Guidelines for 2022
Chief FOIA Officer Reports
The Chief FOIA Officer of each agency is required to review and report to the Attorney General on the agency’s performance in implementing the FOIA.

DOJ’s 2009 FOIA Guidelines

The Department of Justice issued FOIA guidelines in 2009 which call on all agencies to reaffirm the government’s “commitment to accountability and transparency.”
DOJ’s 2009 FOIA Guidelines

Guidelines stress the importance of agencies ensuring that they:

- Apply a presumption of openness in FOIA
- Have an effective system for responding to requests
- Make proactive disclosures
- Use technology
- Promptly respond to requests
DOJ’s 2009 FOIA Guidelines

Guidelines emphasize that “[e]ach agency must be fully accountable for its administration of the FOIA.”
Agency Accountability

2009 FOIA Guidelines direct agency Chief FOIA Officers to review “all aspects of their agencies’ FOIA administration” and to report each year to the Department of Justice on the steps taken “to improve FOIA operations and facilitate information disclosure.”
Agency Accountability

The first Chief FOIA Officer Reports were submitted in March 2010.

Since then, agencies have highlighted in their Chief FOIA Officer Reports a wide range of initiatives, big and small, that they have undertaken to improve transparency in keeping with DOJ’s 2009 FOIA Guidelines.
Agency Accountability

Office of Information Policy:

➢ Prepares an extensive summary and assessment of the Chief FOIA Officer Reports

➢ Issues guidance to agencies on steps they can take to achieve even greater transparency in the years ahead.
Summary of Agency Chief FOIA Officer Reports for 2021
and
Assessment of Agency Progress in FOIA Administration
with
OIP Guidance for Further Improvement

https://www.justice.gov/oip/reports-1
Assessment of Departments & Agencies

https://www.justice.gov/oip/reports-1
Agency Accountability

OIP issues guidance each year addressing areas for further improvement based on report review. Topics have included:

- Focusing on reducing the age of pending requests and improving processing times
- Maintaining updated standard operating procedures
- Conducting self-assessments
- Posting raw data from Annual FOIA Reports
Topics to Be Addressed in 2022 Chief FOIA Officer Reports

OIP is responsible for providing guidance to agencies on the timing and content of agency Chief FOIA Officer Reports to the Attorney General.
Topics to Be Addressed in 2022 Chief FOIA Officer Reports

For 2022, while the overall topics remain the same, the questions asked have been modified and updated to account for the advanced steps agencies are taking to implement FOIA law and policy as well as to focus on areas where agencies can make further improvements.
1. Steps taken to apply the presumption of openness;

2. Steps taken to ensure that the agency has an effective system in place for responding to requests;

3. Steps taken to increase proactive disclosures;
Five Key Areas to Be Addressed in 2022
Chief FOIA Officer Reports

4. Steps taken to greater utilize technology; and

5. Steps taken to improve timeliness in responding to requests and reducing backlogs.
Format for 2022 Chief FOIA Officer Reports

As in past years, for decentralized agencies:

- Report should be organized by the five topical areas and include within each key area, data and examples for the various components.

- Report must still contain an agency overall answer for each of the questions.
Format for 2022 Chief FOIA Officer Reports

Separate reporting requirements for:

- Agencies receiving more than 50 requests in Fiscal Year 2020.

- Optional: Agencies receiving less than 50 requests in Fiscal Year 2020.
Time Frame for 2022 Chief FOIA Officer Reports

The general reporting period for the Chief FOIA Officer Reports is March 2021 to March 2022.

Agencies can include activities that are anticipated to take place between submission of their report and March 2022.
2022 Chief FOIA Officer Report Content

Agencies Receiving 50 Requests or Less

**Reporting to OIP is encouraged but not required**

Include Name and Title of your Agency’s Chief FOIA Officer at the start of your report.

Provide a short narrative for how your agency improved its FOIA administration during the reporting period.
Agencies Receiving 50 Requests or Less

Your narrative may include any steps taken in any of the five key areas. You may also include in this narrative a description of any best practices and/or challenges that your agency has faced in its FOIA administration.
2022 Chief FOIA Officer Report Content

All of the following questions must be answered by agencies receiving more than 50 requests.

