Department of Energy

2017 Chief Freedom of Information Act (FOIA) Officer Report

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Section 1: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's FOIA Memorandum and the DOJ's 2009 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 Training

1. 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?

> *Yes, FOIA professionals and other personnel who have FOIA responsibilities attended FOIA training during this reporting period.*

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

> *External training for DOE FOIA professionals included USDA Graduate School training on the FOIA and Privacy Act, the FOIA Public Liaison and FOIA Requester Service Center training, the DOJ's FOIA for Attorneys and Access Professionals and Introduction to the FOIA, and training conducted by the American Society of Access Professionals (ASAP). Internally, the Office of Hearings and Appeals (OHA), in tandem with the FOIA Office and the Office of General Counsel (GC), continued to conduct periodic training via teleconference for the field and Headquarters (HQ) offices.*

> *Topics covered by the above include:*

> * *the review of applicable exemptions;*
> * *responding to requests and safeguarding information;*
> * *2016 FOIA amendments and lessons learned;*
> * *the effects of new legislation on exemption 5; and,*
> * *searching for records and other related matters.*

3. 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 85% of FOIA professionals attended some form of substantive FOIA training during this period.

4. 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

B. Outreach

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

Yes, the DOE encourages open communication with the requestor community. FOIA professionals continue to reach out to requesters to discuss FOIA requests. Generally, communication consists of providing insight into the FOIA process, narrowing the scope of requests to reduce processing fees and time, prioritizing documents requested, and other issues that facilitate efficient processing. Additionally, the Department worked with the Office of Government Information Services (OGIS) to facilitate dialogue with various requesters.

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

N/A

C. Other Initiatives

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

The Department continues to make every effort to inform non-FOIA professionals of their obligations under the FOIA. From displaying posters regarding FOIA responsibilities to discussions at senior staff meetings, the DOE ensures everyone is aware of their responsibilities. The HQ FOIA Officer and staff continue to address questions by the records holders, which vary from case to case, and advise them of their responsibilities and the importance of adequate and timely searches.

In addition to efforts at HQ, DOE sites work to inform non-FOIA professionals of thier obligations under the FOIA. A few examples include:

- *The Golden Field Office conducted nine FOIA classes, emphasizing the importance of adequate searches, the presumption in favor of full disclosures, and the FOIA implications of the CAPSTONE system.*

- *The Strategic Petroleum Reserve (SPR) FOIA Officer worked closely with the contracting group within the organization to ensure all individuals are familiar with the FOIA and had*

experience providing information and advice on appropriate exemptions. Also, the General Counsel at the SPR is consulted on all FOIA requests.

- *At the Carlsbad Field Office (CBFO), training provided on September 29, 2016 by the CBFO FOIA Officer and Legal Counsel to CBFO Staff included a presentation titled, "Personally Identifiable Information (PII) – The Privacy Act and FOIA", as well as Q&A and a discussion period.*

- *At the Bonneville Power Administration (BPA), the FOIA office participates in new employee orientation every two weeks to provide a basic understanding of the FOIA process and employees' obligations regarding requests. In addition, the FOIA officer and attorneys from GC provide briefings on an as-needed basis to senior executives, managers, and subject matter experts on specific FOIA requests to provide a better understanding of the FOIA process and their obligations.*

- *The National Energy Technology Laboratory (NETL) posted an article written by the Chief Counsel on their website explaining the responsibilities of reporting and providing all documents to the FOIA Officer.*

- *The Chicago FOIA Officer conducted follow-on training for Argonne Site Office staff relative to their obligations under FOIA when processing issues were identified. The training emphasized identifying documents for proactive posting.*

8. 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 the DOE, FOIA professionals continue to communicate with record holders and subject matter experts (SME) regarding sensitivities contained in responsive documents and the possibilities of discretionary releases. Legal counsel 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.

The Department also continues to include language in our response letters that references our commitment to openness and providing as much information when full disclosure is not possible and 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

The DOJ's 2009 FOIA Guidelines emphasized 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.

