Section 1: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying DOJ’s FOIA Guidelines is the presumption of openness.

Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

A. FOIA Leadership

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

Yes.

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

Ms. Rachael Leonard, Chief Operating Officer and General Counsel.

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, OSTP’s FOIA personnel attended and also administered FOIA training.

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

   Topics covered at the FOIA training included: (1) understanding the requirements of a perfected FOIA request; (2) how to conduct an agency records analysis; (3) requirements for conducting an adequate search; (4) overview of exemptions and the presumption of openness; and (5) the administrative appeal process. Aside from the training attended by OSTP’s FOIA personnel, OSTP also ensures that all FOIA professionals have adequate training resources available to them so that they maintain FOIA knowledge current with the state of the law. OSTP’s FOIA professionals subscribe to the Department of Justice, Office of Information Policy email list, which provides notice of substantive FOIA training so that all FOIA professionals are made aware of FOIA training opportunities. OSTP also ensures that all agency FOIA professionals receive internal training on electronic document processing and administrative systems.

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%

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.

N/A

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. OSTP routinely engages with requesters regarding their requests and on how to provide quality customer service when processing and responding to requests.

D. Other Initiatives

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

To ensure that all OSTP personnel are knowledgeable of the presumption of openness, every OSTP employee receives a basic overview of relevant FOIA responsibilities and their roles and responsibilities as records custodians under the Federal Records Act (FRA) and the Freedom of Information Act (FOIA) when they are on-boarded. In Fiscal Year 2018, OSTP continued to distribute OIP’s FOIA infographic into the agency’s onboarding materials for new employees. OSTP now provides this one-page infographic as a resource on FOIA basics for all new employees upon their arrival at OSTP. OSTP has included FOIA-related performance standards in employee work plans.

9. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

OSTP’s attorneys review all information subject to release and make a determinations as to whether disclosure of any of the information is prohibited by law. Then, as the presumption of openness requires, the attorneys consider the purposes of any potential exemption’s use. The attorney then makes a determination as to whether release of the information would potentially harm an interest protected by the exemption or if its application would merely (1) protect against embarrassment, (2) obscure errors or failures, or (3) protect the personal interests of public officials. Following the FOIA attorney’s review of the information, controversial applications of exemptions are discussed with other attorneys within the Office of General Counsel. In this way, various perspectives on the information subject to withholding are considered. If, following these discussions, doubt remains as to whether the exemption should apply, a determination is made that the presumption has not been met and the information is released.

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests
DOJ’s FOIA Guidelines emphasize that “[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests.” It is essential that agencies effectively manage their FOIA program.

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

1. For Fiscal Year 2018, 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 2018 Annual FOIA Report.

   In Fiscal Year 2018, the average number of days for adjudicating requests for expedited processing was 9.625 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.

   - Note: In September 2017, OIP released a FOIA Self-Assessment Toolkit as a resource for agencies conducting a self-assessment of their FOIA program. The Toolkit is available on OIP’s website for all agencies to use.

   OSTP did conduct a self-assessment using active workflows and updating its processing procedures. The primary change came in the way of contracting for paralegal services to assist in the processing of FOIA requests.

4. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency’s FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency’s FOIA Public Liaison during FY 2018 (please provide a total number or an estimate of the number).

   No requesters have sought assistance from OSTP’s FOIA Public Liaison. Nevertheless, OSTP regularly engages with requesters through email and telephone to discuss request parameters, to provide updates to requests, and to otherwise assist requesters in understanding the materials provided through their FOIA request.

5. Please describe the best practices used to ensure that your FOIA system operates efficiently and effectively and any challenges your agency faces in this area.
OSTP has filing procedures to ensure that 1) each FOIA request contains a detailed record of all search and review protocols taken for the particular request; 2) all located and reviewed records are properly stored and filed; and 3) each request is processed as efficiently as possible and prepared for the possibility of appeal. Aside from this, every FOIA request is logged when received, the twenty-day statutory deadline is placed on FOIA staff calendars, and search memoranda are forwarded within one day of receiving the request. Furthermore, each search memo provides personnel with detailed information as to the definition of agency records and notifies them of their search responsibilities. FOIA personnel then sort and review for responsiveness and applicable exemptions. Responsive, non-exempt records are then provided to the requester.

