



**United States Environmental Protection  
Agency**

**Chief FOIA Officer Report**

*Fiscal Year 2019*

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**Fiscal Year 2019**

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## Executive Summary

The Freedom of Information Act (FOIA) is an important tool for promoting transparency and building public trust in agency actions. The Environmental Protection Agency (EPA) is committed to operating in an open and transparent manner.

During this reporting cycle, EPA took steps to improve its FOIA program. The Agency's FY 2018-2022 EPA Strategic Plan sets a Strategic Goal to increase transparency and public participation. Measures for meeting this goal include eliminating the backlog of pending FOIA requests and meeting the requisite deadlines for responding to FOIA requests.

In April 2018, EPA created the National FOIA Office within the Office of General Counsel and soon thereafter delegated to the General Counsel the Chief FOIA Officer functions. These functions include FOIA regulations and policy, public liaison and data-reporting, training, and assisting offices Agency-wide that are responsible for FOIA. The General Counsel also oversees legal counseling, FOIA appeals, and FOIA litigation as well as the FOIA Expert Assistance Team (FEAT), which was created in 2014 and has been very successful at efficiently managing the Agency's most complex FOIA requests.

To enhance accountability, EPA recently announced a reorganization of the Regional Counsel Offices to provide clear authority and reporting lines for FOIA offices in the regions. FOIA accountability language also was added to FOIA manager performance agreements Agency-wide. EPA is also placing a greater emphasis on training, including developing specialized FOIA training for supervisors.

EPA launched a significant effort to tackle the large volume of FOIA requests within the Administrator's Office. This initiative (known as the AO4 project) included:

1. Centralizing the FOIA process for four sub-offices,
2. Engaging the FEAT from OGC to provide project management, legal guidance, and training,
3. Standing up a "Tiger Team" of 12 staff dedicated to FOIA review and processing, and
4. Hiring additional FOIA professionals.

So far, this effort has yielded significant results and continues to make deep inroads into the Administrator's Office's backlog.

In February 2018, the Agency also held a multi-day Lean event focused on FOIA. That event resulted in two pilot projects that the National FOIA Office has led in conjunction with the Office of Continuous Improvement (OCI) to identify bottlenecks and help streamline the FOIA response process.

The Agency's leadership intends to continue to take steps to improve not only its FOIA process, but proactive dissemination of information through our [epa.gov](http://epa.gov) website. EPA is working with our FOIA professionals, staff, and external partners to make the EPA a flagship example of transparent, efficient, and effective government.

## Section I: 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, EPA's Chief FOIA Officer is a Senate confirmed, Presidential appointee.

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

EPA General Counsel Matthew Z. Leopold.

### 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. FOIA professionals and staff who have FOIA responsibilities attended training offered by EPA and/or the Department of Justice (DOJ).

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

EPA FOIA professionals and staff attended conferences and trainings to keep EPA FOIA leaders abreast of the latest developments in the field and provided in-house training to ensure that EPA personnel with FOIA responsibilities all maintain essential FOIA knowledge and skills.

**EDiscovery & Technology Training for FOIA experts (External).** EPA FOIA professionals from EPA's Office of General Counsel, Office of the Administrator, and Regional offices attended the 2018 RelativityFest conference to stay abreast of advances in eDiscovery technology and best practices applicable to processing FOIA document reviews using Relativity software. Further, EPA provided

training throughout the Agency to EPA FOIA professionals on new tools available in Relativity when it launched a new data processing software package in October 2018.

**External: DOJ Training.** EPA FOIA professionals and staff with FOIA responsibilities attended the following trainings offered by the Department of Justice:

**The Freedom of Information Act for Attorneys and Access Professionals:** A two-day program that provides multiple lectures and workshops for a comprehensive overview of the FOIA, including:

- an overview of the FOIA's procedural requirements and exemptions,
- workshops on individual FOIA 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.

**The Advanced Freedom of Information Act Seminar:** A full-day program provides that lectures and discussions on advanced topics in FOIA administration, including:

- an update of current policy developments impacting FOIA administration,
- an overview of recent FOIA court decisions,
- advanced procedural and exemption considerations.

**The FOIA Litigation Seminar:** A full-day program that provides lectures and instruction on considerations that arise in FOIA litigation, including:

- guidance on successful litigation strategy,
- advanced litigation considerations, and
- details on the preparation of Vaughn Indices and declarations.

**Continuing FOIA Education:** A full-day program provides a discussion of current topics in FOIA administration, including:

- an update of current legal and policy developments impacting FOIA administration, and
- an overview of recent FOIA court decisions.

**Best Practices Workshop on Backlog Reduction:** Examples of the best practices shared at the event included:

- Trying new approaches – agencies should not be afraid to try new approaches and honestly assess what works and doesn't work.
- Identifying and focusing on your core needs.
- Developing an agile process that can account for the unexpected.
- Developing strong intake processes.

- Communicating regularly both within the agency and with requesters
- Getting buy-in from agency staff.
- Implementing robust training for FOIA professionals.
- Leveraging technology to the extent possible.

**EPA Annual FOIA Awareness Training (in-house).** EPA requires annual online FOIA training for all employees. This year's training focused on the use of FOIA Exemptions. More than 99.8% of EPA employees took the training in calendar year 2018.

