

DEPARTMENT OF ENERGY

2023 CHIEF FREEDOM OF INFORMATION ACT (FOIA) OFFICER REPORT

Ingrid Kolb, Director, Office of Management

Section I: FOIA Leadership and Applying the Presumption of Openness

The guiding principle underlying the Department of Justice’s (DOJ) [FOIA Guidelines](#) is the presumption of openness. The Guidelines also highlight the importance of agency leadership in ensuring effective FOIA administration.

Please answer the following questions about FOIA leadership at your agency and describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.

A. Leadership Support for FOIA

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

Yes.

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

Ms. Ingrid Kolb, Director, Office of Management.

- 3. What steps has your agency taken to incorporate FOIA into its core mission? For example, has your agency incorporated FOIA milestones into its strategic plan?**

FOIA goals are incorporated into the metrics for the Office of Management’s performance.

B. Presumption of Openness

- 4. The Attorney General’s 2022 FOIA Guidelines provides that “agencies should confirm in response letters to FOIA requesters that they have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.” Does your agency provide such confirmation in its response letter?**

Yes.

5. In some circumstances, agencies may respond to a requester that it can neither confirm nor deny the existence of requested records if acknowledging the existence of records would harm an interest protected by a FOIA exemption. This is commonly referred to as a *Glomar* response. With respect to these responses, please answer the below questions:

a. In addition to tracking the asserted exemption, does your agency specifically track whether a request involved a *Glomar* response?

No, this information is not tracked for the Department.

b. If yes, please provide:

i. the number of times your agency issued a full or partial *Glomar* response (separate full and partial if possible);

N/A.

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

N/A.

c. If your agency does not track the use of *Glomar* responses, what would your agency need to do to track in the future? If possible, please describe the resources and time involved.

To track electronically, we would have to ask the vendor of the electronic software we utilize to track FOIA requests if they could update the system to track that information or if we would need to track this information manually.

6. **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. Record holders are asked to advise on sensitive information contained in documents that should be protected.

Record holders are also asked to articulate the harm that would be caused if the information were to be released. The FOIA Office and GC then review the documents to determine if the threshold of the identified exemption is met and whether there is a justifiable harm. 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: Ensuring Fair and Effective FOIA Administration

The Attorney General's FOIA Guidelines provide that "[e]nsuring fair and effective FOIA administration requires...proper training, and a full understanding of FOIA obligations by the entire agency workforce." The Guidelines reinforce longstanding guidance to "work with FOIA requesters in a spirit of cooperation." The Attorney General also "urge[s] agency Chief FOIA Officers to undertake comprehensive review of all aspects of their agency's FOIA administration" as part of ensuring fair and effective FOIA administration.

A. FOIA Training

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

Under the leadership of the Chief FOIA Officer, the Department's FOIA Office continues to provide training on the FOIA program to agency employees. The training covers FOIA process, application of exemptions, and employees' responsibilities under the FOIA. FOIA training provided by the DOJ and the American Society of Access Professionals (ASAP) is recommended to employees as a source of training. In addition, the three DOJ FOIA training modules were uploaded to the learning nucleus at the Department for employees.

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

Yes.

- 3. 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 Summit for Agency Professional*; *FOIA Litigation Workshop*; *FOIA Continuing Education*; *Procedural Requirements and Fees*; *Exemption 4 and 5*; and *Introduction to the FOIA*. DOJ also provided training on *Advanced Procedural Requirements*; *Significant New Decisions*; and *FOIA – PA Interface*

for DOE HQ FOIA professionals and the Office of Hearings and Appeals. Some employees also had training on the *FOIA-Privacy Act* conducted by the American Society of Access Professionals and a virtual class on the *FOIA and Privacy Act* offered by the USDA Graduate School.

4. 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% of FOIA professionals attended some form of substantive FOIA training during this reporting period.

5. DOJ's 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.

N/A.

6. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff; and if senior leaders at your agency received a briefing on your agency's FOIA resources, obligations, and expectations during the FOIA process?

