

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

# Chief Freedom of Information Act (FOIA) Officer's Report Fiscal Year 2019



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## Section I: Steps Taken to Apply the Presumption of Openness

### A. FOIA Leadership

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at least at the Assistant Secretary or equivalent level. Is your agency's Chief FOIA Officer at or above this level?

Yes.

2. Please provide the name and title of your agency's Chief FOIA Officer.

Kellie Cosgrove Riley, Director, Office of Privacy and Information Management

### B. FOIA Training

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

Yes.

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

In July 2019, eight of OPM's FOIA Professionals attended the American Society of Access Professionals (ASAP) National FOIA Training Conference. ASAP's National Training Conference is a three-day event covering a multitude of FOIA, Privacy Act, and records management related topics.

Two of OPM's FOIA Professionals attended the Freedom of Information Act for Attorneys and Access Professionals training at Department of Justice (DOJ) in July 2019. The two-day training covers various topics including procedural requirements and exemptions, basic principles for processing FOIA requests from start to finish, the FOIA's proactive disclosure requirements, and the interface between the FOIA and the Privacy Act.

In September 2019, the OPM FOIA Manager conducted agency-wide FOIA training that provided attendees with an overview of the Freedom of Information Act, FOIA Exemptions, and the Privacy Act.

In November 2019, the OPM FOIA Manager conducted FOIA training specifically tailored for the staff of Healthcare and Insurance.

5. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

100% of the FOIA staff in the Office of Privacy and Information Management have attended FOIA training.

6. 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.

Not applicable.

### C. Outreach

7. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency’s FOIA administration.

Yes, OPM’s FOIA Public Liaison and FOIA Specialists routinely engage in dialogue with FOIA requesters through email and telephone. We are also looking at processes to increase more proactive disclosures.

### D. Other Initiatives

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

In late February 2019, the FOIA Office was realigned under the Office of Privacy and Information Management (OPIM). In late April 2019, OPM hired a new FOIA Manager. Both changes have increased visibility of the FOIA program. The OPIM Director emphasizes the importance of appropriate compliance with FOIA as often as practicable and has met with the Director of OPM to highlight the importance of Privacy, FOIA and Records Management. Both she and the FOIA Manager met with OPM’s senior leadership to provide overview of the FOIA. The FOIA Manager also provided training to non-FOIA professionals across different program offices during agency-wide training.

## Section II: Effective System in Place for Responding to Requests

### A. Processing Procedures

1. For Fiscal Year 2019, what was the average number of days your agency reported for adjudicating requests for expedited processing.

Not applicable, per Section VIII. A. of the FY 19 Annual FOIA Report, OPM did not track requests for expedited processing.

2. If your average was above 10 days, describe your plan to ensure that requests for expedited processing are adjudicated within 10 calendar days.

Not applicable.

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.

Yes, the FOIA Manager conducted a review of OPIM's FOIA work processes. The FOIA intake process was reviewed and revised to streamline communication with requesters and distribute the FOIA intake workload.

## B. Requester Services

4. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2019. Please provide a total number or an estimate of the number.

The FOIA Manager, who serves as the OPM FOIA Public Liaison, received approximately 200 calls and 300 emails seeking assistance.

## Section III: Steps Taken to Increase Proactive Disclosures

1. Provide examples of material that your agency has proactively disclosed during the 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.

In Fiscal Year 2019, OPM posted 2152 pages and 968 electronic documents on opm.gov. Links to the posted material is available through OPM's "Document Count" tool located at <https://www.opm.gov/utilities/document-count/>.

2. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?

Not at this time.

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

Not applicable.

## Section IV: Steps Taken to Greater Utilize Technology

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

Yes, the FOIA Manager, with the Director of OPIM, is in the process of reviewing potential new tracking systems to replace OPM's current FOIA tracking system.

2. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in OIP's guidance on FOIA websites?

Yes.

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2019?

Yes.

4. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2020.

Not applicable.

5. Please provide the link to the posting of raw data for your agency's Fiscal Year 2018 Annual FOIA Report and, if available, for your agency's Fiscal Year 2019 Annual FOIA Report.

The URL for the posting site for all such reports is <https://www.opm.gov/information-management/freedom-of-information-act/#url=Reports>.

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

### A. Simple Track

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

Yes.

