide an estimate of how many requests your agency processed in Fiscal Year 2016 that were from commercial use requesters. If your agency is decentralized, please identify any components within your agency that received a majority of their requests from commercial use requesters.

DOC processed approximately 239 requests from commercial use requesters.

B. Requester Services

5. Does your agency provide a mechanism for requesters to provide feedback about their experience with the FOIA process at your agency? If so, please describe the methods used, such as making the FOIA Public Liaison available to receive feedback, using surveys posted on the agency's website, etc.

Requesters can provide feedback about individual experiences with the FOIA process at DOC by contacting one of the DOC's FOIA Requester Service Centers, as well as by reaching out to FOIA Public Liaisons. Contact information for both can be found at: http://www.osec.doc.gov/opog/FOIA/FOIA_servicecenters.html and <http://www.foia.gov/report-makerequest.html>. Contact information for FOIA Public Liaisons is also included in response and determination letters to requesters.

Furthermore, a questions and comments section is available at the bottom of each DOC FOIA web page. Requesters, as well as anyone else who accesses the web pages can provide comments or ask question by clicking on the link: efoia@doc.gov.

6. 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 how often requesters sought assistance from your agency's FOIA Public Liaison.

Approximately 280 requesters sought assistance from DOC FOIA Public Liaisons.

7. The FOIA Improvement Act of 2016 requires agencies to make their reference material or guide for requesting records or information from the agency electronically available to the public. Please provide a link to your agency's FOIA reference guide.

FOIA reference material and guides for the DOC and its BOUs can be found at:

- **DOC:** <http://www.osec.doc.gov/opog/FOIA/Default.html>.
- **BIS:** <https://efoia.bis.doc.gov/>.
- **Census Bureau:** <https://www.census.gov/about/policies/foia/foia-requests.html>.
- **EDA:** <https://www.eda.gov/foia.htm>.
- **ESA:** <http://www.esa.gov/content/requesting-records-under-freedom-information-act>.
- **ITA:** http://www.trade.gov/ooms/foia/tg_ooms_002516.asp.
- **MBDA:** <http://www.mbda.gov/freedom-information-act-reading-room>.
- **NIST:** <https://www.nist.gov/office-director/freedom0information-act>.
- **NOAA:** <https://foiaonline.regulations.gov/foia/action/public/home>.
- **NTIA:** <https://www.ntia.doc.gov/page/2011/foia-information>.
- **NTIS:** <https://classic.ntis.gov/about/FOIA/>.
- **OIG:** <https://www.oig.doc.gov/pages/Freedom-of-Information-Act.aspx>.
- **PTO:** <https://www.uspto.gov/learning-and-resources/ip-policy/foia-reading-room/foia-request-how-submit>.

C. Other Initiatives

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

Other steps that DOC has undertaken to ensure that its FOIA system operates efficiently and effectively include:

- **Forming a DOC Best Practices Working Group that compiled a list of best practices aimed at improving response times and streamlining request processing. As an example of how the best practices were put to use, one bureau engaged in a circuit**

training initiative of outreach to its regional and field offices, including three in-person training sessions that outlined the best practices and FOIA responsibilities following recent case law and the passage of the FOIA Improvement Act of 2016.

- Conducting FOIA case audits during final close out of cases. The audit is both another review stage and a separate internal review of the life cycle of the request.
- Conducting weekly conference calls with attorneys and FOIA professionals to discuss various FOIA topics, which helps ensure consistency in FOIA request processing.
- Holding sessions with officials that may receive FOIA fee estimate or search tasks to help them better understand their FOIA roles and responsibilities. The result of the FOIA training has led to faster responses to FOIA taskers.
- Continuing training for records custodians, as well as continuing to strive to improve communications with records custodians during the course of processing FOIA requests as a way to resolve issues that arise in the course of preparing fee estimates or executing a search for documents.
- Acquiring additional staff, such as permanent employees, temporary staff on detail, and contractors, to support FOIA staff in the processing of FOIA requests.
- Updating template letters to adjust for requirements of the FOIA Improvement Act.
- Having senior management emphasize the importance of FOIA to DOC and its BOUs.
- Developing a method to compare large numbers of records to help eliminate duplicate records, which saves time and effort when processing requests, as well as eliminates waste.

