



**Office of Management and Budget
2020 Chief Freedom of Information Act
Officer Report**

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Table of Contents

I.	Steps Taken to Apply the Presumption of Openness.....	1
A.	FOIA Leadership.....	1
B.	FOIA Training.....	1
C.	Outreach	2
D.	Other Initiatives to Apply the Presumption of Openness.....	2
II.	Steps Taken to Ensure that OMB Has an Effective System in Place for Responding to Requests	3
III.	Steps Taken to Increase Proactive Disclosures.....	4
IV.	Steps Taken to Greater Utilize Technology.....	5
V.	Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs.....	6
A.	Simple Track	6
B.	Backlogs	6
C.	Backlog Reduction Plans	9
D.	Status of Oldest Requests, Appeals, and Consultations	9
E.	Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans	10
F.	Success Stories.....	11

Introduction

The Freedom of Information Act (FOIA) requires all agency Chief Freedom of Information Act Officers to report to the Attorney General on their performance in implementing the FOIA. *See* 5 U.S.C. § 552(j)(2)(D). The Office of Management and Budget’s (OMB) Chief FOIA Officer has reviewed all aspects of the agency’s FOIA administration and issues this Report on the steps OMB has taken to improve FOIA operations and facilitate information disclosure. This Report has been prepared in accordance with the Department of Justice’s Guidelines for 2020 Chief FOIA Officer Reports, and the reporting period is from March 2019 through March 2020. Copies of this Report are available for download on OMB’s FOIA website at <https://www.whitehouse.gov/omb/freedom-information-act-foia/>.

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 the Assistant Secretary or equivalent level. Is your agency’s Chief FOIA Officer at this level?*

Yes.

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

OMB has designated its General Counsel, Mark Paoletta as its Chief FOIA Officer.

OMB’S CHIEF FOIA OFFICER HAS REVIEWED ALL ASPECTS OF THE AGENCY’S FOIA ADMINISTRATION AND ISSUES THIS REPORT ON THE STEPS OMB HAS TAKEN TO IMPROVE FOIA OPERATIONS AND FACILITATE INFORMATION DISCLOSURE.

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.*

OMB has continued the agency’s ongoing investment in training FOIA staff on FOIA best practices during the reporting period. OMB FOIA personnel attended training provided by the Department of Justice’s (DOJ) Office of Information Policy (OIP) as well as the American Society of Access Professionals.

The DOJ training sessions attended by OMB staff included “Introduction to the Freedom of Information Act,” “The Freedom of Information Act for Attorneys and Access Professionals,” and the “FOIA Litigation Seminar.” Members of OMB’s FOIA staff also attended the training conference offered by the American Society for Access

Professionals in Arlington, Virginia in July 2019. Topics addressed at the three-day conference included “FOIA Processing: Key Procedural Elements,” “FOIA Updates from the Courts,” and “The Supreme Court of the United States and Exemption 4.”

In addition to formal training courses, OMB’s FOIA staff meet each week and those meetings regularly include sessions of informal training. In such meetings, specific areas of FOIA law or procedure are discussed and staff review current best practices, developments in FOIA caselaw, and updated guidance and advisories issued by DOJ.

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 percent of OMB FOIA staff who have daily FOIA processing responsibilities completed training.

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.*

OMB’s FOIA staff engage in outreach with the requester community in several ways. OMB’s FOIA staff regularly contact individual requesters to better understand requests, and this process often provides valuable insight into the perspectives of requesters. For example, through the process of contacting requesters, OMB staff continue to develop a more accurate understanding of what requesters mean when they use particular terms to define their requests. OMB’s FOIA staff frequently improve the accuracy of search and review parameters through this process of dialogue with requesters.

D. Other Initiatives to Apply the Presumption of Openness

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

OMB’s onboarding training for new staff includes training on employees’ responsibilities to preserve records under the Federal Records Act. Additionally, OMB’s FOIA staff regularly make an effort to reach out to new staff, particularly those coming to OMB from outside of the Executive Branch, to familiarize them on their responsibilities under the FOIA. OMB has also administered specialized FOIA presentations for incoming political appointees to provide an introduction to the FOIA and OMB’s FOIA processes.

OMB’S FOIA STAFF
REGULARLY CONTACT
INDIVIDUAL REQUESTERS
TO BETTER UNDERSTAND
REQUESTS AND THIS
PROCESS OFTEN PROVIDES
VALUABLE INSIGHT INTO
THE PERSPECTIVES OF
REQUESTERS.

