

## Department of Energy

### 2015 Chief Freedom of Information Act (FOIA) Officer Report

**Ingrid Kolb, Director, Office of Management**

#### Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

##### *FOIA Training:*

1. Did your agency conduct FOIA training during the reporting period for FOIA professionals?

Yes, the agency conducted training during this reporting period.

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

The Office of Hearings and Appeals in tandem with the FOIA Office and the Office of General Counsel continued to conduct its monthly trainings via conference calls for the field and Headquarters. The training sessions covered a broad area of topics such as FOIA exemptions 2 through 6, agency records vs. personal records, scoping, fees and fee waivers, and fee categories. The FOIA Office also conducted periodic conference calls with field personnel to discuss FOIA issues and developments. The HQ FOIA Office and the Office of General Counsel also conducted individual training sessions for various HQ program offices and staff that were new to processing requests. The number of attendees and topics of the sessions varied according to the needs of the office.

3. Did your FOIA professionals attend any FOIA training during the reporting period such as that provided by the Department of Justice?

Yes. During this reporting year DOE FOIA professionals attended DOJ training as well training provided by the American Society of Access Professionals (ASAP) and the Graduate School.

4. Provide an estimate of the percentage of your FOIA professionals who attended substantive FOIA training during this reporting period.

Approximately 100% of FOIA professionals attended some form of substantive FOIA training during this period.

5. In the 2014 Chief FOIA Officer Report Guidelines, OIP asked agencies to provide a plan for ensuring that core, substantive FOIA training is offered to all agency FOIA professionals at least once each year. Please provide the status of your agency's implementation of this plan.

The Agency's plan was to have the Headquarters' FOIA Office inform all FOIA professionals about the various FOIA trainings provided by USDA, DOJ, ASAP and other outlets. These various training opportunities were discussed during various conference calls. The Field Offices were to provide quarterly reports to Headquarters regarding the professionals who attended FOIA training. These reports were provided during our conference calls with the Field Offices. In addition, DOE required all FOIA professionals to participate in the monthly calls that are conducted to train and advise them on the FOIA. The agency is mindful of budgets and the lack of travel and training money. It is difficult to host major training conferences where majority of the attendees would be on travel and per diem. Thus, the monthly calls are very necessary and quite cost effective.

*Outreach:*

6. Did your FOIA professionals engage in any outreach and dialogue with the requester community or open government groups regarding your administration of the FOIA? If so, please briefly discuss that engagement.

The FOIA Officers and offices continue to routinely reach out to requesters from all communities to discuss FOIA requests in general. This communication consists of clarifying requests, narrowing requests, negotiating fees, pending status and other issues that enable us to process requests more efficiently. Open communication with the requester is a practice that has been and continues to be encouraged as way to keep the requester apprised of our ongoing processing efforts. In several instances we worked with the Office of Government Information Services to foster better communication with the various requesters. We also actively participate in ASAP meetings which allow us to interact with the requester community.

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

N/A

*Discretionary Releases:*

In his 2009 FOIA Guidelines, the Attorney General strongly encouraged agencies to make discretionary releases of information even when the information might be technically exempt from disclosure under the FOIA. OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

8. Does your agency have a distinct process or system in place to review records for discretionary release? If so, please briefly describe this process. If your agency is decentralized, please specify whether all components at your agency have such a process or system in place.

Record holders at all offices of the Department are encouraged to review records and try to ascertain if potentially protectable information under the FOIA, could be released at the DOE's discretion. At the Department, if it is determined by the cognizant office/record holder that responsive information should be protected from release, the documents and rationale for withholding are provided to the Office of General Counsel for review. This potentially protectable information is reviewed to determine if the material meets the threshold of the exemption that is identified. If the information can be protected by the exemption, counsel and the cognizant office/record holders then determine whether there is a justifiable harm in releasing the information. If there is no justifiable harm, counsel, or the FOIA office advises the cognizant office/record holder that release is warranted. Counsel also provides advice regarding discretionary release of information that could otherwise be protected.