Section III: Steps Taken to Increase Proactive Disclosures

Both the [President](#) and [Attorney General](#) 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.

A. Posting Material

1. Describe your agency's process or system for identifying "frequently requested" records that should be posted online.

DOC uses FOIAonline, its FOIA tracking web-based system, to both identify and make available records for proactive disclosure. The ways in which FOIA

professionals use the system to assist them include: reviewing responses to requests to determine if material disclosed may be of use to other requesters and discussing how to make responsive records available through the publicly available FOIAonline system. Through the FOIAonline system, individuals can access posted FOIA requests and view agency responses to submitted requests. Those responses include disclosed responsive records.

Periodic reviews of all incoming requests are also conducted and when necessary, management is notified of materials that are of significant interest to the public, frequent requesters, as well as frequently requested material. This effort not only helps to improve awareness of FOIA responsibilities, it also helps promote DOC's obligation to proactively disclose frequently-requested material.

Additionally, FOIA professionals keep track of the records that have been frequently requested. Once a previously-released record has been requested a total of three or more times, a FOIA Officer works collaboratively with the agency office responsible for posting the frequently requested material to ensure that a copy of the properly FOIA-processed record is posted in a timely manner.

2. Does your agency have a distinct process or system in place to identify other records for proactive disclosure? If so, please describe your agency's process or system.

DOC has several distinct processes in place to identify other records for proactive disclosure. As an example, some FOIA Office staff work with representatives from their Office of Congressional Public Affairs to become familiar with current hot topics. Some FOIA Office staff also routinely post in-depth reports, fact sheets, and briefings on policy issues and current economic events. American businesses, state and local governments, and news organizations around the world often use the material that is made available on the appropriate websites and through email subscriptions, where available.

NOAA regularly posts vast amounts of scientific data, weather data, satellite imagery, research materials, fisheries data and statistics, permitting materials, ocean surveys, protected resource conservation efforts, and libraries of atmospheric and environmental datasets. Each of these categories of information are routinely made publicly available, without the need for a FOIA request, as they are materials that have been identified as amenable to proactive disclosure, in which the public has a significant interest.



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The OIG posts new information on its website on a rolling basis as reports and other written products are issued and as new information becomes available. For instance, the website contains Semi-annual reports to Congress; audit, inspection, and evaluation reports; public information regarding investigations; the OIG top management challenges report on issues facing DOC; congressional testimony, and information on current and planned activities.

PTO makes large numbers of records related to patents and trademarks, including applications, available through proactive disclosures. Documents filed by applicants or PTO official actions with respect to these applications are typically filed electronically and are available to the public through means such as PTO websites.

3. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?

DOC's use of FOIAonline has generally made it easier for agency FOIA professionals to both identify and post records. However, in some circumstances there are challenges to posting records that DOC would otherwise like to post. As an example, certain datasets inherently contain exempt information. For instance, in the case of NOAA, contract proposals and law enforcement efforts to curtail illegal fishing activities are both categories of records in which the public has significant interest. Nonetheless, these records contain significant amounts of exempt information, and would require significant processing and redaction in order to be amenable to disclosure.

Another example of a challenge to posting records that DOC would otherwise like to post concerns records that include third-party information. In this case, the resource-intensive nature of the required consultation and review for records that include third-party information, whether another government agency or private sector entity, can delay the proactive disclosure of such records. These processes, however, are necessary to protect the equities of other government agencies and the business confidential and proprietary information of private sector entities.

A third example involves OIG investigative records, for which the OIG must balance the importance of transparency with the need to protect personal privacy of complainants, subjects, witnesses, and investigative personnel. The OIG's investigative records are maintained in a Privacy Act system of records, and thus the Privacy Act limits the information that can be proactively disclosed or released under FOIA. Even those records that are released under FOIA may not be

appropriate for public posting to the extent that the requester was a first-party requester seeking his or her own records.

