

DEPARTMENT OF ENERGY

2024 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 Attorney General’s 2022 [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 continue to be 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. The Department provides language in its FOIA response letters that it has considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.

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. If your agency tracks Glomar responses, please provide:

- **The number of times your agency issued a full or partial Glomar response (separate full and partial if possible);**
- **The number of times a Glomar response was issued by exemption (e.g., Exemption 7(C) – 20 times, Exemption 1 – 5 times).**

This information is not tracked at the Department.

6. If your agency does not track the use of *Glomar* responses, are you planning to track this information in the future?

To track this information electronically, the vendor of the electronic software we utilize to track FOIA requests would need to modify the system to track that information, or we would need to track this information manually.

7. 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.

The FOIA process at DOE includes the Office of the General Counsel (GC). This office must review and concur on all withholdings using a FOIA exemption. While record holders are asked to advise on sensitive information contained in documents that should be protected it must still be approved by GC. 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 a justifiable harm cannot be identified by the Department, 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 2022 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 direction 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. The training also provides an opportunity for departmental employees to receive clarification to questions they have about processing and other areas of concern. The FOIA training website is provided by the Department of Justice (DOJ) and the American Society of Access Professionals (ASAP) and recommended to employees as a source of training. Also, new Senior Executive Service employees are provided FOIA overview training upon entering the agency.

- 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: *Procedural Requirements and Fees*; *Exemptions 4 and 5*; *Exemptions 1 and 7*; *Advanced FOIA training*; *Best Practices*; *Continuing FOIA Education*; and *Processing a Request from Start to Finish Workshop*. Some employees also attended the training conducted by the American Society of Access Professionals on the FOIA and Privacy Act. DOJ also provided training on Exemptions 4 and 5 for DOE Headquarters (HQ) FOIA professionals, GC, and the Office of Hearings and Appeals.

- 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 continues to brief senior leaders regarding FOIA matters and what is required of the department regarding FOIA. DOE makes 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 focuses on their obligations as employees of the government under the FOIA. Training covers the presumption of openness, explains the application of the various exemptions, and shares the requirement to conduct adequate and timely document searches. The training also discusses how DOE must articulate the harm regarding release of information when we are evaluating its protection under a FOIA exemption.

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, the Strategic Petroleum Reserve (SPR) Office provides a FOIA overview as requests are assigned to staff to ensure they know their responsibilities under the FOIA and to provide an opportunity to answer questions and provide further guidance. The Southeastern Power Administration (SEPA) discussed FOIA requests and the response process. The Office of Science, Consolidated Service Center, Chicago (SC-CSC CH) continued to provide FOIA training for new Management and Operating contractor staff,

which emphasized the need for detailed searches of agency records. The SC-CSC CH FOIA Officer provided training to new management and operating contractor staff at several laboratories on the requirements for conducting and detailing searches for agency records responsive to FOIA requests. They also continued to conduct one-on-one sessions with various record custodian contacts on FOIA processing requirements and their respective duties. The Bonneville Power Administration (BPA) FOIA office provided tailored training to their Human Resources office and the Contracts and Strategic Sourcing office. The purpose was to provide a statutory overview to those offices whose records were requested most often and answer questions from records custodians to improve collections and identify areas for improving the FOIA record collection and review process. The National Nuclear Security Administration (NNSA), within the last year, provided in person (with a virtual option) 2-day training, in Albuquerque, NM, to non-FOIA personnel. The purpose was to provide practical training on the NNSA FOIA process and legal aspects of the FOIA exemptions. In addition, NNSA offers FOIA bi-monthly training to non-FOIA personnel on specific topics. For example, the bi-monthly training has included issues related to FOIA exemptions and redactions and what should be included in final response packages. For calendar year 2024, these bimonthly trainings have already been scheduled. FOIA training is also offered to non-FOIA professionals via the learning nucleus training site and via email. At the Richland Office (RL), FOIA training is offered to RL and Office of River Protection staff yearly via “Training Tuesday” opportunities and is provided by the FOIA officer.

B. Outreach

- 7. As part of the standard request process, do your FOIA professionals proactively contact requesters concerning complex or voluminous requests 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. It is common practice for DOE FOIA professionals to routinely contact requesters to discuss their requests to clarify or modify the request. Communications with requesters help us determine what specifically a requester is seeking and assists in narrowing the scope and time frame of requests in an effort to respond in a more timely manner. 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. In some cases, it involves the use of additional key word searches to assist in narrowing voluminous search results.

- 8. Outside the standard request process or routine FOIA Liaison or FOIA Requester Service Center interactions, did your FOIA professionals engage in any outreach or dialogue, with the requester community or open government groups regarding your administration of the FOIA? For example, did you proactively contact frequent requesters, host FOIA-related conference calls with open government groups, or provide FOIA training to members of the public? 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. For example, the SC-CSC CH FOIA Officer met with the public at the Argonne National Laboratory open house to discuss the FOIA and answer questions. The NNSA offers an 800 number designed to assist the requester community with inquiries or concerns.