The Chief FOIA Officer continued to brief senior leaders regarding FOIA matters and what is required of the department with regard to FOIA. DOE continued to make every effort to provide training and information to its non-FOIA professionals in various program offices. New employees including senior staff and records holders receive FOIA training. 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 Bonneville Power Administration (BPA) Office provided information on their employee website that described the FOIA statute, the agency's obligations to comply with FOIA, and employee responsibilities is identified as a

record custodian. The Strategic Petroleum Reserve (SPR) Office provides a FOIA overview as requests are assigned to staff. The Chicago Office continued to provide FOIA training for new Management and Operating contractor staff, which emphasized the need for detailed searches of agency records. The Chicago FOIA Officer also conducts monthly virtual discussions with national laboratory record holders and legal staff regarding their maintenance of, and ability to make available, federal government records in response to FOIA requests. The Environmental Management Consolidated Business Center (EMCBC) briefed all new employees on their responsibilities under the FOIA.

B. Outreach

- 7. 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 commonly 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. To promote open dialogue, various organizations within DOE use social media to provide the public with access to current information and updates. These forums continue to provide a valuable opportunity for DOE to share information and answer questions on issues of interest to the public, media, and other stakeholders and explain the purpose and scope of the FOIA statute and how DOE administers the FOIA program.

- 8. As part of the standard request process, do your FOIA professionals proactively contact requesters concerning complex or voluminous requests in an effort to clarify or narrow the scope of the request so requesters can receive responses more quickly? Please describe any such outreach or dialogue, and, if applicable, any specific examples.**

Yes. FOIA professionals routinely contact requesters to discuss their requests in an effort to clarify or modify the request. These efforts are important to the FOIA process. The communications help us determine what specifically a requester is seeking and also assists in narrowing the scope and time frame of requests in an effort to be able to respond more timely. For example, when searches for requests result in voluminous potentially responsive records, requesters are contacted to further narrow the scope or determine what is a priority for a requester in terms of responsive documents.

- 9. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency’s FOIA Public Liaison. Please provide an estimate of how often requesters sought assistance from your agency’s FOIA Public Liaison during FY 2022 (please provide a total number or an estimate of the number).**

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

C. Other Initiatives

- 10. Has your agency evaluated the allocation of agency personnel resources needed to respond to current and anticipated FOIA demands? If so, please describe what changes your agency has or will implement.**

Yes. The Department has evaluated its FOIA resources needed to respond to current and anticipated FOIA demands. For example, at HQ a review of its FOIA program and processes was conducted. One of the areas reviewed was staffing to determine if additional staff was necessary to respond to FOIA requests. The BPA office, after evaluating their personnel resources, posted a vacancy for a new FOIA program lead. Other DOE sites are considering hiring additional contractor staff to meet the demands in their offices, while others have determined that current staffing is adequate at this time.

- 11. How does your agency use data or processing metrics to ensure efficient management of your FOIA workload? For example, case management reports, staff processing statistics, etc. In addition, please specifically highlight any data analysis methods or technologies used.**

The Department uses its electronic tracking system and other methods to determine disbursement of workload and to track where cases are in the process. For example, at HQ weekly and monthly meetings between expeditors and staff are held to discuss the progress of cases, and ideas to resolve case issues to expedite closure. The BPA uses a FOIA tracking log in SharePoint and meets weekly to review the processing data for open cases to identify processing time, processing roadblocks, and means to allocate additional resources to speed up processing times. At NNSA, weekly reports are sent to the FOIA Officer and senior management to assess progress. These stats are used by the FOIA Officer to create and update backlog closure plans.

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

Meetings are held periodically with the Chief FOIA Officer, FOIA Officer, and GC to discuss FOIA matters, issues, and ways to resolve. Additionally, the FOIA Office continues to meet monthly with GC to resolve pending issues and improve efficiency. FOIA staff also meet with program offices to ensure effective and timely searches are being conducted. Training is also provided when necessary to facilitate more challenging requests.