4. If so, please briefly explain those challenges and how your agency is working to overcome them.

One of the primary challenges to the disclosures identified in question three above is adequate resources. The level of complexity of requests has increased significantly over the last several years. At the same time, there has been a significant turnover in FOIA professionals. As such, all available FOIA resources have been utilized meeting the existing FOIA obligations. However, DOC is pursuing hiring efforts, efficiency measures, and eDiscovery tools, to hopefully allow an increased effort to be placed on processing records with exempt information for proactive disclosure.

5. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material.

DOC has revamped its FOIA website to make it easier for individuals to find FOIA related material: <http://www.osec.doc.gov/opog/FOIA/default.html>, to include its Electronic FOIA Library, FOIA reports, and FOIA resources.

BIS posts all finalized export violations as well as all anti-boycott violations to the public website: <http://efoia.bis.doc.gov/index.php/electronic-foia/index-of-documents>.

Census Bureau:

- **Custom Tabulations:**
https://www.census.gov/about/policies/foia/foia_library/custom_tabulations.html.
- **Congressional Correspondence Logs:**
https://www.census.gov/about/policies/foia/foia_library/congressional_correspondence_logs.html.
- **Emergency Preparedness Procedures:**
<https://www.census.gov/topics/preparedness.html>.

ESA:

- **Numerous economic reports and blog posts available to the public at:**
<http://www.esa.gov/reports>.
- **Economic Indicators are used by government and industry:**
<http://www.esa.gov/content/indicators>.



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ITA:

- Created a Tariff Tool system that consolidates and distills thousands of pages of U.S. Free Trade Agreement (FTA) tariff commitments down into a simple, online database: <http://export.gov/fta/ftatarifftool/ftamain.aspx>.
- ACCESS, which is the repository for all records filed in anti-dumping and countervailing duty (AD/CVD) proceedings. ACCESS provides the capability for registered E-Filers to submit documents to the record of an AD/CVD proceeding and it allows the registered guests to view public versions of all documents submitted. The website for this is: <https://access.trade.gov/login.aspx>.

MBDA:

- The SC MBEC Grant proposal: <http://www.mbda.gov/main/foia-proactive-disclosures>.
- MBDA Business Fact Sheets are available to the public at: <http://www.mbda.gov/pressroom/research-library/us-business-fact-sheets>.
- Annual Performance Reports for MBDA Business Centers can be viewed at: <http://www.mbda.gov/sites/default/files/2015AnnualPerformanceReport.pdf>.
- MBDA Research Reports are available to the public at: <http://www.mbda.gov/pressroom/research-library/publications>.

NIST:

- Published news about research results and other activities: <https://www.nist.gov/news-events/news/search>.
- NIST Computer Security Resource Center mailing list and updates on withdrawn standards and guidance: <http://csrc.nist.gov/>.
- Examples of publicly available data can be found linked to NIST's main Data site: <https://www.nist.gov/data>.

NOAA:

- Weather and Climate Data: <http://www.ncdc.noaa.gov/>.
- Ocean Data: <http://www.nodc.noaa.gov/>.
- Coastal Data: <http://www.ncddc.noaa.gov/>.
- Geophysical Data: (<http://www.ngdc.noaa.gov/>).

