



**United States
Environmental Protection Agency
Chief FOIA Officer Report
*2020***

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
2020 CHIEF FOIA OFFICER REPORT
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Executive Summary

The Environmental Protection Agency (EPA) is committed to operating openly and transparently and to implementing the Freedom of Information Act (FOIA) to promote transparency and build public trust in agency actions.

During this reporting cycle, EPA developed new initiatives and continued building on actions started in the previous reporting cycle to enhance EPA's FOIA program. EPA's efforts yielded substantial results in FY 2019: EPA reduced its FOIA request backlog by nearly 500 requests, or 18%, and it reduced its FOIA appeals backlog by 52%, reversing a two-year trend of increases in both backlogs.

In FY 2019, EPA realigned the regional FOIA programs into the Regional Counsel Offices to enhance accountability and streamline organizational structure in EPA's 10 regional offices. This realignment established clear authority and reporting lines through the Regional Counsels up to the Agency's General Counsel, who had become the Agency's Chief FOIA Officer through an FY 2018 reorganization. EPA's regions collectively reduced their FOIA request backlog by 22% in FY 2019, surpassing the Agency-wide 18% FY 2019 backlog reduction.

In FY 2019, EPA published in the Federal Register an update to its 17-year old FOIA regulations, bringing its regulations into compliance with the nondiscretionary provisions of the 2007, 2009, and 2016 amendments to the FOIA. The regulation update also centralized FOIA requests submission to EPA's National FOIA Office. Anticipating this change, in Spring 2019, EPA's National FOIA Office increased its staff; reviewed, revised and updated its standard operating procedures; and retrained its staff. Centralizing FOIA request submission enables EPA to improve efficiency, consistency, and quality of EPA's determinations and responses, and to apply best practices in early communications with requesters.

In early FY 2019, the National FOIA Office began issuing monthly FOIA backlog reports to EPA's senior leadership showing the backlog in each EPA region and headquarters office. For FY 2020, each region and headquarters has now set office-specific FOIA backlog reduction annual goals and monthly targets that are aligned with the agency-wide goal EPA set in its FY 2018-2022 Strategic Plan. And, the National FOIA Office distributed to all offices a Lean Management Flowboard Toolkit providing guidance on applying process-improvement visual management techniques to FOIA processing. EPA also added FOIA accountability language to manager performance agreements Agency-wide in FY 2019, and EPA developed and started delivering specialized FOIA training for supervisors.

EPA also completed reform of FOIA processing within the Office of the Administrator. This initiative (known as the AO4 project) included:

- Centralizing FOIA processing for four sub-offices;
- Engaging the National FOIA Office's FOIA Expert Assistance Team to provide project management, legal guidance, and training;
- Standing up a "Tiger Team" of 12 staff dedicated to FOIA review and processing; and
- Hiring additional FOIA professionals.

This effort yielded significant results; the request backlog in the Office of the Administrator decreased

by 141 requests, accounting for more than one-quarter of the Agency's 18% backlog reduction for FY 2019, and it continues to make deep inroads into the Office of the Administrator's FOIA backlog while also responding to incoming FOIA requests and ongoing FOIA litigation.

The Agency's leadership is committed to continue to enhance the efficiency and quality of EPA's FOIA responses and to proactively disseminate information. By establishing in EPA's FY 2018-2022 Strategic Plan a strategic objective to increase transparency and public participation with the long-term performance goal to eliminate EPA's FOIA backlog by 2022, EPA leadership committed to continuously improve FOIA implementation by applying EPA's Lean Management System (ELMS) to every stage of the FOIA response process in every Agency component and office. ELMS simultaneously and continuously reports backlog reduction information to EPA's senior leadership, thereby bringing focused attention on the goal and milestones in every agency component, thereby empowering EPA FOIA professionals and staff, working with external partners, to make the EPA a flagship example of transparent, efficient, and effective government.