9. *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.*

OMB's FOIA staff are specifically encouraged and trained to consider whether partial disclosure of non-exempt information is possible. To the extent practicable, OMB's FOIA staff assess whether this can be accomplished by carefully limiting redactions to exempt material. OMB's adherence to this practice is evident in the number of partially released documents provided in response to FOIA requests.

II. Steps Taken to Ensure that OMB Has an Effective System in Place for Responding to Requests

1. *For Fiscal Year 2019, 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 2019 Annual FOIA Report.*

Not applicable.


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.*

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.*

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.

During the reporting period, OMB periodically assessed its FOIA program, including the agency's allocation of resources, staff and technology as well as the agency's FOIA intake and review process. As a result of these reviews, OMB successfully expanded the size of its team of FOIA contractors, further updated streamlined workflow procedures, and applied newly instituted benchmarks and output requirements.



OMB SUCCESSFULLY EXPANDED THE SIZE OF ITS TEAM OF FOIA CONTRACTORS, FURTHER UPDATED STREAMLINED WORKFLOW PROCEDURES, AND APPLIED NEWLY INSTITUTED BENCHMARKS AND OUTPUT REQUIREMENTS.

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 2019 (please provide a total number or an estimate of the number).*

No requesters sought assistance from the agency's FOIA Public Liaison during Fiscal Year 2019.

5. *Optional – Please describe:*

- *Best practices used to ensure that your FOIA system operates efficiently and effectively*
- *Any challenges your agency faces in this area*

During the reporting period, OMB adopted a multi-track processing system in its recently-revised agency FOIA regulation, where OMB identifies requests as “simple,” “complex” or “expedited.” Additionally, OMB commonly contacts requesters to seek clarification regarding their request and this often results in a more narrowly targeted search for information.

As OMB's volume of incoming requests has steadily grown, some of the agency's workflow processes involving search, processing, quality control and consultation sometimes did not easily scale up to the larger workload, until OMB's FOIA team reworked these processes to better operate on a larger magnitude. OMB has overcome this challenge by regularly assessing its workflow processes from end to end to identify bottlenecks and determine where processes can be improved.

III. Steps Taken to Increase Proactive Disclosures

1. *Provide examples of any 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.*

OMB's records library is publicly available on its FOIA website at <https://www.whitehouse.gov/omb/freedom-information-act-foia>. This website includes, for example, the publication of the OMB Director's calendars on a rolling basis and over one hundred thousand public comments regarding government-wide reorganization.

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?*

Yes.

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

OMB has continued to build out its FOIA website during the reporting period. The website now includes information on submitting requests and appeals, names of key staff, and a link to the National FOIA Portal. OMB continually looks for ways to make more information available to the public.

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.*

During the reporting period, OMB implemented an automated FOIA tracking system (FOIAXpress) for the first time. Now in operation, the tracking system has begun to yield increases in efficiency in intake and handling of FOIA requests. The system has provided its greatest benefit so far in relation to the creation of required quarterly and annual FOIA reports. Additionally, OMB has implemented integration with the National FOIA Portal through its Public Access Link capability. This capability allows requests submitted through the National FOIA Portal to be seamlessly received by OMB's system for processing.

OMB has also continued to implement a file sharing tool for transmitting document sets of all sizes to requesters regardless of the limitations on email. This has allowed OMB to send large documents instantly in an electronic format, providing faster and higher quality service to requesters. Furthermore, OMB's FOIA staff use email to communicate with requesters whenever feasible. Requesters can also submit new requests and status inquiries to OMB via email at OMBFOIA@omb.eop.gov.

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?*

In response to OIP's 2017 guidance, OMB continued to review its website in Fiscal Year 2019 to ensure that it contains the elements noted in DOJ's 2016 guidance regarding agency FOIA websites, including improving the information and resources available to requesters.

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. *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 2018 Annual FOIA Report and, if available, for your agency's Fiscal Year 2019 Annual FOIA Report.*

THE FOIAXPRESS SYSTEM HAS PROVIDED ITS GREATEST BENEFIT SO FAR IN RELATION TO THE CREATION OF REQUIRED QUARTERLY AND ANNUAL FOIA REPORTS.