- Fisheries Data as well as Program-related data, scientific research, observer program data, National Marine Mammal Laboratory information, Habitat and Ecological Process data, and International Research data:
 - Across the Alaska: <http://www.alaskafisheries.noaa.gov/>,
 - Greater Atlantic: <http://www.greateratlantic.fisheries.noaa.gov/>,
 - Pacific Island: (<http://www.fpir.noaa.gov/>),
 - Southeast and Caribbean Island: <http://sero.nmfs.noaa.gov/>, and
 - West Coast regions: <http://www.westcoast.fisheries.noaa.gov/>.
- Programmatic information is routinely released regarding: Sustainable Fisheries, Protected Resources, Habitat Conservation, Science and Technology and Data Portals; International Affairs and Seafood Inspection, Law Enforcement, and Aquaculture: <http://www.nmfs.noaa.gov/>.
- Nautical Charts and the NOAA Coast Survey data: <http://oceanservice.noaa.gov/facts/find-charts.html>.
- NOAA Tides and Currents Data from the Center for Operational Oceanographic Products and Services: <http://oceanservice.noaa.gov/facts/find-tides-currents.html>,
- Marine Debris: <http://oceanservice.noaa.gov/hazards/marinedebris/>, and Infographic representations: <http://oceanservice.noaa.gov/infographics/> and Story Maps: <http://oceanservice.noaa.gov/map-stories/welcome.html>.
- National Weather Service Alerts: <http://www.weather.gov/alerts>, Forecast Maps: <http://www.weather.gov/forecastmaps>, Doppler Radar National Mosaic: <http://www.weather.gov/Radar>, River, Lake, and Rainfall data: <http://water.weather.gov/ahps/>, Air Quality: <http://airquality.weather.gov/>, Satellite Images: <http://www.weather.gov/satellite>, and Past Weather Data: <http://www.weather.gov/climate>.
- Marine and Aviation Operations Accident Investigations and Lessons Learned, including Safety News, Diving Incident Reports, Environmental Spill Reports, and Marine Investigations and Lessons Learned: http://www.oma.noaa.gov/accident_investigations_lessons_learned/index.html.
- NOAA Research activities, including NOAA Research Laboratories, National Sea Grant College Programs, NOAA Office of Ocean Exploration and Research, NOAA Climate Program Office, Office of Weather and Air Quality, NOAA Unmanned Aircraft Systems, and NOAA Ocean Acidification Programs: <http://research.noaa.gov/AboutUs/WhoWeAre.aspx>.



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NTIA:

- Continued to provide a large amount of documentation on its website regarding its highly visible programs, such as the Broadband Technology Opportunities Program (BTOP). Regularly posts updates to project amendments, letters, environmental documentation, quarterly reports, ARRA reports, filings, and meeting minutes as grantees have completed their work. <http://www2.ntia.doc.gov>.
- State and Local Implementation Grant Program (SLIGP): <http://www.ntia.doc.gov/slignp/slignp-awards>.
- NTIA's Digital Nation Data Center, which enables easy tracking of metrics about computer and Internet use over time. This includes the raw data sets so that others may explore the data and provide additional research and analysis. This also includes tools for researching the data. <https://www.ntia.doc.gov/category/data-central>.
- Regularly posts filings, reports, speeches, testimony, Federal Register notices, and correspondence: <http://www.ntia.doc.gov/publications>.

NTIS:

- The National Technical Reports Library (NTRL), a Worldwide searching for federally funded bibliographic science and technology research information is now free on the Public Access NTRL website at: <http://classic.ntis.gov/assets/pdf/ntrl-publicaccess.pdf>. The Public Access NTRL is open to all users for search and discovery.

OIG:

- **OIG website:** <https://www.oig.doc.gov/Pages/default.aspx>, including tabs for Audits/Evaluations; Investigations; Correspondence; Audits Initiated; and Testimony.
- **OIG Electronic FOIA Reading Room:** <https://www.oig.doc.gov/Pages/FOIA-Electronic-Reading-Room.aspx>.

PTO:

- **FOIA Reading Room includes all new Patent Trial and Appeal Board decisions (current to date), new Trademark Trial and Appeal Board decisions (current to date), new final disciplinary actions by the Office of**

Enrollment and Discipline (current to date), new notices of suit filed with U.S. District Courts (current to date), and new intellectual property judicial decisions of interest. Available at:

http://www.uspto.gov/ip/boards/foia_rr/index.jsp.

- **Information concerning published patent applications is available at:** <http://portal.uspto.gov/pair/PublicPair>.
- **Information concerning trademark registrations and applications is available at:** <http://www.uspto.gov/trademarks-application-process/search-trademark-database>.

