

United States Department of Commerce Chief FOIA Officer Report

Fiscal Year 2018



U.S. Department of Commerce 2018 Chief FOIA Officer Report Chief FOIA Officer Catrina D. Purvis



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Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying DOJ's FOIA Guidelines is the presumption of openness.

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

A. FOIA 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?

Yes, Department of Commerce (DOC) FOIA Professionals attended several different types of substantive FOIA training offerings throughout Fiscal Year 2017, such as:

- Department of Justice (DOJ) FOIA classes conducted at DOJ and hosted by DOC bureau and operating units (BOUs);
- Sessions offered during the American Society for Access Professional's (ASAP's)
 10th National Training Conference; and
- Training provided by DOC and BOU FOIA offices.
- 2. If yes, please provide a brief description of the type of training conducted and the topics covered.

Specific DOJ training sessions attended by DOC FOIA Professionals 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";
- Continuing FOIA Education;
- FOIA Reports Refresher Trainings; and
- Best Practices Workshops.

Training conducted by DOJ covered topics such as:





- Best practices in FOIA processing workflow management;
- Practical approaches to fee determinations;
- 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, and included additional topics such as:

- Overview of FOIA exemptions one through nine;
- FOIA in transition;
- FOIA backlogs;
- Current FOIA case law
- In-depth review of FOIA Exemptions 2, 3, and 7(A), (B), (C), (D), (E), (F);
- Fee determinations;
- Litigation considerations;
- FOIA and the Privacy Act; and
- The Privacy Act of 1974 scope, disclosure, and requirements.

Training was also conducted at both the agency and BOU levels through various forums that included topics such as:

- 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;
- "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 Commerce Learning Center (the DOC's online training portal) in FY 2017, and continue to be available and used by FOIA staff. The added training modules are: (1) FOIA for Employees; and (2) FOIA for Professionals.

Moreover, DOC held specialized FOIA presentations for incoming political appointees to introduce them to the FOIA along with DOC's FOIA processes. The training focused on the definition of a FOIA request, common types of requests received by DOC, and how to conduct record searches and provide fee estimates. Likewise, at the individual BOU level:

- The Census Bureau FOIA Office hosted two FOIA seminars conducted by DOJ, which covered topics that included:
 - FOIA Exemptions Overview
 - Privacy Act
 - Fee determinations
 - In-depth review of Exemptions 3, 4, and 5.
- FOIA professionals and other staff from the International Trade Administration (ITA) attended in-house group and individual training sessions. Topics for the in-house group training included:
 - A Brief History of the FOIA;
 - Introduction to the FOIA and the Exemptions;
 - The FOIA Process at ITA; and
 - How to Review Responsive Records.





- The National Oceanic and Atmospheric Administration (NOAA) FOIA Office conducted:
 - Monthly FOIA Legal Experts call, with both FOIA Professionals and the NOAA General Counsel participating in regular trainings on new FOIA case law, Departmental policies, FOIA regulations, and new considerations in FOIA statutory authority.
 - Regular FOIA Professionals call, where case processing, exemption applicability, and responsibilities in reasonable segregation are discussed at the level of the staff and line office FOIA Professionals.
 - One-on-one training in the use of FOIAonline for new FOIA professionals.
- The National Telecommunications and Information Administration (NTIA) Office of the Chief Counsel (NTIA/OCC), which manages the NTIA FOIA program, trained and educated NTIA staff regularly, particularly new employees, regarding their FOIA responsibilities. This included periodic emails to all staff containing updates to FOIA policies and processing. Furthermore, NTIA/OCC staff attended the following training hosted by The Catholic University of America, Columbus Law School, entitled "FOIA: A Tool for Transparency, Knowledge and Litigation."
- 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 90% 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 Economic Analysis (BEA) reported 100%;
- Bureau of Industry and Security (BIS) reported 100%;
- Census Bureau reported 100%;
- Economic Development Administration (EDA) reported 100%;
- Economic and Statistics Administration (ESA) reported 100%;
- ITA reported 100%;
- Minority Business Development Agency (MBDA) reported 100%;
- 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 90%.
- 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 seeks to ensure that 100% of its FOIA Professionals attend substantive FOIA training during the next reporting period. To this end, DOC will continue to emphasize the importance of FOIA training during quarterly DOC FOIA Council meetings and through other communications.

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 2017 was the publication of the DOC FOIA Reference Guide available at http://www.osec.doc.gov/opog/FOIA/FOIA Resources.html. The goal of this Reference Guide is to familiarize FOIA requesters with the specific procedures for making a FOIA request to the DOC. Following the information in the Guide will make it more likely that individuals will receive the information that they are seeking in the shortest amount of time possible. The Reference Guide also includes descriptions of the types of records maintained by different parts of the agency, some of which are readily available through means other than the FOIA.

Another example of outreach undertaken by DOC was the fifth annual Sunshine Week event that was held in June 2017 in the DOC auditorium, which was co-hosted by DOC and the Census Bureau. The theme of the event was "Strengthening Transparency through Open Data and Access to Information." 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. The workshops described the components of the DOC's Open Government Plan. Members of the audience included a cross-section of individuals from the federal





government and the requester community. The event received high accolades from both the public and private sectors that attended.