**Monthly Updates & Refresher Training (in-house).** The National FOIA Office staff held monthly meetings with the Agency's FOIA Coordinators and Regional FOIA Officers to provide guidance and updates on FOIA-related matters. These monthly meetings provided key FOIA personnel with ongoing training relevant to the performance of their duties, including but not limited to information on Agency FOIA processes and procedures; explanations of how to apply FOIA exemptions, estimate fees and make discretionary disclosures; as well as guidance on other administrative processing matters and FOIA related topics.

**Focused EPA FOIA Training Events (in-house).** FOIA experts in EPA's Office of General Counsel also provided a wide variety of training, briefing, and assistance on an as needed or project-specific basis throughout the year.

- OGC provided multiple day-long and multi-day trainings to FOIA professionals in EPA's Office of the Administrator in support of EPA's reorganization and reform of FOIA processing in that office.
- OGC provided focused training to supervisors of FOIA professionals in EPA's Office of Research and Development (ORD) and Office of Environmental Justice (OEJ).
- OGC provided specialized FOIA training to FOIA professionals in the Office of Land and Emergency Management (OLEM), the Office of Administration and Resource Management (OARM), and EPA Region 4.
- OGC provided specialized Proprietary Business Information (PBI)/ Confidential Business Information (CBI) training to staff in the Pesticides and Toxics Substances Law Office (PTSLO), EPA's National Enforcement Investigations Center (NEIC), and at training in a session at the Pesticides National Conference.
- OGC provided FOIA training for more than one hundred EPA attorneys during the Agency's National Counseling Attorney's Conference.

*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.*

Nearly all EPA FOIA professionals and staff (more than 99.8%) attended EPA's FOIA Awareness Training this year.

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.

More than 80% of EPA FOIA professionals attended training this year.

### 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. The Agency FOIA Public Liaison, FOIA Officers, and FOIA professionals engaged in dialogue with the FOIA requester community regarding administration of the FOIA.

- **NARA FOIA Advisory Committee.** Joan Kaminer, an Attorney-Adviser within the Office of General Counsel, is a member of the FOIA Advisory Committee for the 2018-2020 term. The FOIA Advisory Committee members are drawn from the Federal and private sectors. The Committee advises on improvements to the administration of FOIA. It was created specifically to foster dialogue between the Federal Government and the requester community, soliciting public comments, and developing recommendations for improving FOIA administration and proactive disclosures.
- **EPA Improvements in Outreach to Requesters.** At the beginning of this reporting period, EPA conducted an internal Kaizen business process improvement event. One outcome of that event was a process improvement pilot project lead by EPA's National FOIA Office (NFO) to engage more frequently with requesters before the NFO assigns requests to other EPA offices. This increased engagement resulted in earlier identification of improper requests, earlier clarification of requests, and more efficient and accurate assignment of the requests within EPA, such that the number of "misassignments" and re-assignments were reduced. The pilot also identified additional opportunities to improve EPA's FOIA

processing through early outreach to requesters and EPA has hired additional NFO staff to improve EPA's FOIA processing through early outreach to requesters. Onboarding of new hires began in February 2019.

#### 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.*

EPA executed several strategies to inform non-FOIA professionals of their FOIA obligations.

- **Communication from the Acting Administrator.** Acting Administrator Andrew Wheeler personally emailed all EPA employees on November 13, 2018, to highlight and reinforce both the agency's and his personal commitment to implement the FOIA. His key messages were:
  - **Transparency:** The EPA is committed to operating in an open and transparent manner. People have the right to access agency records, except where the information is protected from disclosure.
  - **Timeliness:** The EPA will improve the timeliness of our FOIA responses.
  - **Quality:** The EPA will improve the quality of our FOIA responses so that the public receives both clear communication about the FOIA process and appropriately redacted records.
  - **Professionalism:** The EPA will bolster our training efforts and ensure that our FOIA professionals have the resources they need to help make the EPA a flagship example of transparent, efficient and effective government.
- **Mandatory Annual Training.** EPA required all employees to complete mandatory FOIA Awareness Training in FY 2018. The training is provided via an online training platform, with regular reminders to each employee and to their supervisors to ensure completion by the end of the calendar year. The online platform also provides data tracking for accountability. In FY2018, more than 99.8% of employees completed the required training. EPA's FY 2019 FOIA Awareness Training is currently available and is mandatory for all employees.



- **FOIA-related Performance Standards.** For FY2019, EPA added language to FOIA manager's performance agreements to hold them accountable to manage FOIA responses and to supervise and train all EPA employees who have a role in administering the FOIA.
- **EPA FOIA Self-Learning Resources.** EPA developed a SharePoint site with FOIA resources including a toolkit and webinars available "on demand" for employees to share with new hires or others looking to improve their FOIA skills.