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

Yes. DOC uses venues such as news releases and social media to highlight proactive disclosures for public awareness. For example, while some BOUs use social media, traditional media, and email subscriptions, as well as post items in press releases and on blogs, NOAA also uses the following venues:

- **The National Marine Fisheries “Species in the Spotlight” effort, which outlines efforts, action plans, and photographs of species receiving NOAA efforts under the Endangered Species Act:** http://www.nmfs.noaa.gov/stories/2015/05/05_14_15species_in_the_spotlight.html.
- **NOAA’s Undersea Research Program page, which contains links to the efforts, documents, research and scientific data for undersea endeavors such as continuous observation of marine plankton, mapping seafloor fish habitats, and a deep sea expedition in the gulf of Mexico:** <http://www.nurp.noaa.gov/spotlight.htm>.
- **The Earth Systems Research Laboratory page, which documents droughts throughout time, with relevant scientific data, and links to particular drought studies and efforts:** <http://www.esrl.noaa.gov/psd/spotlight/05222002/>.
- **The National Centers for Coastal Ocean Science page, which constantly updates the latest news, links to feature stories, and relevant efforts of NOAA in ecosystem science in coastal communities:** <https://coastalscience.noaa.gov/news/>.

B. Other Initiatives

7. If there are any other steps your agency has taken to improve proactive disclosures, please describe them here. For example, has your agency engaged requesters in



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determining how and what to post? Has your agency used web analytics to inform your proactive disclosures?

DOC FOIA Officers regularly discuss this issue with their management and program staff and encourage proactive disclosures of records in an effort to widely disseminate information of public interest and in pursuit of its openness policy. DOC has not engaged FOIA requesters regarding proactive disclosures, but does watch trends in requests to help determine those records that should be proactively disclosed. Furthermore, absent a strong business need or privacy concern, each FOIA disclosure by DOC is made publicly available without the need for a case-by-case determination of public interest. This has significantly decreased repeat FOIA request submissions for some BOUs, and improved requester awareness of activities by DOC FOIA professionals. DOC also looks for other innovative ways to proactively provide information to the public. As an example, NIST, collaborated with PubMed (see <https://www.ncbi.nlm.nih.gov/pmc/funder/nist/>) to increase public access to journal articles prepared by NIST researchers and grantees.

Section IV: Steps Taken to Greater Utilize Technology

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." 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.

A. Making Material Posted Online More Usable

1. 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.

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

DOC continued to welcome feedback on the content and presentation of posted material and regularly reviewed its websites to make sure that posted information was clearly presented and more useful to the public. Examples of how feedback has led to changes include three initiatives undertaken by the Census Bureau:

- Made major upgrades to Census.gov so that the more than 40 million annual visitors to their website can more easily find the information they want;
- Re-designed census.gov allows customers to use the “smart search” feature to more easily find key statistics such as income, poverty, health, and population for U.S. locations directly on our search page; and
- Re-designed the QuickFacts site to have fully interactive, customized tables that let users compare statistics for up to six locations side by side, and to share those statistics in social media.

Other examples include:

- ESA’s home page format has been updated to feature the latest edition of the Under Secretary’s blog; the Economic Briefing blog; Reports; and News. The home page also features a side bar with clear links to Current Releases and the latest Economic Indicators.
 - When ITA publishes documents in the FOIAonline system, it assigns “keywords” to the documents. By doing this, the public is able to search FOIAonline and find information that is already publicly available easier.
 - In February 2016, NOAA engaged with its Web Committee, and re-organized the NOAA FOIA webpage, improving visibility, navigation, and accessibility to the FOIA resources on NOAA’s webpages.
 - The PTO FOIA Reading Room provides several options to submit feedback and/or report any problems in an effort to maintain efficiency and utility. The Reading Room has a link to the general PTO Contact Center, as well as a dedicated “webmaster” e-mail address for submitting comments or concerns. In the past, the webmaster has been extremely expedient in letting the FOIA Office know when a member of the public has submitted a comment or is having trouble accessing records. The FOIA team works directly with the Office of General Law IT staff to alleviate the problem or address the suggestion. In addition, an e-mail and physical address for the PTO FOIA Office are provided on the website and the FOIA Officer may be reached directly for any questions or concerns. The PTO FOIA Officer routinely responds to questions from members of the public related to accessing Agency records. The PTO also provides several resources related to both understanding the FOIA and accessing publicly available patent/trademark information.
3. Have your agency’s FOIA professionals interacted with other agency staff (such as technology specialists or public affairs or communications professionals) in order to identify if there are any new ways to post agency information online?