9. During the reporting period did your agency make any discretionary releases of information?

Yes.

10. What exemption(s) would have covered the information that was released as a matter of discretion?

Discretionary releases of information were made for documents that could have been withheld under exemption 5 and exemption 7(e).

11. Provide a narrative description, as well as some examples of, the types of information that your agency released as a matter of discretion during the reporting year.

The types of discretionary releases DOE made are as follows: Pre-decisional deliberative discussions regarding Renewable Energy Technologies; Award Fee Performance Evaluations, Contractor Performance Assessment Reports and similar information requested during Source Evaluation Board periods for active solicitations; Historical Operations Security information that would otherwise be sensitive but is of high public interest (FBI reports on investigations in the 1950's of a bombing of the Clinton High

School involving explosives that came from Oak Ridge plants); Older contract negotiation communications; interagency memorandums containing pre-decisional or draft material; Information on Transmission Services and EFW projects meeting materials and other project information important to the public; Information pertaining to a hiring issue identified in 2013; and Internal electronic messages sent between agency staff.

12. If your agency was not able to make any discretionary releases of information, please explain why.

N/A.

*Other Initiatives:*

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

The agency has displayed posters regarding FOIA responsibility. FOIA responsibilities are discussed at Senior staff meetings. The HQ FOIA Officer and staff have met with specific program offices to advise them of their FOIA responsibilities and to provide guidance on a myriad of FOIA issues. Various sites have issued guidance and/or conducted meetings and conference calls with federal and contractor employees to stress the importance of flowing requests for information through to the FOIA office expediently. The importance of comprehensive searches for information, and the importance of proactive disclosing information of public interest are also stressed.

14. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here. If any of these initiatives are online, please provide links in your description.

Our General Counsel and the Director, Office of Management issued a memorandum for all Heads of Departmental Elements on November 7, 2014 that followed up on the Secretary of Energy's FOIA memorandum issued the prior year. The memo reiterated the importance of FOIA and our responsibilities under the FOIA. At the DOE, the FOIA Offices continue to communicate with records holders and subject matter experts on sensitivities contained in responsive documents and the possibility of discretionary release. Legal counsel reviews, and must concur on all withholdings using a FOIA exemption. If it is determined by the cognizant office/record holder that the responsive information should be protected from release by an exemption, the documents and rationale for withholding are provided to counsel for review. Counsel reviews the documents to first determine if the material meets the threshold of the identified exemption. If the information can be protected by an exemption, counsel then determines whether there is a justifiable harm in releasing the information. If there is no justifiable harm, counsel advises the cognizant office/record holder that release is warranted.

We continue to include language in our response letters referencing the Attorney General's memorandum, our commitment to openness and providing as much information (including segregating releasable information) when full disclosure is not possible. DOE has redistributed the President's and Attorney General's guidance on FOIA and transparency to ensure that all are educated.

The Office of Scientific and Technical Information (OSTI) has developed the Department of Energy Public Access Gateway for Energy and Science<sup>Beta</sup> ([DOE PAGES<sup>Beta</sup>](http://www.osti.gov/pages/)). DOE PAGES<sup>BETA</sup> is the DOE portal that makes scholarly scientific publications resulting from DOE research funding publicly accessible and searchable at no charge to users. The URL address for DOE PAGES<sup>Beta</sup> is <http://www.osti.gov/pages/>.

## **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.

### *Personnel:*

1. In the 2014 Chief FOIA Officer Report Guidelines, OIP asked agencies about the status of converting all eligible FOIA professionals to the new Government Information Series. If your agency reported that its staff was eligible for conversion but had not yet converted all professionals to the new series, what is the current proportion of personnel that have been converted?

Ninety percent of all FOIA professionals have been converted to the new job series. The remaining 10% continue to work with their Human Resources Office to determine if the change is applicable.

2. If your agency has not converted all of its eligible employees yet, what is your plan to ensure that all FOIA professionals' position descriptions are converted?

The HQ FOIA Office will work in tandem with the Human Resources office at HQ and with the remaining offices to determine if such conversion is possible.

