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Description of document: Department of the Interior (DOI) Records Regarding Freedom of Information Act (FOIA) Backlog Reduction 2020-2021

Requested date: 27-October-2021

Release date: 25-June-2024

Posted date: 15-July-2024

Source of document: FOIA Request
Department of the Interior
FOIA Officer
1849 C Street, NW, MS-7328, MIB
Washington, DC 20240
Email: osfoia@ios.doi.gov

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United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

June 25, 2024

Via Electronic Mail

RE: Freedom of Information Act (FOIA) Request No. DOI-OS-2022-000400

The Office of the Secretary (OS) FOIA Office received your FOIA request, dated October 26, 2021, on October 27, 2021 and assigned it control number DOI-OS-2022-000400. Please cite this number in any future communications with our office regarding your request.

Description of the Requested Records

You requested:

“A copy of records during Calendar Year 2021 discussing progress and/or plans regarding reduction of the FOIA backlog at the Department of Interior, and the status of any efforts to address the backlog of FOIA requests, either at Dept of Interior as a whole and/or the Office of the Secretary.

I also request any available records from the same timeframe outlining the current status and scope of the backlog of FOIA requests and/or administrative appeals.”

On October 29, 2021, you clarified your request as records referring to formalized plans or processes documented toward reducing the OS FOIA backlog during calendar year 2021 and excludes every communication back-and-forth containing the terms “backlog” or “FOIA backlog”.

Partial Release

We are writing to respond to your request.

We have enclosed one file consisting of 31 pages, which is being released to you in part. Portions of these materials are being withheld under the following FOIA Exemptions:

Exemption 5

Exemption 5 allows an agency to withhold “inter-agency or intra-agency memorandums or letters which would not be available by law to a party ... in litigation with the agency.” 5 U.S.C. § 552(b)(5). Exemption 5 therefore incorporates the privileges that protect materials from discovery in litigation, including the deliberative process, attorney work-product, attorney-client, and commercial information privileges. We are withholding 8 pages in part under Exemption 5 because they qualify to be withheld both because they meet the Exemption 5 threshold of being inter-agency or intra-agency and under the following privileges:

Deliberative Process Privilege

The deliberative process privilege protects the decision-making process of government agencies and encourages the frank exchange of ideas on legal or policy matters by ensuring agencies are not forced to operate in a fishbowl. A number of policy purposes have been attributed to the deliberative process privilege, such as: (1) assuring that subordinates will feel free to provide the decisionmaker with their uninhibited opinions and recommendations; (2) protecting against premature disclosure of proposed policies; and (3) protecting against confusing the issues and misleading the public.

The deliberative process privilege protects materials that are both predecisional and deliberative. The privilege covers records that reflect the give-and-take of the consultative process and may include recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency.

The materials that have been withheld under the deliberative process privilege of Exemption 5 are both predecisional and deliberative. They do not contain or represent formal or informal agency policies or decisions. They are the result of frank and open discussions among employees of the Department of the Interior. Their contents have been held confidential by all parties and public dissemination of this information would have a chilling effect on the agency’s deliberative processes and expose the agency’s decision-making process in such a way as to discourage candid discussion within the agency, thereby undermining its ability to perform its mandated functions.

The deliberative process privilege does not apply to records created 25 years or more before the date on which the records were requested.

Commercial Information Privilege

When the government enters the marketplace as an ordinary commercial buyer or seller, the government’s information is protected under the commercial information privilege if it is sensitive information not otherwise available, and disclosure would significantly harm the government’s monetary functions or commercial interests. The theory behind the privilege is that the government may be placed at a competitive disadvantage if confidential information generated by the government is disclosed. The information being withheld consists of conference call in numbers and passcodes.

Exemption 6

Exemption 6 allows an agency to withhold “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” [5 U.S.C. § 552\(b\)\(6\)](#). We are withholding 1 page in part under Exemption 6.

The phrase “similar files” covers any agency records containing information about a particular individual that can be identified as applying to that individual. To determine whether releasing records containing information about a particular individual would constitute a clearly unwarranted invasion of personal privacy, we are required to balance the privacy interest that would be affected by disclosure against any public interest in the information.

