



**Office of Management and Budget**  
**2022 Chief Freedom of Information Act (FOIA)**  
**Officer Report**

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## **Introduction**

The Freedom of Information Act (FOIA) requires all agency Chief FOIA 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 concerning 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 2022 Chief FOIA Officer Reports, and covers a reporting period from March 2021 to March 2022. Copies of this Report are available for download on OMB's FOIA website at <https://www.whitehouse.gov/omb/freedom-of-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. See 5 U.S.C. § 552(j)(1) (2018). 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, Samuel R. Bagenstos, as its Chief FOIA Officer.

#### **B. 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.*

During the reporting period, OMB provided training and materials to OMB's new political staff about their duties and obligations under FOIA, as well as their records management responsibilities; provided targeted training to certain components of the agency; and required all OMB employees to complete an online records management 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?*

Yes.

5. *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 of OMB staff who have daily FOIA processing responsibilities on FOIA best practices during the reporting period. These staff attended refresher training provided by the Department of Justice's (DoJ) Office of Information Policy. In addition to refresher training, OMB's FOIA staff regularly meet informally to discuss specific areas of FOIA law or procedure as well as best practices, developments in FOIA caselaw, and updates to DoJ's FOIA Guide.

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.*

100 percent of staff with daily FOIA processing responsibilities completed training during the reporting period.

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.*

Not applicable.

8. *Did the personnel at your agency who have FOIA responsibilities attend training in federal records management during this reporting period?*

All OMB employees, including OMB's FOIA contractors, were required to complete records management training during the reporting period.

### **C. Outreach**

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.*

While OMB's FOIA staff have not engaged in dialogue with the requester community or open government groups regarding the agency's overall administration of the FOIA, they have regularly contacted requesters about specific matters. Through this outreach process, OMB's FOIA staff developed a stronger understanding of requesters' interests and priorities and, in turn, refined search terms and review parameters.

## **D. 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?

The Executive Office of the President's onboarding training for new staff (including all OMB staff) includes training on employees' responsibilities to preserve records under the Federal Records Act and Presidential Records Act. Additionally, OMB provides informational materials to new staff regarding their FOIA obligations and OMB's FOIA processes.

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.

OMB FOIA staff are specifically encouraged and trained to consider whether partial disclosure of non-exempt information is possible. To the extent practicable, our staff assess whether this can be accomplished by carefully limiting redactions to exempt material. Adherence to this practice is evident in the number of partially released documents provided in response to FOIA requests. When working with agency staff to conduct custodial searches for records, our FOIA staff instruct potential custodians of records to identify all responsive records, regardless of whether those records may be exempt. Then exemption determinations are made by trained FOIA staff who are familiar with the FOIA and its exemptions.

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

1. For Fiscal Year 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.

20 days.

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.

During the reporting period, OMB shifted FOIA personnel to focus exclusively on processing FOIA requests and reducing the agency's backlog. We anticipate that this

change combined with improvements to internal processes will help reduce the number of days needed to adjudicate requests for expedited processing.

*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?*

Yes, OMB updated its FOIA regulations in May 2019.

*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?*

Yes, OMB has developed Standard Operating Procedures (SOPs) that document OMB's internal processes in place for administering FOIA. OMB periodically updates its SOPs to improve workflow and increase efficiency. Additionally, OMB has published answers to frequently asked questions about the agency's FOIA process on its website at <https://www.whitehouse.gov/omb/freedom-of-information-act-foia/>.

*5. If not, please provide a timeline for when your agency plans to develop or update its SOPs.*

N/A.

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

OMB does not frequently receive first-party requests. As a result, first-party requested records are accessed through the standard FOIA request 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.*

For the time being, OMB is confident that it can best address first-party requests within the same framework as other FOIA requests.

*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.*

During the reporting period, OMB continuously 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. With the help of a detailee from the DoJ Office of Information Policy, OMB implemented recommendations that resulted in changes to personnel, processes, and systems, as reflected in updates to the agency's FOIA Standard Operating Procedures.