*Processing Procedures:*

3. For Fiscal Year 2014 what was the average number of days your agency reported for adjudicating requests for expedited processing?

The agency's average time to adjudicate requests for expedited processing was 15 days.

4. 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.

The HQ FOIA Office will conduct a conference call training session for all DOE FOIA offices on responding to requests for expedited processing. We will also monitor DOE's progress on responding timely on a quarterly basis.

5. If your agency had a decentralized FOIA process, has your agency taken steps to make the routing of misdirected requests within your agency more efficient? If so, please describe those steps.

At the agency, if a request is believed to be misdirected to an office, that office will e-mail the request to the office(s) it believes has jurisdiction to review and claim. Once claimed by the appropriate office, a letter is sent to the requester informing them of the transfer. An official transfer memo is also created and the action is transferred by e-mail to eliminate time spent in the United States Postal Service. This also saves substantially on postal fees.

6. If your agency is already handling the routing of misdirected requests in an efficient manner, please note that here and describe your process for these requests.

See above.

*Requester Services:*

7. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration?

Appeal decisions issued by the DOE's Office of Hearings and Appeals include language for the requester regarding the mediation services offered by OGIS. FOIA professionals also contact OGIS or recommend a requester contact OGIS if the agency and the requester are not coming to amenable terms regarding the scope of request, timeliness, fees, and so forth.

8. When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester? For example, does your agency explain the amount of fees attributed to search, review and duplication?

Yes. In letters where fees are applied requesters are provided with a breakdown of the costs per search, review and duplication, including any free time or pages if applicable. Also, our fee estimate letters provide a breakdown of costs per search and review and in some cases duplication when we are able to estimate the number of pages.

9. If fees estimates are particularly high, does your agency provide an explanation for the estimate to the requester?

Yes. If fees are particularly high, we explain to the requester why fees are costly and why search or review time might be extensive. We intend for this to assist the requester in narrowing the scope of the request by time frame, number of individuals that must search, etc...

*Other Initiatives:*

10. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc., please describe them here.

High level meetings to discuss FOIA matters are held between the Chief FOIA Officer, FOIA staff and FOIA Managers and the Office of General Counsel. The FOIA Office continues its monthly status meeting with the Office of General Counsel to resolve pending issues. We continue to communicate and provide suggestions to the contractor on ways to improve the FOIA software utilized at the DOE.

The DOE continues its conference calls with DOE FOIA Officers, during which individual requests, as well as the overall process, are discussed. Our monthly training calls assist in ensuring that FOIA professionals are trained and updated on current procedures. We continue to educate offices on how to conduct searches to decrease the time it takes record holders to locate records. In an effort to eliminate redundancy, we also review our database to determine if previously requested records are responsive to a current request.

### **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 website. 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.

*Posting Material:*

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

The FOIA Office, Office of Public Affairs and the Office of General Counsel discuss FOIA requests, determine which are frequently requested and/or determined to be of greatest interest to the public. Recommendations are provided to the Open Government Team for proactive posting on DOE webpages. We also provide listings of FOIA requests to that office.

2. Does your process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.

Please see above.

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

The agency reviews a list of all FOIA requests received each week to determine what has been requested. The FOIA office also conducts key word searches in the FOIA database to determine how many times something has been requested. FOIA analysts also advise the FOIA officer of frequently requested documents. If documents are requested at least twice it is considered a frequently requested document.

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

At the DOE, we continue to focus on using transformative science and technology solutions to ensure America's security and prosperity. Data is a key ingredient to this mission, which is why we are so excited about the Open Data movement. We believe providing open access to energy data can accelerate the pace of scientific discovery and empower entrepreneurs to build new products and services. We have several exciting ongoing initiatives to increase access and use of our data:

Energy.gov/data continues to provide a central location for information about data released by the DOE. In addition, the DOE posted a department wide data index in .json format that provides metadata and URLs to all public datasets. The data index is available here: <http://energy.gov/data/downloads/open-data-catalogue>.

