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DEPARTMENT OF ENERGY

2021 CHIEF FREEDOM OF INFORMATION ACT (FOIA) OFFICER REPORT

Ingrid Kolb, Director, Office of Management

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Section I: Steps Taken to Apply the Presumption of Openness

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

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

A. FOIA Leadership

1.   **The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at least at the Assistant Secretary or equivalent level. See 5 U.S.C. § 552(j)(1) (2018). Is your agency's Chief FOIA Officer at or above this level?**

   Yes.

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

   Ms. Ingrid Kolb, Director, Office of Management.

B. FOIA Training

3.   **The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. See 5 U.S.C. § 552(a)(j)(2)(F). Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.**

   At the direction of the Chief FOIA Officer, the Department's FOIA Office provides training on the FOIA program to agency employees. Employees are also made aware of and urged to take advantage of FOIA training provided by DOJ and the American Society of Access Professionals. For example, the Department of Energy's (DOE) Chicago Office conducted a virtual comprehensive FOIA overview to 40 legal interns in their General Counsel's office. The training included hypothetical FOIA cases to analyze and to comment on the potential applicability of FOIA exemptions.

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

   Yes.

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

   DOE FOIA professionals attended DOE-led training on FOIA exemptions, processing, searching for records and a wide-variety of FOIA-related topics. In addition, some attended the following virtual DOJ-led trainings: *FOIA for Attorneys and Access Professionals; Introduction to the FOIA; Exemption 5 Workshop; Exemption 4 Workshop; FOIA Litigation Workshop* and *FOIA/Privacy Act Interface,* as well as, training on the *FOIA-Privacy Act* conducted by the American Society of Access Professionals.

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

   Approximately 80 percent of FOIA professionals attended some form of substantive FOIA training during this reporting period.

7. **The Office of Information Policy (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.**

   DOE continues to provide cost-effective FOIA training via teleconference and video teleconference. DOE also continues to take advantage of the free training provided by DOJ. In addition, DOE encourages our FOIA professionals to share best practices in order to further develop their expertise in complying with the FOIA statute and case law.

C. **Outreach**

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

Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency's FOIA administration.

DOE FOIA professionals continue to reach out to requesters to discuss topics and issues concerning their FOIA requests and to direct them to Agency webpages devoted to posting current information on various programs, topics, or issues. For example, the Carlsbad Field Office maintains a public webpage titled "Hazardous Waste Facility Permit Community Relations Plan" which provides the public with background information specific to the Hazardous Waste Facility permit. In addition, to promote open dialogue, various organizations within DOE use social media to provide the public with access current information and updates. These forums provide a valuable opportunity for DOE to share information and answer questions on issues of interest to the public, media and other stakeholders; explain the purpose and scope of the FOIA statute, and describe the process DOE uses to comply with disclosure requirements, including exemptions.

D. Other Initiatives

9. **Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff.**

   DOE continues to make every effort to provide training and information to its non-FOIA professionals. All FOIA training is open to and attended by non-FOIA professionals. Non-FOIA professionals who attend this training typically include senior managers and record holders. The training is focused on their obligations under the FOIA and covers the presumption of openness, explains the application of the various exemptions, and shares the requirement to conduct adequate and timely document searches. Most of DOE's site offices provide an overview of the FOIA process as well as information about the record holders responsibilities to conduct reasonable searches and of record retention policies. For example, DOE's Chicago Office conducted FOIA training for new Management and Operating contractor staff which emphasized the need for detailed searches of agency records.

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

    At DOE, our review process continues to include the Office of the General Counsel (GC) which must concur on all withholdings using a FOIA exemption. If a record holder has identified information that should be protected from release by an exemption, the FOIA

Office and GC review the documents to determine if the threshold of the identified exemption is met and whether there is a justifiable harm if released. If the Department cannot identify a justifiable harm in release, the record holders are advised that release is warranted, and the presumption of openness prevails.

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

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

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

1. **For Fiscal Year 2020, 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 2020 Annual FOIA Report.**

   The Department's average number of days to adjudicate requests for expedited processing was 9.2 days.

2. **If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.**

   N/A.

3. **During the reporting period, did your agency conduct a self-assessment of its FOIA program? If so, please describe the methods used, such as reviewing Annual Report or raw data, using active workflows and track management, reviewing and updating processing procedures, etc.**

   The Department continuously looks for ways to improve the FOIA process. For example, the Headquarters (HQ) FOIA Office reviewed its process to identify needed improvements. As a result of its review, HQ FOIA identified additional words and phrases that will provide the most responsive pool of records for a request and streamlined its process of collecting, analyzing, and responding to FOIA requests. Some DOE sites used the DOJ

FOIA Self-Assessment Toolkit and the National Archives and Records Administration 2016-2018 FOIA Advisory Committee Final Report and Recommendations to evaluate program performance and identify best practices.

