

## DEPARTMENT OF ENERGY

### 2020 CHIEF FREEDOM OF INFORMATION ACT (FOIA) OFFICER REPORT

Ingrid Kolb, Director, Office of Management

#### **Section 1: 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. 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. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice (DOJ)?**

Yes.

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

The Department of Energy's (DOE) FOIA professionals attended DOE-led trainings on FOIA exemptions and a wide variety of FOIA-related topics. In addition, they attended the following DOJ-led trainings: *FOIA for Attorneys and Access Professionals*; *Introduction to the FOIA*; and *Overview of FOIA*, as well as, training on the *FOIA-*

*Privacy Act* conducted by the American Society of Access Professionals. This training helps streamline DOE's FOIA response system and provides the DOE team with a broader understanding of FOIA law. The development of the DOE team's understanding of the statute helps DOE more efficiently fulfill appropriate FOIA requests and assert legitimate statutory and case law exemptions. DOE strives to strengthen its training, encouraging the DOE team to engage cooperatively with requestors as the team fully complies with DOE's statutory obligations under FOIA. At the same time, the Department seeks to be a responsible steward of resources and to avoid getting sidetracked into undertaking reviews related to requests that are beyond the scope of DOE's essential mission and the purpose of the statute.

**5. 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.

**6. 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 will continue to provide cost-effective trainings via teleconference and video teleconference. DOE will also attend the free trainings provided by DOJ and encourage FOIA professionals and staff to discuss their experiences and their developing knowledge regarding compliance with the statute and case law.

**C. 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 encourages open communication with requesters. 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, requesters seeking information on the February 2014 events at the Waste Isolation Pilot Plant (WIPP) and the associated recovery efforts are directed to publicly-available information on this event as well as permit-related documents pertaining to the Resource Conservation and Recovery Act (RCRA). In addition, to promote open dialogue, various organizations within DOE conduct periodic town hall meetings with the public and record them as webcasts in an effort to reach a broader audience. 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, and to explain the purpose and scope of the statute, and the process of DOE's compliance with the law regarding both the provision of requested materials, as well as the assertion of appropriate exemptions. DOE's outreach and dialogue with the requester community or open government groups has led to improvements in our FOIA processes.

#### **D. Other Initiatives**

- 8. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In 2016, the Department publicized FOIA-related performance standards for employees that have any role in administering the FOIA, including non-FOIA professionals. Please also indicate whether your agency has considered including FOIA-related performance standards in employee work plans for employees who have any role in administering the FOIA.**

DOE makes every effort to provide annual training and information to non-FOIA professionals in the organizations that have the largest or oldest number of FOIA requests. The training to non-FOIA professionals often includes senior members of management and is geared to educating them on their obligations under the FOIA, discussing the presumption of openness, explaining the application of the various exemptions, and sharing the requirement to conduct adequate and timely document searches.

The offices with the most significant role in administering the FOIA have FOIA-related performance standards as part of their employee work plans. Line management determines whether a performance standard is appropriate for employees who administer the FOIA infrequently or as a collateral duty.

- 9. 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, FOIA professionals continue to communicate with record holders and subject matter experts regarding sensitivities contained in responsive documents and whether

discretionary release may be allowed under existing law. The Office of the General Counsel (GC) continues to review, and 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.

The Department's FOIA response letters also reference 1) the DOJ's FOIA Guidelines; 2) the Department's commitment to openness and commitment to provide as much information as possible, consistent with statutory and other legal prohibitions and exemptions; and 3) the OGIS assistance available to requestors concerning requests and their concerns with agencies.

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

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

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

- 1. For Fiscal Year 2019, 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 2019 Annual FOIA Report.**

The Department's average number of days to adjudicate requests for expedited processing was 25.5 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.**

The Department will provide additional training to ensure that we are responding to requests for expedited processing within ten calendar days.

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

The Department continuously looks for ways to improve the FOIA process. For example, the FOIA Office reviews each request to determine the most efficient ways to search for records, to include identifying the words and phrases that will provide the most responsive pool of records.

Additional initiatives to improve the FOIA process vary from site to site. Examples include: 1) creating a Standard Operating Procedure for processing requests and developing an improved system for tracking response dates; 2) conducting self-assessments on a quarterly basis; and 3) engaging in weekly meetings to discuss better methods, developing new flow charts and checklists for FOIA guidance, and utilizing a FOIA consultant to analyze and assess the review process.

