



Summary of Agency Chief FOIA Officer
Reports for 2020
and
Assessment of Agency Progress in FOIA
Administration
with
OIP Guidance for Further Improvement

Introduction

The Freedom of Information Act (FOIA) requires each agency Chief FOIA Officer to “review and report to the Attorney General, through the head of the agency, at such times and in such formats as the Attorney General may direct, on the agency’s performance in implementing [the FOIA].”¹ Each year, the Department’s Office of Information Policy (OIP) provides [guidance](#) to agencies on the content of these reports. As in prior years, after reviewing all agencies’ [2020 Chief FOIA Officer Reports](#), as well as their [Fiscal Year \(FY\) 2019 Annual FOIA Reports](#), OIP has prepared a brief summary of agency progress over the past year.

Based on its review, OIP has also conducted a detailed assessment of all agencies subject to the FOIA that received more than 50 requests, scoring each one on multiple milestones. While all of these agencies had the same reporting guidelines, OIP continued to separately assess the 28 high-volume agencies receiving more than 1,000 requests and the 41 medium-volume agencies receiving between 50-1,000 requests. Based on its review, OIP has also issued guidance to agencies for continued improvement in the years ahead.

2020 Chief FOIA Officer Reports - Assessment of Federal Departments and Agencies
Agencies Receiving 51-1,000 Requests (FY 2018)

Section V -- Steps Taken to Improve Timeliness in Responding to Requests (Req.) and Reducing Backlogs

Agency	Simple Track				Agency Backlog Decreased				Percentage of Backlog to # of Req./App. Received in FY 2019				Agency Closed Ten Oldest Req., Appeals (App.) & Consultations (Consults.). If not, # closed in FY 2019					
	Has a Simple Track?	Score	Avg. No. of Days to Process	% of Req. In Simple Track	Req.	Process More Req.	App.	Process More App.	Req. Score	Req. %	App. Score	App. %	Req.	If no, # closed	App.	If no, # closed	Consults	If no, # closed
NRPC	Yes	■	457.2	2%	■	■	■	■	■	39%	■	100%	■	4/10	■	0/3	■	N/A
USAGM	No	■	79	N/A	■	■	■	N/A	■	21%	■	0%	■	N/A	■	N/A	■	N/A
FRB	Yes	■	13	48%	■	N/A	■	■	■	3%	■	14%	■	7/10	■	N/A	■	2/4
CFTC	Yes	■	78.03	73%	■	N/A	■	■	■	6%	■	0%	■	9/10	■	N/A	■	N/A
CFPB	Yes	■	58.9	75%	■	■	■	N/A	■	37%	■	0%	■	6/10	■	N/A	■	N/A
CEQ	Yes	■	36.47	64%	■	N/A	■	■	■	33%	■	20%	■	7/10	■	N/A	■	N/A
CSOSA	Yes	■	4.13	49%	■	N/A	■	■	■	0%	■	0%	■	N/A	■	N/A	■	N/A
CNCS	Yes	■	15.6	82%	■	■	■	N/A	■	5%	■	0%	■	N/A	■	N/A	■	N/A
Ex-Im Bank	Yes	■	15.76	48%	■	N/A	■	■	■	39%	■	0%	■	7/10	■	N/A	■	N/A
FCC	Yes	■	12.5	71%	■	■	■	N/A	■	2%	■	33%	■	7/10	■	N/A	■	N/A
FDIC	Yes	■	10.55	55%	■	■	■	N/A	■	0%	■	0%	■	N/A	■	N/A	■	N/A
PEC	Yes	■	54.8	49%	■	N/A	■	■	■	44%	■	100%	■	8/10	■	8/9	■	N/A
FERC	Yes	■	47	34%	■	■	■	■	■	34%	■	10%	■	6/10	■	N/A	■	N/A
FHFA	Yes	■	9.57	64%	■	■	■	N/A	■	15%	■	0%	■	0/10	■	N/A	■	N/A
FLRA	Yes	■	13.26	88%	■	■	■	N/A	■	3%	■	0%	■	N/A	■	N/A	■	N/A
FMCS	Yes	■	114	28%	■	N/A	■	■	■	0%	■	0%	■	N/A	■	N/A	■	N/A

Figure 1: 2020 Chief FOIA Officer Reports - Assessment of Federal Departments and Agencies

Summary of Agency Progress Based on 2020 Chief FOIA Officer Reports

The [2020 Chief FOIA Officer Reports](#) address agency efforts in improving FOIA administration in five key areas: (1) applying a presumption of openness, (2) having an efficient system in place for responding to requests, (3) increasing proactive disclosures, (4) utilizing technology, and (5) improving timeliness and reducing any backlogs. The summary below focuses

¹ 5 U.S.C. § 552(j)(2)(D) (2018).

on the successes achieved by agencies in each of these five key areas. Agencies and members of the public are encouraged to review the individual [2020 Chief FOIA Officer Reports](#) for even more detail on the successes achieved this past year in these five key areas. The Chief FOIA Officer Reports are accessible from the [Reports](#) page of OIP’s website or from each agency’s FOIA website.

Section I: Applying a Presumption of Openness

The first section of agencies’ [2020 Chief FOIA Officer Reports](#) addresses the steps taken to apply a presumption of openness. Agencies described a wide range of efforts in this area, including senior level oversight by the agency’s Chief FOIA Officer, providing substantive FOIA training to agency FOIA professionals, engaging in outreach with the requester community, and ensuring non-FOIA professionals are aware of their obligations under the FOIA.

Chief FOIA Officer Designation

The FOIA requires each agency to designate a Chief FOIA Officer (CFO) who is a senior official at the Assistant Secretary or equivalent level.² The Department of Justice reinforced this requirement in January 2019 by issuing a [memorandum](#) to all agency General Counsels and CFOs about the importance of designating CFOs at the appropriate level. The CFO is charged with “agency-wide responsibility for efficient and appropriate compliance” with the FOIA.³

In keeping with the FOIA’s requirements, agencies were asked to report, and were assessed on, whether their CFO is at the Assistant Secretary or equivalent level. Sixty-seven out of sixty-nine agencies receiving more than fifty requests reported that their CFO was at the appropriate level.