The continued interest in and praise of the event has prompted DOC to organize another one in March 2018. The theme for this year's event is "As a Matter of Open Government." The kickoff session will be held at the DOC Research Library, 1401 Constitution Ave. NW, Washington, DC 20230, on Tuesday, March 13, 2018, between 9:00 a.m. and 12:00 noon. The event is open to federal employees, contractors, and the public. See https://www.eventbrite.com/e/sunshine-week-kick-off-event-as-a-matter-of-open-government-tickets-41456931799 for more information and to register.

Outreach with the requester community was also achieved through a continued emphasis placed on the role of DOC FOIA Public Liaisons and FOIA Analysts with the requester community. As an example, FOIA Public Liaisons from ITA constantly engaged in dialogue 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 instance, after discussions with the groups, increased resources were devoted to ITA's FOIA program for the next reporting period.

FOIA staff from other DOC bureaus, like NTIA and OIG, regularly communicate with requesters regarding pending requests to provide proactive updates, as appropriate. This simple but important practice follows DOJ guidance on maintaining regular communications with requesters, and exemplifies DOC's "spirit of cooperation" and the importance the agency places on the FOIA.

C. Other Initiatives

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

DOC and BOU FOIA offices always emphasize open communication and transparency with non-FOIA professionals to ensure compliance with applicable laws, regulations, and obligations. For example, FOIA Professionals have continuously collaborated with non-FOIA professionals from other program offices (such as DOC and BOU program staff, senior managers, and Chief Information Officers) to inform them of their obligations under the FOIA. DOC and BOU FOIA Officers have also stressed the importance of the FOIA to non-FOIA professionals through memorandums and FOIA updates communicated to agency staff when tasking requests for fee estimates or record





searches. Additionally, aside from providing formal FOIA training on an as needed basis, DOC and BOU FOIA staff are constantly available to answer questions from program staff, and always list a contact telephone number in outgoing FOIA request assignment memos so that individuals may ask questions, as needed.

Furthermore, at the BOU level:

- Census Bureau FOIA staff conducted FOIA training for supervisors and managers, who are allowed to obtain management credit for each hour of class attended. Those individuals have a mandatory requirement to attain a specific number of management credit hours per year. FOIA classes offered were:
 - "Freedom of Information Act (FOIA) Requests for Title 13 Records," which 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 information the Census Bureau collects from individuals and businesses, including the release of Title 13 which is protected information under the FOIA.
 - "Master the Freedom of Information Act (FOIA) Series Part 1," which provided an opportunity to supervisors and managers to become familiar with various FOIA laws and regulations, as they pertain to daily Census activities. As part of the class, the aforementioned individuals were taught the agency requirements to answer FOIA requests, how to prepare Fee Estimates, how to search for and retrieve responsive documents, how to handle and answer Privacy Act requests, the definition of proactive disclosure, the requirements for making a FOIA request, and the general rules every program area should know about the FOIA.
- ITA's full-time FOIA professionals held two meetings with program staff on specific FOIA exemptions, and provided general guidance on their obligations under the FOIA. Additionally, ITA's full-time FOIA professionals participated in a telephonic conference with the Office of General Counsel and ITA program staff regarding a specific exemption and general guidance on the FOIA.
- NIST has undertaken informing 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 training on the FOIA as it relates to record retention. Third, the FOIA staff educates program offices as part of the tasking and fulfillment of each FOIA request.

- NOAA, like in previous years, conducted many trainings for new employees at orientation. This included a one-on-one FOIA overview for the Assistant Administrator for NOAA Fisheries, which is the Line Office that receives the largest FOIAs by volume. Similarly, NOAA FOIA regularly conducts FOIA training for the new Honors Attorneys within the Office of the General Counsel. NOAA also conducted FOIA training for subject matter experts in the Line Offices where FOIA submissions and processing burdens have peaked.
- NTIA/OCC, which manages the NTIA FOIA program, conducted training throughout the year as a part of a concerted effort to assist NTIA employees in understanding their roles and responsibilities under FOIA. NTIA/OCC also formed an ad hoc office liaison group to represent each NTIA office and to assist in efficiency of processing. This liaison group met several times to discuss FOIA responsibilities, ongoing FOIA issues, and provided feedback on forms used in the processing of FOIA requests and the FOIA processing workflow and procedures.

In addition, NTIA/OCC attorneys work with NTIA staff regarding their FOIA obligations. Each request for a fee estimate or a records search includes detailed instructions on 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 an aspect of their FOIA obligations. NTIA/OCC attorneys regularly answer questions pertaining to FOIA and provide assistance when asked.

- OIG FOIA staff offered FOIA brown bag trainings to all OIG employees to inform them of their responsibilities with respect to the FOIA statute. The staff also alerted relevant personnel of items of interest related to the FOIA, as needed.
- The members of the PTO FOIA Office have conducted trainings for their Regional Offices, and have also conducted question and answer (Q&A) panels for various groups within the agency. The PTO FOIA Office has also ensured that each major business unit has a FOIA Coordinator who assists the FOIA





Office in ensuring that non-FOIA professionals understand their obligations. Lastly, FOIA training materials are available to PTO employees on the PTO intranet.