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Yes. DOC FOIA Officers and FOIA professionals interact with other agency staff in order to identify if there are any new ways to post agency information online. In particular, the posting of material is a regular topic of discussion with program offices when they are working on projects that are likely of significant interest to the public. DOC FOIA Officers also regularly communicate with public affairs/communications professionals, as well as the Office of Chief Information Officer to determine whether there are new ways to post agency information online.

Additionally, with the expansion of the use of eDiscovery tools, NOAA FOIA staff has asked the Information Technology staff whether there is a way to more effectively de-duplicate records, and make large volumes of records available via the FOIAonline system, which ordinarily would require separate CD disclosures to requesters. To that end, NOAA also proposed changes to the manner FOIA responses are made publicly available on FOIAonline to accommodate high-volume requests in the records tab.

B. Use of Technology to Facilitate Processing of Requests

4. Did your agency conduct training for FOIA staff on any new processing tools during the reporting period, such as for a new case management system, or for search, redaction, or other processing tools?

Yes. DOC and the Environmental Protection Agency provided training on the FOIAonline system to DOC FOIA professionals. Agency FOIA professionals went on to use FOIAonline to help increase overall FOIA efficiency. FOIAonline is an electronic tracking and processing tool developed in partnership by multiple Federal agencies that allows anyone to submit a FOIA request, correspond with FOIA professionals processing a request, track the status of a request, and download the responsive documents once they are released to the requester. Additionally, at NOAA and PTO many FOIA Professionals were trained in the use of an eDiscovery platform tool, which currently is used for high-volume requests.

5. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents? If yes please describe:

- The technological improvements being made.

DOC uses FOIAonline to facilitate overall FOIA efficiency. FOIAonline allows anyone to submit a FOIA request, correspond with FOIA professionals processing a request, track the status of a request, and download responsive documents once they are released to a requester.

Many DOC FOIA professionals are using Adobe to de-duplicate documents when appropriate in processing certain complex FOIAs, as well as to apply exemptions to documents. DOC also utilizes a Secure File Transfer system to share large quantities of documents for entity review and for agency consultation and referral to speed receipt and transfer. FOIAonline has helped enhance customer service by improving FOIA processing and request availability to customers. Before FOIAonline, DOC and its BOUs used a variety of costly and limited tracking tools, web sites, email forms, spreadsheets and, FOIA reports were manually generated. The public had to submit requests to each bureau separately and could not easily check request statuses.

Another technological improvement was the way in which FOIA request taskers were provided to program offices. Search taskers and fee estimate taskers are sent to program offices electronically and completed forms and records are routinely returned in the same fashion, improving efficiency and conserving resources.

NOAA Google accounts have been utilized to share records for viewing outside the bureau by FOIA professionals within the DOC by granting them a noaa.gov email address, as well as VPN access, so that they can view shared documents within the noaa.gov firewall for collaboration and joint processing efforts.

- The impact of using these technologies on your agency's request processing.

Using the technologies identified above has had an immediate positive impact on how DOC and its BOUs are able to communicate, process, and analyze FOIA requests more efficiently.

6. Are there additional tools that could be utilized by your agency to create further efficiencies?



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Yes, there are additional tools that could be utilized by our agency to create further efficiencies. For example, an automated reporting tool capable of extracting all necessary fields for the Annual FOIA Report, as well as reports from FOIAonline would improve the management of FOIA programs. Additionally, DOC will continue to explore the software and other web or electronic tools available to improve processing and shorten response times as permitted by budget and other resources. For instance, an eDiscovery tool could help improve the processing of voluminous records, which could lead to an improvement in response time to complex FOIA requests.

C. Other Initiatives

7. Did your agency successfully post all four quarterly reports for Fiscal Year 2016?

Yes, all four of the DOC's quarterly reports for Fiscal Year 2016 have been posted and can be found at:

http://www.osec.doc.gov/opog/FOIA/FOIA_reports_quarterly.html.