OMB's raw statistical data for the Fiscal Year 2019 Annual FOIA Report is available at the following URL:
<https://www.whitehouse.gov/wp-content/uploads/2020/03/OMB-FY2019-FOIA-Annual-Report-Raw-Data.csv>

OMB has made and will continue to make available raw statistical data for prior years if requested. In accordance with the FOIA, the data is available without charge, license, or registration requirement in an aggregated, searchable format that may be downloaded in bulk.

OMB PROCESSED A TOTAL OF 398 FOIA MATTERS IN FISCAL YEAR 2019, REPRESENTING A 32% INCREASE FROM THE 301 FOIA MATTERS PROCESSED IN FISCAL YEAR 2018.

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?*

OMB has implemented a simple track in Fiscal Year 2020, but did not do so in Fiscal Year 2019.

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 2019?*

Not applicable.

3. *Please provide the percentage of requests processed by your agency in Fiscal Year 2019 that were placed in your simple track.*

Not applicable.

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?*

No.

B. Backlogs

BACKLOGGED REQUESTS

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

No, the number of FOIA requests in OMB's backlog increased from 510 at the close of Fiscal Year 2018 to 568 at the close of Fiscal Year 2019.

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

Yes, OMB processed a total of 398 FOIA matters in Fiscal Year 2019, representing a 32% increase from the 301 FOIA matters processed in Fiscal Year 2018.

7. *If your agency's request backlog increased during Fiscal Year 2019, 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.*

OMB's increased FOIA backlog during Fiscal Year 2019 was the result of a combination of factors, including a significant increase in the volume of FOIA requests and litigation (including court-ordered production schedules) as well as the time and resources devoted to closing out complex requests from prior fiscal years.

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 2019. If your agency has no request backlog, please answer with "N/A."*

As reported in OMB's FY 2019 Annual FOIA Report, OMB received 495 new requests in FY 2019 and had a backlog of 568 open requests at the end of FY 2019. Therefore, the percentage of requests that comprise the backlog out of the total number received during FY 2019 ($568 \div 495 \times 100$) is 115 percent. During FY 2019, OMB aimed to complete every request dated from before Fiscal Year 2018, and came within five requests of doing so.

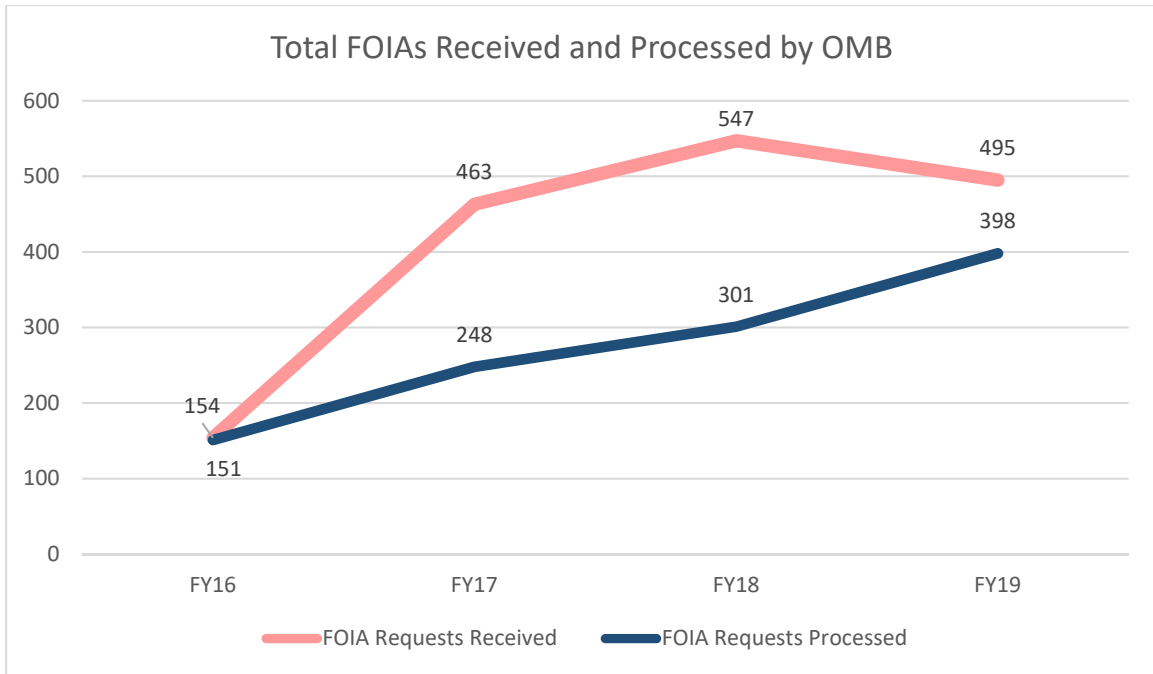


Figure 1. FOIA Requests Received and Processed by Fiscal Year, FY2016 to FY2018.