- 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 2023 (please provide a total number or an estimate of the number).**

The FOIA Public Liaisons have been contacted approximately 56 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, DOE conducted a prior review of its FOIA program and processes. One of the areas reviewed was staffing, to determine if additional staff was necessary to respond to FOIA requests. In response, HQ hired a surge team to assist with an increase of FOIA requests being received. The BPA office, after

evaluating their personnel resources, hired a new FOIA case coordinator in FY 2023. The National Energy Technology Laboratory (NETL) hired additional contractor staff to assist with processing FOIA requests. Other DOE sites have determined that current staffing is adequate currently.

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 continues to use 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 the quality control team 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 continue to meet 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. Contractor analysts are required to run individual case reports and meet with the FOIA consultant monthly for guidance on processing cases. These stats are used by the FOIA Officer to create and update backlog closure plans. The Environmental Management Consolidated Business Center (EMCBC) utilizes its FOIA tracking system reports and a master FOIA spreadsheet to monitor the status of FOIA requests.

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 them. Additionally, the FOIA Office meets bi-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 provided when necessary to facilitate more challenging requests. During these trainings, we try to resolve questions about processing, providing records, and protecting information under various exemptions of the FOIA.

Section III: Proactive Disclosures

The Attorney General’s 2022 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. At SC-CSC CH, personnel are in place who routinely track and post updates. At the EMCBC, new contracts are routinely posted.

2. How long after identifying a record for proactive disclosure does it take your agency to post it?

The timeframe to post proactive disclosure records vary from site to site and depends on the type and size of a document. For example, at the NNSA, it can typically take a day or two to post. Complicated or multiple sets of documents can take up to a week. Factors that contribute to the additional posting time include detailed preparation of the documents (e.g., adding appropriate identifiers/labeling), and reviewing the documents for errors.

3. Does your agency post logs of its FOIA requests?

- **If so, what information is contained in the logs?**
- **Are they posted in CSV format? If not, what format are they posted in?**

No.

4. 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.

- BPA continued to post records requested under the FOIA on its public FOIA requests library at: [FOIA Requests Library – Bonneville Power Administration \(bpa.gov\)](https://www.bpa.gov/foia).
- NNSA proactively posted the following:

Oppenheimer Resources and documents at
<https://www.energy.gov/nnsa/oppenheimer-resources-and-documents>

UFO/UAP Resources and documents at: <https://www.energy.gov/nnsa/uapufo-resources-and-documents>

Updated Stockpile, Stewardship and Management Plan at:
<https://www.energy.gov/nnsa/articles/stockpile-stewardship-and-management-plan-ssmp>

FY22 Fee Determination Letters and Performance Evaluation Reports at:
<https://www.energy.gov/nnsa/fee-determination-letters-and-performance-evaluation-reports-2>

FY23 Fee Determination Letters and Performance Evaluation Reports at:
<https://www.energy.gov/nnsa/fee-determination-letters-and-performance-evaluation-reports-3>

- The SPR continued 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/strategic-petroleum-reserve).
- The SC CSC (which includes the Chicago and the Oak Ridge FOIA offices) continued to post SC Management and Operating contracts as modified, SC major contract awards, purchase card holder lists, organizational charts and the SC management procedures at: <https://science.osti.gov/csc/foia/electronic-reading-room/>. Additionally, the SC CSC proactively posted 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 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 contains the collection of documents and information that are considered or relied upon to arrive at a final decision for remedial action or hazardous waste management. It also 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 scientific and technical information (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.
- At the EMCBC copies of posted contracts can be found at: <https://www.emcbc.doe.gov/PrimeContracts>.

5. 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 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.

6. 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.

At Chicago, material is now accessible from the overall Office of Science website and from field locations as well. In addition, the information is organized in logical bullets within the pages to make information more easily understandable and user-friendly.

BPA added a link to its FOIA webpage on their Agency’s website, making it easier for anyone browsing the BPA agency website to access the FOIA webpage with one click.

At RL, in addition to posting new and updated material on www.hanford.gov, the website itself was redesigned in 2023 to put the mission of the Hanford Site on the main landing

page of the website. The past, present, and future sections highlight the historical, current cleanup, and future plans, respectively. Also, fact sheets regarding the most current cleanup projects were updated to reflect current conditions. The website uses mainly “open formats” such as PNG, HTML, and video links.

At the OSTI, the staff continued to 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.

7. Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office, such as 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. The number of visitors accessing websites and content is utilized to assist with determining information of interest to the public and that should be considered for further proactive disclosure.