*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.*

**EPA's Agency-wide Reorganization and Increased Centralization of FOIA**

**Implementation.** This year, EPA began reorganizing its national FOIA program to better ensure that the presumption of openness is applied and to improve compliance. Steps taken included:

- EPA delegated the Chief FOIA Officer function to the General Counsel to raise the profile and accountability of EPA's FOIA implementation.
- EPA moved the national program professional staff into the Office of the General Counsel. This move created a new National FOIA Office through a merger of the FOIA program staff and the OGC FOIA Expert Assistance Team (FEAT). The FEAT is a specialized team of OGC attorneys and professionals who provide legal counsel, training, and other services on all issues pertaining to selected FOIA requests that have been determined to be the most complex and/or potentially sensitive requests received across the Agency. Utilizing an extraordinary breadth of substantive knowledge with in-depth organizational and external expertise, the team advises and guides impacted programs to help ensure the Agency can rapidly, efficiently, and appropriately respond to the public's requests for information.
- EPA hired additional staff for the new National FOIA Office (NFO), increasing the OGC NFO staff by approximately 50%, with many onboarding in February 2019.
- EPA also launched a reorganization of the FOIA programs in each of the 10 EPA regional offices, moving those programs into the Regional Counsel's Offices to ensure accountability and reporting through the Regional Counsels to the General Counsel, acting as the Agency's Chief FOIA Officer.
- The EPA Director of the National FOIA Office provided a briefing to the

Agency's Executive Management Council regarding the Agency's FOIA responsibilities, the existing challenges with the backlog, and planned improvements and reorganization of the FOIA program, and the National FOIA Office started issuing monthly FOIA backlog reports to the heads of all Agency program and regional offices, identifying each office's existing FOIA backlog and the change from the prior month.

- EPA also centralized processing of initial FOIA requests related to specific real estate addresses or property locations in the NFO to increase EPA's response efficiency and speed.
- The Agency FOIA Officer emphasized the presumption of openness and FOIA compliance with the Agency's FOIA Coordinators and Regional FOIA Officers during monthly meetings.
- EPA's FOIA professionals regularly work with requesters throughout the FOIA process to seek clarification and to develop schedules for interim releases when appropriate.

**FOIA Improvements in EPA's Office of the Administrator.** EPA continued reforms to centralize the FOIA program in EPA's Office of the Administrator to better apply the presumption of openness and to increase FOIA compliance.

- Last year, EPA started improving FOIA implementation in the Office of the Administrator. EPA tasked OGC's FOIA Expert Assistance Team (FEAT) to help with these reforms.
- This year, after multiple lean events and prototype exercises, the FEAT and representatives from the AO Immediate Office (OEX), the Office of Public Affairs (OPA), the Office of Policy (OP) and the Office of Congressional and Intergovernmental Relations (OCIR) (collectively referred to as AO4) began to implement the AO FOIA Centralization Pilot Project on April 31, 2018.
- The AO4 team categorized over 1,400 backlogged FOIA requests and assigned an AO4 team member to each request.
- The AO4 team sent over 1,300 letters providing requesters with an update about their request including a tracking number, the position in the queue of pending requests, an estimated response date, and information for contacting EPA's FOIA Public Liaison.
- The AO4 team closed over 275 requests and provided over 500 interim responses from April 30 to November 30, 2018.
- EPA stood up a "Tiger Team" of AO4 staff who reviewed more than 20,000 AO4 documents from August 14 to November 30, 2018.
- EPA is planning to make additional FOIA processing improvements to

tackle the remaining backlog in the coming year.

## 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.*

EPA's average number of days for adjudicating requests for expedited processing was 18.3 days based on the FOIA Annual Report for FY 2018.

*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.*

**Expedited Processing Improvement.** As part of its Kaizen, business improvement process, EPA identified opportunities to improve its adjudication of requests for expedited processing. EPA conducted a pilot project to identify and minimize bottlenecks in the adjudication of requests for expedited processing. This effort produced significant improvements. EPA's average number of days for adjudicating expedited processing requests in the first quarter of FY 2019, was 10.2 days; a significant improvement from the FY 2018 average of 18.3 days.

*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. The toolkit is available here: <https://www.justice.gov/oip/foia-resources/foia-self-assessment-toolkit/download>*

In early 2018, EPA conducted a self-assessment of EPA's FOIA program through several internal Kaizen, business process improvement planning events.

- **Data reviewed.** As part of these events, EPA reviewed annual and quarterly status reports and other information and data.
- **Improvements: Reorganization.** These Kaizen events identified improvements that could be obtained by increased centralization of EPA's processing of FOIA requests and increased accountability throughout EPA's FOIA program. To that end, EPA undertook reorganizations of its FOIA program at the national level, within EPA's regional offices, and within the Office of the Administrator.
- **Pilot Projects.** The Kaizen events also identified numerous LEAN government process improvement opportunities. The National FOIA Office launched several pilot projects including a pilot focused on the adjudication of requests for expedited processing and a pilot centralizing processing of requests pertaining to specific property locations.
- **National Pulse Board Data Collection.** To strengthen EPA's future self-assessment and business process improvement efforts, EPA's National FOIA Office (NFO) began developing a "national pulse board" to display data from all EPA offices about each FOIA request as it moves through the FOIA lifecycle. Currently, the pulse board process is operating as a pilot collecting data from several headquarters program offices and several regions. EPA expects to expand the pilot to Agency-wide data collection this next year. The national pulse board will enable the NFO to better analyze the efficiencies and challenges and to identify bottlenecks in FOIA processing throughout the Agency.
- **Agency-wide Monthly Backlog Reports.** EPA's National FOIA Office began providing a monthly backlog report to each office and EPA senior leadership.