7. 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:

- The Census Bureau FOIA Office is currently looking at in-house outreach tools that will enable them to proactively communicate new up-to-date information regarding content releases, processing, and website updates to frequent requesters. The staff plans to use tools which allow them to customize a FOIA request list of frequent FOIA requesters, in order to directly let them know about new releases that may be of interest to them.
- EDA's joint Chief Counsel and Regional Counsel review 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 on their home page: http://www.esa.gov/.
- ITA regularly provides guidance to program staff on the FOIA including the presumption of openness and conducting foreseeable harm reviews. The ITA FOIA Team is also enhancing internal follow-up procedures by developing a follow-up correspondence template. The template will be used to collaborate with internal business units tasked to perform searches for FOIA requests. This enhanced procedure will allow ITA to exchange timely relevant information, case statuses, and process updates from its business unit FOIA liaisons.
- To the extent feasible and consistent with law, agency mission, resource constraints, and U.S. national, homeland, and economic security, NIST will promote the deposit of scientific data arising from unclassified research and programs, funded wholly or in part by NIST, except for Standard Reference Data, free of charge in publicly accessible databases. Subject to the same conditions and constraints listed above, NIST also intends to make freely available to the public, in publicly accessible repositories, all peer-reviewed scholarly publications arising from unclassified research and programs funded wholly or in part by NIST.
- NOAA specifically addressed the presumption of openness in both its Legal Experts forums for NOAA's Office of the General Counsel, as well as in the





FOIA Roundtable with members of the public attending to provide feedback on ways to improve NOAA's transparency efforts.

- 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 instance, NTIA works diligently to post grants, contracts, other agreements, reports, key correspondence, advisory committee minutes, speeches, Congressional testimony, public notices, comments, and other regulatory matters in Federal Communications Commission proceedings.
- Notwithstanding FOIA requirements, the OIG has a formalized process to ensure that OIG audit, evaluation, and certain investigative products and correspondence receive a public release review to allow these OIG products to be made publicly available on the OIG website, as appropriate.
 https://www.oig.doc.gov/Pages/default.aspx. The Inspector General Empowerment Act of 2016 also contains posting requirements for certain OIG products.
- The PTO continues to proactively release 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. The aforementioned information is available at: http://www.uspto.gov/ip/boards/foia_rr/index.jsp. In addition, the PTO FOIA Office always highlights the presumption of openness in its training materials and presentations for PTO business units and individual employees.

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

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

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

 For Fiscal Year 2017, 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 2017 Annual FOIA Report.

The average number of days for DOC to adjudicate an expedited request in FY 2017 was 9.94 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 2017, the DOC's average number of days for adjudicating expedited processing was less than 10 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.

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

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 particular, DOC noted that in Fiscal Years 2015 and 2016, the average for processing requests in the simple track exceeded the statutory processing time limit by 25 and 17 days respectively. An analysis of Annual Report data along with discussions with DOC FOIA Professionals revealed that in many cases, requests were either improperly placed in the simple track or may not have been processed following "common sense" rules, such as duplicate requests remaining open, or requests involving records from another agency not being closed immediately. DOC made adjustments to its processes, which resulted in the processing time for simple requests to be reduced on average 24 days per request from Fiscal Year 2016 to Fiscal Year 2017. The process adjustments did not impact the average processing time for complex requests from Fiscal Year 2016 to Fiscal Year 2017.

Assessments of annual report data and quarterly metric submissions also helped DOC make process improvements that resulted in the agency implementing monthly reviews of BOU ten oldest requests, as identified in the FY 2017 Annual FOIA Report, and initially, FOIA requests that have been backlogged for more than 90 days. The intent of the meetings is to conduct an audit of an individual BOU's FOIA processes to determine what factors, if any, may be impacting their ability to complete FOIA requests within statutory processing times. Assessments would also include discussions of ways to address problem areas that may have been discovered. Another objective is to identify ways that DOC might assist a BOU with its FOIA program, if or when needed.

4. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2017 (please provide a total number or an estimate of the number).





Requesters sought assistance from DOC FOIA Public Liaisons approximately 78 times.

- 5. Optional Survey Question: If possible, please provide an estimate of the average number of pages that your agency processes for each request. You may provide estimates for each track.
 - The number of pages it handles in FOIA requests varies widely based on two main factors. First, the DOC FOIA program consists of 14 decentralized BOUs (similar to components), that have individually managed FOIA programs. Second, there is a case-by-case complexity level of requests and a wide diversity of records maintained. The number of pages for any given request could be anywhere from one to more than 1,000 pages in length.
- 6. 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:

- Establishment of a formal DOC FOIA Council. The FOIA is a cornerstone of Open Government's transparency pillar. The FOIA Council ensures the Department's effective administration of the FOIA by developing and implementing FOIA policy and guidance, and by promoting increased transparency, FOIA training, best business practices, better collaboration across the DOC, and increased outreach and dialogue with the requester community. The FOIA Council:
 - Works to strengthen DOC FOIA policies and procedures to ensure that
 they reflect the goals, values, and policies that the Department advocates.
 Toward that end, the FOIA Council routinely reviews DOC FOIA
 policies and procedures and identify opportunities for strengthening,
 clarifying, and otherwise improving them.
 - Assists the Chief FOIA Officer with reviewing the administration of the DOC's FOIA program to ensure compliance with the FOIA, by making sure Council members respective FOIA programs follow applicable laws, regulations, and policies.
 - Assists BOUs by providing advice on addressing staffing needs; responding appropriately to FOIA requests pursuant to applicable laws, regulations, and policies; improving processing times; and reducing the backlog.