Section 1: Steps Taken to Apply the Presumption of Openness

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

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

A. FOIA Leadership

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

Yes, the 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.

Matthew Z. Leopold, General Counsel.

B. FOIA Training

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

Yes. 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.

EPA Annual FOIA Training (In-house).

EPA requires all employees to take annual online FOIA training. This year's training focused on the use of FOIA Exemptions. More than 98%¹ of EPA employees successfully completed the training in FY 2019.

FOIA Supervisor Training (In-house).

FOIA experts from EPA's Office of General Counsel developed and provided trainings to EPA SES and non-SES supervisors regarding the essential FOIA knowledge supervisors need to successfully comply with the FOIA, support Agency FY18-22 Strategic Plan goals

¹ In this report, EPA rounded percentages to the nearest whole number using commonly applied decimal rounding rules. If the calculated number in the tenths place was 5 or higher, EPA rounded up to the next whole number; if the calculated number in the tenths place was 4 or lower, EPA rounded down to the nearest whole number.

related to FOIA and fulfill new FOIA-specific elements and performance measures in performance agreements.

E-Discovery & Technology Training for FOIA Experts (External & In-house).

EPA FOIA professionals from EPA's Office of General Counsel, Office of Mission Support, and Regional offices attended the 2019 RelativityFest conference to stay abreast of advances in eDiscovery technology and best practices applicable to processing FOIA document reviews using Relativity software. EPA provided training throughout the year to EPA FOIA professionals on the features of the analytics tools included in EPA's e-Discovery Relativity platform that can be leveraged to more efficiently manage the processing of records for response to FOIA requests.

Department of Justice, Office of Information Policy Trainings (External).

EPA FOIA professionals and staff with FOIA responsibilities attended the following trainings offered by the Department of Justice, Office of Information Policy:

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 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 the course of FOIA litigation, including:

- Guidance on successful litigation strategy,
- Advanced litigation considerations, and
- Details on the preparation of Vaughn Indices and declarations.

The Best Practices Workshop on FOIA Administrative Appeals: A two-hour panel discussion for FOIA professionals to learn from one another for the overall benefit of FOIA administration across the government, on:

- Reducing Backlogs and Improving Timeliness

Office of Government Information Services (OGIS) Training (External).

National FOIA Office staff and managers participated in a full-day dispute resolution skills training program for FOIA professionals provided by OGIS staff. The training equipped participants with tools and techniques to apply in the performance of their FOIA responsibilities, including:

- Developed a working knowledge of Alternative Dispute Resolution (ADR) techniques;
- Learned how working with OGIS can help resolve disputes;
- Practiced active listening and good communication;
- Discussed ways to improve customer service; and
- Developed strategies for working with difficult people.

EPA FOIA Community Meetings (In-house).

The National FOIA Office held monthly (and at times more frequent) meetings with the Agency’s FOIA Community 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 multi-day training to FOIA professionals, and supervisor training, in EPA Regions 1, 2, and 5.
- OGC provided specialized FOIA training to FOIA professionals in the Office of Land and Emergency Management and National FOIA Office.

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.

More than 97% of EPA FOIA professionals and staff with FOIA responsibilities successfully completed EPA’s Annual FOIA 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.

Not applicable. 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 EPA FOIA Public Liaison, FOIA Officers, and FOIA professionals engaged in dialogue with members of the FOIA requester community regularly throughout the year regarding administration of the FOIA.

NARA FOIA Advisory Committee.

An Attorney-Adviser in EPA's 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 was created to foster dialogue between the Federal Government and the requester community, soliciting public comments, and developing recommendations for improving FOIA administration and proactive disclosures.

FOIA Public Liaison & Targeted Conversations with Frequent Requesters.