“Experience has proven that a proper exercise of the oversight role assigned to a Chief FOIA Officer requires appropriate authority and accountability.”

-- DOJ CFO Designations Memorandum

FOIA Training

A proper understanding of the FOIA, including the correct application of both FOIA law and policy, is a key element of applying a presumption of openness. Many agencies made significant efforts this past year to provide substantive FOIA training to their personnel. Notably, nearly all medium and high-volume agencies ensured that the majority of their FOIA staff received substantive FOIA training during the reporting period. Overall, 25 out of 28 high-volume agencies scored dark green for reporting that greater than 80% of their FOIA professionals attended substantive FOIA training. While this metric was not scored for medium-volume agencies, 36 out of 41 medium-volume agencies reported that greater than 80% of their FOIA professionals attended substantive FOIA training. Examples of the types of training provided include:

- The [Department of the Treasury](#) (Treasury) was joined by the [Department of Homeland Security](#) (DHS) in its first FOIA Summit joint venture during Sunshine Week. The training included an “Ask the Requester” panel featuring representatives from American Oversight, Cause of Action, and Citizens for Responsibility and Ethics in Washington.
- The [Department of Defense](#) (DOD)/Directorate of Oversight and Compliance (DO&C) conducted two in-person compliance workshops for over 500 DOD FOIA professionals. Topics included FOIA policy, exemptions, document declassification, and best practices in processing requests.

² 5 U.S.C. § 552(j)(1) (2018).

³ *Id.* at § 552(j)(2)(A).

- Many agencies provided training on an ongoing basis. The [Social Security Administration](#) (SSA) held monthly meetings on issues such as FOIA appeals and exemptions. The [Consumer Financial Protection Bureau](#) (CFPB) initiated an ongoing training series to provide a foundation for newer analysts and a refresher for more experienced analysts. [Department of Transportation](#) (DOT)/Office of the Secretary of Transportation held monthly meetings for FOIA professionals on issues such as FOIA updates, training, and discussions of current issues affecting FOIA processing.
- Several agencies conducted cross-training. For instance, the [Department of State](#) (State) held a FOIA training which featured sessions conducted by the Central Intelligence Agency (CIA) and [DOD](#). Among other things, Department personnel learned of the equities held by the other agencies and the referral and consultation process. [Treasury's](#) Financial Crimes Enforcement Network (FinCen) participated in the 2019 Intelligence Community (IC) FOIA Officer's Day and 2019 IC FOIA Equity Training Day, focusing on topics such as the DOD Proposed One System and Historical Redaction Tools; a Glomar Update from an FBI Perspective; and, the Intelligence Community FOIA Improvement Plan Update.

Outreach

Agencies also described how they are engaging with requesters and civil society organizations to improve requester services and facilitate greater access to records. Twenty-seven high-volume agencies conducted outreach that went beyond the regular communication that takes place within the FOIA request and appeal process. For example:

- The [Environmental Protection Agency's](#) (EPA) FOIA Public Liaison and attorneys in the Office of General Counsel spoke with requesters to resolve disputes and to gain perspective on requester needs and concerns. Through the conversations, [EPA](#) received feedback on recent initiatives to streamline and enhance [EPA's](#) FOIA implementation.
- The [General Services Administration](#) (GSA) surveyed a select portion of the requester community about how [GSA](#) could improve the timeliness and quality of its information. Specifically, [GSA](#) worked with members of the media and several open government groups.
- The [United States Postal Service](#) (USPS) hosted two public teleconferences which included a summary of [USPS's](#) FOIA process and allowed the public an opportunity to ask questions.
- The [National Archives and Records Administration](#) (NARA) conducted orientation classes for students from the Bush School of Government and Public Service at Texas A&M University and a Texas A&M University history group. The orientation classes introduced the students to the value of utilizing the FOIA to access the holdings of the Bush Presidential Library.

Efforts to Inform Non-FOIA Professionals of their FOIA Obligations

The [DOJ FOIA Guidelines](#) declare that "FOIA is everyone's responsibility" and "is not merely a task assigned to an agency's FOIA staff." Support from agency leadership and all agency employees is indispensable to ensuring that FOIA professionals can efficiently process and respond to requests. Accordingly, OIP asked high- and medium-volume agencies to include in their 2020 Chief FOIA Officer Reports a description of their efforts to inform non-FOIA professionals of their obligations under the FOIA. Agencies reported a wide range of activities. For example:

- Several agencies provided an overview of FOIA responsibilities during new employee training. The [United States Trade Representative](#) (USTR) required all new employees and contractors to attend introductory FOIA training, which provided an overview of the process, including working with requesters, conducting effective searches, and applying

FOIA exemptions. The [Commodity Futures Trading Commission](#) (CFTC) provided FOIA training as a part of its on-boarding for its new Chairman and various office directors. The [Securities and Exchange Commission](#) (SEC) makes OIP's FOIA e-learning module available to its employees.

- The [Department of Housing and Urban Development](#) (HUD) incorporated FOIA into its annual training modules, which all employees must complete. Additionally, several program areas began incorporating FOIA components into employees' annual performance ratings.
- The [Department of Labor](#) (DOL)/Employment and Training Administration (ETA) conducted FOIA overview sessions with management and supervisory staff to advise them of their responsibilities under the FOIA. Among other things, non-FOIA staff were informed of their obligations under the FOIA through mandatory Learning Link trainings.
- Several [DHS](#) subcomponents provided training for non-FOIA professionals. Immigration and Customs Enforcement held 11 training sessions for program offices who conduct record searches. The trainings provided an overview of the FOIA process and the office's requirements for conducting a proper search for records. The United States Secret Service (USSS) convened a FOIA town hall for agency personnel. USSS's Chief Disclosure Officer provided an overview of the FOIA and explained roles and responsibilities of agency personnel. The Transportation Security Administration (TSA) conducted annual training for FOIA points of contact.