- 4. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of how often requesters sought assistance from your agency's FOIA Public Liaison during FY 2019 (please provide a total number or an estimate of the number).**

The FOIA Public Liaisons have been contacted approximately 28 times this past year.

- 5. Please describe the best practices used to ensure that your FOIA system operates efficiently and effectively and any challenges your agency faces in this area.**

The Chief FOIA Officer, FOIA Officer, and GC continue to meet periodically to discuss FOIA matters. Additionally, the FOIA Office continues to meet on a monthly basis 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.

Across the Department various best practices have been implemented. These include: 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; and 5) reviewing letter and response templates to ensure they meet the FOIA requirements and to expedite responses.

Challenges at the Department vary and include: obtaining records from document holders in a timely manner, reviewing and responding to very broad requests seeking voluminous material not related to the purpose and mission of DOE and its officials and personnel, 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.**

The following items are examples of material disclosed by the DOE during the past reporting year:

- The Office of Science's Integrated Support Center (ISC) (which includes the Chicago and the Oak Ridge FOIA Offices) posts information on the ISC government purchase cardholder list at:  
<https://science.energy.gov/isc/foia/electronic-reading-room/>.
- The Oak Ridge Office posts major contracts that have been awarded at:  
<https://science.energy.gov/isc/services/acquisition-and-assistance/major-contracts-awarded/>, and documents of interest to potential offerors for open solicitations at (FBO.gov).
- The National Energy Technology Laboratory published two cooperative agreements to the new site support contracts on its webpage for public viewing at:  
<https://netl.doe.gov/business/site-support>.
- The Office of Scientific and Technical Information (OSTI) posts full-text scientific and technical reports for downloading from OSTI's SciTech Connect Website, as follows:

- ❖ <https://www.osti.gov/biblio/5789311-expert-judgement-inadvertent-human-intrusion-waste-isolation-pilot-plant>
- ❖ <https://www.osti.gov/biblio/4380958-pb-method-age-determination-first-annual-report-project-extension-proposal>
- ❖ <https://www.osti.gov/biblio/4367838-age-determination-uranium-minerals-pb-sup-sup>

- WIPP’s specific outreach efforts include the following:
  - ❖ Current information regarding the February 2014 events at WIPP and the recovery/restart from the events. <http://wipp.energy.gov/recoveryrestart.asp>
  - ❖ Permit-related documents pertaining to *Resource Conservation and Recovery Act (RCRA)*. [http://www.wipp.energy.gov/library/Information\\_Repository.htm](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 posts environmental documents, 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](http://www.spr.doe.gov/default.htm).
- The Southeastern Power Administration posts documents regarding Southeastern Federal Power Alliance and Team Cumberland at the following links:
  - ❖ <https://www.energy.gov/sepa/downloads/southeastern-federal-power-alliance-may-8-2019>.
  - ❖ <https://www.energy.gov/sepa/downloads/southeastern-federal-power-alliance-december-18-2018>.
  - ❖ <https://www.energy.gov/sepa/downloads/team-cumberland-meeting-march-28-2019>.
- The Bonneville Power Administration (BPA) posts records requested under the FOIA on its public FOIA requests library at: <https://www.bpa.gov/news/FOIA/library/pages/default.aspx>.  
  
BPA also added additional information about the Columbia River System Operations Environmental Impact Statement 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 proactively posts performance evaluation reports 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.

Energy Data: The Open Data page at <http://energy.gov/data/open-energy-data> has a Submit Questions about Energy Data feature which provides an email link to [datainnovation@hq.doe.gov](mailto:datainnovation@hq.doe.gov) for questions specific to DOE's data.

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

Additional improvements at DOE include:

The DOE Richland/Office of River Protection launched an updated Hanford Site Administrative Record/Public Information Repository website, <https://pdw.hanford.gov/>.

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

One of the best practices 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.

#### **Section IV: Steps Taken to Greater Utilize Technology**

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

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

- 1. Is your agency leveraging technology to facilitate efficiency in its FOIA administration that you have not previously reported? If so, please describe the type of technology.**

DOE is leveraging the use of technology to administer FOIA through its purchase of e-discovery software which will automate the process of identifying duplicate documents. DOE has also purchased software that will link DOE's in-house FOIA software to DOJ's FOIA portal. This link will provide requesters with a one-stop place from which to send a FOIA request directly to the Department's FOIA tracking system. 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.