Section III: Proactive Disclosures

The Attorney General’s FOIA Guidelines emphasize that “proactive disclosure of information is ... fundamental to the faithful application of the FOIA.” The Guidelines direct agencies to post “records online quickly and systematically in advance of any public request” and reiterate that agencies should post records “in the most useful, searchable, and open formats possible.”

1. Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures.

FOIA personnel review logs of FOIA requests to determine topics and documents of interest and work closely with subject matter experts and record holders to identify material of interest to the public that would be beneficial to post proactively.

2. 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.

- The BPA continued to post records requested under the FOIA on its public FOIA requests library at: [FOIA Requests Library - bpa\(bpa.gov\)](https://www.bpa.gov/foia-requests).

BPA also continued to add frequently requested information to its public website at: [Frequently Requested Information - Bonneville Power Administration \(bpa.gov\)](https://www.bpa.gov/frequently-requested-information).

- The National Nuclear Security Administration (NNSA) proactively posted the 2022 Nuclear Posture Review at: <https://media.defense.gov/2022/Oct/27/2003103845/-1/-1/1/2022-National-Defense-Strategy-NPR-MDR.pdf>.

- The SPR continues to post environmental reports, information related to drawdown sales and exchange information, Management and Operating (M&O) contract information, and Support Services Contractor Information. These can be found at [Strategic Petroleum Reserve - United States Department of Energy \(doe.gov\)](https://www.doe.gov).
 - 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/csc/foia/electronic-reading-room/>. Additionally, the Office of Science (SC) proactively posted SC National Environmental Policy Act documents including environmental assessments and impact statements and categorical exclusion determinations at: <https://science.osti.gov/ssp/NEPA-Documents>, 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](https://www.fbo.gov)). The CSC also posted National Laboratory Appraisal Process documents, as revised at: https://science.osti.gov/SCMS/legacy-documents/LAP_LD#dynamicNavo, and National Laboratory report cards with performance ratings at: <https://science.osti.gov/lp/laboratory-appraisal-process/FY-2021>
 - The Hanford site at the Richland Operations Office continued to update the Hanford Site Administrative Record/Public Information Repository at <https://pdw.hanford.gov/>. The website provides the ability to search the full text of documents in its collection.
 - The Office of Scientific and Technical Information's (OSTI) mission is the oversight of the Department's STI collection. The legacy collection can be found at: www.osti.gov. This website enables the public to have a one-stop service for gray literature, journal articles, conference proceedings, technical reports, multimedia, and books.
 - The EMCBC continued to post copies of prime contracts at <https://www.emcbc.doe.gov/About/PrimeContracts>.
- 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. DOE continues to engage the public for their comments and suggestions through the following:

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. If yes, please provide examples of such improvements. In particular, please describe steps your agency is taking to post information in open, machine-readable, and machine-actionable formats, to the extent feasible. If not posting in open formats, please explain why and note any challenges.**

The BPA completed its Agency Enterprise Portal Project. This included a complete redesign of the site's public website, which includes the public FOIA page. The FOIA public library was also redesigned to make it easier for the public to browse and search for records. The project also included updated content organization and navigation, unified branding to support the One BPA delivery, and mobile access to information.

At the OSTI they perform extensive, routine curation processes on incoming and legacy metadata, including the normalization of contract numbers, addition of author affiliation information, review and correction of publication dates, and enhancement with subject categories and abstracts. Accurate and complete metadata makes associated research documents easier to find and accessible via all OSTI products.

- 5. Does your proactive disclosure process or system involve any collaborations with agency staff outside the FOIA office, such as Information technology (IT) or data personnel? If so, describe this interaction.**

Yes. The FOIA Offices collaborated with various offices including record holders and IT personnel regarding information of interest to the public based on the request received and best ways to publish information. We utilize information regarding the number of visitors to websites and content to assist with determining information of interest to the public and that should be considered for further proactive disclosure.

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

A best practice used to improve proactive disclosures is to work closely with records holders to identify records known to be of interest to the public and get them posted proactively. Proactively disclosing records may eliminate the need for a requester to submit a FOIA request.