EPA's FOIA Public Liaison and attorneys in EPA's Office of General Counsel spoke with a variety of requesters to resolve disputes as well as to gain perspective on requester needs and concerns, including targeted conversations with some of the most frequent requesters whose requests typically take the Agency much longer than 20 working days to respond. Through these conversations, EPA described, and received informal feedback on, recent initiatives to streamline and enhance EPA's FOIA implementation, and EPA conveying information to them to more effectively target their requests.

D. Other Initiatives

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

Mandatory Annual FOIA Training.

EPA required all employees to complete mandatory FOIA Awareness Training in FY 2019. The training was provided via an online training platform, with regular reminders to each employee and to their supervisors to ensure completion by the end of the fiscal year. The online platform also provided data tracking for accountability. In FY 2019, more than 98% of employees successfully completed the required training.

FOIA-Related Performance Standards.

Beginning in FY 2019 and continuing into FY 2020, all senior manager performance agreements contain FOIA-related language to ensure Agency management promotes compliance with FOIA laws, regulations, policies, and Executive Orders, consistent with EPA's commitments to transparency, timeliness, quality, and professionalism pronounced in then Acting Administrator Wheeler's November 2018 FOIA memorandum. Managers are accountable to manage FOIA responses and to supervise and train all EPA employees who have a role in administering the FOIA.

FOIA Supervisor Training.

FOIA experts from EPA's Office of General Counsel developed and provided trainings to EPA SES and non-SES supervisors regarding the essential FOIA knowledge supervisors need to successfully comply with the FOIA, support Agency FY 2018-22 Strategic Plan goals related to FOIA, and fulfill new FOIA-specific elements and performance measures in performance agreements.

Interim FOIA Policy and Procedures Update.

After the reorganization that established the National FOIA Office in the Agency's Office of General Counsel and redelegation of the Chief FOIA Officer functions to EPA's General Counsel, EPA issued an interim FOIA Policy and Procedures Update to reflect the new organizational structure and to make clear that the Agency should continue to follow the Agency's FOIA Policy and Procedure as well as OGC's guidance on the FOIA Improvement Act of 2016.

Self-Learning Resources.

The National FOIA Office reviewed and updated the Agency's internal FOIA SharePoint site available to EPA staff. This intranet site includes a subsection on "FOIA Training and How To's," such as copies of training documents issued by the Department of Justice and other learning resources useful to those new to FOIA processing.

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

EPA's Continued Agency-wide Reorganization and Increased Centralization of FOIA Implementation.

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

- EPA completed a realignment 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 (Agency's Chief FOIA Officer).
- The National FOIA Office Associate General Counsel 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.
- The National FOIA Office issued 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.
- The National FOIA Office emphasized the presumption of openness and FOIA compliance during regular meetings of the FOIA Community.
- EPA's FOIA professionals regularly work with requesters throughout the FOIA process to seek clarification and to develop schedules for interim releases when appropriate.

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 2019, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2019 Annual FOIA Report.

EPA's average number of days to adjudicate requests for expedited processing was 12.9 days, based on the FOIA Annual Report for FY 2019.

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.

EPA's average number of days to adjudicate expedited processing applications in FY 2019 of 12.9 days is a significant improvement from the FY 2018 average of 18.3 days. EPA recognized in FY 2019 that further improvement would be necessary as the National FOIA Office anticipated taking on centralized FOIA request intake.

In Spring 2019, EPA's National FOIA Office increase its staff; reviewed, revised and updated its standard operating procedures; and retrained its staff, expanding the National FOIA Office's capacity to perform, among other things, FOIA request intake-related work in anticipation of the new centralization of the Agency's FOIA request intake process, which became effective on July 26, 2019. Centralizing FOIA request submission enables the EPA to improve efficiency, consistency, and quality of EPA's determinations and responses, and to apply best practices in early communications with requesters.