Please note that while all of DOC's quarterly reports were posted, as a result of a website redesign, the URL for the reports changed for Fiscal Year 2016. DOC is working with the Office of Information Policy to ensure that the data for quarterly reports appears successfully on foia.gov for Fiscal Years 2016 and 2017.

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

The President's [FOIA Memorandum](#) and the Attorney General's [2009 FOIA Guidelines](#) have 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 2015 Annual FOIA Report and, when applicable, your agency's 2014 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.

- Does your agency utilize a separate track for simple requests?

Yes. DOC utilizes a separate track for simple requests.

- If so, for your agency overall in Fiscal Year 2016, was the average number of days to process simple requests twenty working days or fewer?

No. The overall average number of days to process simple requests was 36.55 days for DOC. While DOC did not achieve an average number of days to process simple requests of 20 working days or fewer, the agency did realize an improvement from Fiscal Year 2015; the average for Fiscal Year 2015 was 45.41 days versus 36.55 days for Fiscal Year 2016.

- Please provide the percentage of requests processed by your agency in Fiscal Year 2016 that were placed in your simple track.

The percentage of requests processed by DOC in Fiscal Year 2016 that were placed in a simple track was 68%.

- 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?

No applicable.

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 2013 and Fiscal Year 2014 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 2016, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2015? If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog.

The backlog of requests for DOC at the close of Fiscal Year 2016 decreased as compared with the backlog reported at the end of Fiscal Year 2015. In Fiscal Year 2016, the DOC's backlog decreased by 19.53% versus 5% in Fiscal Year 2015.

6. If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:
- An increase in the number of incoming requests.
 - A loss of staff.
 - An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
 - Any other reasons – please briefly describe or provide examples when possible

Not applicable.

7. If you had a request backlog, please report the percentage of requests that make up the backlog out of the total number of requests *received* by your agency in Fiscal Year 2016.

The percentage of requests that make up the backlog out of the total number of requests received by DOC in Fiscal Year 2016 is 13.5%.

BACKLOGGED APPEALS

8. If your agency had a backlog of appeals at the close of Fiscal Year 2016, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2015? If not, explain why and describe the causes that contributed to your agency not being able to reduce backlog.

The backlog of appeals for DOC at the close of Fiscal Year 2016 (32) decreased as compared with the backlog reported at the end of Fiscal Year 2015 (59).

9. If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming appeals.
- A loss of staff.
- 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.

Not applicable.

10. If you had an appeal backlog, please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2016.

If your agency did not receive any appeals in Fiscal Year 2016 and/or has no appeal backlog, please answer with "N/A."

The percentage of appeals that make up the backlog out of the total number of appeals received by DOC in Fiscal Year 2016 is 29%.

C. Backlog Reduction Plans

11. In the 2016 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2015 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 2016?

In Fiscal Year 2015, DOC had a backlog of less than 300, so the agency was not required to provide and implement a backlog reduction plan.

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

Not applicable.

D. Status of Ten 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 2015 and Fiscal Year 2016 when completing this section of your Chief FOIA Officer Report.

TEN OLDEST REQUESTS

13. In Fiscal Year 2016, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2015 Annual FOIA Report?

Yes. In Fiscal Year 2016, DOC closed the 10 oldest requests that were reported pending in its Fiscal Year 2015 Annual FOIA Report.

14. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2015 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

Not applicable.

15. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?

Three of the 10 oldest requests closed by DOC were closed because the requests were withdrawn.

TEN OLDEST APPEALS

16. In Fiscal Year 2016, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2015 Annual FOIA Report?

No. In Fiscal Year 2016, DOC did not close the ten oldest appeals that were reported pending in its Fiscal Year 2015 Annual FOIA Report.

17. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2015 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

DOC closed three of the 10 oldest agency appeals that were reported pending in its Fiscal Year 2015 Annual FOIA Report.

TEN OLDEST CONSULTATIONS

18. In Fiscal Year 2016, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2015 Annual FOIA Report?

No. In Fiscal Year 2016, DOC did not close the ten oldest consultations that were reported pending in its Fiscal Year 2015 Annual FOIA Report

19. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2015 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

The DOC closed eight of the 10 oldest agency consultations that were reported pending in its Fiscal Year 2015 Annual FOIA Report.