- 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 website is reviewed regularly to address elements noted in the guidance.

- 3. Did your agency successfully post all four quarterly reports for FY 2019?**

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 2020.**

We will work with DOE’s Office of the Chief Information Officer (CIO) to identify and remedy the issue(s) that prevented the 2019 quarterly reports from being posted and made accessible to DOJ.

- 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 2018 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 2018 Annual FOIA Report can be found at the following: <https://www.energy.gov/management/downloads/annual-foia-report-fy-2018-0>

- 6. 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 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 2019 Annual FOIA Report and, when applicable, your agency’s 2018 Annual FOIA Report.

### ***A. Simple Track***

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

1. **Does your agency utilize a separate track for simple requests? If your agency uses a multi-track system beyond simple, complex, and expedited to process requests, please describe the tracks you use and how they promote efficiency.**

Yes, DOE uses a separate track for simple requests.

2. **If your agency uses a separate track for simple requests, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2019?**

No.

3. **Please provide the percentage of requests processed by your agency in Fiscal Year 2019 that were placed in your simple track.**

Approximately 77% of the FOIA requests processed by DOE in Fiscal Year 2019 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 2019, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018?**

Yes, DOE achieved a five case reduction in the backlog this fiscal year.

6. **If not, did your agency process more requests during Fiscal Year 2019 than it did in Fiscal Year 2018?**

N/A.

7. **If your agency’s request 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 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.**

N/A.

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 2019. If your agency has no request backlog, please answer with “N/A.”**

DOE received 1,855 requests in FY 2019. Our backlog at the end of FY 2019 was 493. Thus, the backlog at the end of FY 2019 was 27% of the total requests received.

## **BACKLOGGED APPEALS**

9. **If your agency had a backlog of appeals at the close of Fiscal Year 2019, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018?**

No, at the end of FY 2018, there were eight backlogged appeals. At the end of FY 2019, there were 11 backlogged appeals.

10. **If not, did your agency process more appeals during Fiscal Year 2019 than it did during Fiscal Year 2018?**

No.

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. If your agency did not receive any appeals in Fiscal Year 2019 and/or has no appeal backlog, please answer with “N/A.”**

DOE received 47 appeals in FY 2019. The appeal backlog at the end of FY 2019 was 11. The appeal backlog at the end of FY 2019 was 23% of the total appeals received.

### ***C. Backlog Reduction Plans***

- 13. In the 2019 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2018 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 2019?**

N/A

- 14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2019, what is your agency’s plan to reduce this backlog during Fiscal Year 2020?**

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 2018 and Fiscal Year 2019 when completing this section of your Chief FOIA Officer Report.

### **OLDEST REQUESTS**

- 15. In Fiscal Year 2019, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2018 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 2018 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 2018 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 meet to discuss cases and determine next steps, issues, and strategies to process cases more efficiently. This may require additional communication with requesters to narrow the scope or timeframe of the request. Furthermore, working with requesters to remove keywords that trigger voluminous returns may help reduce the age of older requests.

### **TEN OLDEST APPEALS**

- 18. In Fiscal Year 2019, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2018 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 2018 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.**

In the FY 2018 Annual FOIA Report, the Department reported a total of eight backlogged appeals. One of those appeals was completed in FY 2019.

- 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, appeals that do not involve any classified records are processed within the 20-day timeframe.

#### **TEN OLDEST CONSULTATIONS**

- 21. In Fiscal Year 2019, 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 2019, we closed five of the ten oldest pending consultations from FY 2018.

#### ***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. Moreover, budget considerations across DOE continue to affect the ability of programs to hire personnel dedicated to, and experienced in, processing FOIA cases. Additionally, high turnover in experienced staff has also 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 2020.**

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 2019 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.

The Department has sought to improve its response timeline by aggressively addressing redundant and unnecessarily burdensome requests that are beyond the scope of the statute and case law, and that relate to inquiries that are detached from the Department’s key missions. In one example, the Department:

- Received a request for certain materials;
- Applied case law and statutory law to the specifics of the request;
- Objected to portions of the request as redundant of previous requests and properly subject to redaction;
- Appropriately defended litigation initiated by the requestor, in which certain contested materials were sought;
- Vigorously negotiated the request by sustaining legitimate redactions, providing previously released materials, and making certain appropriate accommodations;
- Obtained a stipulation of dismissal from the requester.