A. *Processing Procedures*

1. For Fiscal Year 2016, 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 2016 Annual FOIA Report.

> *The Department's average number of days to adjudicate requests for expedited processing was 9.37 days.*

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

> *N/A*

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

> *The DOE continues to look for ways to improve the FOIA process. For example, the FOIA Office analyzed how records are searched and determined the most appropriate keywords and phrases that produce better results. This review of the records search process led to improved efficiency and timeliness.*
>
> *Under new leadership, the SPR FOIA Office has dedicated significant time to analyzing the process. Improvements have included posting documents into Microsoft SharePoint for the review and concurrence by multiple individuals simultaneously on the release of information and, when electronic data is requested, requesters receive the information via email instead of digital media (e.g., compact discs). These changes have reduced the time it takes to get information to requestors.*
>
> *An internal review by the Office of Scientific and Technical Information's (OSTI) FOIA program demonstrated that their processes and procedures ensure the timely delivery of responsive documents to the FOIA requester within the 20-day requirement. The primary areas that impede OSTI's delay of responsive documents are requests for documents which are classified and unclassified sensitive. These documents require external consultation/coordination with HQ, impacting the delivery of responsive documents.*

4. Please provide an estimate of how many requests your agency processed in Fiscal Year 2016 that were from commercial use requesters. If your agency is decentralized, please identify any components within your agency that received a majority of their requests from commercial use requesters.

The Department processed approximately 407 requests from commercial use requesters in FY16.

B. Requester Services

5. Does your agency provide a mechanism for requesters to provide feedback about their experience with the FOIA process at your agency? If so, please describe the methods used, such as making the FOIA Public Liaison available to receive feedback, using surveys posted on the agency's website, etc.

> *Since the FOIA amendments were enacted on June 30, 2016, all response letters have identified the FOIA Public Liaison at each site as someone the requester can contact should any issues or concerns regarding the request arise. Contact information for the Department's FOIA Public Liaisons is also available on the agency's FOIA web pages.*
>
> *In addition, the Golden Field Office has a FOIA email box for feedback from the public about FOIA processing and Chicago's FOIA Officer routinely calls requesters personally after the response is sent to verify their satisfaction with how the request was handled. Because the FOIA Officer handles all interactions with the requesters throughout request processing, including informing requesters how the FOIA process works, ownership of records issues, and handling of individual requests, requesters typically express satisfaction with Chicago's processing.*

6. 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.

> *The FOIA Public Liaisons have been contacted approximately 12 times this past year.*

7. The FOIA Improvement Act of 2016 requires agencies to make their reference material or guide for requesting records or information from the agency electronically available to the public. Please provide a link to your agency's FOIA reference guide.

> *The Department's reference material for requesting records or information from the agency can be found at: https://www.energy.gov/sites/prod/files/maprod/documents/Handbook.pdf*

C. Other Initiatives

8. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as improving search processes, eliminating redundancy, etc., please describe them here.

> *Meetings continue to be held between the Chief FOIA Officer, FOIA Officer, staff, and the Office of General Counsel to discuss FOIA matters. Additionally, the FOIA Office continues to meet on a monthly basis with the Office of General Counsel to resolve pending issues and discuss improvements to the process.*

Section III: Steps Taken to Increase Proactive Disclosures

Both the President's and DOJ's FOIA memoranda 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.

A. Posting Material

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

> *The Department reviews a list of all FOIA requests received each week to determine what has been requested and conducts key word searches in the FOIA database to identify subjects of requests that have been requested multiple times. If documents are identified, they are posted to the FOIA webpage.*

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

> *The FOIA Office, Office General Counsel, and the Office of Public Affairs discuss FOIA requests to determine what subjects appear to be of the greatest interest to the public and other topics that should be considered for proactive disclosure. Once determined, the FOIA Office meets with the appropriate record holders to discuss posting items identified online, in addition to the datasets already available.*