Section IV: Steps Taken to Greater Utilize Technology

A key component of FOIA administration is using technology to make information available to the public and to gain efficiency in FOIA processing. The Attorney General’s FOIA Guidelines emphasize the importance of making FOIA websites easily navigable and complying with FOIA.gov interoperability requirements. Please answer the following questions to describe how your agency is using technology to improve its FOIA administration and the public’s access to information.

1. Has your agency reviewed its FOIA-related technological capabilities to identify resources needed to respond to current and anticipated FOIA demands?

Yes.

2. Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program.

DOE continues to leverage technology to administer utilizing e-discovery software. During the review of the HQ FOIA review process this year, we determined that we needed certain technology to assist in the conversion of voluminous .pst files to PDFs that keep the attachments in order with the parent e-mails. HQ recently purchased technology that will allow this to be done. This should assist in eliminating numerous man hours converting these files to PDFs individually. 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. Adobe Acrobat Pro and the word search tool to redact records are also leveraged.

3. Does your agency currently use any technology to automate records processing? For example, does your agency use machine learning, predictive coding, technology assisted review or similar tools to conduct searches or make redactions? If so, please

describe and, if possible, estimate how much time and financial resources are saved since implementing the technology.

As mentioned earlier, DOE HQ has purchased technology to assist with converting multiple .pst files to PDF at one time instead of individually. The technology is currently being uploaded to DOE FOIA servers and then FOIA staff will be trained. We are anticipating that this will reduce the numerous man hours currently being used to convert these files individually. Certain DOE sites also use Adobe Acrobat Pro to review and redact documents.

- 4. DOJ's 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.

- 5. Did all four of your agency's quarterly reports for Fiscal Year (FY) 2022 appear on FOIA.gov?**

Yes.

- 6. If your agency did not successfully post all quarterly reports on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2023.**

N/A.

- 7. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2021 Annual FOIA Report, and if available, for your agency's Fiscal Year 2022 Annual FOIA Report.**

The link to DOE's raw statistical data used to complete the 2021 Annual FOIA Report can be found at the following: <https://www.energy.gov/management/foia-annual-reports>.

- 8. In February 2019, DOJ and OMB issued joint Guidance establishing interoperability standards to receive requests from the National FOIA Portal on FOIA.gov. Are all components of your agency in compliance with the guidance?**

Yes. DOE successfully linked its electronic FOIA tracking system to DOJ's FOIA portal by the requested deadline.

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

N/A.

Section V: Steps Taken to Remove Barriers To Access, Improve Timeliness In Responding To Requests, and Reduce Backlogs

The Attorney General's FOIA Guidelines instruct agencies "to remove barriers to requesting and accessing government records and to reduce FOIA processing backlogs." Please answer the following questions to describe how your agency is removing barriers to access, improving timeliness in responding to requests, and reducing FOIA backlogs.

A. Remove Barriers to Access

- 1. Has your agency established alternative means of access to first-party requested records outside of the FOIA process?**

No.

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

The Department is discussing how we can establish alternative means of access to first-party requested records. Currently any such requests are processed under both the FOIA and the Privacy Act.

B. Timeliness

- 3. For Fiscal Year 2022, what was the average number of days our agency reported for adjudicating requests for expedited processing. Please see Section VIII.A. of your agency's Fiscal Year 2022 Annual FOIA Report.**

The average number of days to adjudicate requests for expedited processing was 6.71 calendar days.

- 4. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2022 Annual FOIA Report, please describe the steps your agency will take**

to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

N/A.

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

Yes.

6. If your agency uses a separate track for simple requests, according to Annual FOIA Report section VII.A, was the agency overall number of days to process simple requests twenty working days or fewer in Fiscal Year 2022?

No.

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

Yes, it decreased from 75.35 days to 41.74 days.

8. Please provide the percentage of requests processed by your agency in Fiscal Year 2022 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 54% of the FOIA requests processed by DOE in Fiscal Year 2022 were processed as simple requests.