In September, the National FOIA Office launched an EPA Lean Management System (ELMS) project focused on the FOIA intake process. As part of that initiative, the National FOIA Office stands up weekly meetings for the intake review staff to discuss data and trends, current work assignments, challenges, and successes. At each weekly meeting, the team specifically discusses the number of pending assignments of expedited processing applications, the applications that are beyond 10 days, and data and any trends on those determinations. EPA believes that this practice will likely ensure that expedited processing determinations are made consistently within 10 calendar days going forward.

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.*

In FY 2019, EPA implemented agency-wide the new EPA's Lean Management System (ELMS) to continuously review and improve EPA's FOIA response processing. While EPA centralized the intake process for incoming FOIA requests, FOIA request processing (search, review, and release of records) is still decentralized across the 12 national program offices (including the Office of Inspector General) and 10 regions. Many offices across the Agency conducted lean management improvement events and implemented visual management tools concentrated on FOIA processes. Assisting such efforts at the national level, EPA's National FOIA Office developed and distributed a visual management FOIA Flowboard Toolkit to help agency offices use visual management in a consistent way. The National FOIA Office also piloted a national pulse board, a data visual management model, to visually display EPA FOIA processing data. Lastly, the National FOIA Office deployed multiple continuous improvement exercises around its FOIA processing responsibilities.

Data reviewed. As part of these events and continually throughout the reporting period, EPA reviewed monthly, quarterly, and annual statistical reports and other information and data. In FY 2019, EPA's National FOIA Office began providing a monthly backlog report to each office and to EPA senior leadership. For FY 2020, each region and headquarters office set office-specific FOIA backlog reduction annual goals and monthly targets aligned with the agency-wide goal. Through deployment of ELMS to FOIA processing, many offices hold weekly or more frequent meetings to review office-specific FOIA processing data and to identify challenges as they occur.

FOIA Centralized Intake. In FY 2019, EPA published in the Federal Register an update to its FOIA regulations. The regulation update among other things centralized FOIA requests submission to EPA's National FOIA Office. Anticipating this change, in Spring 2019, EPA's National FOIA Office increased its staff; reviewed, revised and updated its standard operating procedures; and retrained its staff. Centralizing FOIA request submission enables EPA to improve efficiency, consistency, and quality of EPA's determinations and responses, and to apply best practices in early communications with requesters.

4. *The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2019 (please provide a total number or an estimate of the number).*

For FY 2019, EPA's FOIA Public Liaison and FOIA Requester Center staff provided services in response to more than 770 requests for assistance. The FOIA Requester Center received 651 incoming phone calls in FY 2019. The FOIA Public Liaison email account received approximately 10 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 established National FOIA Office, which includes EPA's FOIA Public Liaison and FOIA Requester Center, increased its outreach to requesters as part of the National FOIA Office's initial processing of FOIA requests. The National

FOIA Office now issues a unique correspondence to each requester as part of its intake review of FOIA requests and includes information on how to contact EPA's Public Liaison in that correspondence.

5. Optional -- Please describe: Best practices used to ensure that your FOIA system operates efficiently and effectively and any challenges your agency faces in this area.

EPA highlights the following best practices to ensure the Agency's FOIA system operates efficiently and effectively:

Increased Centralized FOIA Management.

EPA began reorganizing and increasing centralization of its national FOIA program in FY 2018 by establishing the National FOIA Office within the Office of General Counsel and re delegated the Chief FOIA Officer function to the General Counsel to raise the profile and accountability of EPA's FOIA implementation.

In 2019, EPA increased centralization of the FOIA programs in each of the 10 EPA regional offices through a realignment that move those programs into the Regional Counsel's Offices to provide clear authority and reporting lines through the Regional Counsels up to the Agency's General Counsel and Chief FOIA Officer.

In 2019, EPA centralized FOIA request submissions to EPA's National FOIA Office. Anticipating this change, in Spring 2019, EPA's National FOIA Office increased its staff; reviewed, revised and updated its standard operating procedures; and retrained its staff. Centralizing FOIA request submission enables the EPA to improve efficiency, consistency, and quality of EPA's determinations and responses, and to apply best practices in early communications with requesters.