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

> *No.*

4. If so, briefly explain those challenges and how your agency is working to overcome them.

> *N/A*

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

> *The following items are examples of material proactively disclosed by the DOE during the past reporting year:*
>
> - *The 2011-2015 Report Cards for the National Renewable Energy Laboratory's M&O contractor: http://www.energy.gov/eere/downloads/nrel-score-cards*
>
> - *National Renewable Energy Laboratory's 10 Year Site Plan: http://www.energy.gov/eere/downloads/national-renewable-energy-laboratory-10-year-site-plan-fy-2007-fy-2018*

- *FY 2013, 2014, and 2015 NREL M&O Annual Performance Evaluation Reports:* *http://www.energy.gov/eere/downloads/annual-performance-evaluation-reports-alliance-sustainable-energy-management*

- *The Waste Isolation Pilot Plant (WIPP) has a home page available to the public (http://www.wipp.energy.gov) where information on the FOIA, Privacy Act, as well as other information and documents, can be accessed. Other specific outreach efforts include the following:*

- *The CBFO/WIPP developed and utilized a webpage devoted to providing current information regarding the February 2014 events at WIPP and the recovery from the events. Significant documents are posted to the site proactively, outside of the FOIA. http://www.wipp.energy.gov/wipprecovery/recovery.html*

- *The CBFO maintains a public webpage that provides access to Resource Conservation and Recovery Act (RCRA) permit-related documents after they are filed. http://www.wipp.energy.gov/library/Information_Repository.htm*

- *Furthermore, the CBFO maintains a public webpage providing the public with background information specific to the Hazardous Waste Facility Permit, updated information related to permit actions, and opportunities to participate in the permit process as a general member of the public. http://www.wipp.energy.gov/WIPPCommunityRelations/index.html*

- *The Richland Office holds public meetings to review and discuss documents. The notification of the meeting is published online, along with the documents for review and comments received. The following are examples of the published information:*

  - *http://www.hanford.gov/pageAction.cfm/calendar?&IndEventID=6271*

  - *http://www.hanford.gov/files.cfm/2016_LCR_Fact_Sheet_Final.pdf*

  - *http://www.hanford.gov/files.cfm/2016_LCR_Washington_Dept_Ecology_Comments.pdf*

- *At the Western Area Power Administration (WAPA), the following documents are available to the public:*

  Operational data and financial information:
  - *https://www.wapa.gov/About/the-source/Pages/the-source.aspx*

  Transmission construction and project planning updates:
  - *https://www.wapa.gov/transmission/interconnection/Pages/interconnection-projects.aspx*

  - *https://www.wapa.gov/transmission/EnvironmentalReviewNEPA/Pages/environmental-review-nepa.aspx*

  - *https://www.wapa.gov/transmission/TIP/Projects/Pages/projects.aspx*

News and events:

- *https://www.wapa.gov/newsroom/Pages/newsroom.aspx*

Power rates and hydro conditions:

- *https://www.wapa.gov/PowerMarketing/Pages/hydropower-conditions.aspx*

- *https://www.wapa.gov/PowerMarketing/Pages/rates.aspx*

Strategic Plan, fiscal year annual report, and agency performance targets:

- *https://www.wapa.gov/About/Pages/strategic-planning.aspx*

- *OSTI's mission is in the oversight management of the Department's STI collection. The legacy collection can be found at www.osti.gov. This Web site enables the general public, other government agencies, DOE, and other entities to have a one-stop service for our gray literature, journal articles, conference proceedings, technical reports, multimedia, books, etc.*

  Examples of publicly available full-text scientific and technical reports for downloading from OSTI's SciTech Connect Web site are as follows:

  - *http://www.osti.gov/scitech/biblio/5630882-screening-identification-sites-proposed-monitored-retrievable-storage-facility*

  - *http://www.osti.gov/scitech/biblio/4074500-status-small-pipe-tube-disconnects-msre-auxiliary-lines-interim-reporthttp://www.osti.gov/scitech/biblio/4010217-operation-egcr-purification-system-prototype*

- *At Chicago, "FOIA Responses Related to Proposed NASA Non-Human Primate Research at Brookhaven National Laboratory" the PCRM FOIA Responses from 2-21-16 and 4-6-16, have garnered much attention from the animal rights community over the past 6 years, so any new information is proactively disclosed.*