- Identifies and recommends FOIA and other relevant training opportunities for DOC employees, as appropriate.
- Holding monthly "FOIA Days" with program offices at DOC during which FOIA staff conducted comprehensive status reviews of outstanding FOIA requests and answered questions that individuals working on may have had.
- Development and further refinement of FOIA forms that FOIA offices send to program offices and employees responding to fee estimates and record searches. The forms are easy and quick for staff to complete. DOC estimates that the use of enhanced FOIA forms has increased the response rate from staff and shortened the time needed to respond to FOIA fee estimates and searches.
- Uses of web-based systems to manage its FOIA requests, which are an effective tool for document sharing and record organization. It allows the FOIA professionals to quickly search for specific requests, requesters, and other request-related information.
- Purchase of an electronic discovery management tool by several BOUs, which has advanced de-duplication, organization, and record search capabilities.
- Conduct of 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.
- Conduct of 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 these sessions has led to faster responses to FOIA taskers.
- Continuation of 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 when preparing fee estimates or executing a search for documents.
- Addition of staff, such as temporary staff on detail or contractors, to support FOIA staff in the processing of FOIA requests.
- Engagement of senior management to emphasize the importance of FOIA to DOC and its BOUs.
- Identification of Best Practices that help identify improvements for FOIA processing, FOIAonline system improvements, and efficiency measures to standardize or recommend throughout DOC. Many of these have been adopted by the DOC and have improved FOIA and transparency efforts across the BOUs.





Conduct of monthly NOAA Legal Experts calls to craft proper guidance based on changes to law, regulation, and precedent, as well as to obtain legal guidance on properly standardizing FOIA processes. These are ordinarily issues raised at the Staff and Line Office level that have been identified as problem areas in prior FOIA processing efforts, and where they have sought legal advice from counsel. This forum allows the attorneys to discuss a unified compliant review posture for any novel processing problems that are likely to arise again. Once an efficiency measure has been finalized, it is then presented in training to the affected Staff or Line Offices that would benefit from the efficiency measure or that had the underlying question which led to the discussion in the Legal Experts call. If it has general applicability for NOAA's FOIA program, it is distributed to NOAA's FOIA Liaisons for dissemination to all of NOAA's FOIA Professionals.

Section III: Steps Taken to Increase Proactive Disclosures

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

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

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

Examples of material DOC has proactively disclosed during the past reporting period include:

- The Census Bureau FOIA Office has created a 2020 Census page off of their FOIA Library for content related to the upcoming 2020 Decennial Census and the American Community Survey (ACS) that may be of public interest:

 https://www.census.gov/about/policies/foia/foia library/frequently_requested_record-s/sogi-records.html. The Census Bureau has also posted the following data:
 - Emergency Preparedness Information: https://www.census.gov/topics/preparedness.html.
 - **Geography Information:** https://www.census.gov/geography.html
 - Survey/Program Information:





https://www.census.gov/programs-surveys.html.

- **Population Information:** https://www.census.gov/topics/population.html.
- BEA, as a statistical agency and as a general rule, publishes all information legally allowable. As such, BEA did not have any proactive disclosures in FY 2017, nor was there a need to publicize any proactive disclosures in FY 2017: https://www.bea.gov/.
- BIS posts all finalized export violations as well as all antiboycott violations to the public website:

http://efoia.bis.doc.gov/index.php/electronic-foia/index-of-documents.

- EDA has proactively disclosed requests that involved grant information for various grant projects: https://www.eda.gov/foia/disclosures/.
- ESA routinely posts 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 access the material that ESA makes available on our website and through their email subscriptions. http://esa.gov/.
- ITA has posted material which include:
 - The 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 (available at http://export.gov/fta/ftatarifftool/ftamain.aspx).
 - ACCESS 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 public to view public versions of all documents submitted (available at https://access.trade.gov/login.aspx; free registration).
- MBDA has posted material which include:
 - The SC MBEC Grant proposal available at:





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 has posted material which include:
 - Data: https://www.nist.gov/data, https://researchdata.nist.gov.
 - Code: https://pages.nist.gov/pages-root/ this scientific software is accessible from various websites but GitHub inventory is provided here.
 - Peer-reviewed publications:
 https://www.ncbi.nlm.nih.gov/pmc/funder/nist/.
 - **Agency publications:**https://nist.ent.sirsi.net/client/en_US/default/search/results?te=ILS&lm=NISTPUBS.
- NOAA has posted material which include:
 - Comprehensive Hurricane coverage spanning the entire National Hurricane Data Archive. This combined expansive data trove proved indispensable, and provided the public, news media, and incident responders with a massive library of proactively disclosed material to aid in Hurricane prediction, tracking, and response during the critical Hurricane season of 2017. This data library includes:
 - o Tropical Cyclone Reports (http://www.nhc.noaa.gov/data/#tcr);
 - Tropical Cyclone Advisories
 (http://www.nhc.noaa.gov/data/#advisories);
 - Graphical Tropical Weather Outlook (http://www.nhc.noaa.gov/data/#gtwo);
 - Marine and Advisory Text Products (http://www.nhc.noaa.gov/data/#text);
 - Marine Graphical Products
 (http://www.nhc.noaa.gov/data/#marine);
 - o **Best Track Data** (http://www.nhc.noaa.gov/data/#hurdat);





- Past Track Seasonal Maps
 (http://www.nhc.noaa.gov/data/#tracks_all);
- Past Track Maps of U.S. Landfalling Major Hurricanes (http://www.nhc.noaa.gov/data/#tracks_us);
- Tropical Cyclone GIS Data Format (http://www.nhc.noaa.gov/data/#gis);
- Tropical Cyclone "Storm Wallet" Electronic Archive (http://www.nhc.noaa.gov/data/#wallet);
- Tropical Cyclone Monthly Summary Archive (http://www.nhc.noaa.gov/data/#monthly);
- Tropical Cyclone Annual Summaries from 1872-2006 (http://www.nhc.noaa.gov/data/#annual);
- o Seasonal Outlooks (http://www.nhc.noaa.gov/data/#outlooks);
- o Cyclone Climatology (http://www.nhc.noaa.gov/data/#climo);
- o Forecast Verification (http://www.nhc.noaa.gov/data/#verif);
- o Aircraft Reconnaissance Archive (http://www.nhc.noaa.gov/data/);
- Reports of Cyclones by Death Rate, Cost, and Intensity (http://www.nhc.noaa.gov/data/#extreme); and
- o Hurricane Histories (http://www.nhc.noaa.gov/data/#cphc).
- 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 across the:
 - o Alaska (http://www.alaskafisheries.noaa.gov/);
 - o Greater Atlantic (http://www.greateratlantic.fisheries.noaa.gov/);
 - o Pacific Island (http://www.fpir.noaa.gov/)
 - Southeast and Caribbean Island (http://sero.nmfs.noaa.gov/), and West Coast (http://www.westcoast.fisheries.noaa.gov/) regions, 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.

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.omao.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).
- NTIA has posted material which include:
 - Additional records regarding its State Local Implementation Grant Program (SLIGP) grants. On this page, for each grant recipient, NTIA continues to post documents, amendments, reports, and other information regarding these grants. See https://www.ntia.doc.gov/sligp/sligp-awards. Posting the SLIGP records involves a concerted effort to review each document and discuss with the recipient whether the document should be posted in its entirety or redacted for business confidential and/or personal private information.
 - Information regarding its efforts to implement the State Alternative Plan Program (SAPP) to help states and territories understand what a decision to opt out of the First Responder Network Authority (FirstNet) proposal would mean and what would be available if they decide to opt out of the FirstNet proposal. The SAPP page includes presentations made around





the country on this subject in FY2017, Federal Register notices, and background information. See https://www.ntia.doc.gov/sapp.

- Filings, reports, speeches, testimony, Federal Register notices, and correspondence. See http://www.ntia.doc.gov/publications.
- OIG has posted material which include:
 - Semi-annual reports to Congress, audit, evaluation, and certain investigative reports, the OIG top management challenges report on issues facing the Department, congressional testimony, and information on current and planned activities. These materials can be found at: http://www.oig.doc.gov/Pages/default.aspx.
 - Frequently requested records under FOIA. These records can be found at: http://www.oig.doc.gov/Pages/FOIA-Electronic-Reading-Room.aspx.
- PTO has posted material which include:
 - 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. See http://www.uspto.gov/ip/boards/foia_rr/index.jsp.
- 2. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If yes, please describe these efforts.
 - Yes. DOC uses venues such as news releases and social media to highlight proactive disclosures for public awareness. For example, some BOUs use social media, traditional media, and email subscriptions, as well as post items in press releases and on blogs. Other ways that BOUs publicize or highlight important proactive disclosures for public awareness include, which may be representative of across the DOC:
 - For ESA, individuals can subscribe to the Economic Indicators with one click, at: http://www.esa.doc.gov/content/indicators.
 - ITA proactively publicizes important disclosures on ITA websites, trade.gov and export.gov. In collaboration with the Office of the U.S. Trade Representative, ITA publishes text and datasets for important trade agreements that impact commercial industries. ITA continues to seek opportunities to expand disclosures of this nature with a focus on transparency and openness.