Section II: Ensuring Agencies Have Effective Systems for Responding to Requests

As a part of the [2020 Chief FOIA Officer Report](#), OIP asked agencies receiving more than 50 requests in FY18 to provide information on the steps "taken to ensure that the management of [their] FOIA program is effective and efficient." In their 2020 Chief FOIA Officer Reports, agencies provided details on various efforts related to processing procedures and requester services, including conducting self-assessments and other steps taken to improve efficiency. The two primary challenges that many agencies face in this area are technological issues and the volume of requests.

Processing Procedures

OIP's [guidance](#) released in December 2014 stresses the importance of ensuring timely determinations on requests for expedited processing within ten calendar days. In FY 2019, 39 assessed agencies that received requests for expedited processing adjudicated such requests within an average of ten calendar days. For the 2020 Chief FOIA Officer Reports, OIP asked agencies that did not maintain an average of ten days or less to adjudicate requests for expedited processing to provide plans for improvement during FY 2020.

Self-Assessments

In the [Guidance for Further Improvement Based on the 2016 Chief FOIA Officer Report Review and Assessment](#), OIP encouraged agencies to regularly conduct self-assessments to help improve their administration of the FOIA. In 2017, OIP released a [FOIA Self-Assessment Toolkit](#) designed to assist agencies in conducting comprehensive reviews of their FOIA programs. OIP asked agencies to indicate in their 2020 Chief FOIA Officer Reports whether they conducted self-assessments of their FOIA programs and to describe the methods used.

The reports contain a wealth of information about agencies' self-assessments. Over eighty percent of high-volume and medium-volume agencies reported conducting self-assessments using various methods:

- Several agencies reported using OIP's FOIA Self-Assessment Toolkit to assess their FOIA programs, including [DOD](#), [Federal Communications Commission \(FCC\)](#), [GSA](#), [National Labor Relations Board \(NLRB\)](#), [Occupational Safety and Health Review Commission \(OSHRC\)](#), [Office of Science and Technology Policy \(OSTP\)](#) and [U.S. Agency for International Development \(USAID\)](#). [OSHRC](#) used the Self-Assessment Toolkit while revising its FOIA Directive and Reference Guide. [NLRB's](#) FOIA Branch used the Toolkit to complete a module on website development and maintenance while it revamped its FOIA Homepage. All [DHS](#) Component FOIA Officers completed the Self-Assessment Toolkit, and DHS's self-assessment program is augmented with reports and evaluations completed by other entities such as the Office of Government Information Services (OGIS).
- Many agencies, including Office of the Director of National Intelligence (ODNI), [SSA](#), [USAID](#), [United States Agency for Global Media \(USAGM\)](#), [United States Railroad Retirement Board \(USRRB\)](#), Council on Environmental Quality (CEQ) and [Department of Commerce \(DOC\)](#) examined FOIA processing data from their [Annual FOIA Reports](#) or generated periodic reports from their processing systems to conduct self-assessments throughout the year to identify areas for improvement.
- The [Court Services and Offender Supervision Agency \(CSOSA\)](#) conducted a self-assessment of its FOIA program. As a result, CSOSA created an internal processing tracker, began running daily/weekly reports, reduced processing times, and revised the FOIA Program's Standard Operating Procedures.
- The [Federal Trade Commission \(FTC\)](#) conducted biweekly management reports and staff meetings to discuss backlogged and complex requests, strategize solutions, and identify areas in need of improvement. [FTC](#) identified several such areas and took steps to improve its FOIA processing or procedures. Among other changes, a number of FOIA response templates and language were revised in accordance with case law and agency policy.

Requester Services

Agency FOIA Public Liaisons and FOIA Requester Service Centers provide pivotal services to requesters by informing them about how the FOIA process works and providing specific details on the handling of their individual requests. The FOIA also calls on agency FOIA Public Liaisons to assist requesters in resolving disputes and requires agencies to notify requesters about the services provided by each agency's FOIA Public Liaison in their response letters.

For 2020, OIP asked agencies to provide estimates of how often requesters sought assistance from their FOIA Public Liaisons. Of the 69 agencies receiving more than 50 requests, 34 received ten or fewer requester inquiries to their FOIA Public Liaison during the reporting period. 15 agencies received 11-100 inquiries, 13 agencies received 101-1,000 inquiries, and 7 agencies received over 1,000 inquiries.

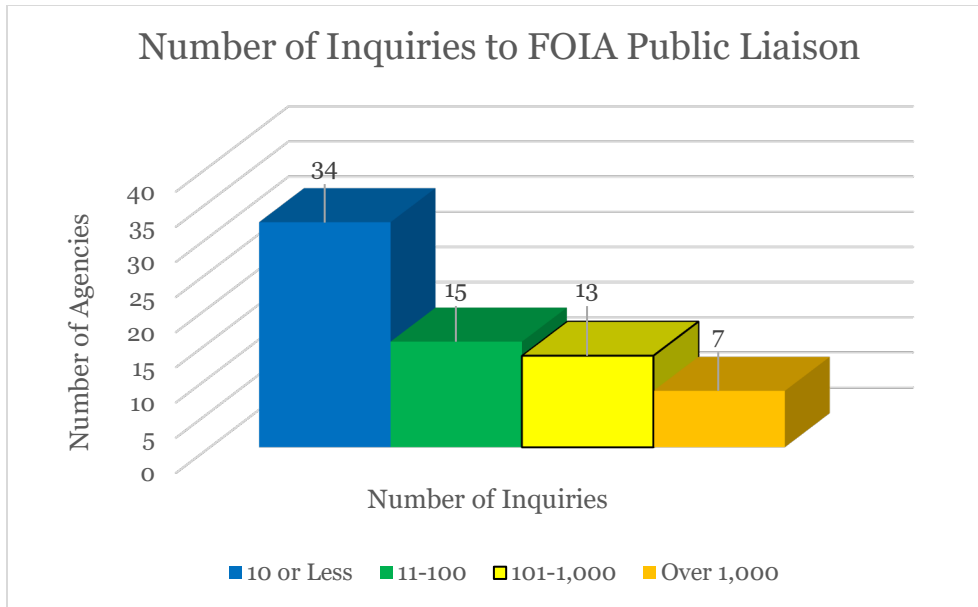


Figure 2: Number of Inquiries to FOIA Public Liaison

Best Practices for Efficient FOIA Systems

In addition to the above efforts, several agencies detailed best practices they have taken to ensure that their FOIA systems operate efficiently and effectively. For example:

- CIA holds a monthly FOIA review panel to discuss progress towards current fiscal year FOIA goals. The panel reviews the 10 oldest initial request, appeal, and consultation cases; metrics on the volume of cases received and closed; and the impact of specific actions on reducing the backlog. In FY 2020, the panel actively pursued solutions to the issues identified by CIA’s renewed focus on FOIA metrics. Additionally, various CIA offices supporting FOIA have implemented cross-training efforts so that there is a greater pool of trained FOIA professionals who can surge to support any area that needs additional resources.
- [CFPB](#) circulates a weekly update to senior leaders that identifies past-due search requests and provides metrics on program performance. The FOIA office uses these metrics to track, prioritize, assign, and redistribute backlog requests as needed to optimize processing output. Additionally, detailed weekly staff progress reports, work planning meetings, and one-on-one partnerships have also been established to improve the overall quality of CFPB’s FOIA process.
- [Federal Election Commission](#) (FEC) reviewed all open caseloads and worked to ensure that older cases were processed in a timely fashion. Due to [FEC’s](#) efforts, they successfully reduced their backlog by 64%.
- [Pension Benefit Guaranty Corporation](#) (PBGC) enhanced its review for “no records” search procedures by implementing the agency’s first “No Records” Checklist. The checklist specifically lists additional locations where records might be found. Before issuing a “no records” determination, two individuals in addition to the Government Information Specialist assigned to the request search all the locations appearing on the checklist. [PBGC](#) believes this process fostered the presumption of openness by taking steps to ensure the quality and adequacy of its record searches. In FY 2019, the [PBGC](#) received 2,348 requests

and received only 9 appeals; none of the Disclosure Division’s initial determinations were overturned.

Challenges to Efficient FOIA Systems

The challenges agencies faced in maintaining efficient FOIA systems often included the volume and complexity of the requests. [FCC](#) and [GSA](#) both cited complex requests as a challenge to efficient FOIA processing. Additionally, the Office of Management and Budget (OMB) noted that as the volume of incoming requests steadily grew, some of the agency’s workflow processes involving search, processing, quality control and consultation sometimes did not easily scale up to the larger workload. OMB overcame the challenge by regularly assessing its workflow processes from end to end in order to determine where processes could be improved.

Other agencies noted additional challenges to efficiency in FY 2020. [CFTC](#) noted that due to its lack of staff during the past year, it was still in the process of implementing improvements in its FOIA process. CEQ noted that its biggest challenge was addressing the increase in FOIA litigation given its limited resources. Finally, [Treasury](#) reported that its systems had become antiquated and needed to be replaced, further noting that Departmental Offices (DO) and Internal Revenue Service (IRS) have an initiative to replace their current electronic FOIA system with new technology.

Section III: Increasing Proactive Disclosures

[DOJ](#) has emphasized the need for agencies to work proactively to post information online without waiting for individual requests to be received. In their [2020 Chief FOIA Officer Reports](#), agencies provided examples of material they proactively disclosed during the reporting period, including records requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D).

Agencies provided a wealth of examples in their reports of new or regularly updated information posted on their websites. A few of the many examples include:

- [CFTC](#) continues to make proactive disclosures on the agency’s website in connection with the numerous [Dodd-Frank Act rulemakings](#). Pursuant to its transparency policy, the agency continues to list all [meetings with outside stakeholders](#). Finally, the agency’s press office routinely posts [advisory notices](#), [speeches](#), [testimony](#), and [notices of enforcement actions](#) on the agency website.
- [CFPB](#), with the consumer’s consent, publishes [de-identified narratives about consumer experiences](#) with products such as mortgages, bank accounts and services, credit cards, debt collection, credit reporting, and more. The narratives provide a firsthand account of the consumer’s experience and provide context to the associated complaints.
- [Department of Interior](#)/Bureau of Safety and Environmental Enforcement is launching a [safety initiative](#) to bring critical safety information directly to offshore workers on the Outer Continental Shelf. The program uses text messages to send links to the Bureau’s published Safety Alerts and Bulletins.
- [DOL](#)/Office of Disability Employment Policy (ODEP) continued to update its webpage to provide the public with a detailed overview of a major policy initiative – [a joint \\$80 million effort](#) with the Employment and Training Administration (ETA) and the [SSA](#) to test the impact of early intervention projects on Stay at Work/Return to Work outcomes. The Retaining Employment and Talent After Injury/Illness Network

“Open government requires agencies to work proactively and respond to requests promptly.”

-- DOJ FOIA Guidelines

(RETAIN) [webpage](#) contains detailed links to six different topics including news, events and, FAQs.

- [NARA](#)/National Declassification Center (NDC) [released](#) 541 entries that completed declassification processing between October 1, 2018 through September 30, 2019. Highlights include: the Department of State's Paris Peace Accords Files and the Office of the Secretary of Defense's "Pentagon Papers" Investigation Files.
- Agencies also continued to post records that have been requested under the FOIA, sometimes going beyond the FOIA's statutory requirements. For instance, [State](#) continued its policy of "Release to One, Release to All" through a series of regular postings. From March 1, 2019 through February 7, 2020, over 17,000 additional records were posted to State's [public FOIA website](#), which now contains more than 225,000 records. [DOD](#)/Air Force routinely publishes all FOIA responses to its FOIA Library, except for responses to first-party requesters. In the current reporting period, 38,049 pages of responsive documents were added to the Air Force FOIA Library.