  Additionally, links lead the public to the updated and most current versions of the following documents:

  - *SC Categorical Exclusion Determinations*

  - *SC Acquisition and Assistance Major Contract awards and revisions*

  - *SC Management and Operating Contracts as modified*

  - *Laboratory Appraisal Process*

  - *National laboratory report cards with performance ratings*

  - *SC procedures on its SCMS site*

  - *Updated SC Integrated Support Center Organizational Charts*

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

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

- ***DOE Patents Database:*** *DOEs central collection of patent information contains bibliographic data for a database of patents resulting from sponsored research by the DOE and predecessor agencies. This data service allows the downloading of bibliographic records in a format that can be used to load the records into other databases or search tools. A request for data returns the first 100 records; and,*

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

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

At the Richland Office, documents were proactively promoted through the redesign of www.hanford.gov, by making "documents" a more prominent navigation item on the main website. The feature allows users to access a myriad of documents related to Hanford, including broad overview documents, the Tri-Party Agreement, and various contracts and procurements.

WAPA highlights important new disclosures on the news slider on its homepage, located at www.wapa.gov, and uses social media, especially Twitter, to announce the availability of information.

OSTI's corporate function is evident in its array of publicly available products and services, located at www.osti.gov, OSTI also utilizes other announcement vehicles to highlight technical reports of interest to the public and scientific and technological advancements. The established mechanism for information broadcasts include:

- *http://www.osti.gov/home/scienceshowcase (DOE Science Showcase)*
- *http://www.osti.gov/home/newsletter (OSTI.GOV Newsletter)*
- *https://twitter.com/OSTIgov (Twitter)*
- *https://plus.google.com/+OstiGov (Google+)*
- *https://www.facebook.com/ostigov/ (Facebook)*

- *https://www.osti.gov/home/ostiblog/ (OSTI Blog)*
- *http://www.osti.gov/home/newsfeeds (RSS and Podcast News Feeds)*

B. Other Initiatives

7. If there are any other steps your agency has taken to improve proactive disclosures, please describe them here. For example, has your agency engaged requesters in determining how and what to post? Has your agency used web analytics to inform your proactive disclosures?

>*No.*

Section IV: Steps Taken to Greater Utilize Technology

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

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

A. Making Material Posted Online More Useful

1. 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.*

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

>*Over the past few years, much of the Department's lab presence has been consolidated from separate websites onto Energy.gov - the agency's central public-facing website. This provides a central location for visitors to Department of Energy websites to search for and locate information, rather than scattered across numerous standalone program and staff office websites.*

>*DOE has taken steps to make the information posted online more usable to the public while improving our web search capabilities to provide more relevant results. The DOE's website is mobile responsive so the content is accessible on any mobile device. Additional information on how DOE highlights the importance of making Electronic and Information Technologies (EIT) accessible to all individuals and more usable to the public can be found at http://energy.gov/cio/accessibility-standard-statement. The website also provides a disclosure statement and solicits feedback or concerns related to the accessibility.*

>*Energy.gov represents a commitment to principles of open government, accessibility and usability to agency's contents in a number of ways, including:*

- *Energy.gov Blog. This blog highlights timely content featuring the many exciting innovations across the Energy Department complex. Energy.gov blog entries provide Plain Language summaries of complex scientific processes and discoveries that are written in a conversational style for the public.*

- *Training. Energy.gov content providers are encouraged to follow the principles of critical Section 508 elements and Plain Language. They receive content guidelines, and training on using Plain Language and following web best practices for making content accessible.*

- *Web Council. The Department of Energy's Web Council allows Department web staff and digital communications specialists to collaborate across programs and share best practices for improving web content, including the enforcement of Plain Language guidelines.*

Additional improvements across DOE include:

Golden updated its e-FOIA submission form by making numerous changes (some suggested by FOIA requesters in their feedback) to improve the efficiency of the requesters' submission experience. Richland completed the re-design of the record management system for the website, which makes it easier for the end user to find documents among the complex myriad of document types. Recognizing the increasing importance and usage of mobile devices for general searching, the transition of www.hanford.gov also included a more mobile-friendly search engine.