Under the FOIA, the only relevant public interest to consider under the exemption is the extent to which the information sought would shed light on an agency’s performance of its statutory duties or otherwise let citizens know what their government is up to. The burden is on the requester to establish that disclosure would serve the public interest. When the privacy interest at stake and the public interest in disclosure have been determined, the two competing interests must be weighed against one another to determine which is the greater result of disclosure: the harm to personal privacy or the benefit to the public. The purposes for which the request for information is made do not impact this balancing test, as a release of information requested under the FOIA constitutes a release to the general public.

The information that has been withheld under Exemption 6 consists of a phone number, and we have determined that the individual to whom this information pertains has a substantial privacy interest in withholding it. Additionally, you have not provided information that explains a relevant public interest under the FOIA in the disclosure of this personal information and we have determined that the disclosure of this information would shed little or no light on the performance of the agency’s statutory duties. Because the harm to personal privacy is greater than whatever public interest may be served by disclosure, release of the information would constitute a clearly unwarranted invasion of the privacy of this individual and we are withholding it under Exemption 6.

Sabrina Conway, OS Government Information Specialist is responsible for this denial.

M.E. Lurie, Attorney-Advisor, Office of the Solicitor, Department of the Interior, Washington, D.C. was consulted.

We reasonably foresee that disclosure would harm an interest protected by one or more of the nine exemptions to the FOIA’s general rule of disclosure.

Fees—No Charge

We do not bill requesters for FOIA processing fees when their fees are less than \$50.00, because the cost of collection would be greater than the fee collected. *See* [43 C.F.R. § 2.37\(g\)](#). Therefore, there is no billable fee for the processing of this request.

Appeal Rights

You may appeal this response to the Department's FOIA/Privacy Act Appeals Officer. If you choose to appeal, the FOIA/Privacy Act Appeals Officer must receive your FOIA appeal **no later than 90 workdays** from the date of this final response. Appeals arriving or delivered after 5 p.m. Eastern Time, Monday through Friday, will be deemed received on the next workday.

Your appeal must be made in writing. You may submit your appeal and accompanying materials to the FOIA/Privacy Act Appeals Officer by mail, courier service, fax, or email. All communications concerning your appeal should be clearly marked with the words: "FREEDOM OF INFORMATION APPEAL." You must include an explanation of why you believe this response is in error. You must also include with your appeal copies of all correspondence between you and the Office of the Secretary concerning your FOIA request, including your original FOIA request and this response. Failure to include with your appeal all correspondence between you and the Office of the Secretary will result in the Department's rejection of your appeal, unless the FOIA/Privacy Act Appeals Officer determines (in the FOIA/Privacy Act Appeals Officer's sole discretion) that good cause exists to accept the defective appeal.

Please include your name and daytime telephone number (or the name and telephone number of an appropriate contact), email address and fax number (if available) in case the FOIA/Privacy Act Appeals Officer needs additional information or clarification of your appeal.

DOI FOIA/Privacy Act Appeals Office Contact Information

Department of the Interior
Office of the Solicitor
1849 C Street, N.W.
MS-6556 MIB
Washington, DC 20240

Attn: FOIA/Privacy Act Appeals Office

Telephone: (202) 208-5339
Fax: (202) 208-6677
Email: FOIA.Appeals@sol.doi.gov

Mediation Services

The 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road – OGIS

College Park, MD 20740-6001

Email: ogis@nara.gov

Web: <https://www.archives.gov/ogis>

Telephone: (202) 741-5770

Fax: (202) 741-5769

Toll-free: (877) 684-6448

Please note that using OGIS services does not affect the timing of filing an appeal with the Department's FOIA & Privacy Act Appeals Officer.

Contact information for the Department's FOIA Public Liaison, who you may also seek dispute resolution services from, is available at <https://www.doi.gov/foia/foiacenters>.

Conclusion

This concludes our response to your request.

If you have any questions about this letter, you may contact me by email at os.foia@ios.doi.gov, or by mail at U.S. Department of the Interior, 1849 C Street, NW, MS-7328, Washington, D.C. 20240. Additionally, contact information for the Department's FOIA Requester Centers and FOIA Public Liaison is available at <https://www.doi.gov/foia/foiacenters>.