2. If so, was your FY 2019 average time for simple requests 20 working days or fewer?

Yes.

3. Provide the percentage of requests processed in FY 2019 that were placed in your simple track.

71 Percent

4. If your agency does not track simple requests separately, was your average for all non-expedited requests 20 working days or fewer?

Not applicable.

## **B. Backlogs - Requests**

5. If you had a backlog of requests at the close of FY 2019, did that backlog decrease as compared to the end of FY 2018?

Yes

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

Not applicable.

7. If your agency's backlog increased, explain why. Indicate if any of the following were contributing factors: Increase in number of requests, Loss of staff, increase in complexity of requests or any other reasons – please briefly describe or provide examples

Not applicable.

8. If you had a request backlog, report the percentage of requests that make up the backlog out of the total number of requests received by your agency in FY 2019.

2%

## **C. Backlogs - Appeals**

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

Yes

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

Not applicable.

11. If your agency's appeal backlog increased, explain why. 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 or any other reasons – please briefly describe or provide examples when possible.

Not applicable.

12. If you had an appeal backlog, report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2019.

14%

#### D. Backlog Reduction Plans

13. Last year, any agency with a backlog of over 1,000 requests in FY 2018 was asked to provide a backlog reduction plan. Did your agency implement its backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if you were able to achieve backlog reduction in FY 2019.

Not applicable.

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2019, what is your backlog reduction plan for Fiscal Year 2020?

Not applicable.

#### E. Status of Oldest Requests, Appeals, and Consultations

##### Ten Oldest Requests

15. In Fiscal Year 2019, did your agency close its ten oldest pending requests from Fiscal Year 2018?

Yes.

16. If no, provide the number of these requests you were able to close by the end of the FY. If you had less than 10 total oldest requests to close, please indicate that.

Not applicable.

17. Beyond working on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests.

The FOIA Manager runs bi-weekly backlog and completed reports. This bi-weekly report allows the FOIA Manager to monitor the number of requests closed within that period of time. The FOIA staff periodically sends Pending Requests reports to program offices as a reminder that requests need to be processed in a timely manner. The FOIA Staff has also provided agency training to program offices to establish more efficient processes to expedite the approval process.

##### Ten Oldest Appeals

18. In Fiscal Year 2019, did your agency close the ten oldest pending appeals from Fiscal Year 2018?

Yes



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19. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year. If you had less than ten total oldest appeals to close, please indicate that.

Not applicable.

20. Beyond working on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.

The Office of General Counsel at OPM put an effort to concentrate the FOIA workload in the hands of fewer attorneys with more expertise to speed decision making. The oldest appeal is from FY 2019. OGC reduced the backlog of appeals from 45 at the start of the year to 9 and processed 97 appeals in FY 2019, up from 62 from the previous year.

#### Ten Oldest Consultations

21. In Fiscal Year 2019, did your agency close the ten oldest pending consultations from FY 2018?

No.

22. If no, provide the number of these consultations you were able to close by the end of the FY. If you had less than 10 oldest consultations to close, please indicate that.

We closed out 5 of the 6 oldest pending consultations. The 6<sup>th</sup> was closed out in early 2020.

#### F. Additional Information on Ten Oldest

23. Explain any obstacles in closing your 10 oldest requests, appeals, and consultations.

The primary obstacle to more efficiently and quickly processing requests is an outdated FOIA tracking system.

24. If unable to close any of your 10 oldest requests because you were waiting to hear back on consultations, provide the date the request was initially received, date you sent the consultation, and date you last contacted the agency where the consultation was pending.

Not applicable.

25. If your agency did not close its ten oldest pending requests, appeals, or consultations, provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2020.

We are finalizing an improvement plan to work with the appropriate staff to gather responsive data and records to respond to these requests. We also have communicated to program offices about actively

reducing the backlog starting with old outstanding requests. The last remaining consultation from FY19 was closed during FY20.

### **G. Success Stories**

Out of all the activities undertaken by your agency since March 2019, briefly describe at least one success story that you would like to highlight as emblematic of your agency's efforts in FOIA.

The FOIA Manager reviewed the FOIA process and implemented changes to improve the efficiency of the FOIA intake process. OPM also closed out all outstanding NBIB requests when they transitioned to DOD as part of the re-alignment on October 1, 2019.