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 on 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.

Disclosure to One is Disclosure to All: FOIAonline.

All FOIA requests EPA receives are managed throughout their lifecycle in FOIAonline, which enables 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 most of EPA's responses (exceptions include protection of information specific to the requester).

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 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.

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>.

- EPA's Office of General Counsel regularly and timely posts to the website Notices of Intent to Sue EPA submitted by citizens in accordance environmental statutes that contain citizen suit notice requirements, available here: <https://www.epa.gov/ogc/notices-intent-sue-us-environmental-protection-agency-epa>.
- The Office of General Counsel also regularly and timely posts to the website Complaints and Petitions for Review filed by citizens alleging EPA failure to perform an act or mandatory duty required by one or more environmental statutes, or

petitioning judicial review of EPA action(s) pursuant to one or more environmental statutes, available here: <https://www.epa.gov/ogc/complaints-and-petitions-review>.

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 4,400 data sets to data.gov: 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 requester community. The information is available here: <https://www.epa.gov/senior-leaders-calendars>.

Planning, Budget, and Results Activities. EPA's website includes current information about EPA's financial strategic planning efforts, current and proposed annual budgets, and financial and performance results, available here: <https://www.epa.gov/planandbudget>.

Public Affairs. EPA uses several electronic outlets to provide important and current information to the media and the public.

- Newsroom is where EPA's press office posts news releases, public service announcements, and contact information for EPA press officers, available here: <https://www.epa.gov/newsroom>.
- EPA also stays connected with and conveys information to the public through social media channels, including:
 - Twitter (@USEPA, @EPAAWheeler, @EPAespanol, @EPALive, etc.) A full list of official national and regional EPA Twitter accounts is available here: <https://www.epa.gov/web-policies-and-procedures/list-social-media-platforms-epa-uses> (navigate to expandable menu 'Twitter').
 - Facebook (e.g., @EPA, @EPAAndrewWheeler, @epaespanol, etc.) A full list of official national and regional EPA Facebook pages is available here: <https://www.epa.gov/web-policies-and-procedures/list-social-media-platforms-epa-uses> (navigate to expandable menu 'Facebook').
 - EPA YouTube posts videos related to EPA activities and environmental and public health information. The channel has over 4.5 million views and 16.9 thousand subscribers. Information about USEPAgov on YouTube is available here: <https://www.epa.gov/web-policies-and-procedures/list-social-media-platforms-epa-uses> (navigate to expandable menu 'YouTube').

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. 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>.

Of note in 2019, EPA posted the following records that were frequently requested or of significant public interest:

- *FY 2019 Mandatory FOIA Training for EPA Employees*, fully interactive and with narration, located at <https://www.epa.gov/foia/fy2019-mandatory-foia-training-freedom-information-act-foia-overview>.
- *Former Administrator Pruitt's Gift List*, located at <https://www.epa.gov/foia/administrator-scott-pruitts-gift-list>.
- *Quarterly Payroll Costs for Administrator's Security Detail*, located at <https://www.epa.gov/foia/administrators-security-detail-quarterly-payroll-costs>.
- *Quarterly Travel Costs for Administrator's Security Detail*, located at <https://www.epa.gov/foia/administrators-security-detail-quarterly-travel-costs>.
- *Annual Certification Data for Vehicles, Engines, and Equipment*, located at <https://www.epa.gov/foia/national-online-foia-library#request> (navigate to 'Engine Certification Data').
- *Documents Produced in Sierra Club v. EPA, (3:18-cv-3472), N.D. Cal.*, related to FOIA requests for external communications of selected EPA Officials, located at <https://www.epa.gov/foia/national-online-foia-library#request> (navigate to 'Freedom of Information Act Request, Sierra Club v. EPA : (3:18-cv-3472), EPA-HQ-2017-009842; EPA-HQ-2017-009684; EPA-HQ-2017-009615; EPA-HQ-2018-007559, Selected EPA Officials – External Communications').