Over 50 internal Oak Ridge Operations Office documents were reviewed and posted regarding the Transuranic Waste Processing Center (TWPC) in Melton Valley near Oak



Ridge National Laboratory (ORNL) such as cost, safety hazards, etc... were posted at: <http://twpc.oro.doe.gov/documents.aspx>. OSTI's archival collection can be found at [www.osti.gov](http://www.osti.gov). This Web site provides individuals from the general public, other government agencies, DOE, and other entities one-stop service for our gray literature, journal articles, conference proceedings, technical reports, multimedia, books, etc. Information posted at this link may be found on the following topics: Biology and Medicine, Fission and Nuclear Technologies, National Defense, Chemistry, Fossil Fuels, Physics, Energy Storage, Conversion, and Utilization, Geosciences, Power Generation and Distribution, Engineering Materials, Renewable Energy Sources, Environmental Sciences, and Mathematics and Computing.

The EMCBC posted information about its prime contracts at: <https://www.emcbc.doe.gov/About/PrimeContracts>. Additional EMCBC information was posted to: <http://www.wv.doe.gov/> and <http://www.pppo.energy.gov/annual.html>.

Information from the BPA regarding hiring reconstruction reports can be found at: <http://www.bpa.gov/news/pubs/hiring-reconstruction-reports/Pages/default.aspx>.

Information regarding BPA projects can be found at:

<http://www.bpa.gov/Projects/Pages/default.aspx> and

<http://www.salmonrecovery.gov/Home.aspx>. Chicago's list of Purchase Card Holders;

Office of Science (SC) Categorical Exclusion Determinations; SC Acquisition and Assistance Major Contracts Awarded; updated SC Management and Operating Contracts, the Laboratory Appraisal Process, the FY13 and FY14 national laboratory report cards with performance ratings, and information on national laboratory Work for Others and Technology Transfer programs; updated SC Integrated Support Center Organizational Charts were posted to: <http://science.energy.gov/isc/foia/electronic-reading-room/>.

Modifications to the NREL M&O Contract, number DE-AC36-08GO28308 were posted to: <http://www.energy.gov/eere/golden-reading-room-foia-proactive-disclosures-and-contracts>.

Information pertaining to Transmission construction and project planning updates at Western can be found at:

<http://ww2.wapa.gov/sites/Western/transmission/infrastruct/Pages/default.aspx> and

<http://ww2.wapa.gov/sites/Western/transmission/tip/Pages/default.aspx>. Western's news and events can be found at:

<http://ww2.wapa.gov/sites/Western/newsroom/Pages/default.aspx>. Information regarding power rates and hydro conditions are posted at:

<http://ww2.wapa.gov/sites/Western/powerm/hydrocond/Pages/default.aspx> and

<http://ww2.wapa.gov/sites/Western/powerm/pmrates/Pages/default.aspx>. Additional information regarding Western's strategic plan, fiscal year annual report and agency performance targets can be found at:

<http://ww2.wapa.gov/sites/Western/about/Pages/default.aspx>.

Richland's Tri-Party Agreement Milestone changes, budget information, Records of Decision regarding cleanup, progress materials regarding cleanup, letters to regulators, letters to contractors, contractor fee determinations, contract changes, and many more can be found at the following links:

[http://pdw.hanford.gov/arpir/index.cfm/advancedSearch?advanced\\_search=&DocType\\_criteria=TPA%20CHANGE%20NOTICES](http://pdw.hanford.gov/arpir/index.cfm/advancedSearch?advanced_search=&DocType_criteria=TPA%20CHANGE%20NOTICES)

<http://www.hanford.gov/c.cfm/tpa/>

<http://www.hanford.gov/page.cfm/TriParty/TPAProjectManagersLists>

<http://pdw.hanford.gov/arpir/pdf.cfm?accession=0082937H>

<http://www.hanford.gov/news.cfm/DOE/PressFReactonInspection.pdf>

[http://www.hanford.gov/files.cfm/Incentive\\_Fee\\_Determination\\_Summary.pdf](http://www.hanford.gov/files.cfm/Incentive_Fee_Determination_Summary.pdf)