Sincerely,

**SABRINA
CONWAY**

Sabrina Conway
Government Information Specialist
Office of the Secretary
FOIA Office

Digitally signed by
SABRINA CONWAY
Date: 2024.06.25
15:17:34 -05'00'

Electronic Enclosure

From: [Holzerland, William H](#)

To: [Interior, Scheduling](#)

Subject: Accepted: [TENTATIVE] WEEKLY MEETING: Office of the Executive Secretariat & Regulatory Affairs TOPIC: FOIA Backlog

From: [Fairman, Leah S](#)
To: [Holzerland, William H](#)
Subject: Accepted: Follow-up re: OS FOIA backlog reduction
Start: Monday, March 29, 2021 2:00:00 PM
End: Monday, March 29, 2021 2:30:00 PM
Location: Teams

From: [Villa, Cristina M](#)
To: [Cardinale, Richard](#); [Holzerland, William H](#)
Cc: [Germain, Naomie E](#); [Callaghan, Molly J](#)
Subject: DUE 4PM: FOIA Backlog Briefing [5/26, 9:30AM]

From: [Alcantara, Natasha Y](#)
To: [Holzerland, William H](#); [Fairman, Leah S](#); [Banco, Nicholas A](#)
Cc: [Schumacher, Wendy](#)
Subject: FOIA Report Updates
Date: Friday, September 3, 2021 1:54:06 PM
Attachments: [image001.png](#)
[image002.png](#)

All,

As discussed in the Bureau FOIA Officers meeting yesterday, below the line you will find things to consider as you begin planning to conduct your year-end review.

Other information that may be useful:

- **Backlogged requests:** At the end FY20 = 1541; Current = 1303 (This includes OHA and ONRR, is not the final number, and will likely change by the end of the FY)
- **Fees Collected for processing requests (as of 08/10/2021):** \$0; Ensure you verify that your organization has not collected any fees this FY and/or have fee information correctly input into FOIAonline.
- **Review Data:** This [folder](#) contains an updated spreadsheet to aid your review for:
 - Pending fee waivers and expedited processing tasks
 - Pending partner/non-partner consultations (Ensure all consults are entered as required)
 - Requests that do not have perfected dates
 - Requests that are in Litigation/Under Litigation (Ensure all litigation is entered as required)

Please feel free to reach out to me or Wendy directly if you have any questions. And good luck with your year-end closeout goals!!!

Thanks,

Natasha

Natasha Alcantara

Chief, Coordination and Oversight Team, Departmental FOIA Office

Office of the Solicitor | U.S. Department of the Interior

Backlog Tips:

- Ensure all requests, to include mailed and faxed requests, received for the FY are entered into FOIAonline.
- Litigated Requests: Requests under litigation must be tracked differently in FOIAonline depending on the type of litigation involved. The [Litigation Tracking Quick Guide](#) outlines the various scenarios and provides step-by-step instructions.
- Extensions (See [43 C.F.R. § 2.19](#)): When unusual circumstances exist, you may extend the basic time limit by notifying the requester in writing. Analyze your recently received requests and make the determination.

Data Quality: Ensure the information in FOIAonline is accurate and update for your cases that are open and those completed this FY.

- As a best practice, encourage FOIA Team members to review the case file when a request is being completed/closed to verify the accuracy of the data in FOIAonline. Not ensuring the data is accurate can cause challenges in reports and places an extra burden on FOIA Officers as permissions for re-opening requests is limited to Bureau FOIA Officers and their alternate. Things that will require re-opening for correction:

- Some users are incorrectly entering the released documents and response letters into the request's "Submission Details."
- Information on fees/costs appears to be largely missing from FOIAonline.
- Proper Processing Track placement.
- Correcting dispositions/Exemptions used.
- There are multiple [short training videos](#) that walk through various parts of the process right within the FOIAonline application. You must be logged into FOIAonline to view all of the videos. The videos are aimed at all agencies that use FOIAonline and are not specific to DOI. Once you have logged in, navigate to the Resources link at the bottom of any page to view videos, to include important topics as Evaluating a Request, Estimating and Capturing Costs, and Uploading Responsive Records.
- Data discrepancies from information reported in the FY20 Annual Report for your office/Bureau will need to be reconciled, if any exist. More to come as we move closer to year end.