Important Environment and 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>.

- EPA proactively disclosed new laboratory methods, so government and private laboratories can now effectively measure 29 PFAS in drinking water, <https://www.epa.gov/pfas/epa-pfas-drinking-water-laboratory-methods>.

Environmental Information by Location. EPA's website contains public information on environmental conditions and EPA activities for specific locations of the United States.

- MyEnvironment provides a cross-section of environmental data for any location in the US, <https://www3.epa.gov/myem/envmap/find.html>.
- Envirofacts is a single point of access to several EPA databases to provide the public with information about environmental activities that may affect air, water, and land anywhere in the United States and generate maps of environmental information, available here: <https://enviro.epa.gov/>.

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

Yes. EPA has taken steps to make the posted information more useful to the public and the community of individuals who regularly access EPA's website.

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

EPA continually takes steps to make the information posted on its website more useful to the public and the community of individuals who access EPA's website. For example, EPA made improvements to its websites describing EPA's implementation of the Frank R. Lautenberg Chemical Safety for the 21st Century Act amendments to the Toxic Substances Control Act (TSCA): <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/frank-r-lautenberg-chemical-safety-21st-century-act-4>

For example, EPA now reports updated statistics for the New Chemicals Review Program under TSCA, which among other things shows updated data on EPA's new chemical reviews from June 22, 2016 through December 1, 2019. <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/statistics-new-chemicals-review>

4. *Optional -- Please describe: 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:

- Disclosure to One is Disclosure to All. EPA makes publicly available most records that have been released under FOIA (except records 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.

Section IV: Steps Taken to Greater Utilize Technology

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

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

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

Yes. 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. Agency uses Relativity to electronically review the centrally collected documents to respond to FOIA requests.

EPA has also made available to the public an internet-based search tool, MyProperty (<https://enviro.epa.gov/facts/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 Envirofacts (<https://enviro.epa.gov/>) to allow the public to conduct a search and obtain a certificate when EPA has no information about the specific address.

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 FOIA website during the reporting period to ensure the website 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 2019?

Yes. EPA posted all four quarterly reports for FY 2019.

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

EPA did post all four FY 2019 quarterly reports to its FOIA website, available at <https://www.epa.gov/foia/quarterly>, however, EPA's data does not currently appear on the National FOIA Portal at FOIA.gov. EPA commits to work with Department of Justice Office of Information Policy in FY 2020 to identify and resolve the issues impeding EPA's data from displaying on the National FOIA Portal.

5. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2018 Annual FOIA Report and, if available, for your agency's Fiscal Year 2019 Annual FOIA Report.

The raw statistical data for the EPA FY 2018 FOIA Annual Report is electronically available at <https://www.epa.gov/foia/foia-reports#annual>. EPA will timely post the raw statistical data for the EPA FY 2019 FOIA Annual Report in electronic format for public inspection at the same URL.

6. Optional -- Please describe: 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 providing training on the available technology. For example, EPA's FOIA Expert Assistance Team (FEAT), located in EPA's National FOIA Office, provides FOIA training to first level reviewers and sets up kick-off training meetings that cover EPA's FOIA processing technologies, including document review technology. EPA's FOIA processing technology includes Relativity version 9.5 document review technology, which includes Email Threading and Textual Near Duplicate Identification (TNDI).

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 2019 Annual FOIA Report and, when applicable, your agency's 2018 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?

Yes.

2. If your agency uses a separate track for simple requests, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2019?

No. While EPA's average number of days to process simple requests in FY 2019 was 48.77 days, EPA processed 61% of simple requests within 20 working days.

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

The percentage of requests that EPA processed in the simple track in FY 2019 was 69%.

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 2018 and Fiscal Year 2019 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 2019, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018?*

Yes. EPA's backlog of requests at the close of FY 2018 was 2,761. EPA's backlog of requests at the close of FY 2019 was 2,272. EPA decreased its backlog of requests by 18%, FY 2019 over FY 2018.