In Fiscal Year 2018, OSTP reviewed and updated its standard FOIA correspondence so as to provide additional explanations to requesters regarding applied exemptions and continued to include necessary language required by the FOIA Improvements Act of 2016.

**Section III: Steps Taken to Increase Proactive Disclosures**

The Department of Justice has long focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

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

   OSTP is a small agency and does not frequently receive multiple requests for the same records. Should records become “frequently requested,” the FOIA professionals work with the Communications Office to post those records in the agency’s online reading room located at https://www.whitehouse.gov/ostp/legal/. OSTP also proactively placed copies of all OSTP and National Science and Technology Council (NSTC) reports online as demonstrated at www.whitehouse.gov/ostp/documents-and-reports/.

2. **Please describe how your agency identifies records that have been requested and released three or more times (and are therefore required to be proactively disclosed pursuant to 5 U.S.C. § 552(a)(2)(D)).**

   OSTP is a small agency that logs all incoming requests. Upon receipt of a request, the FOIA intake professional reviews the existing log to determine if the records sought are identical to, or duplicative of, records that have already been requested. If the requested records have already been sought two or more times, they are provided in redacted form to the Web Team to have placed on OSTP’s website.

3. **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?**
Following the change in Administrations on January 20, 2017, the White House and EOP completely restructured, reformatted, and updated Whitehouse.gov to provide an overall better experience and interface. The new site makes it easier for the American public to understand the new Administration’s policies and initiatives towards improving the Federal government and the Nation as a whole. The new website includes streamlined webpages for each of the EOP components that makes it easier for citizens to find information related to specific policy interests.

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

The OSTP website, located at www.whitehouse.gov/ostp/ contains easy to locate links to the agency’s reading room at www.whitehouse.gov/ostp/legal/, as well as to a repository to all publications issued by OSTP and the NSTC at www.whitehouse.gov/ostp/documents-and-reports/. OSTP also provides materials to the public to improve their understanding of the FOIA process. For instance, OSTP has posted helpful documents including a handbook that compiled existing FOIA information into a single, handy reference document. This FOIA Reference Guide includes pertinent information such as the FOIA Memorandum and the Department of Justice’s FOIA Guidelines, the Chief of Staff's FOIA Memorandum, OSTP’s FOIA regulations, and a link to the Department of Justice, Office of Information Policy’s guidelines. These documents aid the staff and the public to provide additional information on Federal activities and FOIA policies.

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

N/A

Section IV: Steps Taken to Greater Utilize Technology

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

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

1. Is your agency leveraging technology to facilitate efficiency in conducting searches, including searches for emails? If so, please describe the type of technology used. If not, please explain why and please describe the typical search process used instead.

The Office of Administration (OA), a component of the EOP, administers the email servers on behalf of the entire EOP. OA uses a software program that, after performing searches of the email server, automatically sorts and de-duplicates documents. The program also identifies and shows the user where each search term was found within each searched document and allows the user to seamlessly sort the documents based on date, user, or relationship to other documents. From there, users can easily determine whether located documents are responsive to the request. Implementing this software has made processing requests more
efficient by streamlining the search process and cutting down the amount of time it takes to perform initial reviews of documents.

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

Yes.

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2018?

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 2019.

N/A

5. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency’s Fiscal Year 2017 Annual FOIA Report and, if available, for your agency’s Fiscal Year 2018 Annual FOIA Report.


6. Please describe the best practices used in greater utilizing technology and any challenges your agency faces in this area.

N/A

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

The Department of Justice has emphasized the importance of improving timeliness in responding to requests. This section of your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations.

For the figures required in this Section, please use the numbers contained in the specified sections of your agency’s 2018 Annual FOIA Report and, when applicable, your agency’s 2017 Annual FOIA Report.

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

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

Yes.