*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).*

For this reporting year, EPA's FOIA Public Liaison and staff provided services in response to approximately 250 requests for assistance. The FOIA Public Liaison receives and responds to approximately 7 phone calls a week. The FOIA Public Liaison email account received approximately 15 inquiries a month specifically requesting FOIA Public Liaison services. The National FOIA Office responds to emailed inquiries by email or follow up phone call. In addition, EPA's newly created National FOIA Office, which includes EPA's FOIA Public Liaison and FOIA public service center, increased its outreach to requesters as part of the

NFO's initial processing of FOIA requests received at EPA's headquarters offices.

*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.*

EPA highlights three of its best practices:

**1) National FOIA Office.**

This year, EPA began reorganizing and centralizing its national FOIA program by creating a National FOIA Office within the Office of General Counsel:

- EPA delegated the Chief FOIA Officer function to the General Counsel to raise the profile and accountability of EPA's FOIA implementation.
- EPA moved the national program professional staff into the Office of the General Counsel. This move created a new National FOIA Office in a merger of the FOIA program staff with the OGC FOIA Expert Assistance Team (FEAT).
- EPA launched a reorganization of the FOIA programs in each of the 10 EPA regional offices to move those programs into the Regional Counsel's Offices. Because the Regional Counsels report directly to the General Counsel, now the Agency's Chief FOIA Officer, this reorganization promotes accountability.
- EPA centralized processing of initial FOIA requests related to specific property locations in the NFO to increase EPA's response efficiency and speed.
- EPA's NFO increased outreach to requesters as part of the initial processing of FOIA requests submitted to headquarters offices. This change has resulted in a decrease in the number of errors reported to the NFO in the assignment of FOIA requests to offices for response.
- The NFO is also conducting FOIA training, updating EPA's FOIA processing practices and procedures, and collecting and reporting to EPA senior leaders key data regarding EPA's FOIA backlog reduction efforts and other FOIA processing information.

**2) FOIA Expert Assistance Team (FEAT).**

EPA's FOIA Expert Assistance Team (FEAT), located in EPA's National FOIA Office in the Office of General Counsel, was created to provide strategic direction

and project management assistance on the most challenging or complex FOIA requests. In its original functional statement, the FEAT was described as follows:

[T]his unit provides legal counsel on all issues pertaining to selected FOIA requests that have been determined to be [the] most complex and/or potentially sensitive requests received across the Agency. Utilizing an extraordinary breadth of FOIA knowledge and experience, together with in-depth organizational and external awareness, the team provides advice and guidance to the highest echelons of management within the Agency.

The FEAT adjusts its level of engagement based on the specific needs of the Agency and each request. Notable FEAT projects have included the Team's engagement with EPA's Region 10 in response to requests related to Bristol Bay, Alaska, requests related to the spill of polluted water from Gold King Mine, EPA's response to Volkswagen's use of defeat devices, and requests related to drinking water contamination in Flint, Michigan. This year, FEAT was tasked to assist with the FOIA reorganization and processing in EPA's Office of the Administrator.

### **3) Disclosure to One is Disclosure to All: FOIAonline.**

All FOIA requests EPA receives are managed throughout their lifecycle in FOIAonline. FOIAonline allows requesters to create individual accounts and view status information regarding the processing and managing of their individual requests (e.g., when the request was received, where the request has been assigned, etc.). FOIAonline also enables the public to locate and search all FOIA requests EPA has received as well as EPA's responses (except for information specific to the requestor).

This year, EPA made significant improvements and upgrades to FOIAonline:

- The previous version of the FOIAonline application shared software and infrastructure with another application which, due to growth, experienced capacity limitations resulting in some performance delays, particularly in generating reports that are very much a critical element of each agency's FOIA program.
- To address these limitations and create expanded integration opportunities, EPA rebuilt the entire system using open source software deployed in a secure cloud-hosted environment.

- While the new system required additional development efforts after its deployment on July 9, 2018, the system is now stabilized, and EPA is addressing outstanding items.
- With the new system, EPA improved scalability and performance, as well as enhanced functionality, of FOIAonline, which we expect to continue developing as the partnership matures.

### 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.*

EPA continually updates its website with new information regarding public health and environmental protection topics to meet its obligation to proactively disclose information to the public.

**Easy-to-use Website Tools.** To help the public access this new information and previously disclosed information, EPA provides a variety of easy-to-use tools and indexes readily available on EPA's website.

- **EPA Homepage Highlights.** EPA's website homepage includes a banner that features the most important new information that EPA recently proactively disclosed on its website. EPA's website homepage also includes links to proactively disclosed information on key Administration priorities and particularly important public health topics. EPA's home page can be found here: <https://www.epa.gov/>
- **Index of Environmental Topics.** EPA's website also includes a list of and links to proactively disclosed information by "Environmental Topics": Air; Chemicals and Toxics; Environmental Information by Location; Greener Living; Health; Land, Waste, and Cleanup; Science; Water; and narrower topics including Bed Bugs, Lead, Mold, Pesticides; Radon. The link to this Environmental Topics list is here: <https://www.epa.gov/environmental-topics>