Additional initiatives to improve the FOIA process vary from site to site. Examples include: conducting bi-monthly meetings to review past performance and current performance metrics as well as creating checklists and reviewing procedures.

4. **Standard Operating Procedures (SOPs): Having SOPs can improve the consistency and quality of agency's FOIA process. In addition, describing any agency's standard practices for handling FOIA requests on agency FOIA websites can help requesters better understand how their request will be handled.**

   a) Does your agency have SOP's that outline the general processes for handling FOIA requests and appeals?

   DOE HQ has a flowchart with the steps to process a FOIA request. Various sites have an SOP that outlines the general process for handling FOIA requests.

   b) If not, does your agency have plans to create FOIA SOPs?

   The sites that do not have one will be asked to consider creating one to assist employees who process requests as well as to share with the public how requests are processed at that location.

   c) If yes, how often are they reviewed/updated to account for changes in law, best practices, and technology?

   Sites that have a FOIA SOP review them periodically to determine if changes are necessary.

   d) In addition to having SOPs, does your agency post or otherwise describe your standard process for handling requests on your website?

   Various sites maintain information on their websites regarding the standard process for handling FOIA requests.

5. **The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of how often requesters sought assistance from your agency's FOIA Public**

Liaison during FY 2020 (please provide a total number or an estimate of the number).

The FOIA Public Liaisons have been contacted approximately 23 times this past year.

6. **Does your agency frequently receive common categories of first-party requests? If so, please describe the type of requests and if your agency has explored establishing alternative means of access to these records outside of the FOIA process?**

   DOE's Bonneville Power Administration frequently received requests from both internal and external individuals seeking records related to hiring and promotion actions. These requests were processed as both Privacy Act and FOIA requests.

7. **The FOIA Improvement Act of 2016 required all agencies to update their FOIA regulations within 180 days. Has your agency updated its FOIA regulations in accordance with the FOIA Improvement Act of 2016? If not, what is your agency's plan to update your regulation?**

   The Department issued its updated regulation within the 180-day timeframe.

8. **Please explain how your agency worked to mitigate the impact of the COVID-19 pandemic on FOIA processing. Examples could include, but are not limited to: altering workflows, implementing new technology, providing notices and instructions or otherwise communicating directly with requesters.**

   At the beginning of the pandemic, DOE FOIA Offices updated their FOIA webpages to advise all requesters to send FOIA requests electronically since FOIA personnel were working remotely and would not be onsite to receive mail or facsimiles. Other examples varied across the Department and included: 1) creating restricted access folders and drives to conveniently share information between subject matter experts, FOIA professionals and legal counsel; 2) utilizing digital signatures; 3) using shared drives to provide access to various FOIA offices to conduct reviews of documents; and 4) advising requesters of issues or delays due to limited access to records.

9. **Optional – Please describe:**

   - **Best practices used to ensure that your FOIA system operates efficiently and effectively**

   - **Any challenges your agency faces in this area.**

The Chief FOIA Officer, FOIA Officer, and GC continue their best practice of conducting periodic meetings to discuss FOIA matters and ways to resolve. Additionally, the FOIA Office continues to meet monthly with GC to resolve pending issues and improve efficiency. The FOIA Office also meets with program offices to ensure effective and timely searches are being conducted and that training is provided, whenever needed.

Across the Department, sites continue to utilize the following best practices: 1) ensuring FOIA Office and legal staff are fully trained on FOIA processing; 2) utilizing a notification and FOIA status log process to ensure operational efficiency when staffing challenges arise; 3) reviewing and refining FOIA processing checklists to ensure efficiency; 4) communicating with requesters early in the process and documenting any changes or clarifications by the requester; 5) reviewing letter and response templates to ensure they meet the FOIA requirements and to expedite responses; and 6) using shared drives whenever possible to help facilitate reviews.

Challenges at the Department vary and include: limited staffing resources at some sites or FOIA staff operating in multiple job roles, obtaining records from document holders in a timely manner, reviewing and responding to broad requests seeking voluminous material, and processing highly complex FOIA requests that result in thousands of responsive documents, including classified material.

Section III: Steps Taken to Increase Proactive Disclosures

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

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

1. **Provide examples of any material that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or more times in accordance with 5 U.S.C.§ 552(a)(2)(D). Please include the links to these materials as well.**

    Examples of material disclosed by the DOE during the past reporting year are listed below. In addition, during FY 2021, DOE HQ will improve transparency by launching an initiative to significantly expand the proactive disclosure of agency documents. These documents will be posted in DOE's online FOIA Reading Room.