*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).*

Two requesters sought assistance from the agency's FOIA Public Liaison during Fiscal Year 2021.

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

OMB has continuously assessed its effectiveness at meeting FOIA demands through team collaboration and feedback from DoJ. With the help of a detailee from DoJ's Office of Information Policy, OMB evaluated its structure and processes during the reporting period. That evaluation resulted in changes that better position the agency to respond to current and anticipated FOIA demands.

*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*

During the reporting period, OMB undertook a pilot program that resulted in improvements and efficiencies to the FOIA team's operations for processing and managing litigation. The pilot program consisted of separating the FOIA processing work from the FOIA litigation work, enabling processors to dedicate time to addressing the FOIA backlog and day-to-day processing work.

### **III. Steps Taken to Increase Proactive Disclosures**

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

As reported in Section XI.B, in Fiscal Year 2021 the FOIA team posted 20 records and the program offices posted 125 records. OMB evaluates records for proactive disclosure on an ongoing basis, consistent with the statutory and regulatory requirements on proactive disclosures. Proactive disclosures are included on OMB's

FOIA website and reflected in OMB's Annual FOIA Report.

2. *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 the agency's FOIA website at [www.whitehouse.gov/omb/freedom-of-information-act-foia/](http://www.whitehouse.gov/omb/freedom-of-information-act-foia/). This website includes materials of public interest, such as the Director's calendars and visitor records, and it is updated periodically.

3. *Does 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.*

No.

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?*

OMB's FOIA website is designed to be user-friendly and informative to the public. The website also has a records library that is periodically updated by OMB's FOIA staff.

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.*

OMB has continued to build out its FOIA website during the reporting period. The website includes information on submitting requests and appeals, names of key staff, and a link to the National FOIA Portal. OMB continues to look for ways to make more information available to the public. All documents posted to OMB's FOIA Library are published in accessible PDF format, with machine-readable text encoding for compliance with Section 508 of the Rehabilitation Act.

6. *Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.*

To the extent that records in OMB's custody and control concern the equities of another agency, OMB's FOIA staff initiate a consultation process with the other agency.

7. *Optional -- Please describe:*



- *Best practices used to improve proactive disclosures*
- *Any challenges your agency faces in this area*

None.

#### **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?*

Yes. OMB has been exploring updates to its existing technology platforms such as e-Discovery (Ringtail) and FOIAXpress to further streamline the processing of records and to help with record-keeping given the continued high volume of incoming FOIA requests. The continued implementation of FOIAXpress has also improved collaboration, ensured information security, and facilitated integration with the National FOIA Portal. OMB's continued rollout of file-sharing has also assisted with tracking large amounts of material for complex FOIA requests.

*2. Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program.*

During the reporting period, OMB began using the redaction tool in Ringtail for all productions in FOIA litigation. This is helpful because it streamlines the redaction and review process.

*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?*

In response to OIP's 2017 guidance, OMB continued to review its website during the reporting period 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.

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

Yes.

*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 Fiscal Year 2022.*

OMB has posted all quarterly reports during the reporting period. OMB is working with OIP to ensure that quarterly reports are also posted to FOIA.gov.

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.*

OMB's raw statistical data for the Fiscal Year 2020 Annual FOIA Report is available at the following URL: [https://www.whitehouse.gov/wp-content/uploads/2021/03/Annual\\_Report\\_Raw\\_Data\\_10012019\\_09302020.xlsx](https://www.whitehouse.gov/wp-content/uploads/2021/03/Annual_Report_Raw_Data_10012019_09302020.xlsx). OMB's raw statistical data for the Fiscal Year 2021 Annual FOIA Report is available at the following URL: [https://www.whitehouse.gov/wp-content/uploads/2022/02/Annual\\_Report\\_Raw\\_Data.xlsx](https://www.whitehouse.gov/wp-content/uploads/2022/02/Annual_Report_Raw_Data.xlsx).