- **Laws & Regulations Index.** EPA’s website also includes a list of and links to proactively disclosed information on “Laws & Regulations,” available here: <https://www.epa.gov/laws-regulations>
- **About EPA.** EPA’s website also includes a list of and links to proactively disclosed information about EPA, its organizational structure, and its leadership, available here: <https://www.epa.gov/aboutepa>
- **General Data Disclosure.** EPA has contributed over 4,800 data sets to data.gov: [www.data.gov](http://www.data.gov)
- **Senior Leadership Calendars.** EPA is proactively posting the calendars of the senior leadership team on the EPA webpage in response to requests from the requestor community. The information is available here: <https://www.epa.gov/senior-leaders-calendars>
- **National FOIA Library.** EPA utilizes the National Online FOIA library to quickly release records of national interest including: final opinions, administrative staff manuals and instructions, frequently requested records, major information systems, statements of policy, and Superfund related information. Of note in 2018, EPA posted Administrator Pruitt’s security detail quarterly payroll and travel costs in the frequently requested records section of the library. The National Online FOIA library is located here: <https://www.epa.gov/foia/national-online-foia-library>
- **Regional FOIA Libraries.** Regional FOIA online libraries provide the public with information specific to each region and are available here: <https://www.epa.gov/foia/foia-online-libraries>

**Important Public Health Disclosures.** EPA’s most important proactive disclosures of environmental and public health information this year included the following:

- **PFAS Chemicals.** Public health concerns regarding Per- and polyfluoroalkyl substances (PFAS) including PFOA, PFOS, GenX, and many other chemicals, which can be found here: <https://www.epa.gov/pfas>
  - **New developments:** Recent proactive disclosures on this page include, for example, on November 21, 2018, EPA released new tools to test and treat additional PFAS, including GenX, in drinking water (more detail is available here: <https://www.epa.gov/newsreleases/epa-releases-new-tools-test-and-treat-additional-pfas-including-genx-drinking-water>).
  - **Up-to-date science:** Because of the interest in concerns regarding GenX, EPA this year conducted and proactively disclosed a comprehensive search of scientific literature to identify scientific articles with health



related information about GenX chemicals, which can be found here:

[https://hero.epa.gov/hero/index.cfm/project/page/project\\_id/2627](https://hero.epa.gov/hero/index.cfm/project/page/project_id/2627)

- **Children and Lead.** Public health concerns regarding childhood lead exposure, which can be found here: <https://www.epa.gov/lead>
  - Recent proactive disclosures on this page include, for example information regarding the recent publication of the Federal Action Plan to Reduce Childhood Lead Exposure by the President’s Task Force on Environmental Health Risks and Safety Risks to Children of which EPA Acting Administrator Andrew Wheeler serves as a co-chair. Additional information is available here: <https://www.epa.gov/lead/federal-action-plan-reduce-childhood-lead-exposure>
- **Daily Air Quality Data.** A link on EPA’s website home page leads directly to EPA’s AirNow interactive map and database, which provides the most current, up-to-date information available as well as forecasts of air quality in every city, town, and locality of the country. Every day the Air Quality Index (AQI) tells the public how clean or polluted outdoor air is across the country, along with associated health effects that may be of concern. The AQI translates air quality data into numbers and colors that help people understand when to take action to protect their health. Here is a link to AirNow: <https://www.airnow.gov/>
- **Emergency & Environmental Response Actions.** EPA continues to provide the public information about major emergency and environmental responses through topical websites. For example:
  - Flint Drinking Water Documents: <https://www.epa.gov/flint/flint-drinking-water-documents>
  - Gold King Mine Documents: <https://www.epa.gov/goldkingmine>
  - Hurricane Maria Documents: [https://response.epa.gov/site/doc\\_list.aspx?site\\_id=12403](https://response.epa.gov/site/doc_list.aspx?site_id=12403)
  - Hurricane Florence Documents: [https://response.epa.gov/site/doc\\_list.aspx?site\\_id=13923](https://response.epa.gov/site/doc_list.aspx?site_id=13923)

**Administration Priorities.** EPA’s proactive disclosures of information this year regarding Administration priorities include but are not limited to the following:

- A link on EPA’s website homepage leads to information regarding EPA’s work to address contaminated superfund sites and the work of the Administration’s Superfund Task Force. A list of the Task Force’s accomplishments can be found here: <https://www.epa.gov/superfund/superfund-task-force-accomplishments>

- Another link on EPA’s website homepage leads to up-to-date information regarding EPA’s environmental law enforcement data and results. This page offers links to online data sources, as well as information about reports and data systems:

<https://www.epa.gov/enforcement/data-and-results>

*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)).*

EPA does not wait for three requests before proactively disclosing requested information. If a record has been requested by one requester, EPA releases all records (except those records responsive to first party requests) through FOIAonline regardless of the number of times requested.

*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?*

Yes. In addition to the measures described above, EPA strives to go beyond proactive disclosure and works continuously to make posted information as useful and as accessible as possible, including through interactive websites such as these:

- The AirNow interactive map and database (<https://www.airnow.gov>) is an example of how EPA continuously strives to provide the most current, up-to-date information available to the public. This webpage provides current data as well as forecasts of air quality in every city, town, and locality of the country.
- An interactive feature on EPA’s website home page (<https://www.epa.gov>), called “My Community,” allows the public to immediately go to a dynamic database-driven webpage that displays information regarding communities and localities. Information is provided regarding air quality, water quality, facilities in the area that EPA regulates, any superfund sites, and other environmental and public health information.

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

EPA uses tools like Google analytics to identify areas and topics of interest to the public. An example of an improvement to make posted information more useful is the implementation of a sorting feature which appears when search results are displayed. For many topics, EPA’s website contains information written for different audiences ranging from school children to policy analysts to

environmental professionals. This sorting feature allows the user to limit results to special collections of “environmental professional” or “regulatory community” or by topics including “air” and “water” along with the number of results displayed.