**Bold** = New or modified questions for 2022.
Section I: Steps Taken to Apply a Presumption of Openness
Section I: FOIA Leadership

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

2. Please provide the name and title of your agency’s Chief FOIA Officer.
Section I: FOIA Training

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

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

5. If yes, please provide a brief description of the type of training attended or conducted and the topics covered.
Section I: FOIA Training

6. Please provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.
Section I: FOIA Training

7. 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.
Section I: FOIA Training

8. Did the personnel at your agency who have FOIA responsibilities attend training in federal records management during this reporting period?
Section I: Other Initiatives

9. Did your FOIA professionals engage in any outreach or dialogue, **outside of the standard request process**, with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency’s FOIA administration.
Section I: Other Initiatives

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

11. Optional -- If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.
Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests
Section II: Processing Procedures

1. For FY 2021, 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 2021 Annual FOIA Report.

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2021 Annual FOIA Report, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.
Section II: Processing Procedures

3. The FOIA Improvement Act of 2016 required all agencies to update their FOIA regulations within 180 days. In 2016, OIP issued Guidance for Agency FOIA Regulations and the accompanying Template for Agency FOIA Regulations to assist agencies in updating their regulations in accordance with the statute. Has your agency updated its FOIA regulations in accordance with the FOIA Improvement Act of 2016? If not, what is your agency's plan to update your regulations?
Section II: Requester Services

4. Standard Operating Procedures (SOPs) generally document your agency’s internal processes for administering the FOIA beyond your FOIA regulations and FOIA Reference Guide. As noted in OIP’s guidance, having SOPs can improve the consistency and quality of an agency’s FOIA process. SOPs can also serve as a significant resource for incoming FOIA professionals and a way to preserve much of the agency’s institutional knowledge on administering the FOIA from how to handle requests from start-to-finish, to identifying and making proactive disclosures, to maintaining a FOIA website. Does your agency have up-to-date internal SOPs for your FOIA administration?

5. If not, please provide a timeline for when your agency plans to develop or update its SOPs.
Section II: Requester Services

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

7. If yes, please provide examples. If no, please explain if such opportunities exist at your agency and whether there are any challenges in establishing alternative means of access.
Section II: Requester Services

8. Did your agency conduct a self-assessment of its FOIA administration during the reporting period? If so, please describe the self-assessment methods used, such as analyzing Annual Report or raw data, using active workflows and track management, reviewing and updating processing procedures, etc. In addition, please specifically highlight any data analysis methods or technologies used to assess your agency's FOIA program.
Section II: Requester Services

9. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency’s FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency’s FOIA Public Liaison during FY 2021 (please provide a total number or an estimate of the number)
Section II: Requester Services

10. Has your agency reviewed its FOIA-related staffing capabilities to identify resources needed to respond to current and anticipated FOIA demands?
Section II: Requester Services

11. Optional -- Please describe:

- Best practices used to ensure that your FOIA system operates efficiently and effectively
- Any challenges your agency faces in this area.
Section III: Steps Taken to Increase Proactive Disclosures
Section III: Posting Material

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

2. Provide examples of material that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D). Please include links to these materials as well.
Section III: Posting Material

3. Does your agency disseminate common types of material outside of FOIA, including in online databases where the public may access them? If yes, please provide examples and, if applicable, statutory authority.

4. 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?
Section III: Posting Material

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

6. Optional -- Please describe:
   • Best practices used to improve proactive disclosures
   • Any challenges your agency faces in this area.
Section IV: Steps Taken to Greater Utilize Technology
Section IV: Steps Taken to Greater Utilize Technology

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

2. Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program.
Section IV: Steps Taken to Greater Utilize Technology

3. OIP issued guidance in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources, and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?
Section IV: Steps Taken to Greater Utilize Technology

4. Did all four of your agency's quarterly reports for Fiscal Year 2021 appear on your agency's website and on FOIA.gov?

5. 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 FY 2022.
Section IV: Steps Taken to Greater Utilize Technology

6. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency’s Fiscal Year 2020 Annual FOIA Report and, if available, for your agency’s Fiscal Year 2021 Annual FOIA Report.
Section IV: Other Initiatives

7. Optional -- Please describe:
   • Best practices used in greater utilizing technology
   • Any challenges your agency faces in this area.
Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs
Section V: Simple Track

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

2. If your agency uses a separate track for simple requests, according to Annual FOIA Report section VII.A, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2021?
Section V: Simple Track

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2021 that were placed in your simple track. Please use the following calculation based on the data from your Annual FOIA Report: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) x 100.
Section V: 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?
Section V: Backlogs – Requests

5. If your agency had a backlog of requests at the close of Fiscal Year 2021, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?

6. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2021 than it did during Fiscal Year 2020?
7. If your agency’s request backlog increased during Fiscal Year 2021, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming requests.
- A loss of staff.
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- **Impact of COVID-19 and workplace and safety precautions.**
- Any other reasons – please briefly describe or provide examples when possible.
Section V: Backlogs – Requests

8. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2021. Please use the following calculation based on data from your Annual FOIA Report: 
   \[
   \frac{\text{backlogged requests from Section XII.A}}{\text{requests received from Section V.A}} \times 100. \quad \text{This number can be greater than 100%}. \]
   If your agency has no request backlog, please answer with “N/A.”
Section V: Backlogs – Appeals

9. If your agency had a backlog of appeals at the close of Fiscal Year 2021, according to Section XII.E.2 of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?
Section V: Backlogs – Appeals

10. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2021 than it did during Fiscal Year 2020?
Section V: Backlogs – Appeals

11. If your agency’s appeal backlog increased during Fiscal Year 2021, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming appeals.
- A loss of staff.
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- **Impact of COVID-19 and workplace and safety precautions.**
- Any other reasons – please briefly describe or provide examples when possible.
Section V: Backlogs – Appeals

12. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2021. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received from Section VI.A) x 100. This number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2021 and/or has no appeal backlog, please answer with "N/A."
Section V: Backlog Reduction Plans

13. In the 2021 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2020 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your agency implement a backlog reduction plan last year? If so, describe your agency’s efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2021?
Section V: Backlog Reduction Plans

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2021, please explain your agency’s plan to reduce this backlog during Fiscal Year 2022. In particular, please also detail how your agency developed and plans to execute your backlog reduction plans.
Section V: 10 Oldest Requests

15. In Fiscal Year 2021, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2020 Annual FOIA Report?

16. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.
Section V: 10 Oldest Requests

17. Beyond working on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests.
Section V: 10 Oldest Appeals

18. In Fiscal Year 2021, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2020 Annual FOIA Report?

19. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VI.C.(5) of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

20. Beyond working on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.
Section V: 10 Oldest Consultations

21. In Fiscal Year 2021, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2020 Annual FOIA Report?

22. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.
Section V: Additional Information on 10 Oldest

23. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2020.

24. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.
Section V: Additional Information on 10 Oldest

25. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2022.
Success Story

Out of all the activities undertaken by your agency since March 2021 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, but should not be something that you have reported in a prior year. 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.
Deadlines for Submitting 2022 Chief FOIA Officer Reports

Agencies receiving more than 50 requests must submit a draft of their Chief FOIA Officer Report to OIP for review by no later than Monday, January 10, 2022.

Agencies receiving 50 requests or less that choose to report should submit a draft of their Chief FOIA Officer Report to OIP for review by no later than Friday, February 11, 2022.
Deadlines for Submitting 2022 Chief FOIA Officer Reports

Submit drafts by e-mail to DOJ.OIP.FOIA@usdoj.gov with the subject line: “Draft [insert agency name] 2022 Chief FOIA Officer Report.”

Each agency should post its final Chief FOIA Officer Report on its website by no later than Monday, March 14, 2022.
Questions on the Chief FOIA Officer Report?

If you have any questions regarding this presentation, the 2022 Chief FOIA Officer Report Guidelines, or on the completion of your Chief FOIA Officer Report, please contact OIP’s Compliance Team.

Phone: (202) 514-FOIA (3642)

Email: DOJ.OIP.FOIA@usdoj.gov
Questions?