From: [Holzerland, William H](#)
To: [Sweeney, Cynthia D](#); [McBryde, Michelle](#); [Schumacher, Wendy](#); [Kirksey, Tonya Y](#); [White, Milicent D](#); [Jolivette, Tracy L](#); [Fairman, Leah S](#); [Sheeks, Sally A](#); [Gusto, Socrates C](#); [Anthony, Darien M](#); [Agyemang, Monica A](#); [Fields, Shari D](#)
Subject: Follow-up re: OS FOIA backlog reduction

Since we don't have our usual 2pm meeting this week, I wanted to use a portion of the time to discuss the topic of backlog reduction generally. We'll be brief.
Thanks,
Bill

Microsoft Teams meeting

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Click here to join the meeting (b) (5)

Or call in (audio only)

(b) (5) United States, Washington DC

Phone Conference ID: (b) (5)

Find a local number (b) (5)

<<https://mysettings.lync.com/pstnconferencing>>

Learn More <<https://aka.ms/JoinTeamsMeeting>> | Meeting options (b) (5)

FY21 OS FOIA Backlog Reduction Target/Weekly Tracker and Reporting Requirements

Holzerland, William H <william_holzerland@ios.doi.gov>

Tue 12/22/2020 7:42 PM

To:Sweeney, Cynthia D <Cynthia.Sweeney@ios.doi.gov>;McBryde, Michelle <Michelle.McBryde@nps.gov>;Schumacher, Wendy <wendy.schumacher@ios.doi.gov>;Kirksey, Tonya Y <tonya.kirksey@ios.doi.gov>;White, Milicent D <milicent.white@ios.doi.gov>;Kurbanov, Anastasia R <anastasia.kurbanov@ios.doi.gov>;Jolivette, Tracy L <tracy.jolivette@ios.doi.gov>;Fairman, Leah S <leah.fairman@ios.doi.gov>;Sheeks, Sally A <sally.sheeks@ios.doi.gov>;Waugh, Chloe H <chloe.waugh@ios.doi.gov>

📎 1 attachments (34 KB)

OSF Weekly Report Format.20201222.xlsx;

Good evening all:

As we mercifully wind down calendar year 2020, I recommend we all take time to recharge and prepare so we can ramp up FY21 FOIA productions significantly from our Quarter 1 pace as calendar year 2021 begins.

You should all have received notice that DOITalent contains FY21 performance plans for your review and our discussion/finalization; one item to note is that we all have a performance element denoting an aggressive backlog reduction goal we're going to meet or exceed as a team during FY21, and we all play a critical part in ensuring success. Whether or not you've received such a notice, please log in soonest and review your respective draft plans in preparation for individual discussions with me about them.

Director Cardinale are not only supportive of the goal of reducing our FY20 backlog by *at least 20% net*, we both have committed to this in our respective plans as well. I'll be providing Rich significant visibility into the state of our work in the months to come, including the status of ongoing work with specificity; we will do our level best to ensure bottlenecks or other barriers to success are cleared in a timely manner so the OS FOIA program's important work can move along as quickly and accurately as possible.

OS FOIA Tracker/Weekly Reporting Requirements:

While we'll be ensuring transparency and accountability through our reports to Director Cardinale, we'll also be taking additional steps to ensure we're not only capturing accurate data internally, but to ensure *something* is happening with all pending FOIA cases, all the time. We're each responsible for avoiding permitting cases to stagnate without pushing aggressively to ensure concrete steps are taken towards closing each of them on a routine basis.

To that end, we've created a tracker, referenced during Monday's "Community of Practice – FOIA Team Non-Litigation" meeting, found on our Sharepoint site, [here](#). The tracker is visible to the entire team, with write access limited for the time being, as we test its viability. Please note the attached Excel file, "OSF Weekly Report Format.20201222.xlsx" is the required format for weekly reports on your activities for the week; **effective immediately, no other format for weekly reporting is permitted.**

You'll notice the new format aligns with the tracker linked above; we are measuring outcomes (i.e. getting cases closed, quickly and effectively), so it will be vital that we have current, accurate information about cases assigned to you at all times. It is **my expectation that your report is updated and submitted to Sally, Leah, with a 'CC' to me, by 5:00p.m. E.S.T. every Friday, or the last business day you'll be in the office for a given work week, whichever is earlier.**

The "questions/comments" column is where we ask you to provide, with specificity, what actions you took or developments occurred on a given case assigned to you during the work week, or to raise issues you encountered with it. In the report, there is a column for reporting the volume of records reviewed and the time spent

reviewing them for each case during a given week; you're responsible for ensuring we have an accurate picture of the volume of work we're doing and the amount of time we're spending on it. This information is a new requirement and vital to ensuring I can advocate successfully for additional resources when warranted.