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

The backlog of requests at the close of FY 2019 was less than the backlog of requests at the close of FY 2018.

7. *If your agency's request backlog increased during Fiscal Year 2019, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:*

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

EPA's backlog of requests decreased during FY 2019.

8. *If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2019. If your agency has no request backlog, please answer with "N/A."*

EPA received 8,869 requests in FY 2019. The number of requests in the backlog at the close of FY 2019 was 2,272. The ratio of the number of backlogged requests at the close of FY 2019 to the number of requests received in FY 2019 is 26%.

BACKLOGGED APPEALS

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

Yes. EPA's backlog of appeals at the close of FY 2018 was 132. EPA's backlog of appeals at the close of FY 2019 was 64. EPA decreased its backlog of appeals by 52%, FY 2019 over FY 2018.

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

The backlog of appeals at the close of FY 2019 was less than the backlog of appeals at the close of FY 2018.

11. *If your agency's appeal backlog increased during Fiscal Year 2019, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:*

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

EPA's backlog of appeals decreased during FY 2019.

12. *If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2019. If your agency did not receive any appeals in Fiscal Year 2019 and/or has no appeal backlog, please answer with "N/A."*

EPA received 124 FOIA appeals in FY 2019. The number of appeals in the backlog at the close of FY 2019 was 64. The ratio of the number of backlogged appeals at the close of FY 2019 to the number of appeals received in FY 2019 is 52%.

C. Backlog Reduction Plans

13. *In the 2019 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2018 was asked to provide a plan for achieving backlog reduction in the year ahead. Did 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 2019?*

Yes, EPA successfully implemented a backlog reduction plan in FY 2019: EPA reduced its FOIA request backlog by nearly 500 requests, or 18%. During this reporting cycle, EPA developed new initiatives and continued building on actions started in the previous reporting cycle to improve its FOIA program.

- In 2018, EPA set a Strategic Goal to increase transparency and public participation as part of the Agency's FY 2018-22 Strategic Plan. EPA also started to restructure its FOIA program by establishing the National FOIA Office within the Office of General Counsel and redelegated to the General Counsel the Chief FOIA Officer functions.
- In FY 2019, to enhance accountability in EPA's 10 regional offices, EPA realigned the regional FOIA programs into the Regional Counsel Offices, thereby providing clear authority and reporting lines through the Regional Counsels up to the Agency's General Counsel and Chief FOIA Officer. EPA's regions collectively reduced their FOIA request backlog by 22% over FY 2018, surpassing the Agency-wide 18% FY 2019 backlog reduction.

- In FY 2019, EPA continued to use EPA's Lean Management System (ELMS) to continuously review and improve EPA's FOIA response processing. By deploying ELMS agency-wide, many offices across the agency conducted lean management improvement events around FOIA processing and deployed visual management tools to bring greater focus to FOIA processing.
- In FY 2019, EPA published in the Federal Register an update to its FOIA regulations, bringing them into compliance with the nondiscretionary provisions of the 2007, 2009, and 2016 amendments to the FOIA. The regulation update also centralized FOIA requests submission to EPA's National FOIA Office.
- In Spring 2019, EPA's National FOIA Office increased its staff; reviewed, revised and updated its standard operating procedures; and retrained its staff. Centralizing FOIA request submission enables the EPA to improve efficiency, consistency, and quality of EPA's determinations and responses, and to apply best practices in early communications with requesters.
- In early FY 2019, the National FOIA Office began issuing monthly FOIA backlog reports to EPA's senior leadership showing the backlog in each EPA region and headquarters office, and for FY 2020, each region and headquarters has now set office-specific FOIA backlog reduction annual goals and monthly targets aligned with the agency-wide goal.
- EPA's National FOIA Office distributed to all offices a Lean Management Flowboard Toolkit providing guidance on applying visual management techniques to FOIA processing.
- EPA added FOIA accountability language to all senior manager performance agreements Agency-wide in FY 2019, and EPA developed and started delivering specialized FOIA training for supervisors.
- EPA also completed reform of FOIA processing within the Office of the Administrator.