BACKLOGGED 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, OMB had a backlog of 4 appeals at the close of Fiscal Year 2019, a decrease from 11 at the end of Fiscal Year 2018.

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 during Fiscal Year 2019, 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.*

Not applicable.

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 2019. If your agency did not receive any appeals in Fiscal Year 2019 and/or has no appeal backlog, please answer with "N/A."*

The percentage of appeals that make up the backlog (4) out of the total number of appeals received by OMB in Fiscal Year 2019 (6), is 67%.

C. Backlog Reduction Plans

13. *In the 2019 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2018 was asked to provide a plan for achieving backlog reduction in the year ahead. Did you agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2019?*

Not applicable.

14. *If your agency had a backlog of more than 1,000 requests in Fiscal Year 2019, what is your agency's plan to reduce this backlog during Fiscal Year 2020?*

Not applicable.

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 2018 and Fiscal Year 2019 when completing this section of your Chief FOIA Officer Report.

OLDEST REQUESTS

15. *In Fiscal Year 2019, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2018 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 2018 Annual FOIA Report. If you had fewer than ten total oldest requests to close, please indicate that.*

OMB is pleased to report that during Fiscal Year 2019 the agency closed six of the ten oldest requests from its Fiscal Year 2018 Annual FOIA Report.

OMB CLOSED SIX OF
THE TEN OLDEST
REQUESTS FROM ITS
FISCAL YEAR 2018
ANNUAL FOIA
REPORT.

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

OMB prioritized the assignment of resources on the oldest requests, especially concentrating on the goal of closing all requests received in Fiscal Year 2017 or before.

TEN OLDEST APPEALS

18. In Fiscal Year 2019, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2018 Annual FOIA Report?

No.

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 VII.C.(5) of your Fiscal Year 2018 Annual FOIA Report. If you had fewer than ten total oldest appeals to close, please indicate that.

OMB is pleased to report that during Fiscal Year 2019 the agency closed six of the ten oldest appeals from its Fiscal Year 2018 Annual FOIA Report.

OMB closed its ten oldest consultations during Fiscal Year 201920. Beyond work on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.

OMB streamlined its appeals handling process and devoted resources to the backlog, leading to an increase in the number of appeals processed over the previous year.

TEN OLDEST CONSULTATIONS

21. In Fiscal Year 2019, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2018 Annual FOIA Report?

Yes.

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 2018 Annual FOIA Report. If you had fewer than ten total oldest consultations to close, please indicate that.

OMB CLOSED EACH OF ITS TEN OLDEST CONSULTATIONS DURING FISCAL YEAR 2019

Not applicable.

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

23. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2019.

OMB focused efforts and resources on closing its oldest requests, appeals, and consultations. Some of the oldest requests and appeals proved difficult to close because they were enormously complex, requiring a significant amount of staff time to perform all of the steps necessary to complete. Additionally, some of the oldest requests required consultations with multiple agencies, which was a labor-intensive and time-consuming process.

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.*

Not applicable.

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 2020.*

OMB plans to close its ten oldest requests and appeals during Fiscal Year 2020 by focusing staff time to complete the processing.

F. Success Stories

Out of all the activities undertaken by your agency since March 2019 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.

- OMB processed a total of 398 FOIA matters in Fiscal Year 2019, representing a 32% increase from the 301 FOIA matters processed in Fiscal Year 2018.
- OMB closed six of the ten oldest FOIA requests in its backlog during Fiscal Year 2019.
- OMB closed all ten of its oldest consultations from other agencies during Fiscal Year 2019.
- OMB improved customer service, including communicating with requesters more frequently on the status of their requests, and on focusing searches to speed up responses.
- OMB implemented an automated case management system, facilitating greater efficiency in responses, and improving the quality and availability of reports.