- The Office of Science's Consolidated Support Center (CSC) (which includes the Chicago and the Oak Ridge FOIA Offices) continued to post such information at: https://science.osti.gov/isc/foia/electronic-reading-room/. Additionally, SC proactively posted SC NEPA documents including Environmental Assessments and Impact statements and categorical exclusion determinations at: https://science.osti.gov/ssp/NEPA-Documents and major contracts that have been awarded at: https://science.osti.gov/csc/Services/Acquisition-and-Assistance/Major-Contracts-Awarded, and documents of interest to potential offerors for open solicitations at (FBO.gov).

- The Hanford site at the Richland Operations Office launched an updated Hanford Site Administrative Record/Public Information Repository at https://pdw.hanford.gov/ The new website provides the ability to search the full text of documents in its collection.

- WIPP's specific outreach efforts continue to include updates to the following:

  ❖ Permit-related documents pertaining to the *Resource Conservation and Recovery Act (RCRA)*. http://www.wipp.energy.gov/library/Information_Repository.htm

  ❖ Information on the Hazardous Waste Facility Permit Community Relations Plan. http://www.wipp.energy.gov/Community-Relations-plan.asp

- The Strategic Petroleum Reserve continues to post environmental documents, Management and Operating (M&O) contract information, documents related to current and archived oil sales, crude oil assays for each site and safety data sheets for types of oil. These can be found at www.spr.doe.gov/default.htm.

- The Environmental Management Consolidated Business Center posted copies of prime contracts at https://www.emcbc.doe.gov/About/PrimeContracts.

- The Southeastern Power Administration posted documents regarding Power Rate Schedules at https://www.energy.gov/sepa/services/rate-schedules.

- The Bonneville Power Administration (BPA) continued to post records requested under the FOIA on its public FOIA requests library at: https://www.bpa.gov/news/FOIA/library/pages/default.aspx.

  BPA also continued to add frequently requested information to its public website at: https://www.bpa.gov/news/FOIA/Pages/Frequently-Requested-Information.aspx

- The Western Area Power Administration's proactive disclosures can be found at: https://www.wapa.gov/About/the-source/Pages/the-source.aspx

- The National Nuclear Security Administration (NNSA) proactively posted performance evaluation reports at: https://www.energy.gov/nnsa/leadership-and-offices/acquisition-and-project-management. In addition, NNSA posted copies of M&O contracts at: https://www.energy.gov/nnsa/leadership-and-offices/acquisition-and-project-management.

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

Yes.

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

Examples of DOE's continued engagement with the public include:

DOE Feedback/Contact: DOE provides email links for general inquiries at http://energy.gov/contact-us. It also has a feedback mechanism wherein the public can select a topic and provide a specific message to access expert assistance. This feature provides the option to request or decline a reply.

Open Data Feedback: DOE provides an email link on http://energy.gov/data/open-energy-data for Open Data general questions.

DOE Social Media: DOE also provides Facebook, Twitter, and email at http://energy.gov/data/articles/digital-strategy for interactive communications on Open Data, digital strategy, and data.

4. **Optional. Please describe:**

- **Best practices used to improve proactive disclosures**

- **Any challenges your agency faces in this area.**

A best practice used to improve proactive disclosures is advising record holders to consider proactively disclosing information that is repeatedly sought under FOIA. Another best practice is working with webpage owners to track both the number of visitors on their website and the content being visited. Proactively disclosing updates to content eliminates the need for new FOIA requests.

<u>**Section IV: Steps Taken to Greater Utilize Technology**</u>

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. **Please briefly describe the types of technology your agency uses to support your FOIA program. In addition, please highlight if your agency is leveraging or exploring any new technology that you have not previously reported. If so, please describe the type of technology.**

   DOE continues to leverage technology to administer FOIA through its prior purchase of e-discovery software and continues to learn the nuances of the software to effectively automate the process of identifying duplicate documents. DOE is also working to ensure that the software to link DOE's in-house FOIA software to DOJ's FOIA portal is online by the requested deadline. This link will provide requesters with a one place to send a FOIA request to multiple agencies. In addition, various sites use their Information Technology team to conduct email and discovery searches. Other technology being leveraged is the use of SharePoint software to set up document libraries as a means of collaborating with other Agencies on similar FOIA requests and coordinating responses. Legal Hold and eDiscovery are also used at a site for the collection and review of requested information.

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

   Yes, the FOIA websites are reviewed regularly to address elements noted in the guidance.

3. **Did your agency successfully post all four quarterly reports for FY 2020?**

   No.

4. **If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2021.**

There was an issue with the weblink. However, this has been corrected and we have worked with the DOJ Office of Information Policy to ensure that future reports will be accessible.

5. **The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2020 Annual FOIA Report, and if available, for your agency's Fiscal Year 2019 Annual FOIA Report.**

The link to DOE's raw statistical data used to complete the 2020 Annual FOIA Report can be found at the following: https://www.energy.gov/management/office-management/operational-management/freedom-information-act/documents/annual-reports

6. **Optional. Please describe:**

- **Best practices used in greater utilizing technology**

- **Any challenges your agency faces in this area.**

N/A

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 FY 2019 and 2020 Annual FOIA Reports.