9. 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.

C. Backlogs

Backlogged Requests

10. If your agency had a backlog of requests at the close of Fiscal Year 2022, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2021?

No.

11. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2022 than it did in Fiscal Year 2021?

Yes.

12. If your agency's request backlog increased during Fiscal Year 2022, 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, such as all e-mail communications for multiple individuals spanning multiple years.

13. 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 2022. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. This number can be greater than 100%. If your agency has no request backlog, please answer with "N/A."

DOE received 1,722 requests in FY 2022. Our backlog at the end of FY 2022 was 774. Thus, the backlog at the end of FY 2022 was 45% of the total requests received.

Backlogged Appeals

14. If your agency had a backlog of appeals at the close of Fiscal Year 2022, according to Section XII.E.2 of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2021?

No, at the end of FY 2021, there were 12 backlogged appeals. At the end of FY 2022, there were 12 backlogged appeals.

15. If not, according to XII.E1. of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2022 than it did during Fiscal Year 2021?

Yes.

16. If your agency's appeal backlog increased during Fiscal Year 2022, 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.

17. 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 2021. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received from Section VI.A) x 100. This number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2021 and/or has no appeal backlog, please answer with "N/A."

DOE received 29 appeals in FY 2022. The appeal backlog at the end of FY 2022 was 12. The appeal backlog at the end of FY 2022 was 41% of the total appeals received.

D. Backlog Reduction Plans

18. In the 2022 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1,000 requests in Fiscal Year 2021 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 2022?

N/A.

- 19. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2022, what is your agency's plan to reduce this backlog during Fiscal Year 2023?**

N/A.

E. Reducing the Age of Requests, Appeals, and Consultations

Ten Oldest Requests

- 20. In Fiscal Year 2022, did your agency close the ten oldest pending perfected requests that were reported in section VII.E. of your Fiscal Year 2021 Annual FOIA Report?**

No.

- 21. 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 2021 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.**

DOE completed three of its ten oldest cases from the FY 2021 report.

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

At the Department, the FOIA professionals continued to review cases and determine next steps, issues, and strategies to process cases more efficiently to closure. On some cases, this required 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

- 23. In Fiscal Year 2021, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2021 Annual FOIA Report?**

No.

- 24. 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 VI.C.(5) of your Fiscal Year 2021 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.**

In the FY 2021 Annual FOIA Report, the Department reported a total of 12 backlogged appeals. One of these appeals was completed during FY 2022.

- 25. 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

- 26. In Fiscal Year 2022, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2021 Annual FOIA Report?**

No.

- 27. 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 2021 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.**

In FY 2022, we closed two of the ten oldest pending consultations from FY 2021.

Additional Information Regarding Ten Oldest

- 28. 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 2022.**

The Department plans to close as many of these cases in each category by assessing bi-weekly statuses on each case. Planning out next steps to get to closure, including communicating with requesters to determine interest and possible further narrowing of scope. Several of these cases involve classified records, which may require review by multiple agencies and will require follow-up by our FOIA and Classification Officer to each agency involved in the review process.

F. Additional Information about FOIA Processing

- 29. Were any requests at your agency the subject of FOIA litigation during the reporting period? If so, please describe the impact on your agency's overall FOIA request processing and backlog. If possible, please indicate the number and nature of requests subject to litigation, common causes leading to litigation, and any other information to impact the litigation on your overall FOIA administration.**

Yes. The Department processed multiple FOIA litigation cases this fiscal year. Several of the cases involved thousands of pages and are still ongoing. The resources required to meet court ordered production deadlines and page counts has been a challenge as we also are trying to process other cases in a timely manner. For example, one of the litigations we have been processing for a few years asked for every email of an individual while they worked at the Department. This has involved thousands of emails and numerous pages to process, many of which required consultation with other agencies.

- 30. How many requests during Fiscal Year 2022 involved unusual circumstances as defined by the FOIA? (This information is available in your agency's FY 2022 raw data).**

Approximately 38 cases during FY 2022 involved unusual circumstances.