FY21 Goals:

Ultimately, we're taking the tracking and reporting formats above for a test spin, and look forward to incorporating your valuable feedback to ensure not only that we're tracking and reporting accurately on the things we're required by law to track/report, but also that we're doing so in the most efficient manner possible. The goal is to ensure we're reporting the information Director Cardinale and Departmental leadership need to assess our progress, but to ensure our weekly reports are aligned to the tracker, which will align to the OES report I'll provide to Rich, and so forth. To do this, your accurate reporting and feedback on how to execute it most efficiently is critical.

I'm excited to build on the FY20 momentum and reach new heights with you in FY21. While the goal of reducing the backlog by 20% may seem daunting, I am confident we can do this. In FY20, OS FOIA reduced the backlog by approximately 13%. We received 64.25 new FOIA requests received per month in FY20 and 78.75 closed per month during that time period, for a total of 945 cases closed. We had a solid FY20 by many measures.

We've had a slow start to this year; in FY21 to date, we've averaged 41.5 incoming per month and averaged 30 closed per month to date. The incoming rate is unlikely to remain that low, and the closure rate is insufficient for the volume of work received. We're going to pick up the pace, but I want to underscore how tantalizingly close that 20% number is in reality.

Assuming the rate of FY21 incoming remains consistent with FY20 levels, OS FOIA would receive 771 new FOIAs this year; to achieve a target backlog reduction of 20%, OS FOIA would need to close a mere 1,072 cases, averaging 89.33 closed per month.

A few more cases closed per month, every month, between now and the end of September 2021 and we'll get there!

Bottom Line:

Please digest and consider the above as we move towards taking an outcome-based approach to FOIA program execution and customer service in FY21. I look forward to discussing this topic further after January 1, 2021, and working with you on this business transformation throughout the year.

On behalf of myself and Director Cardinale, I wish you and yours the best for both the holiday season and new year.

Regards,
Bill

William H. Holzerland
U.S. Department of the Interior
Office of the Secretary, FOIA
1849 C Street, NW Rm. 7024
Washington, D.C. 20240
Mobile: 202-286-1962
William_Holzerland@ios.doi.gov

Conway, Sabrina C

Subject: WEEKLY MEETING: Office of the Executive Secretariat & Regulatory Affairs TOPIC: FOIA Backlog
Location: Microsoft Teams Meeting

Start: Wed 5/26/2021 8:30 AM

End: Wed 5/26/2021 9:00 AM

Show Time As: Tentative

Recurrence: Weekly

Recurrence Pattern: every Wednesday from 9:30 AM to 10:00 AM

Meeting Status: Not yet responded

Organizer: Interior, Scheduling

Required Attendees: Cardinale, Richard; Holzerland, William H; Anderson, Robert T

Optional Attendees: Van Der Heide Escobar, Jennifer; Roberts, Lawrence S

Richard.Cardinale@ios.doi.gov

Mobile: (b) (6)

Direct: 202-219-7724

Microsoft Teams meeting

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From: [Holzerland, William H](#)
To: [Alcantara, Natasha Y](#)
Cc: [Fairman, Leah S](#)
Subject: RE: Action: Chief FOIA Officer's Report input due 11/15/2021
Date: Saturday, November 6, 2021 10:50:00 AM
Attachments: [2021_1101_2022 CFO Report Questions.OSF feedback.20211106.docx](#)

Hi Tash:

The OSF submission is attached. I'll be out next week – I'm sure Leah could ably address any questions if need be (but I know she'll be extremely busy in my absence, so I'm hoping that won't be necessary).

If there are changes necessary, please reach out to her, she can revise, and I'll review upon return on 11/15 and finalize. Thanks.

Regards,

Bill

William H. Holzerland
FOIA Officer
U.S. Department of the Interior
Office of the Secretary
1849 C Street, NW Rm. 7024
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Mobile: 202-286-1962
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From: Alcantara, Natasha Y <natasha.alcantara@sol.doi.gov>