- NOAA created a link through both its internal and external FOIA Webpages to post the entire NOAA Catalogue for public viewing as part of its proactive disclosure efforts. One of the primary highlights in the frequently requested records within the FOIA Reading Room, (accessible here: http://www.noaa.gov/foia-reading-room), now allows users to access the entire NOAA Catalogue, which includes approximately 65,000 data sets, ranging from Hydrographic Surveys to Grid Snow Cover and Sea Ice weekly values. This vital information set has now been identified as a proactive disclosure that can be directly accessed by those visiting the NOAA FOIA Webpage to improve transparency and eliminate the need for filing a FOIA request. https://data.noaa.gov/dataset.
- NTIA identifies records that are likely of interest to the public, including 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, and proactively posts those records on the NTIA website. NTIA/OCC works with NTIA program offices, Office of Public Affairs, Office of Congressional Affairs, and the NTIA webmaster to ensure that records of public interest are routinely made available on NTIA's website.
- The OIG utilizes social media and its website to publicize proactive disclosures for public awareness, and the Legislative and Public Affairs Officer routinely sends e-mails to members of the media and stakeholders in Congress when certain proactive disclosures are posted to the OIG website. In addition, documents posted to the FOIA Electronic Reading Room are regularly posted on other relevant pages of the OIG website, a practice that may allow certain disclosures to be viewed more widely.
- 3. 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. DOC has several distinct processes in place to identify ways to make the posted information more useful to the public, including identifying 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.

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

DOC also uses the FOIAonline system to make it easier for agency FOIA professionals to both identify and post records, as well as for the public to access information that has been included with releases. FOIAonline is an electronic tracking and processing tool developed as a partnership of federal agencies, which allows anyone to submit a FOIA request, correspond with FOIA professionals processing the request, track the status of a request, and download the responsive documents once they are released to the requester.

DOC FOIA offices also discuss with other program offices what proactive disclosures might be useful and appropriate for DOC stakeholders (conversations are always ongoing). FOIA offices also continually welcomes feedback on the content and presentation of posted material and regularly review the website to make sure that posted information is clearly presented to the public. Examples of other improvements include:

- NIST has developed a data portal and repository to allow users to locate and access published research data more easily. The repository is associated with their Enterprise Data Inventory, from which metadata for public datasets is exported to data.gov. NIST expects to release the portal and repository in a beta version soon. NIST has also authorized use of Socrata (https://researchdata.nist.gov/) for data visualization and generation of application program interfaces (APIs).
- Through the assistance of the NOAA Web Committee, NOAA has overhauled its FOIA Webpage to make it more accessible, to have a more logical layout, and to improve access to NOAA contacts, proactive disclosures, and procedural requirements for FOIA submissions.
- NTIA regularly uses various methods to ensure that its audience is aware of its programs and work, including regular blog posts (https://www.ntia.doc.gov/blogs), press releases (https://www.ntia.doc.gov/newsroom), and social media such as Twitter (@NTIAgov). These media tools point back to information and records posted on NTIA's website





5. 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 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 in pursuit of its openness policy. DOC also monitors 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, NOAA's Chief Data Officer and Chief Enterprise Architect participated in NOAA's FOIA Roundtable with the requester community that focused on how proactive disclosures could play a role in reducing the need for FOIA requests. This was also highlighted directly in the keynote address from the NOAA CIO soliciting feedback from the requester community.

Additional examples from BOUs include:

- The Census Bureau has taken steps to create additional sections and pages on our FOIA public website that identify public disclosures more clearly and easily. By creating sections in their FOIA Library for frequently requested topics like the "2020 Census", "American Community Survey", and other frequently related topics, this makes it easier for requesters to locate information.
- NTIA/OCC attorneys regularly discuss proactive disclosures with NTIA management and program staff and encourage proactive disclosures of NTIA records in an effort to widely disseminate information of public interest and in pursuit of its openness policy. NTIA has not engaged FOIA requesters regarding proactive disclosures, but does watch trends in requests to help determine which records should be proactively disclosed.





Section IV: Steps Taken to Greater Utilize Technology

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

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

1. Has your agency identified any best practices to leverage 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 deduplicate documents? If yes please describe the best practices, the types of technology used and the impact on your agency's processing?

DOC has identified best practice to leverage technologies to facilitate overall FOIA efficiency. For instance, many FOIA offices have created and granted access to certain document sharing platforms to make it easier to share large documents. Other offices have purchased electronic discovery management tools to de-duplicate and process voluminous record collections. FOIA offices have also fully embraced processing, whenever possible, FOIA requests electronically, including sending correspondence via e-mail unless specifically requested otherwise by a requester. Search taskers and fee estimate taskers are sent to offices electronically, and completed forms and records are routinely returned in the same fashion, improving efficiency and conserving resources.

Similarly, FOIA staff use FOIAonline to share documents among participating agencies (especially for consultations and referrals). A secure file sharing application is also routinely used to transmit documents containing personally identifiable information (PII) or other sensitive information within the DOC, BOU, or with other Federal agencies.

Additionally, some DOC FOIA offices have worked this year to improve the response forms for fee estimates and searches in order to improve efficiency, cut employee time to respond, make their responses easier and clearer, and increase the employee response rate. This was a concerted effort to recode the Adobe forms, test, and seek feedback from the office liaisons. The end product is a much improved, easy-to-use tool improving our FOIA processes.