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

EPA continually strives to improve and increase disclosure of important environmental and public health information to the public. EPA does this in a variety of ways, including the following best practices:

EPA releases all records that have been requested under FOIA (except those responsive to first party requests) through FOIAonline regardless of the number of times requested.

EPA program offices continuously disclose to the public, including through interactive websites, the public health and environmental information that EPA collects. For example:

- Health and Environmental Research Online (HERO) is a database of scientific studies and other references used to develop EPA's risk assessments aimed at understanding the health and environmental effects of pollutants and chemicals. It is developed and managed in EPA's Office of Research and Development (ORD) by the National Center for Environmental Assessment (NCEA). <https://hero.epa.gov/hero/index.cfm>
- The Science Inventory is a searchable database of research products primarily from EPA's Office of Research and Development. Science Inventory records provide descriptions of the product, contact information, and links to available printed material or websites. <https://cfpub.epa.gov/si/>
- The Environmental Dataset Gateway (EDG) provides a single point to discover and access EPA's Open Data resources. The EDG contains metadata records contributed by EPA Regions, Program Offices, and Research Laboratories that links to geospatial and non-geospatial resources (e.g., data, Web services, or applications). <https://edg.epa.gov/metadata/catalog/main/home.page>

## 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 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.*

Yes. EPA uses FOIAonline to organize data regarding FOIA processing. EPA also uses a centralized search tool to identify and collect responsive records stored on EPA's Microsoft Office 365 environment. A team of specialists in EPA's eDiscovery Division conducts email searches using the Microsoft Office 365 Security and Compliance Center and delivers to EPA staff the results for review and processing using Relativity, the Agency's review platform. Relativity is used by Agency staff to review documents to respond to FOIA requests.

EPA has also made available to the public an internet-based search tool, MyProperty, to allow the public to obtain environmental information on site-specific addresses without the need to file a FOIA request. EPA leveraging existing tools, like Envirofact to allow the public to conduct a search and obtain a certificate when EPA has no information about the specific address. In recent months, these internet-based tools significantly reduced the number of FOIA requests EPA received.

*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, EPA reviewed its websites during the reporting period to ensure that it addresses the elements in OIP's 2017 guidance. In particular, EPA's website homepage has a prominently-displayed link to EPA's FOIA homepage, which has prominently-displayed links to: the FOIA statute and EPA regulations; a page on how to make a FOIA request; a page regarding the EPA FOIA library; a page

regarding EPA's FOIA Public Liaison; a page regarding how to search existing FOIA requests; a series of pages with more detail about FOIA at EPA including EPA's FOIA reports; and pages on specific frequently asked questions. EPA regularly posts new information to its FOIA website.

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

Yes. EPA posted all four quarterly reports in FY 2018.

*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.*

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 2017 Annual FOIA Report and, if available, for your agency's Fiscal Year 2018 Annual FOIA Report.*

FY 17 Annual FOIA Report – <https://www.epa.gov/foia/epa-foia-annual-report-2017>

FY 18 Annual FOIA Report – <https://www.epa.gov/foia/epa-foia-annual-report-2018>

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

EPA's best practices to greater utilize technology include the following:

- EPA's FOIA Expert Assistance Team (FEAT), located in EPA's National FOIA Office, provides training to first level reviewers and sets up kick-off training meetings EPA's FOIA processing technologies including document review technology.
- EPA upgraded its version of the Agency review software to Relativity version 9.5.
- EPA launched Structured Analytics in Relativity version 9.5 beginning October 1, 2018. The launch of Structured Analytics enabled two new tools – Email Threading and Textual Near Duplicate Identification (TNDI). Both add value to the review process by increasing review efficiency, accuracy, and

consistency. EPA also provided training to staff regarding Structured Analytics in Relativity, including:

- What's New: Structured Analytics. This class provided a high-level overview for users who wanted a general overview of each function, including the newest features, functions and enhancements with Structured Analytics in the Relativity 9.5 platform.
- Email Threading and Visualization. This class guided users through the Email Threading View and the Email Thread Visualization tool in Relativity 9.5 and provided a better understanding of how Email Threading works, and how to utilize the built-in visualizations.
- Textual Near Duplicate Identification (TNDI). This class guided users through the Textual Near Duplicates View in Relativity 9.5 and provided a better understanding of the Textual Near Duplicates fields.

## 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. EPA uses a simple track that is separate from tracks for exceptional circumstances and expedited responses; EPA does not use a multi-track system that goes beyond these three tracks.

*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?*

While EPA's average number of days to process simple requests in FY 2018 was 35.74 days, EPA processed 65% of its simple requests within 20 working days.

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

The percentage of requests that EPA processed in the simple track in FY 2018 was 77%.

*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

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. EPA's FOIA backlog at the end of FY2017 was 1,891; EPA's FOIA backlog at the end of FY2018 was 2,761.

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

No. EPA processed 10,802 FOIA requests in FY 2017; and EPA processed 10,442 FOIA requests in FY 2018.

*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.*

During FY 2018, EPA continued to see a substantial increase in the number and complexity of FOIA requests, particularly requests seeking records from the Office of the Administrator and from the Office of Chemical Safety and Pollution Prevention. In the Office of the Administrator, the FOIA requests EPA received in FY 2017 increased by more than 415% and in FY 2018 increased by more than 368% from FY 2016.