7. *Optional – Please describe:*

- *Best Practices used in greater utilizing technology*
- *Any challenges your agency faces in this area*

No answer.

## **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, OMB has implemented a simple track.

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?*

No.

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.*

61 percent.

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?*

Not applicable.

## B. Backlogs

### BACKLOGGED 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?*

No, the number of FOIA requests in OMB's backlog increased from 638 at the close of Fiscal Year 2020 to 656 at the close of Fiscal Year 2021.

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?*

No, the agency processed 278 requests during Fiscal Year 2021, down from 371 requests processed in 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.*

OMB's increased FOIA backlog during Fiscal Year 2021 was the result of a combination of factors, including a continued increase in the volume of incoming FOIA requests, an increase in the complexity of the requests (which results in greater time allocation), a reduction in staff, and a rise in FOIA litigation and rolling productions.

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: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. If your agency has no request backlog, please answer with "N/A."*

As reported in OMB's FY 2021 Annual FOIA Report, OMB received 280 new requests in Fiscal Year 2021 and had a backlog of 656 open requests at the end of Fiscal Year 2021. Therefore, the percentage of requests that comprise the backlog out of the total number received during Fiscal Year 2021 ( $656 \div 280 \times 100$ ) is 234 percent.

### BACKLOGGED 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?*

No, OMB had a backlog of 10 appeals at the close of Fiscal Year 2021, the same number as the backlog at the end of Fiscal Year 2020.

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?*

Yes, OMB processed 4 appeals in Fiscal Year 2021, up from 1 appeal processed in Fiscal Year 2020.

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.*

OMB's appeal backlog stayed the same from Fiscal Year 2020 to Fiscal Year 2021. While the FOIA team launched a renewed effort to bring down this backlog, as reflected in the increase in processed appeals in Fiscal Year 2021, the appeals backlog stayed steady mostly due to the FOIA team's other priorities, including FOIA litigation.

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. If your agency did not receive any appeals in Fiscal Year 2021 and/or has no appeal backlog, please answer with "N/A."*

The percentage of appeals that make up the backlog (10) out of the total number of appeals received by OMB in Fiscal Year 2021 (4), is 250%.

### **C. 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?*

Not applicable.

*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?*

Not applicable.

*14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2021, what is 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.*

Not applicable.

#### **D. Status of Oldest Requests, Appeals, and Consultations**

##### **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?*

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 2020 Annual FOIA Report. If you had fewer than ten total oldest requests to close, please indicate that.*

During Fiscal Year 2021, the agency closed seven of the ten oldest requests listed in its Fiscal Year 2020 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 has made it a priority to focus on closing its oldest requests.

##### **TEN 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?*

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 VI.C.(5) of your Fiscal Year 2020 Annual FOIA Report. If you had fewer than ten total oldest appeals to close, please indicate that.*

OMB FOIA staff completed three of the ten oldest appeals in Fiscal Year 2021.

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

OMB has made it a priority to reduce the number of appeals and the days pending for each.

#### TEN OLDEST CONSULTATIONS

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

No.

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 fewer than ten total oldest consultations to close, please indicate that.*

OMB FOIA staff closed nine of the ten oldest consultations from Fiscal Year 2020.

#### **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 2020.*

The complexity of the FOIA request, the volume of documents, and the change in Administrations contributed to the processing time for the ten oldest requests, appeals, and consultations.

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 2022.*

OMB has shifted more personnel to focus primarily on the backlog, including on closing the oldest requests, appeals, and consultations.

## **F. Success Stories**

*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.*

- OMB's FOIA staff were able to close more of the ten oldest requests and appeals in Fiscal Year 2021 than it had during Fiscal Year 2020.
- OMB's FOIA staff integrated Ringtail, a new time-saving technology for FOIA redaction that will greatly assist with the efficiency of document processing.
- OMB's FOIA staff worked together with a DoJ detailee to identify gaps and implement enhancements to the agency's systems and processes so as to better position OMB to improve its responsiveness to FOIA requesters and reduce the FOIA backlog.