One specific office, NOAA, has implemented a form-based procedure for conducting searches through the Unified Messaging Service (UMS) to conduct email searches across individual domains or even throughout all noaa.gov users. This has allowed significantly decreased processing time and improved search efficiency for the largest FOIA requests seeking communications across multiple Staff or Line Offices where individual searches are impractical.





Another BOU, the Census Bureau, uses an application to track the types of requests. They also use the application to host a FOIA Team Site for managing letter templates so that updates and changes are conducted in a collaborative effort.

2. Did your agency successfully post all four quarterly reports for Fiscal Year 2017?

Yes, all four of the DOC's quarterly reports for Fiscal Year 2017 have been posted and can be found at: http://www.osec.doc.gov/opog/FOIA/FOIA reports quarterly.html.

3. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2018.

Not applicable.

4. 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 2016 Annual FOIA Report and, if available, for your agency's Fiscal Year 2017 Annual FOIA Report.

The raw data for DOC's Fiscal Year 2016 Annual Report can be found at: http://www.osec.doc.gov/opog/FOIA/FOIA reports annual.html. The Fiscal Year 2017 data will be posted on or before March 1, 2018.

5. If there are any other steps your agency has taken to improve use of technology in FOIA, please describe them here.

Several additional examples of how DOC has taken to improve use of technology in FOIA include:

- ITA is working with contractors to develop more sophisticated data visualizations (i.e., dashboards) and analytical reporting, using Tableau software, to improve the overall FOIA program operations.
- NIST expanded its use of social media to reach a broader audience by launching an Instagram account; trying new features such as Facebook Live; increasing use of LinkedIn; and expanding the focus of a Twitter account to increase sharing of news about NIST's research and publications in cybersecurity (@NISTcyber).





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

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

For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2017 Annual FOIA Report and, when applicable, your agency's 2016 Annual FOIA Report.

A. Simple Track

Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

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

Yes. DOC utilizes a separate track for simple requests.

2. If so, for your agency overall in Fiscal Year 2017, was the average number of days to process simple requests twenty working days or fewer?

Yes. The overall average number of days to process simple requests was 13.2 days for DOC.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2017 that were placed in your simple track.

The percentage of requests processed by DOC in Fiscal Year 2017 that were placed in a simple track was 56%.

4. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?

Not 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

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 2016 and Fiscal Year 2017 when completing this section of your Chief FOIA Officer Report.

5. If your agency had a backlog of requests at the close of Fiscal Year 2017, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2016?

The backlog of requests for DOC at the close of Fiscal Year 2017 increased as compared with the backlog reported at the end of Fiscal Year 2016. DOC's backlog increased by 10% in Fiscal Year 2017 after experiencing a decrease over the two previous fiscal years.

- 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

Contributing factors to the DOC FOIA backlog increase included: a) an increase in the number of incoming requests, b) a loss of staff, and c) an increase in the complexity of the requests received.

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 2017.

The percentage of requests that make up the backlog out of the total number of requests received by DOC in Fiscal Year 2017 is 14%.





BACKLOGGED APPEALS

- 8. If your agency had a backlog of appeals at the close of Fiscal Year 2017, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2016.
 - The backlog of appeals for DOC at the close of Fiscal Year 2017 (38) increased as compared with the backlog reported at the end of Fiscal Year 2016 (32).
- 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.

Although the backlog increased, it should be noted that the total number of pending appeals, including backlogged appeals, decreased by two from the end of Fiscal Year 2016 to the end of Fiscal Year 2017.

The following factors all contributed to the increase in the Information Law Division's backlog:

- A 30% increase in the number of incoming appeals in Fiscal Year 2017 compared to Fiscal Year 2016
- A loss of staff, including the prior head of the operating unit.
- An inability to hire replacement staff due to a federal hiring freeze.
- A reorganization of the Office of General Counsel (OGC) leading to a reduction of resources available to process FOIA appeals and handle FOIA litigation.

The greatest increase in the backlog occurred in Q1 and Q2 of Fiscal Year 2017, due to personnel changes and hiring issues. As a good news story, the total number of backlogged appeals was halved after an Acting Chief was appointed in March.

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 2017. If your agency did not receive any appeals in Fiscal Year 2017 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 2017 is 35%.

C. Backlog Reduction Plans

11. In the 2017 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2016 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 2017?

In Fiscal Year 2015, DOC had a backlog of less than 320, 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 2017, what is your agency's plan to reduce this backlog during Fiscal Year 2018?

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 2016 and Fiscal Year 2017 when completing this section of your Chief FOIA Officer Report.

TEN OLDEST REQUESTS

13. In Fiscal Year 2017, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

No. DOC did not close the ten oldest requests that were reported pending in its Fiscal Year 2016 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 2016 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

Four of DOC's ten oldest requests, as listed in Section VII.E of its Fiscal Year 2016 Annual FOIA Report were closed in FY 2017.





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?

Not applicable.