**EPA experienced challenges stemming from a concentration of FOIA requests and litigation in some offices.** In addition, since at least January 2017, EPA has experienced an increase in the number of FOIA requests submitted to the Agency for processing. In fiscal years 2017 and 2018, EPA received 11,518 and 11,364 FOIA requests in each year, respectively. The totals for 2017 and 2018 exceeded the previous 2016 fiscal year total by 1,115 and 961 requests respectively.

Fiscal Year	Number of Requests Received
2014	10,470
2015	10,981
2016	10,403
2017	11,518
2018	11,364

The increase in overall FOIA requests had a particularly significant impact on the Office of the Administrator. In fiscal year 2016, the Office of the Administrator received 203 requests during the entire fiscal year. In fiscal years 2017 and 2018, the Office of the Administrator received 1,048 and 957 requests respectively, an increase of 415% and 368%, respectively, from fiscal year 2016. The number of



FOIA requests in the Office of Chemical Safety and Pollution prevention increased by 29% in FY 2018 as compared to FY 2017.

The complexity and scope of FOIA requests EPA received has also increased. For example, EPA staff identified an increasing number of requests that seek correspondence generally (e.g., “all communications”), rather than correspondence about a specific or precise subject matter. Requests in the Office of the Administrator increasingly have multiple distinct subparts, seeking information that requires the Office of the Administrator to coordinate with multiple Agency subcomponents.

*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 number of FOIA requests EPA received that were backlogged at the end of the fiscal year was 24% of the total number of requests EPA received in FY 2018.

#### 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?*

No. The Agency’s backlogged appeals increased from 125 appeals at the end of FY 2017 to 132 appeals at the end of FY 2018.

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

No, the Agency processed 17 fewer administrative appeals in FY 2018 than it did in FY 2017.

*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.*

The General Law Office in the Office of General Counsel experienced significant workload challenges in FY 2018 that contributed to the approximately 5.6% increase in Agency's appeal backlog. EPA received approximately 73 new FOIA lawsuits in FY 2018 compared to 17 and 37 for FY 2016 and 2017, respectively, representing an approximately 97% increase in the previous fiscal year. The same staff that work on these FOIA matters also process the Agency's administrative appeals. Additionally, the Office of General Counsel's Information Law Practice Group had three attorneys leave the practice group during FY2018 resulting in increased workload burden on remaining staff. EPA recently hired three additional attorneys to assist with this work, two of which have recently onboarded with the Agency.

*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."*

EPA's backlog of appeals at the end of FY 2018 was 132 appeals EPA received 183 appeals during FY 2018. Therefore, the percentage of appeals that make up the backlog out of the total number of appeals received by EPA in FY 2018 is 72%.

### 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?*

- EPA moved from quarterly to monthly status reports with senior leaders to help manage the FOIA process. Senior management has used these reports to encourage a decrease in the backlog of FOIA requests.
- **Communication from the Acting Administrator.** Acting Administrator Andrew Wheeler personally emailed all EPA employees on November 13, 2018, to highlight and reinforce both the agency's and his personal commitment to implement the FOIA. His key messages were:
  - **Transparency:** The EPA is committed to operating in an open and transparent manner. People have the right to access agency records, except where the information is protected from disclosure.

- **Timeliness:** The EPA will improve the timeliness of our FOIA responses.
- **Quality:** The EPA will improve the quality of our FOIA responses so that the public receives both clear communication about the FOIA process and appropriately redacted records.
- **Professionalism:** The EPA will bolster our training efforts and ensure that our FOIA professionals have the resources they need to help make the EPA a flagship example of transparent, efficient and effective government.
- **FOIA-related Performance Standards.** For FY 2019, EPA added language to FOIA manager’s performance agreements to hold them accountable to manage FOIA responses and to supervise and train all EPA employees who have a role in administering the FOIA.
- **Kaizen Planning.** In early 2018, EPA conducted several internal Kaizen, business process improvement events to evaluate EPA’s FOIA implementation and to plan improvements.
  - **Improvements: Reorganization.** These Kaizen events identified, among other improvement opportunities, improvements that could be obtained by increased centralization of EPA’s processing of FOIA requests and increased accountability throughout EPA’s FOIA program. To that end, EPA undertook reorganization of its FOIA program at the national level and within EPA’s regional offices and the Office of the Administrator.
  - **Pilot Projects.** The Kaizen event also identified numerous lean government process improvement opportunities and EPA launched several pilot projects managed out of its newly created National FOIA Office. These included a pilot focused on the adjudication of requests for expedited processing and a pilot centralizing the processing of requests pertaining to specific property locations.
  - **National Pulse Board Data Collection.** To strengthen EPA’s future self-assessment and business process improvement efforts, EPA’s National FOIA Office (NFO) began developing a “national pulse board” to display data from all EPA offices about each FOIA request as it moves through the FOIA lifecycle. The national pulse board will enable the NFO to better analyze the efficiencies and challenges and to identify bottlenecks in FOIA processing throughout the Agency.

**Agency-wide Monthly Backlog Reports.** EPA’s National FOIA Office began providing a monthly backlog report to each office and EPA senior leadership.