Making Posted Information More Useful

In March 2015, OIP issued [guidance for proactive disclosures](#) that details various methods for disclosure, including the importance of ensuring that information is posted in the most usable formats. Many agencies use different strategies for proactive disclosures tailored to serve the community of individuals who visit their websites most frequently. Some examples of steps agencies have taken to make information more useful include:

- [CFTC](#) uses [LabCFTC](#) to engage with academia, students and professionals on applications of financial technology (FinTech) relevant in the [CFTC](#) space. In particular, LabCFTC's [GuidePoint Program](#) is an integral part of LabCFTC. GuidePoint offers FinTech innovators a point of contact to ensure inquiries are properly directed; individualized feedback on CFTC's regulatory framework; as well as, general information on registration, processes, and compliance.
- [DOC](#)/Bureau of Economic Analysis's (BEA) Communications Staff regularly review a wide array of web analytics, customer feedback, and survey responses to improve web usability and information architecture. In 2019, BEA launched a new data science approach to web usability review, using advanced statistical techniques to gain insight into web user behavior and where additional site improvements are necessary.
- Many [DOT](#) components reported publicizing important proactive disclosures for public awareness through various [social media outlets](#). For example, [DOT](#) components employed Facebook, Twitter, YouTube, Instagram, and Vine. Additionally, [DOT](#)/National Highway Traffic Safety Administration (NHTSA) created a dedicated [Takata recall spotlight page](#), which published an abstract list of affected vehicles and interactive visual charts along with a frequently asked questions (FAQs) for the consumers.
- [Federal Reserve Board](#) (FRB) used numerous social media channels such as Twitter, YouTube, LinkedIn, and Flickr to provide the public with additional means of accessing information. The FRB Twitter account appeared in users' timelines 33 million times from October 1, 2018 – September 30, 2019.
- [Federal Energy Regulatory Commission](#) (FERC) created "[The FERC Insight](#)" newsletter that provided another method in which information can be proactively shared with members of the public. The newsletter includes highlights from meetings, speeches, upcoming

conferences, and other special announcements relating to [FERC](#) matters. It also includes direct links to Commission orders, notices, reports, podcasts, and other pertinent material.

- In 2018, [USAGM](#) launched a redesigned public website (www.usagm.gov), in line with its organizational re-branding from Broadcasting Board of Governors to U.S. Agency for Global Media. The new website features improved layout and navigability and enables potential FOIA requesters to more easily locate and review information that [USAGM](#) has already posted. In addition, potential requesters can use the “search” feature of the website to filter and sort results by keywords.
- The National Science Foundation (NSF) recognizes that individuals who regularly access its website primarily come from the scientific community. Accordingly, NSF currently has 98 data sets available on data.gov and 3,255 records available in the [NSF document library](#). The documents can be searched by document type, organization type, publication date, and document title. An additional 5,050 records are available in the archived document library.
- [Office of National Drug Control Policy](#) (ONDCP) posted a new [Drug Control Data Dashboard](#) with an extensive array of drug-related data. The Data Dashboard is a compilation of 163 tables in machine-readable form based on the 2019 National Drug Control Strategy’s Data Supplement. [ONDCP](#) took steps to improve the presentation and usefulness of the data and will continue to make further improvements next year.

Best Practices for Increasing Proactive Disclosures

In addition to the efforts above, several agencies provided best practices they have taken to proactively disclose records. For example:

- [Treasury](#)/IRS established a forum to meet quarterly with IRS business unit points of contact to discuss proactive disclosure requirements and FOIA processing. Additionally, IRS also conducted a review of Internal Revenue Manuals to ensure procedural changes are appropriately disclosed on the FOIA Library.
- [FCC](#) publicized proactive disclosures through numerous social media and email subscription services. For example, FCC maintained over fifty-five RSS feeds, through which users could receive automatic updates covering the FCC Blog, actions by individual bureaus and offices, and numerous types of FCC documents and databases. Users could also receive the information through email subscription.
- ODNI’s FOIA Branch works closely with its Strategic Communications Division and the Civil Liberties, Privacy and Transparency Office to encourage proactive disclosure of items of public interest. ODNI also convenes the Intelligence Community (IC) Historians’ Panel to identify material for declassification review.
- [Department of Energy](#) (DOE) works with webpage owners to determine the number of hits to their sites, identifying points of interest from the public, and using that as one of the basis for considering types of information for proactive disclosure.
- [Department of Health and Human Services](#) (HHS)/National Institutes of Health (NIH) monitors components’ activities and research portfolios for matters appropriate for proactive disclosure. NIH communications offices also monitor correspondence from the public and stakeholders for topics of general interest. Finally, NIH web teams monitor websites for sites that receive many views to identify material that might be appropriate for translation into other languages.

Challenges to Increasing Proactive Disclosures

Agencies listed a variety of challenges to proactive disclosures in FY 2020. Some agencies, such as ED and Labor, indicated that complying with the requirements of Section 508 of the Rehabilitation Act of 1973 as a challenge to the posting of documents. Additionally, [CFTC](#) noted that it did not receive many repeat requests and, therefore, found it difficult to determine what information would be most useful to the public. Finally, several agencies listed privacy concerns. [Treasury](#)/Treasury Inspector General for Tax Administration (TIGTA) reported that the majority of its requests sought law enforcement records on or about individuals, which could not be disclosed publicly. The Office of Navajo and Hopi Indian Relocation (ONHIR) noted that its most frequently requested documents were home-site leases which contain personally identifiable information (PII).