Sent: Monday, November 1, 2021 3:07 PM

To: Moore, Debra R <Debra.Moore@boem.gov>; Fay, Tracey L <Tracey.Fay@onrr.gov>; Holzerland, William H <william_holzerland@ios.doi.gov>; Parsky, Keith <keith_parsky@btfa.gov>; Ingersoll, Janet L <JANET.INGERSOLL@bie.edu>; Davis, Justin E <justin.davis@bia.gov>; ShortBull, Marietta <Marietta.Shortbull@bia.gov>; Witt, Ryan C <rwitt@blm.gov>; Piland, Michelle L <mpiland@usbr.gov>; Tinker, Dorothy J <Dorothy.Tinker@bsee.gov>; Willis, Cathy M <cathy_willis@fws.gov>; Willis, Cathy M <cathy_willis@fws.gov>; Moore, Julia A <jmoore@osmre.gov>; Ruiz, Melanie A <mruiz@usgs.gov>; Purvis, Lance <Lance.Purvis@sol.doi.gov>; Jewett, Stefanie C <stefanie_jewett@doioig.gov>; Collins, Jason S <jason.collins@onrr.gov>

Cc: Schumacher, Wendy <wendy.schumacher@sol.doi.gov>; Fairman, Leah S <leah_fairman@ios.doi.gov>; Rychak, Ashley E <Ashley.Rychak@boem.gov>; Ainsworth, Melissa K <Melissa.Ainsworth@onrr.gov>; Bell, Meleanie <Meleanie_Bell@btfa.gov>; Ramon, Abel R <Abel_Ramon@nps.gov>; Trader, Eric E <eric_trader@doioig.gov>; Miraaj-Raza, Sidrah <sidrah_miraaj-raza@doioig.gov>

Subject: Action: Chief FOIA Officer's Report input due 11/15/2021

All,

Thank you for working collaboratively to provide the information for the FOIA Annual Report. As discussed in the Bureau FOIA Officer meeting last week, we need you to turn your attention to your bureau/office (bureau) contributions for the 2022 Chief FOIA Officer (CFO) Report. Attached are the questions where you are required to provide responses for your bureau **by COB Monday, November 15, 2021. This is a hard deadline, there will be no extensions.**

The general reporting period for the CFO Report is **March 2021** to **March 2022**. These dates coincide with Sunshine Week! You can include activities that are anticipated to take place between November 15, 2021 and March 2022.

We will use the information you provide to both recognize successes and identify areas where further improvements can be made.

Below the line is additional background information I hope you find useful.

Thank you again for all of your hard work, and please feel free to reach out directly to Wendy and me for questions/assistance.

V/r,

Natasha

Natasha Alcantara

Chief, Coordination and Oversight Team, Departmental FOIA Office

Office of the Solicitor | U.S. Department of the Interior

Background: The Attorney General's FOIA Guidelines require the Chief FOIA Officer for each federal agency to submit a report to the Attorney General containing a detailed description of the steps taken by the agency to improve FOIA compliance and transparency. These reports contain details of FOIA administration at each agency, as well as the steps taken to implement the Attorney General's FOIA Guidelines during each reporting year.

The five key areas addressed in the report include steps taken to:

1. Apply the presumption of openness;
2. Ensure that the agency has an effective system in place for responding to requests;
3. Increase proactive disclosures;
4. Greater utilize technology; and
5. Improve timeliness in responding to requests and reducing backlogs.

For additional information, you can review:

- DOI's 2021 Chief FOIA Officer Report here: https://www.doi.gov/sites/doi.gov/files/2021-doi-cfo-report-final_0.pdf
- 2021 Chief FOIA Officer Reports for other Federal Departments/Agencies here: <https://www.justice.gov/oip/chief-foia-officer-reports-2021>
- OIP's Summary and assessment of the 2021 CFO Reports here: <https://www.justice.gov/oip/blog/summary-and-assessment-agency-2021-cfo-reports-issued-0>

Section I. Steps Taken to Apply a Presumption of Openness

Q4. Did your FOIA professionals or the personnel at your bureau/office who have FOIA responsibilities attend substantive FOIA training during the reporting period such as that provided by the Department of Justice?

A: Yes, (b) (5)

Q5. If yes, please provide a brief description of the type of training attended or conducted and the topics covered.

A: American Society of Access Professionals (ASAP) training, DOJ trainings on Exemptions (b) (5), privacy considerations, introduction to FOIA, and substantive in office training provided by the FOIA Officer on the same topics.

Q6. Please provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period. [Provide the numbers/calculation that support your estimate].

A: (b) (5)

Q7. 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 [Bureau/Office]’s plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

A: N/A

Q8. Did the personnel at your bureau/office who have FOIA responsibilities attend training in federal records management during this reporting period?

A: (b) (5)

Q9. Did your FOIA professionals engage in any outreach or dialogue, outside of the standard request process, with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your bureau/office’s FOIA administration.