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, DOE uses a separate track for simple requests.

2. **If your agency uses a separate track for simple requests, according to the Annual FOIA Report section VII.A, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2020?**

    No.

3. **Please provide the percentage of requests processed by your agency in Fiscal Year 2020 that were placed in your simple track. Please use the following calculation based on the data from your Annual Report: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) x 100.**

    Approximately 63% of the FOIA requests processed by DOE in Fiscal Year 2020 were processed as simple requests.

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.

B. Backlogs

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

BACKLOGGED REQUESTS

5. **If your agency had a backlog of requests at the close of Fiscal Year 2020, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2019?**

    No.

6. **If not, did your agency process more requests during Fiscal Year 2020 than it did in Fiscal Year 2019?**

   No.

7. **If your agency's request backlog increased during Fiscal Year 2020, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:**

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

   The Department did not decrease its backlog this fiscal year. This is due in part to multiple litigations, and the increased volume of requests asking for any and all communications, all e-mail communications for multiple individuals spanning multiple years.

8. **If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2020. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. If your agency has no request backlog, please answer with "N/A."**

   DOE received 1,453 requests in FY 2020. Our backlog at the end of FY 2019 was 554. Thus, the backlog at the end of FY 2020 was 38% of the total requests received.

BACKLOGGED APPEALS

9. **If your agency had a backlog of appeals at the close of Fiscal Year 2020, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2019?**

   No, at the end of FY 2019, there were 11 backlogged appeals. At the end of FY 2020, there were 13 backlogged appeals.

10. **If not, did your agency process more appeals during Fiscal Year 2020 than it did during Fiscal Year 2019?**

   Yes.

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

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

   Several of the appeal cases involved requests for classified records which required internal classification review and external coordination with multiple agencies.

12. **If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2019. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received from Section VI.A) x 100. If your agency did not receive any appeals in Fiscal Year 2020 and/or has no appeal backlog, please answer with "N/A."**

   DOE received 47 appeals in FY 2020. The appeal backlog at the end of FY 2020 was 13. The appeal backlog at the end of FY 2019 was 28% of the total appeals received.

C. Backlog Reduction Plans

13. **In the 2021 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2019 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 2020?**

   N/A

14. **If your agency had a backlog of more than 1,000 requests in Fiscal Year 2020, what is your agency's plan to reduce this backlog during Fiscal Year 2021?**

   N/A

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 2019 and Fiscal Year 2019 when completing this section of your Chief FOIA Officer Report.

OLDEST REQUESTS

15. **In Fiscal Year 2020, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2019 Annual FOIA Report?**

   No.

16. **If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E. of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.**

   DOE completed five of its ten oldest cases from the FY 2019 report.

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

   At Headquarters, the FOIA team continues to discuss cases and determine next steps, issues, and strategies to process cases more efficiently. This requires additional communication with requesters to narrow the scope and timeframe of requests as well as minimize keywords that trigger voluminous responsive documents

TEN OLDEST APPEALS

18. **In Fiscal Year 2020, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2019 Annual FOIA Report?**

   No.

19. **If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2019 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.**

In the FY 2019 Annual FOIA Report, the Department reported a total of 11 backlogged appeals. These appeals were not completed during FY 2020.

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

The oldest appeals involve classified records which normally require coordination with other agencies. However, most appeals that do not involve any classified records are processed within the 20-day timeframe.

TEN OLDEST CONSULTATIONS

21. **In Fiscal Year 2020, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2018 Annual FOIA Report?**

No.

22. **If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2018 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.**

In FY 2020, we closed five of the ten oldest pending consultations from FY 2019.

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

23. **Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2018.**

The foremost obstacle continues to be the continuous receipt of requests for any and all records related to a subject, records that are complex, classified, or may require searches and reviews by multiple components or agencies. Additionally, high turnover in experienced staff has been an issue.

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

   N/A.

25. **If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2021.**

   The Department will continue to monitor the ten oldest cases weekly and will discuss those cases with the offices processing the requests to determine the status and any issues that are affecting the closure.

F. Success Stories

Out of all the activities undertaken by your agency since March 2020 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas. As noted above, these agency success stories will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

- One of the Department's success stories was our ability to transition to maximum telework due to COVID-19. With the assistance of IT offices across the Department, FOIA offices were able to make this transition with minimal issues and impediments to our requester community.
- In addition, the large-scale scanning project at DOE's Hanford site in Washington State has continued to make a significant contribution by digitizing and indexing legacy records. During FY 2020, the project successfully scanned 5,877,844 pages/images comprised of paper and microfiche.