In addition the DOE continues to monitor and update these major data sets on its Open Government Page:

(1) **Deepwater Horizon Response Datasets:** Due to the high level of interest in the oil spill in the Gulf of Mexico, Data.gov is featuring data from the DOE, the Environmental Protection Agency (EPA), the National Oceanic and Atmospheric Administration (NOAA), the Department of the Interior (DOI), and the states of Florida and Louisiana related to the spill, its effects, and the cleanup effort. Data include oil and gas flow and recovery measurements, air and water sample data, oil spill-related exposure information, and other data of interest to scientists, recovery workers and citizens;

(2) **DOE Patents Database:** DOE's central collection of patent information contains bibliographic data for a database of patents resulting from sponsored research by the DOE and predecessor agencies. This data service allows the downloading of bibliographic records in a format that can be used to load the records into other databases or search tools. A request for data returns the first 100 records. See Technical Documentation for instructions on obtaining additional records; and

(3) **Geothermal Technologies Database:** Contains geothermal technical and programmatic reports dating from the 1970's to present day. These "legacy" reports are among the most valuable sources of DOE-sponsored information in the field of geothermal energy technology. This data services allows the downloading of bibliographic records in formats that can be used to load the records into other databases or search tools. A request for data returns the first 25 records. See Technical Documentation for instructions on obtaining additional records.

*Other Initiatives:*

5. If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.

At the Oak Ridge Office, local Site Advisory Board (external) collaborates with us to post environmental-related information; all reviewed documents are sent to the DOE Information Center (DOEIC) in Oak Ridge, which is the public reading facility for the FOIA program at Oak Ridge. They have an online searchable catalog containing our FOIA releases - many full text- going back to 1995. SC has a new Integrated Support Center webpage that houses the Chicago and Oak Ridge joint FOIA website. The website is managed by SC. Several additional pages were added to ensure updated information is routinely available for public viewing. OSTI has developed the Department of Energy Public Access Gateway for Energy and Science<sup>Beta</sup> (DOE PAGES<sup>Beta</sup>). DOE PAGES<sup>BETA</sup> is the DOE portal that makes scholarly scientific publications, resulting from DOE research funding, publicly accessible and searchable at no charge to users.

Richland (RL) recently re-developed a database that is publicly available on the internet that stores approximately 77,000 photos and approximately 131,400 records (photos and reports) of archived Hanford Site documents that have all been approved for public release. The database is called the Declassified Document Retrieval System (DDRS) and has now been integrated with the RL Public Reading Room's catalog. DDRS maintains archived Hanford Site documents including declassified photographs of early Hanford (1943-1960). These World War II and Cold War era photographs depict early Hanford construction and the employees/families that lived and built/operated the Site.

#### **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 describes your agency's efforts in this area.

*Online tracking of FOIA requests:*

1. Can a member of the public track the status of his/her request or appeal electronically?

The Bonneville Power Administration, Southwestern Area Power Administration, Chicago, Richland, Western Area Power Administration, and Golden, are components of the agency have the capability to allow requesters to track their requests electronically by posting information on the webpage. When electronic tracking is unavailable, requesters

can call the service centers to obtain the status of their request. Currently, Headquarters' requesters are unable to track their request electronically. They are, however, provided in the interim assignment letter a name and number to contact regarding their case. Also, we are looking to procure software that would allow most of the agency to allow requesters to submit a request directly to the system and also track the status electronically.

2. If yes, how is this tracking function provided to the public? For example, is it being done through regular posting of status logs, an online portal, or through another medium?

At the components listed above, information provided regularly through updated FOIA lists on their webpages.

3. If your agency does provide online tracking, please describe the information that is provided to the requester through this feature. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review."

Some of the information available depending on the component are the requester name, subject of request, date received, due date, status disposition, closed date, and exemptions cited.

4. If your agency does provide online tracking for requesters, does this feature also provide an estimated date of completion?