Section IV: Greater Utilization of Technology in FOIA Administration

Agencies continue to use advanced technology to make more information available online, improve their websites, and assist in their overall FOIA administration. Each year, OIP asks agencies to describe the steps they have taken to greater utilize technology in their FOIA administration in their [Chief FOIA Officer Reports](#). Every year, OIP refines the questions in this section as the use of technology evolves. For 2020, agencies were asked to describe how they leverage technology to facilitate efficiency in FOIA administration that they have not previously reported. Specifically, agencies were asked to describe the type of technology used. Agencies were also asked to confirm that they had reviewed their FOIA websites to address elements noted in OIP [guidance](#).

Use of Technology Not Previously Reported

For 2020, agencies reported leveraging a variety of tools in particular to improve efficiency in conducting searches and identify responsive records. Many agencies reported using e-discovery tools to conduct searches and assist in litigation matters. For example, [DHS](#)/Office of Inspector General leveraged its e-discovery platform to handle voluminous requests or requests involving employee e-mails. [DOT](#)/NHTSA added e-discovery technology to filter, de-duplicate, rank, and categorize responsive content in large volumes of emails, attachments, or virtually any file type.

Other agencies found additional ways to creatively leverage technology. [State](#) and [GSA](#) are exploring the use of Artificial Intelligence (AI) to improve the electronic management of records and automate redactions on templated information, respectively. [Treasury](#)/Treasury Inspector General for Tax Administration (TIGTA) created a wiki, which allows employees to do keyword searches of disclosure policies and procedures, and recently updated it with a section on definitions, case summaries, and three new Standard Operating Procedures.

Review of Agency Websites

In 2017, OIP issued [guidance](#) encouraging agencies to regularly review their FOIA websites to ensure they contain essential resources, are informative, and user-friendly. In their 2020 Chief FOIA Officer Reports, sixty-eight of sixty-nine agencies receiving more than fifty requests reported that they reviewed their websites for compliance with OIP Guidance. One agency reported that it was planning to conduct this review during the next reporting period.

Posting Quarterly FOIA Reports

In FY 2019, 58% of agencies receiving more than fifty requests reported posting their Quarterly FOIA Reports successfully with corresponding data appearing on FOIA.gov. An additional 30% of agencies were able to post their quarterly reports successfully to their own website even though they may have had technical difficulties that resulted in their information not appearing on

FOIA.gov. Any agency that was unable to successfully post all quarterly reports was required to provide a plan for ensuring that such reporting is successful in FY 2020. Given the importance of providing the public these key FOIA statistics during the course of the fiscal year, every agency should ensure that their quarterly FOIA reports are timely and properly posted in accordance with OIP's [guidance](#), so that they can be accessed through [FOIA.gov](#).

Posting Raw Data Used to Compile the Annual FOIA Report

The *FOIA Improvement Act of 2016* amended the [FOIA](#) to require agencies to proactively make available in an electronic format the raw statistical data used to compile their Annual FOIA Report. Previously, this information was required to be made available upon request. OIP issued [guidance](#) to assist agencies in meeting this requirement, and [asked](#) agencies to provide links to their raw data postings for FY 2018 in their [2020 Chief FOIA Officer Reports](#). Eighty-eight percent of agencies receiving more than fifty requests successfully posted the raw data used to compile their FY 2018 Annual FOIA Report. Several agencies have also already posted the raw data for their FY 2019 reports.

Best Practices to Leverage Technology

In addition to describing technology used to conduct searches, the [2020 Chief FOIA Officer Reports](#) contain many examples of agencies' best practices in using technology throughout the FOIA process. For example:

- [DOD](#) components continue to participate in a multi-phase workshop which includes an enterprise-wide FOIA case management system. [DOD's](#) goal is to transition to a Department-wide FOIA case management system, which will assist with standardizing the FOIA process. The case management system objective is to provide consistency in how [DOD](#) FOIA offices track cases, maintain records, and produce reports, leading to overall greater efficiency in FOIA processing.
- [Treasury](#)/Office of the Comptroller of the Currency (OCC) employed the use of a new payment module that interfaces directly between its FOIA request tracking system and [www.Pay.gov](#). Additionally, the agency has gone to an electronic payment only system for its FOIA processing.
- [Tennessee Valley Authority](#) (TVA) implemented Enterprise Content Management (ECM) – a records and document management system. Among other things, the ECM system allows for efficient information searches, integrates with key [TVA](#) systems, and facilitates documentation processes. Full implementation of ECM has increased work productivity and collaboration across the agency.
- [DOC](#)/FOIA Program and Information Law Division utilizes its “Relativity” pilot program to enhance email search capabilities. The program allows specified documents and data sets to be identified and extracted from custodian accounts using filters and search terms. The tool automates deduplication, and email threading which decreases analyst review times.
- Many agencies, including [CFPB](#), [CSOSA](#), [FDIC](#), [FTC](#), and [NTSB](#), also reported upgrading their FOIA case management systems. Additionally, [State](#) reported major improvements in the Department's management of electronic records in a cloud-based eRecords archive that will be interoperable with FOIAXpress.

Challenges with Technology

The challenges agencies face in the area of technology include staffing and resource limitations as well as electronic discovery (e-discovery) issues. Smaller agencies, such as [CFTC](#),

[CNCS](#), and [Federal Mine Safety and Health Review Commission \(FMSHRC\)](#), reported lack of staff and access to resources as challenges. By contrast, larger agencies reported challenges related to the use of e-discovery tools. For example, [HUD](#) reports that due to the prevalence of requests seeking email and calendar records, the Department has submitted a significant number of e-discovery requests since 2017. The volume of requests has led to a large backlog within [HUD's](#) e-discovery system. Despite these challenges, agencies large and small, are continuing to explore how best to use technology to their advantage.

Section V: Improving Timeliness and Reducing Backlogs

For the [2020 Chief FOIA Officer Reports](#), OIP again asked agencies to provide detailed information on their average processing times for simple track requests and their efforts to reduce backlogs and close their ten oldest requests, appeals, and consultations. Those agencies that had a request backlog of over 1,000 were also required to provide a plan for achieving backlog reduction in the year ahead. Likewise, agencies that did not close their ten oldest requests, appeals, or consultations were required to describe their plans for closing those requests, appeals or consultations by the end of FY 2020.