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

EPA plans to continue the reforms it started in the prior year, including monthly backlog data reporting showing progress towards the agency-wide and office-specific backlog reduction goals. EPA will also increase staff training and continue to deliver training to supervisors on their FOIA duties. And, EPA will increase attention to accountability through the performance review process.

EPA will also continue to apply the EPA Lean Management System (ELMS) to FOIA agency-wide, thereby promoting continuous improvement through initiatives developed in each FOIA processing office, such as the ELMS project that the National FOIA Office currently has underway pertaining to the FOIA intake process. Through regular review of data and meetings to discuss both challenges and successes, EPA is committed to continuously identify ways to improve FOIA processing.

D. Status of Oldest Requests, Appeals, and Consultations

Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2018 and Fiscal Year 2019 when completing this section of your Chief FOIA Officer Report.

OLDEST REQUESTS

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

No.

16. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2018 Annual FOIA Report. If you had fewer than ten total oldest requests to close, please indicate that.

EPA closed in FY 2019 two of the ten oldest FOIA requests that were pending and reported in the FY 2018 Annual FOIA Report.

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

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

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

No.

19. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2018 Annual FOIA Report. If you had fewer than ten total oldest appeals to close, please indicate that.

In FY 2019, EPA closed six of the ten oldest FOIA administrative appeals that were pending and reported in the FY 2018 Annual FOIA Report. In FY 2020, EPA closed the remaining four pending appeals of the ten oldest appeals reported in the FY 2018 Annual Report.

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

The General Law Office, situated in the Office of General Counsel, made numerous improvements throughout FY 2019 to the administrative appeal process to maximize efficiency. As a result of these efforts, the office had faster response times and reduced the office's appeals backlog by over half. Management met weekly with attorneys to discuss workload, substantive legal issues, and next steps. These meetings allowed management to more quickly identify when an appeal needed to be reassigned to a different attorney due to workload.

TEN OLDEST CONSULTATIONS

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

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

EPA did not close any of the oldest consultations.

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

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

EPA closed two of the ten oldest requests and six of the ten oldest appeals. The primary challenge in closing the oldest requests from FY 2019 was due to the need to confer internally with multiple EPA offices on review of records with shared equities. EPA anticipates closing the remaining requests and appeals in FY 2020.

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.*

N/A.

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

The program offices that have the ten oldest requests have assigned each request to a FOIA professional for processing. As for appeals, the Office of General Counsel significantly reduced its appeal backlog and has closed the four remaining FY 2018 ten-oldest appeals.

F. Success Stories

Out of all the activities undertaken by your agency since March 2019 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency’s efforts. The success story can come from any one of the five key areas. As noted above, OIP will highlight these agency success stories during Sunshine Week. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

EPA reversed a two-year trend of increasing FOIA request and appeal backlogs.

- EPA reduced its FOIA request backlog by nearly 500 requests, or 18% of the backlog at the beginning FY 2019.
- EPA reduced by 52% the backlog of FOIA appeals pending at the beginning of FY 2019.

EPA updated its 17-year old FOIA regulations, bringing them into compliance with the nondiscretionary provisions of the 2007, 2009, and 2016 amendments to the FOIA.

- The regulation update also centralized submission of all FOIA requests within EPA’s National FOIA Office.
- Preparing for centralized intake, in Spring 2019, EPA’s National FOIA Office increased its staff; reviewed, revised and updated its standard operating procedures; and retrained its staff on intake.
- Centralizing FOIA request submission enables EPA to improve efficiency, consistency, and quality of EPA’s determinations and responses, and to apply best practices in early communications with requesters.