The tracking system we utilize does capture the estimated completion date for each case. However, access by the public is not a capability of our current tracking system

5. If your agency does not provide online tracking of requests or appeals, is your agency taking steps to establish this capability? If not, please explain why.

Previously, costs and issues with our software hindered us from procuring such software. The issues with our software have been rectified and the agency has met with the vendor of our current tracking system to identify costs associated with obtaining software to allow for online tracking of FOIA requests. However, costs are still a deciding factor in our decision to procure such software.

*Making Material Posted Online More Useful:*

6. 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?

Steps can include soliciting feedback on the content and presentation of posted material, improving search capabilities on your agency website, posting material in open formats, making information available through mobile applications, providing explanatory material, etc.

Yes.

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

The DOE continues to use the energy.gov platform and third party social media to engage with customers and collect input on data. Specifically, energy.gov/data and energy.gov/developer contains articles and blog posts that may be used to directly seek information from the public in compliance with the Memorandum on Social Media, Web-Based Interactive Technologies, and the Paperwork Reduction Act. In addition, the DOE Web Council is made up of stakeholders across all branches of the complex. The National Labs has expertise that will be invaluable for determining which projects should be prioritized for transparency and impact. We solicit their feedback via email and/or in person meetings. Program offices may use additional means to best engage their specific stakeholders. Metrics are collected in a variety of ways, including web analytics.

Further, DOE remains committed to providing openness and transparency of its data. Energy.gov/data includes targeted features for different groups of data customers. For coders, this resource hub includes featured developer tools such as new Application Programming Interfaces (APIs). There will also be features on popular open datasets and search tools that are valuable for students, regulators, and energy professionals. Government managers of open data, particularly those that are familiar with the Data.gov platform, will soon take advantage of new “federated search” capabilities by leveraging a growing data catalogue.

The Chicago and Oak Ridge Office implemented a joint Chicago-Oak Ridge-Office of Science EFOIA website and electronic FOIA submission which allowed requesters to choose electronically among all Office of Science site and laboratories which might have records. <http://science.energy.gov/isc/foia/>. OSTI developed the Department of Energy Public Access Gateway for Energy and Science<sup>Beta</sup> ([DOE PAGES<sup>Beta</sup>](#)). DOE PAGES<sup>BETA</sup> is the DOE portal that makes scholarly scientific publications, resulting from DOE research funding, publicly accessible and searchable at no charge to users.

Richland is currently developing a records management system for the website that will allow users to search documents by document type. It will also give users a unique URL for the documents that are posted to the website. The external website is undergoing a redesign that will make the entire site mobile friendly. While we haven’t specifically developed an application for document searches – the new search engine will be more “mobile friendly.”

8. 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?

Yes. The FOIA Office and other FOIA professionals routinely discuss with information technology specialists, the Open Government Team, and other communications professionals regarding new ways to post information more efficiently for the public.

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

Yes. See these recent data blog posts and featured energy datasets as examples: <http://energy.gov/data/open-energy-data>. Also, social media is routinely used to publicize data release related activities. OSTI has used multiple methods for increasing public awareness of our dissemination of scientific and technical information. These methods include social media, blogging, and traditional media outlets. At Hanford, important documents are also highlighted on the front "In the News" section of the website, on social media, or are included in promotional e-mails/press releases to the public.

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

Yes.

11. If so, please briefly explain what those challenges are.

There remains a concern that a lack of coordination from a central organization could lead to a mosaic affect with non-DOE datasets (e.g., we are concerned that a dataset at DOE could be combined with a dataset from another agency to create a PII issue). Additionally, the resources needed to minimize a mosaic affect is a challenge as are the resources needed to ensure only appropriate documents are posted online.

*Use of technology to facilitate processing of requests:*

12. 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, describe the technological improvements being made.