8. 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 2022 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 uses to support your FOIA program.

DOE continues to leverage technology to administer utilizing e-discovery software. HQ utilizes technology to convert voluminous .pst files to PDFs that also keep the attachments in order with the parent e-mails. This has assisted in eliminating numerous man hours converting these files to PDFs individually. In addition, HQ and various sites use their Information Technology team to conduct email and discovery searches. Other technology being leveraged at various sites is the use of Google-drive to access videos, password protected SharePoint sites to access records requested from national labs who may not utilize an encryption tool. 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 uses technology to assist with converting multiple .pst files to PDF at one time instead of individually. The tool has proven to be quite resourceful and has many features that we are still learning to use to continue to automate what was once done manually. It has reduced the manual hours spent converting mass emails to PDF. Certain DOE sites also use Adobe Acrobat Pro to review and redact documents.

4. 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) 2023 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 2024.**

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 2022 Annual FOIA Report, and if available, for your agency’s Fiscal Year 2023 Annual FOIA Report.**

The link to DOE’s raw statistical data used to complete the 2022 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 2022 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 determining how to establish alternative means of access to first-party requested records. Currently any such requests are processed under both the FOIA and the Privacy Act.

- 3. Please describe any other steps your agency has taken to remove barriers to accessing government information.**

N/A.

B. Timeliness

- 4. For Fiscal Year 2023, 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 2023 Annual FOIA Report.**

The average number of days to adjudicate requests for expedited processing was 12.16 calendar days.

- 5. 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 2023 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.**

The Department will provide training regarding the timeline to respond to requests for expedited processing.

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

Yes.

- 7. 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 2023?**

No.

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

Yes, it decreased from 41.74 days to 40.03 days.

- 9. Please provide the percentage of requests processed by your agency in Fiscal Year 2023 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 56% of the FOIA requests processed by DOE in Fiscal Year 2023 were processed as simple requests.

- 10. 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

- 11. If your agency had a backlog of requests at the close of Fiscal Year 2023, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2022?**

No.

- 12. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2023 than it did in Fiscal Year 2022?**

Yes.

- 13. If your agency's request backlog increased during Fiscal Year 2023, 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.**
- **Litigation**
- **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, turnover in staff, and an overall increase of incoming requests a large portion of which ask for any-and-all type communications such as all e-mail communications for multiple individuals spanning multiple years.

- 14. 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 2023. 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 2,156 requests in FY 2023. Our backlog at the end of FY 2023 was 871. Thus, the backlog at the end of FY 2023 was 40% of the total requests received.

Backlogged Appeals

- 15. If your agency had a backlog of appeals at the close of Fiscal Year 2023, 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 2022?**

No, at the end of FY 2022, there were 12 backlogged appeals. At the end of FY 2023, there were 12 backlogged appeals.

- 16. If not, according to XII.E1. of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2023 than it did during Fiscal Year 2022?**

No.

- 17. If your agency’s appeal backlog increased during Fiscal Year 2023, 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.

- 18. 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 20232. 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 20231 and/or has no appeal backlog, please answer with “N/A.”**

DOE received 27 appeals in FY 2023. The appeal backlog at the end of FY 2023 was 12. The appeal backlog at the end of FY 2023 was 44% of the total appeals received.

D. Backlog Reduction Plans

- 19. In the 2023 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1,000 requests in Fiscal Year 20221 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 2023?**

N/A.

- 20. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2023, what is your agency’s plan to reduce this backlog during Fiscal Year 2024?**

N/A.

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

Ten Oldest Requests

- 21. In Fiscal Year 2023, did your agency close the ten oldest pending perfected requests that were reported in section VII.E. of your Fiscal Year 2022 Annual FOIA Report?**

No.

- 22. 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 2022 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.**

DOE closed two cases from its ten oldest cases list in Fiscal Year 2023. Additionally, DOE closed two more cases from its ten oldest cases list by the end of December 2023.

- 23. 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 the number of keywords provided without context as they quite often produce voluminous number of un-responsive documents.

Ten Oldest Appeals

- 24. In Fiscal Year 2023, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2022 Annual FOIA Report?**

No.

- 25. 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 2022 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.**

DOE completed one of its ten oldest appeals case reported in the FY 2022 Annual Report.

- 26. 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 requires coordination with other agencies. However, most appeals that do not involve any classified records are processed within the 20-day timeframe.

Ten Oldest Consultations

27. In Fiscal Year 2023, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2022 Annual FOIA Report?

No.

28. 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 2022 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

In FY 2023, DOE closed six of the ten oldest pending consultations cases reported in the FY 2022 Annual Report.

Additional Information Regarding Ten Oldest

29. 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 2024.

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

30. 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. We were able to complete this case during FY 2023 but still have multiple ongoing litigations.