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

20. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2015.

For requests, since DOC closed its 10 oldest requests, there were no obstacles for this category of ten oldest.

For consultations, the obstacle in closing the remaining oldest consultations is several separate operating units are required to review the consultations for disclosure determinations.

For appeals, the obstacle in closing three of the 10 oldest appeals involve reviews of thousands of pages and documents and coordination with the client.

21. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

Not applicable.

22. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2017.

For requests: In Fiscal Year 2016, DOC closed the ten oldest requests that were reported pending in its Fiscal Year 2015 Annual FOIA Report.

For consultations: Frequent follow-ups and status updates with offices conducting consultation reviews to speed the consultation process. DOC will also discuss and develop best business practices for reducing its ten oldest consultations.

For appeals: Staff are working with requesters to narrow the scope of each appealed request that is in the ten oldest appeals category.

F. Interim Responses

23. Does your agency have a system in place to provide interim responses to requesters when appropriate? See *OIP Guidance*, “[The Importance of Good Communication with FOIA Requesters](#).” (Mar. 1, 2010)

Yes.

24. If your agency had a backlog in Fiscal Year 2016, please provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.

Approximately 45% of cases in DOC’s backlog had a substantive, interim response provided during the fiscal year, even though those requests were not finally closed.

Success Stories

Out of all the activities undertaken by your agency since March 2016 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, these agency **success stories** will be highlighted during Sunshine Week by OIP. 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.

Backlog Reduction

The DOC achieved an overall 20% decrease in its backlogged FOIA requests from Fiscal Year 2015 to Fiscal Year 2016.

- **The largest contributors to the decrease were the Office of the Secretary at the Department level (58%) and BIS (50%) and ITA (21%) at the BOU level. Additionally, EDA and MBDA closed all of their backlogged requests for Fiscal Year 2016.**
- **As an example of how backlogged requests were reduced, ITA:**
 - **Brought in additional staff for collateral duties to assist with the processing of backlogged FOIA requests.**
 - **Acquired two contractors to augment the ITA FOIA staff by processing backlogged, as well as new and open requests.**

Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

NOAA began providing its regional office FOIA support, providing training, best practices, and guidance to various offices that are responsible for processing FOIA requests. The on-site trainings, across the General Counsel's Office, Law Enforcement Personnel, NMFS Sections, and board meetings for Protected Resources as well as Science and Technology, NOAA FOIA has taken a cross-sectional training approach to improve FOIA awareness and processes. With NOAA implementing a decentralized FOIA program, this training equips the staff and line offices with the tools to collaborate and consistently process FOIA requests regardless of the location of the FOIA professionals responding to FOIA requests from the public.

Outreach

- **The Sunshine Week event co-hosted by DOC and the Census Bureau in March 2016 brought together individuals from the requester community and the Federal government to hear ideas and share experiences about the FOIA, proactive disclosures, and other topics on Open Government. Sunshine Week is a national initiative to promote a dialogue about the importance of open government and the freedom of information. The event was so successful that it has been expanded for 2017 to include multiple days of keynote presentations open to the public at the Department of Commerce, along with other workshops on the FOIA and Open Government at the Census Bureau. The 2017 National Sunshine Week event will begin with a kick-off celebration in the DOC Research Library on Tuesday, March 14, 2016, from 9:00 am to 12:00 pm. This year's theme is: "*Strengthening Transparency through Open Data and Access to Information.*" Additionally, the Census Bureau will hold public speaker sessions to educate and engage the public in open data and information efforts. The public speaker sessions will be held on Wednesday, March 15 and Thursday, March 17, 2017, from 9:00 am to 4:00 pm at the Census Bureau.**
- **Another example of outreach with the requester community is FOIA Public Liaisons from ITA constantly dialoging with the requestor community and open government groups regarding how ITA administers the FOIA. Those conversations have indirectly led to improvements in ITA's FOIA program. As an example, after discussions with the groups, increased resources are being devoted to ITA's FOIA program for the next reporting period.**