Yes. The Office of Document Reviews (ODR) in the Office of Classification is able to conduct review and redaction electronically, and can distribute the bracketed and redacted versions electronically within the DOE complex. Also they can distribute electronically declassified redacted versions via email to all agencies. That office is also

working on IT tools to identify classified information within classified documents to assist the document review process; cut cost and increase quality. During 2015 ODR will attempt to establish electronic links with other agencies to coordinate classified consultations and referrals to other agencies.

The Office of Classification and the Office of the Chief Information Officer (OCIO) continue to work on improving our capabilities to transport large classified and unclassified files (up to about 2 GB) over existing networks between Headquarters and field components. The DOE FOIA Office is also arranging to conduct a software demo that will allow us to sort, de-duplicate and redact documents. We are hoping that this product assists greatly in the reduction of time to process requests. Due to software issues and budget constraints we were unable to conduct the demo.

The EMCBC implemented a document sharing platform to more easily share records for a particular site and eliminate the time spent mailing records back and forth. Savannah River Office is currently evaluating software that will sort and de-duplicate documents due to FOIA and eDiscovery requirements.

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

We are currently looking at technologies that would expand our search capabilities. We believe a technological tool of this nature would make our FOIA process more efficient.

*Other Initiatives:*

14. Did your agency successfully post all four quarterly reports for Fiscal year 2014?

Yes.

15. 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 2015.

N/A.

16. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible?

Yes, the DOE continues to communicate with requesters by e-mail. Our communications may concern status of request, discussion of fees, need to clarify or narrow scope, provide responses, and so forth. It is a preferred method at the DOE as it is more time efficient to communicate by e-mail rather than ground mail.

17. If your agency does not communicate electronically with requesters as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such limitations?

N/A.

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

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section 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 those contained in the specified sections of your agency's 2014 Annual FOIA Report and, when applicable, your agency's 2013 Annual FOIA Report.*

#### *Simple Track Requests:*

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.

2. If so, for your agency overall, for Fiscal Year 2014, was the average number of days to process simple requests twenty working days or fewer?

No.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2014 that were placed in your simple track?

Sixty nine percent of FOIA requests processed by the agency in Fiscal Year 2014 were processed in the simple track.

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?

N/A.



*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 2014, did that backlog decrease as compared with Fiscal Year 2013?

Yes. The DOE achieved a 22% decrease in the number of backlogged from 438 in FY2013 to 341 in FY2014.

6. 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 2014.

The DOE received 2,219 requests in FY2014. Our backlog at the end of FY2014 was 341. Thus, the backlog at the end of FY2014 was 15% of the total requests received.

*Backlogged Appeals:*

7. If your agency had a backlog of administrative appeals in Fiscal Year 2014, did that backlog decrease as compared to Fiscal Year 2013?

No. At the end of FY2013 there were three backlogged appeals. At the end of FY2014 there were five backlogged appeals. These cases all involve classified records.

8. 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 2014. If your agency did not receive any appeals in Fiscal Year 2014 and/or has no appeal backlog, please answer with "N/A".

The DOE received 79 appeals in FY2014. The appeal backlog at the end of FY2014 was 5. Thus, the appeal backlog at the end of FY2014 was 6 % of the total appeals received.

*Backlog Reduction Plans:*

9. In the 2014 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 request in Fiscal Year 2013 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 the plan and not if your agency was able to achieve backlog reduction in Fiscal Year 2014?

N/A.

10. If your agency had a backlog of more than 1000 requests in Fiscal Year 2014, what is your agency's plan to reduce this backlog during Fiscal Year 2015?

N/A.

*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 2013 and Fiscal Year 2014 when completing this section of your Chief FOIA Officer Report.

#### *Ten Oldest Requests*

11. In Fiscal Year 2014, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2013 Annual FOIA Report?

No.

12. 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 2013 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that. For example, if you only had seven requests listed as part of your "ten oldest" in Section VII.E. and you closed two of them, you should note that you closed two out of seven "oldest" requests.

The agency completed one of its ten oldest cases from the FY2013 report.

13. 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?

The request that was closed was not withdrawn.

#### *Ten Oldest Appeals*

14. In Fiscal Year 2014, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2013 Annual FOIA Report?

No.