OSTI made improvements in two major areas as part of our mission to enhance availability and accessibility of DOE's STI documents. The improvements were (1) adding and augmenting of data, and (2) improving web design based on usability studies and user feedback. The improvements include:

- *Workshops to collect feedback that will influence upcoming enhancements.*
- *Added 50,000+ records from Berkeley materials project, bringing the total for datasets in DOE Data Explorer (DDE) and SciTech Connect to nearly 70,000 records.*
- *Presented upcoming DOE Data Explorer redesign and 2016 SciDataCon.*
- *Added Open Researcher and Contributor ID (ORCID) integration functionality to SciTech Connect to allow authors to "claim" their works from SciTech Connect, automatically updating their ORCID Works profiles.*
- *Queried CrossRef and added nearly 500,000 Digital Object Identifiers (DOIs) to existing SciTech Connect records.*
- *Added software records from the Energy Science & Technology Center (ESTSC) to SciTech Connect.*
- *Developed and deployed an expandable footer enhancement and improved top menu bar in all five products (SciTech, DOE Pages, DDE, Doepatents, and ScienceCinema) to add further options to navigation.*
- *Improved Math/ LaTeX strings display for improved visual clarity of technical writing.*
- *Mobile-delivery optimizations for SciTech Connect and other core applications.*

3. Have your agency's FOIA professionals interacted with other agency staff (such as technology specialists or public affairs or communications professionals) in order to identify if there are any new ways to post agency information online?

Yes, the FOIA Office and other FOIA professionals periodically meet with information technology specialists and other communications professionals to discuss new ways to publicly post information in a more effective manner.

B. Use of Technology to Facilitate Processing of Requests

4. Did your agency conduct training for FOIA staff on any new processing tools during the reporting period, such as for a new case management system, or for search, redaction, or other processing tools?

BPA has undertaken a multi-year effort – the Unstructured Data Management (UDM) project – to better manage and maintain agency records. The UDM solution, called Discovery Core, includes modules for both FOIA and litigation search capabilities. The FOIA staff has been intimately involved in both the design and testing of Discovery Core.

5. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents? If yes please describe:

- The technological improvements being made.
- The impact of using these technologies on your agency's request processing.

The CBFO/WIPP utilizes an electronic records management system ("Documentum") which includes either the actual record or an index of every record that the organization has archived. Searches can be performed utilizing a variety of search criteria or key terms, in whole or in part.

At Richland, continual improvement on electronic databases that store record copy material that can be easily and quickly searched by using keywords, authors, dates, etc.

OSTI is continually developing new search algorithms and utilizing technology to improve the search and retrieval process. These improvements impact our FOIA request processing by allowing searchers to find more documents with more accuracy.

As noted earlier, the BPA anticipates that Discovery Core will greatly assist in the search and collection of potentially responsive records, which will improve the efficiency and effectiveness in processing requests. The SPR utilizes SharePoint for document management, which enables easy searching of information and allows the FOIA Officer access to files across the organization.

Chicago reached maximum utilization of electronic methods in its FOIA request process, with 98% paperless transmission of FOIA actions and activities as compared to 95% paperless in the prior year. The majority of responses are transmitted via e-mail. Only requests that require

transmission of sensitive information where the requester does not have an encryption tool are transmitted manually (Certified Mail or Commercial Carrier via trackable method).

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

Yes, however, due to budget constraints it is difficult to procure such tools.

C. Other Initiatives

7. Did your agency successfully post all four quarterly reports for Fiscal Year 2016?

Yes.

8. 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 2017.

N/A.

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

The President's FOIA Memorandum and the DOJ's 2009 FOIA Guidelines have 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 2016 Annual FOIA Report and, when applicable, your agency's 2015 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?

Yes.

2. If so, for your agency overall in Fiscal Year 2016, was the average number of days to process simple requests twenty working days or fewer?