**FOIA Improvements in EPA's Office of the Administrator.** EPA continued reforms to centralize the FOIA program in EPA's Office of the Administrator.

- Last year, EPA started improving FOIA implementation in the Office of the Administrator. EPA tasked OGC's FOIA Expert Assistance Team (FEAT) to help with these reforms.
- This year, after multiple lean events and prototype exercises, the FEAT and representatives from the AO Immediate Office (OEX), the Office of Public Affairs (OPA), the Office of Policy (OP) and the Office of Congressional and Intergovernmental Relations (OCIR) (collectively referred to as AO4) implemented the AO FOIA Centralization Pilot Project on April 31, 2018.
- The AO4 team categorized over 1,400 backlogged FOIA requests and assigned an AO4 team member to each request.
- The AO4 team sent over 1,300 letters providing requesters with an update about their request including a tracking number, the position in the queue of pending requests, an estimated response date, and information for EPA's FOIA Public Liaison.
- The AO4 team closed over 275 requests and provided over 500 interim responses from April 30 to November 30, 2018.
- EPA stood up a "Tiger Team" of AO4 staff who reviewed more than 20,000 AO4 documents from August 14 to November 30, 2018.

*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?*

EPA plans to continue the reforms it started in the prior year – to reorganize its National FOIA Office, Regional FOIA Offices, and FOIA processing in the Office of the Administrator, as well as monthly backlog data reporting, increased training, and increased attention to accountability through the performance review process. EPA will also implement mandatory supervisor training. When EPA has completed launching its national pulse board for collecting and displaying data regarding FOIA processing across the Agency, EPA will analyze the data and seek to identify additional process improvements as well as bottlenecks to eliminate.

#### **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.*

EPA closed seven of the ten oldest FOIA requests that were pending and reported in the FY 2017 Annual FOIA Report.

*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?*

Four of the ten oldest requests were withdrawn. No interim responses were provided.

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

EPA's efforts to reorganize and improve FOIA processing described in response to the questions above are the steps that EPA took to reduce the overall age of FOIA requests pending with EPA.

## 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?*

No.

*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. A2*

EPA closed eight of the ten oldest appeals. EPA subsequently closed one of the two appeals that remained open in October of 2018. The second appeal that was not closed related to a matter that is the subject of active litigation, and the appeal (among other questions) remains at issue in the litigation. As a result, that appeal was not closed during FY 2018.

*21. Beyond work 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's General Law Office organized a group of attorneys from other law offices in EPA to assist with processing appeals to work to reduce the number of pending appeals. The General Law Office is also hiring and/or backfilling attorney positions to help ensure it is adequately staffed to make progress on reducing the overall number and age of pending appeals, considering existing workload.

#### 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?*

No.

*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.*

EPA closed one of the three oldest consultations reported in the FY 2017 Annual FOIA Report.

#### 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.*

EPA closed eight of the ten oldest appeals and closed one of its pending consultations. The primary challenge in closing the last of the ten oldest requests from FY 2018 was due to the need to consult with multiple EPA offices. Limited staff resources, made it difficult to complete the reviews. EPA anticipates closing the remaining requests in FY 2019.

The primary challenge in closing the ten oldest appeals from FY 2018 are described in Section V, Question 11. Specifically, FY 2018 presented significant workload and staffing challenges for the Office of General Counsel's Information Law Practice Group.

*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.*

The program offices that have the ten oldest requests have assigned each request to a FOIA professional for processing. The Office of General Counsel has since closed one of the two outstanding oldest appeals from FY 2018 and will continue to coordinate with the Department of Justice on the status of the other outstanding appeal from FY2018.

## 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.

**EPA launched a significant reorganization of its Agency-wide FOIA process – including centralizing key functions – to improve accountability, responsiveness and efficiency. These changes will have lasting impacts for years to come.** EPA conducted several internal Kaizen, business process improvement, planning events to evaluate and plan improvements to EPA's FOIA implementation. The Kaizen events identified a need for increased centralization of EPA's processing of FOIA requests and a need to increase accountability. To

that end, EPA undertook reorganization of its FOIA program including the following:

- Delegated the Chief FOIA Officer function to the General Counsel.
- Created a new National FOIA Office (NFO) within the Office of General Counsel, merging EPA's OGC FOIA Expert Assistance Team (FEAT) with FOIA program staff. EPA increased the OGC NFO staff by approximately 50%.
- Reorganized the FOIA programs in each of the 10 EPA regional offices into the Regional Counsel's Offices to ensure accountability to the General Counsel.
- Centralized the processing of initial FOIA requests related to specific property locations in the NFO.
- Developed process improvements for decisions on fee waiver and expedited processing requests.
- Created a national flow board pilot collecting data from regional and program offices on the processing of every FOIA request through the FOIA lifecycle.
- Centralized within the Administrator's Office the processing of all FOIA requests from four AO sub-offices (the AO4 Centralization Pilot Project).
- The AO4 team categorized over 1,400 backlogged FOIA requests, sent over 1,300 letters providing requesters with an update about their request including a tracking number, the position in the queue of pending requests, an estimated response date, and information for EPA's FOIA Public Liaison. The AO4 team also closed over 275 requests, provided over 500 interim responses from April 30 to November 30, 2018 and stood up a "Tiger Team" of AO4 staff who reviewed more than 20,000 AO4 documents from August 14 to November 30, 2018.