2. If your agency uses a separate track for simple requests, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2018?

No.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2018 that were placed in your simple track.

94% of processed requests were placed in OSTP's 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 2016 and Fiscal Year 2017 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 2018, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2017?

No.

6. If not, did your agency process more requests during Fiscal Year 2018 than it did during Fiscal Year 2017?

No.

7. If your agency’s request backlog increased during Fiscal Year 2018, please explain why and describe the causes that contributed to your agency not being able
to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming requests.
- A loss of staff.
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Any other reasons – please briefly describe or provide examples when possible.

On the whole, OSTP received ten fewer requests in FY 2018 than FY 2017 and processed nine fewer requests. This increase in the backlog was a result of an increase in the volume of responsive records located in response to requests. Generally, while the requests did not increase in complexity, the volume of records to be reviewed did. This is to be expected considering it is the second year of the Administration and the universe of email records has increased thereby expanding the pool of responsive records.

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 2018. If your agency has no request backlog, please answer with “N/A.”

The percentage of requests that make up the backlog out of the total number of requests received by the agency is 45.9%

BACKLOGGED APPEALS

9. If your agency had a backlog of appeals at the close of Fiscal Year 2018, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2017?

N/A

10. If not, did your agency process more appeals during Fiscal Year 2018 than it did during Fiscal Year 2017?

Yes.

11. If your agency’s appeal backlog increased during Fiscal Year 2018, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming appeals.
- A loss of staff.
• An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.

• Any other reasons – please briefly describe or provide examples when possible.

N/A

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 2018. If your agency did not receive any appeals in Fiscal Year 2018 and/or has no appeal backlog, please answer with "N/A."

N/A

C. Backlog Reduction Plans

13. In the 2018 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2017 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 2018?

N/A

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2018, what is your agency’s plan to reduce this backlog during Fiscal Year 2019?

N/A

D. Status of 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 2016 and Fiscal Year 2017 when completing this section of your Chief FOIA Officer Report.

OLDEST REQUESTS

15. In Fiscal Year 2018, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2017 Annual FOIA Report?

No.

16. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2016 Annual FOIA Report. If you had fewer than ten total oldest requests to close, please indicate that.
17. 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?

None were withdrawn.

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

OSTP is participating in an EOP-wide FOIA contract for paralegal services. Through this contract, OSTP is adding additional personnel to assist with the FOIA backlog. The focus of this personnel is to close OSTP’s oldest, most voluminous requests.

**TEN OLDEST APPEALS**

19. In Fiscal Year 2018, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2017 Annual FOIA Report?

N/A

20. 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 2017 Annual FOIA Report. If you had fewer than ten total oldest appeals to close, please indicate that.

N/A

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

N/A

**TEN OLDEST CONSULTATIONS**

22. In Fiscal Year 2018, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2017 Annual FOIA Report?

N/A

23. 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 2017 Annual FOIA Report. If you had fewer than ten total oldest consultations to close, please indicate that.

N/A

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

24. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2018.
OSTP is a small agency that is normally staffed with one full time FOIA professional. During this Fiscal Year, OSTP received 122 requests. The large influx of new requests and the complexity of the older requests made it difficult to close out the 10 oldest requests.

25. 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

26. 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 2018.

OSTP will continue to prioritize its oldest pending requests and communicate with requesters frequently regarding the status of the request. Additionally, as mentioned previously, OSTP is supplementing its FOIA personnel with contracted paralegal services. With the increased personnel, OSTP expects that it will be able to close its ten oldest requests.

F. Success Stories

Out of all the activities undertaken by your agency since March 2018 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, OIP will highlight these agency success stories during Sunshine Week. 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.

OSTP maximized its productivity considering the number of requests it received and the volume of documents sought in those requests. While the 122 requests received is ten less than the 132 received in FY 2017, it is still a 72% increase over the 71 requests received in FY2016. OSTP personnel is working hard with requesters to narrow the scope of their requests and is optimistic that increased efficiencies and additional personnel will reduce its backlog. Additionally, despite the large number of requests OSTP processed, only 8% of its responses were appealed.