15. If no, please provide the number of these appeals your agency was able to close, as well as the number of appeals your agency had in Section VI.C.(5) of your Fiscal Year 2013 Annual FOIA Report.

In the FY2013 Annual FOIA Report we reported a total of nine backlogged appeals. Seven of those appeals were completed during FY2014.

*Ten Oldest Consultations*

16. In Fiscal Year 2014, did your agency close the ten oldest consultations received by your agency and pending as of the end of Fiscal Year 2013 Annual FOIA Report?

Yes.

17. If no, please provide the number of these consultations your agency did close, as well as the number of pending consultations your agency listed in Section XII.C. of your Fiscal Year 2013 Annual FOIA Report.

N/A.

18. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2013.

Requesters continue to ask for any and all records. The subjects of the requests typically are complex in nature, classified, or may require searches and reviews by multiple components or agencies. The requests also may involve a voluminous amount of material. Moreover, budget considerations across the DOE continue to affect the ability of other programs to hire personnel dedicated to, and experienced in, processing FOIA cases. With the exception of the HQ FOIA Office and a handful of other offices, most personnel processing FOIA cases within the DOE do so as a collateral duty.

19. 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.

N/A.

20. If your agency did not close its ten oldest pending requests, appeals, and consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2015.

The agency continues to monitor on a weekly basis the ten oldest cases. We will continue to meet on a monthly basis with the offices processing those requests to determine status and any issues that are affecting the closure of these cases. We have been advised by the office with the ten oldest that they have hired additional staff to reduce their backlog and to strive to close these cases by July 2015 barring any unforeseen issues.

*Interim Responses:*

OIP has issued guidance encouraging agencies to make interim releases whenever they are working on requests that involve a voluminous amount of material or require searches in multiple locations. By providing rolling releases to requesters agencies facilitate access to the requested information.

21. Does your agency have a system in place to provide interim responses to requesters when appropriate?

Yes. The DOE encourages interim responses to requesters. The DOE Headquarters and field sites, with the exception of the NNSA, issue partial responses whenever possible. By providing partial responses a requester is aware that his/her case is proactively being processed. This fosters a positive relationship with the requester community. Moreover, by issuing partial responses you can gauge a requester's continued interest in pursuing the remainder of the case. In other words, some requesters determine or realize the information they requested is either no longer needed or not what they were actually seeking.

22. If your agency had a backlog in Fiscal Year 2014, 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.

We estimate that partial responses have been made in at least 50% of the backlogged cases.

**Use of FOIA's Law Enforcement "Exclusions"**

In order to increase transparency regarding the use of the FOIA's statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to "treat the records as not subject to the requirements of [the FOIA]," 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

1. Did your agency invoke a statutory exclusion during Fiscal Year 2014?

No.

2. If so, what was the total number of times exclusions were invoked?

N/A.

### **Spotlight on Success**

Out of all the activities undertaken by your agency since March 2014 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 a key achievement. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

- The DOE has continued to address its backlogged cases that have been by engaging senior leadership at DOE and other agencies, as necessary. As a result, we were able to reduce our backlog by 22% in FY2014.
- The DOE continues to test resources that transmit large volumes of classified documents electronically. This effort will improve processing times for cases involving certain types of classified records.
- The Office of Scientific and Technical Information (OSTI) has developed the Department of Energy Public Access Gateway for Energy and Science<sup>Beta</sup> ([DOE PAGES<sup>Beta</sup>](#)). DOE PAGES<sup>BETA</sup> is the DOE portal that makes scholarly scientific publications resulting from DOE research funding publicly accessible and searchable at no charge to users. The URL address for DOE PAGES<sup>Beta</sup> is <http://www.osti.gov/pages/>.
- [Energy.gov/data](http://energy.gov/data) continues to provide a central location for information about data released by the DOE. In addition, the DOE posted a department wide data index in .json format that provides metadata and URLs to all public datasets. The data index is available here: <http://energy.gov/data/downloads/open-data-catalogue>.