No.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2016 that were placed in your simple track.

Approximately 77.3% of the FOIA requests processed by the agency in Fiscal Year 2016 were processed in the simple track.

4. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?

N/A

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 2015 and Fiscal Year 2016 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 2016, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2015? If not, explain why and describe the causes that contributed to your agency not being able reduce its backlog.

Yes, the DOE achieved a 17% decrease in the number of backlogged requests from 280 in FY2015 to 230 in FY2016.

6. If not, 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.

7. 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 2016.

The DOE received 1,974 requests in FY2016. Our backlog at the end of FY2016 was 230. Thus, the backlog at the end of FY2016 was 12% of the total requests received.

BACKLOGGED APPEALS

8. If your agency had a backlog of appeals at the close of Fiscal Year 2016, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2015? If not, explain why and describe the causes that contributed to your agency not being able reduce backlog.

> *No, at the end of FY 2015 there were nine backlogged appeals. At the end of FY2016 there were ten backlogged appeals.*

9. If not, 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 backlogged appeals involve classified records.*

10. 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 2016. If your agency did not receive any appeals in Fiscal Year 2016 and/or has no appeal backlog, please answer with "N/A."

> *The DOE received 71 appeals in FY2016. The appeal backlog at the end of FY2016 was ten. Thus, the appeal backlog at the end of FY2016 was 14% of the total appeals received.*

C. Backlog Reduction Plans

11. In the 2016 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2015 was asked to provide a plan for achieving backlog reduction in the year ahead. Did you 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 2016?

> *N/A.*

12. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2016, what is your agency's plan to reduce this backlog during Fiscal Year 2017?

> *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 2015 and Fiscal Year 2016 when completing this section of your Chief FOIA Officer Report.

TEN OLDEST REQUESTS

13. In Fiscal Year 2016, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2015 Annual FOIA Report?

> *No.*

14. 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 2015 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

> *The agency completed six of its ten oldest cases from the FY2015 report.*

15. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?

> *The requests that were closed were not withdrawn.*

TEN OLDEST APPEALS

16. In Fiscal Year 2016, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2015 Annual FOIA Report?

> *No.*

17. 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 2015 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

> *In the FY2015 Annual FOIA Report, we reported a total of ten backlogged appeals. Three of those appeals were completed in FY2016.*

TEN OLDEST CONSULTATIONS

18. In Fiscal Year 2016, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2015 Annual FOIA Report?

> *No.*

19. 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 2015 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

> *In FY2016, we closed six of the ten oldest pending consultations from FY2015.*

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

20. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2015.

> *The foremost obstacle is 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.*

21. 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*

22. 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 2017.

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

F. Interim Responses

23. Does your agency have a system in place to provide interim responses to requesters when appropriate? *See OIP Guidance*, "The Importance of Good Communication with FOIA Requesters." (Mar. 1, 2010)

> *Yes, the DOE encourages interim responses to requesters. When possible, DOE HQ and field sites, with the exception of the NNSA, issue partial responses to ensure requesters are aware the case is being processed and to foster a positive relationship with the requester community. Moreover, issuing partial responses gauges a requester's continued interest in pursuing the remainder of the case.*

24. If your agency had a backlog in Fiscal Year 2016, please provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.

> *It is estimated that partial responses have been made in at least 60% of the backlogged cases.*

G. Success Stories

Out of all the activities undertaken by your agency since March 2016 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 DOE has continued to address its backlogged cases by engaging senior leadership at DOE and other agencies, as necessary. As a result, the backlog was reduced by 17% in FY2016, marking the fourth consecutive year the Department has been able to decrease its FOIA backlog.*

- *The DOE FOIA Officer participated as a panel member on the ASAP training on Centralized or Non-Centralized FOIA Processing.*

- *Based on input Golden Field Office received from the FOIA requestor community regarding problems with Golden's eFOIA form, Golden's FOIA Officer and EERE's IT personnel worked on each of the eFOIA submission screens to install fixes designed to enhance user experience.*