While OIP continued to assess agencies on the below milestones consistent with prior years, it is important to note that most agencies were significantly impacted by the 35-day government shutdown that occurred in FY 2019. The shutdown unavoidably increased processing times and presented a new challenges for agencies' backlog reduction goals. Nevertheless, it is important for agencies to continue to striving toward meeting all the milestones in this section. Accordingly, we continue to assess this section as we have in the past, with future progress in mind.

Simple Track Requests

Because of the strong correlation between the type of request that is made and the ability of the agency to respond to that request more quickly, in 2012, OIP established a milestone that addressed whether the agency overall responded to requests in its simple track within an average of twenty working days or less. Agencies once again reported on this metric in their [2020 Chief FOIA Officer Reports](#). Thirty-two medium and high-volume agencies reported that they either processed their simple-track requests in an average of twenty-working days or less, or if they did not use multi-track processing, they processed all of their non-expedited requests within that average timeframe.

Backlogs

With regard to request backlogs, thirty-six medium and high-volume agencies reported that they either reduced the number of requests in their backlog at the end of FY 2019 or they had no backlog to reduce. Seven agencies reported that the backlog was the same as the previous FY or an increase of up to five backlogged requests. Twenty-six agencies experienced a backlog increase of more than five requests; of these agencies, ten reported that they processed more requests than the previous fiscal year.

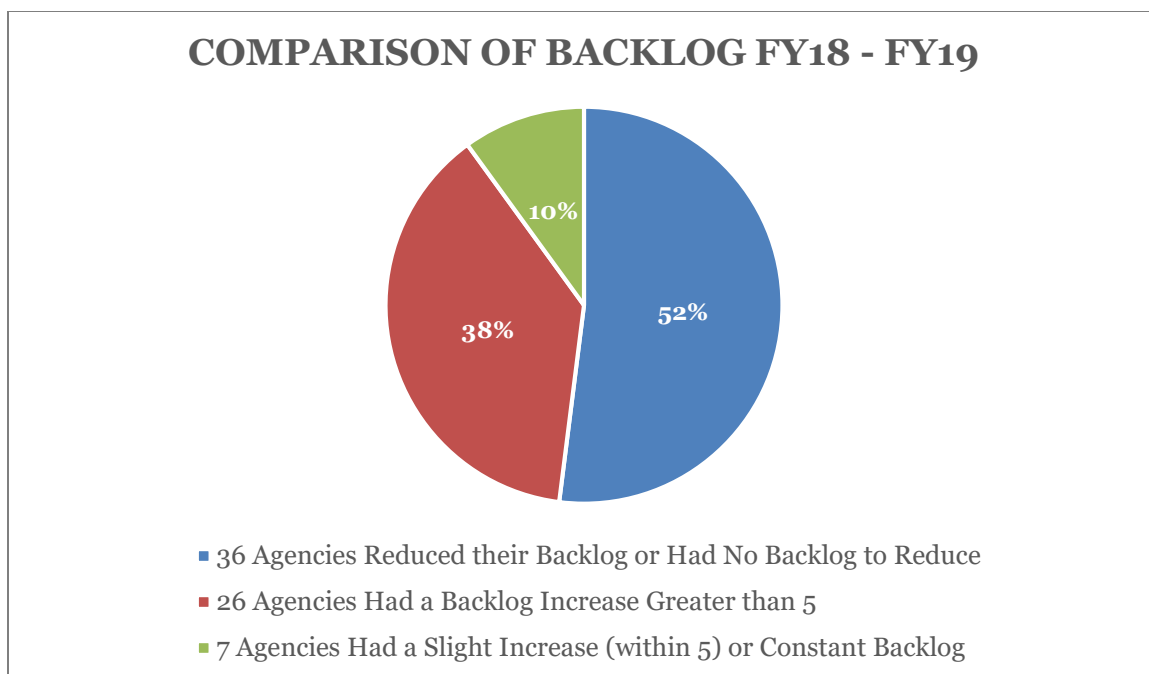


Figure 3: Backlog Comparison, FY 2018 to FY 2019

For administrative FOIA appeals, forty-seven medium and high-volume agencies reported that they either reduced the number of appeals in their backlog at the end of FY 2019 or they had no backlog to reduce. Twelve agencies reported that the backlog was the same as the previous FY or an increase of up to five backlogged appeals. Ten agencies reported an appeal backlog increase of over five appeals. Further, of the twenty-two agencies that reported an increase or constant appeals backlog, seven also reported that they processed more appeals than the previous fiscal year.

As with previous years, agencies that experienced an increase in their request or appeal backlogs explained the causes that contributed to those increases in their [2020 Chief FOIA Officer Reports](#). The most frequently cited factors were the increase in the number of requests, as well as the increased complexity of incoming requests. Nine agencies also reported losing experienced staff as contributing to the backlog. Litigation also continued to be a commonly cited factor that contributed to an increased request backlog. Additionally, many agencies, including [DOC](#), [HHS](#)/Food and Drug Administration (FDA), [DHS](#)/Customs and Border Protection (CBP) and [DHS](#)/TSA cited the FY 2019 government shutdown as a reason their backlog did not decrease. With respect to appeals, ten agencies identified the increased number of appeals received and a loss of staff as contributing to their appeals backlog. Additionally, nine agencies identified an increase in the complexity of appeals as contributing to the backlog. As with previous years, agencies that experienced an increase in their request or appeal backlogs explained the causes that contributed to those increases in their [2020 Chief FOIA Officer Reports](#).

Status of Ten Oldest Requests, Appeals, and Consultations

A critical element of the government’s backlog-reduction efforts is the closing of the ten oldest pending requests, appeals, and consultations at each agency every year. Thirty-four medium and high-volume agencies reported that they either closed all ten of their oldest requests from FY 2018 by the end of FY 2019, or they had no ten oldest to close.