TEN OLDEST APPEALS

16. In Fiscal Year 2017, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

No. DOC did not close the ten oldest appeals that were reported pending in its Fiscal Year 2016 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 2016 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

Two of DOC's ten oldest appeals, as listed in Section VII.C.(5) of its Fiscal Year 2016 Annual FOIA Report were closed in FY 2017.

TEN OLDEST CONSULTATIONS

18. In Fiscal Year 2017, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

Yes. DOC closed the ten oldest consultations that were reported pending in its Fiscal Year 2016 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 2016 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

Not applicable.

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 2017.





For requests, obstacles in closing its 10 oldest included voluminous records that required consultations with multiple Federal agencies and several requests that were for World Trade Center information.

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

For appeals, the main obstacle in closing the 10 oldest was lack of resources.

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.

<u>For requests</u>: DOC has already been able to close three of its ten oldest pending requests during the first quarter of Fiscal Year 2018. To address and ensure appropriate priority is given to the remaining open oldest requests, DOC FOIA leadership has initiated monthly review boards during which BOU FOIA Officers will discuss their oldest backlogged requests along with plans to close them. Additionally, the requests are reviewed during DOC FOIA Council meetings.

<u>For consultations</u>: In Fiscal Year 2017, DOC closed the ten oldest consultations that were reported pending in its Fiscal Year 2016 Annual FOIA Report.

<u>For appeals</u>: Two of the oldest appeals could not be closed out due to ongoing litigation. With regard to the remaining ten oldest that could not be closed in Fiscal Year 2017, necessary resources continue to be a problem. Nonetheless, DOC will ensure that it continues to place an emphasis on closing those requests.

Success Stories

Out of all the activities undertaken by your agency since March 2017 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas. As noted above, OIP will highlight these agency success stories





during Sunshine Week. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

Outreach

- NOAA hosted its first FOIA Roundtable in a public outreach meeting. Guests included Keith Seitter, Executive Director for the American Meteorological Society and Mike Halpern, Deputy Director of the Center for Science and Democracy at the Union of Concerned Scientists. The meeting was positive, and an open dialogue was created to foster improved transparency and increased public outreach in NOAA disclosures. NOAA presented initiatives and transparency efforts currently being advanced through presentations from NOAA's FOIA Officer, Chief Data Officer, Chief Enterprise Architect, and an address by NOAA's Chief Information Officer. NOAA then opened the forum to a collaborative discussion with the requester community to gain feedback on how the processes outlined by NOAA could be improved. NOAA intends to host additional FOIA Roundtable events with other members of the requester community during the year to continue to gain feedback on how to improve transparency and FOIA compliance.
- Week event that was held in June 2017 in the DOC auditorium, which was co-hosted by DOC and the Census Bureau. The theme of the event was "Strengthening Transparency through Open Data and Access to Information." 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. The workshops described the components of the DOC's Open Government Plan. Members of the audience included a cross-section of individuals from the federal government and the requester community. The event received high accolades from the public and private sectors that attended.

The continued interest in and praise of the event has prompted DOC to schedule another one in March 2018. The theme for this year's event is "As a Matter of Open Government." The kickoff will be held at the DOC Research Library, 1401 Constitution Ave. NW, Washington, DC 20230, on Tuesday, March 13, 2018, between 9:00 a.m. and 12:00 noon. The event is open to federal employees, contractors, and the public. See https://www.eventbrite.com/e/sunshine-week-kick-off-event-as-a-matter-of-open-government-tickets-41456931799 for more information and to register.





Responding to Requests More Effectively

- The establishment a formal DOC FOIA Council was a major step taken by DOC to ensure it has an effective system in place for responding to requests, as well as remains in compliance with applicable laws, regulations, and policies. To that end, the FOIA Council ensures the Department's effective administration of the FOIA by developing and implementing FOIA policy and guidance and, by promoting increased transparency, FOIA training, best business practices, better collaboration across the DOC, and increased outreach and dialogue with the requester community. The FOIA Council:
 - Works to strengthen DOC FOIA policies and procedures to ensure that they
 reflect the goals, values, and policies that the Department advocates. Toward
 that end, the FOIA Council routinely reviews DOC FOIA policies and
 procedures and identify opportunities for strengthening, clarifying, and
 otherwise improving them.
 - Assists the Chief FOIA Officer with reviewing the administration of the DOC's FOIA program to ensure compliance with the FOIA, by making sure Council members respective FOIA programs follow applicable laws, regulations, and policies.
 - Assists BOUs by providing advice on addressing staffing needs; responding appropriately to FOIA requests, pursuant to applicable laws, regulations, and policies; improving processing times; and reducing the backlog
 - Identifies and recommends FOIA and other relevant training opportunities for DOC employees, as appropriate.
- The OIG's first Government Information Specialist (GIS) began work for the OIG in Fiscal Year 2017, helping to provide dedicated support for OIG FOIA administration. The GIS has ensured consistency in the administrative aspects of FOIA processing by concentrating responsibility for those tasks. In addition, the office provided brown bag FOIA training (noted above), which helped to ensure that participants understand their responsibilities and role as federal employees with respect to FOIA, and particular with respect to the efficiency and productiveness of searches.