With regard to appeals, forty-nine medium and high-volume agencies either closed their ten oldest pending appeals or they had no ten oldest to close. Finally, fifty-six medium and high-volume agencies closed their ten oldest pending consultations or they continued to maintain no pending consultations at the end of the fiscal year.

Conclusion

OIP's 2020 Summary and Assessment demonstrates that even in the face of continuously high demand and new challenges, agencies continue to implement new ways to improve their administration of the FOIA through various initiatives connected to the five key areas addressed in the DOJ FOIA Guidelines. Agencies continue to apply a presumption of openness, make more proactive disclosures, use technology for the benefit of FOIA, and make efforts to improve timeliness and reduce backlogs. While there are many laudable achievements noted in this summary, the successes achieved by individual agencies can vary. OIP's Assessment serves as a visual snapshot of where each agency should focus its efforts in the upcoming year to achieve greater success. To assist agencies OIP also offers the following guidance.

OIP Guidance for Further Improvement Based on 2020 Chief FOIA Officer Report Review and Assessment

Improving Timeliness and Reducing Backlogs

The Department's FOIA Guidelines emphasize the importance of timeliness when responding to requests. In the 2020 Assessment, OIP continued to capture agencies' efforts in this area by assessing metrics such as: the average processing time for simple requests, reductions in backlogs, the percentage of the backlogs in relation to incoming requests and appeals, and the closure of agencies' ten oldest requests, appeals, and consultations.

Continuing to focus on the metrics above, agencies with an average processing time for simple requests of more than twenty days should reexamine their FOIA process and strive to meet the twenty day standard. Likewise, agencies with large backlogs should also continue to work on achieving backlog reduction and closing their oldest requests in the upcoming fiscal years. OIP encourages agencies to assess their FOIA programs with an eye toward developing short and long term plans for achieving sustained improvements in timeliness and backlogs. Agencies can use [OIP's Self-Assessment Toolkit](#) as a resource for identifying potential pain points in their FOIA process and developing fulsome backlog reduction plans. OIP acknowledges that many agencies are currently experiencing new challenges in the midst of the COVID-19 pandemic. Those agencies should continue to maximize the efficiency and effectiveness of their FOIA program and consider the steps highlighted in OIP's May 2020 [Guidance for Agency FOIA Administration in Light of COVID-19 Impacts](#):

- *Using Clear and Effective Communication with Requesters*
- *Strategically Managing Requests Using Multitrack Processing and Interim Releases*
- *Focusing on Proactive Disclosures*
- *Reassessing and Leveraging Technology*
- *Beyond Request Processing, Considering Other Ways to Maximize Efficiency*
- *Utilizing Available Government-wide DOJ Resources*

Expedited Processing Procedures

OIP's December 2014 [Guidance on Ensuring Timely Determinations on Requests for Expedited Processing](#) emphasizes the importance of adjudicating requests for expedited processing within ten calendar days. For the 2020 Chief FOIA Officer Reports, while most agencies met this milestone, many agencies' average time to adjudicate requests for expedited processing exceeds ten days. In some cases, the average adjudication time is several days or more higher than the required ten calendar days. OIP asked agencies that did not adjudicate requests for expedited processing within ten days to provide plans for improvement. Agencies are encouraged to follow up on these plans throughout the year to ensure that they are meeting the FOIA's requirement for responding to requests for expedition. Additionally, agencies should be mindful of the following steps from OIP's 2014 [guidance](#):

- Screen all FOIA requests at the time of receipt to determine whether expedited processing has been requested.
- Be alert to requests for expedition that may be made after the initial request is submitted.
- Establish clear coordination procedures with other offices that are involved in making the determination on a request for expedited processing.

Agencies are encouraged to review the full text of the [guidance](#) and to review their procedures for identifying and adjudicating requests for expedited processing to ensure that they consistently adjudicating requests for expedition in accordance with the FOIA's time limits.

2020 Assessment of Agency Progress in FOIA Administration

For the 2020 assessment, OIP selected twenty milestones for scoring high volume agencies and eighteen milestones for medium volume agencies, each of which is tied to one of the five key areas addressed in the DOJ's FOIA Guidelines. These milestones were chosen as indicative of progress made in each area, but they are by no means exclusive. Agencies include in their [Chief FOIA Officer Reports](#) a wide range of accomplishments and initiatives that they have undertaken to improve their administration of the FOIA. As these reports themselves provide a more comprehensive picture of each agency's work in implementing [DOJ's FOIA Guidelines](#), this assessment is designed to provide a visual snapshot of several key areas of agency FOIA administration and is meant to be read in conjunction with the [Chief FOIA Officer Reports](#). The assessment readily illustrates many areas where agencies have made real progress in the past year and also serves to highlight areas where further improvements can be made.

The assessment covers the twenty-nine high volume agencies and forty medium-volume agencies that were subject to the FOIA during FY 2020. As in prior years, agencies are scored on the different milestones based on a stoplight scoring system. Agencies provide a wealth of information as a part of their [Chief FOIA Officer Reports](#) that do not lend themselves to scoring, but are still very informative as to their efforts to improve their FOIA administration. In an effort to streamline the presentation of the assessment, narrative information is not included in the charts.

A detailed methodology is provided below describing how each milestone was scored. As in prior years, questions assessed on the three-step scoring system use a score of dark green, yellow, and red. Dark green indicates that the agency met the milestone, yellow indicates partial progress, and red indicates that the milestone was not met. For the five-step scoring system, the colors light green and orange provide more gradation as to the progress the agency has made towards that milestone.

The time period for the assessment is generally March 2019 to March 2020, which is the period covered by the [2020 Chief FOIA Officer Reports](#). For the milestones concerning average time to adjudicate requests for expedited processing, processing times for simple track requests, backlogs, and the ten oldest requests, appeals, and consultations, the time period is FY 2019. The data for these metrics was compiled from agency Annual FOIA Reports, which are available on both [FOIA.gov](#) and OIP's [Reports](#) page.