A: (b) (5)

Q10. Describe any efforts your bureau/office has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe how often and in what formats your bureau/office provides FOIA training or briefings to non-FOIA staff and if senior leaders at your bureau/office received a briefing on your bureau/office’s FOIA resources, obligations and expectations during the FOIA process.

A: Introductory onboarding training provided to new political appointees. Additionally, training is provided (b) (5) to stakeholders and custodians in search methodology and records collection/transmission. (b) (5)

Section I. Steps Taken to Apply a Presumption of Openness

Q11. Optional --If there are any other initiatives undertaken by your bureau/office to ensure that the presumption of openness is being applied, please describe them here.

A: (b) (5)

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

Q2. Please describe the steps your bureau/office will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

A: (b) (5)

Q4. Standard Operating Procedures (SOPs) generally document your bureau/office's internal processes for administering the FOIA beyond your FOIA regulations and FOIA Reference Guide. As noted in OIP's guidance, having SOPs can improve the consistency and quality of a bureau/office's FOIA process. SOPs can also serve as a significant resource for incoming FOIA professionals and a way to preserve much of the bureau/office's institutional knowledge on administering the FOIA from how to handle requests from start-to-finish, to identifying and making proactive disclosures, to maintaining a FOIA website. Does your bureau/office have up-to-date internal SOPs for your FOIA administration?

A: Yes.

Q5. If not, please provide a timeline for when your bureau/office plans to develop or update its SOPs.

A: (b) (5)

Q6. Has your bureau/office established alternative means of access to first-party requested records outside of the FOIA process?

A: (b) (5) no.

Q7. If yes, please provide examples. If no, please explain if such opportunities exist at your bureau/office and whether there are any challenges in establishing alternative means of access.

Q8. Did your bureau/office conduct a self-assessment of its FOIA administration during the reporting period? If so, please describe the self-assessment methods used, such as analyzing Annual Report or raw data, using active workflows and track management, reviewing and updating processing procedures, etc. In addition, please specifically highlight any data analysis methods or technologies used to assess your bureau/office's FOIA program.

A: Yes. Over the course of the year the OS FOIA office regularly re-assessed its processing procedures and updated them to improve efficiency and accuracy. This was done through self-assessment (b) (5)

Q10. Has your bureau/office reviewed its FOIA-related staffing capabilities to identify resources needed to respond to current and anticipated FOIA demands?

A: The assessment of resource needs remains ongoing for the Office of the Secretary and is linked to continued efforts to improve the reliability and integrity of processing metrics. (b) (5)

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

Section III. Steps Taken to Increase Proactive Disclosures

Q1. Please describe what steps your bureau/office takes to identify, track, and post (a)(2) proactive disclosures.

A: (b) (5)

Q2. Provide examples of material that your bureau/office 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.

A: **Visitor logs (<https://www.doi.gov/foia/os/doi-headquarters-visitor-logs>), high level official calendars (<https://www.doi.gov/foia/os/secretarial-calendars>), agency transition materials (<https://www.doi.gov/sites/doi.gov/files/transition-materials.pdf>) .**

Q3. Does your bureau/office disseminate common types of material outside of FOIA, including in online databases where the public may access them? If yes, please provide examples and, if applicable, statutory authority.

Q4. Beyond posting new material, is your bureau/office taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your bureau/office's website?

A: (b) (5)

Q5. If yes, please provide examples of such improvements. In particular, please describe steps your bureau/office is taking to post information in open, machine-readable, and machine-actionable formats, to the extent feasible. If not posting in open formats, please explain why and note any challenges.

A: (b) (5)

Q6. Optional --Please describe:

- Best practices used to improve proactive disclosures
- Any challenges your bureau/office faces in this area.

Section IV: Steps Taken to Greater Utilize Technology

Q1. Has your bureau/office reviewed its FOIA-related technological capabilities to identify resources needed to respond to current and anticipated FOIA demands?

A: (b) (5)

We are currently engaged in efforts to procure a technological solution to facilitate more efficient processing of electronic records, such as by enhancing the reliability and accuracy of the deduplication process.

Q2. Please briefly describe any new types of technology your bureau/office began using during the reporting period to support your FOIA program.

A: FOIAonline

Q3. 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 bureau/office reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?

A: The Departmental FOIA Office maintains a robust set of online resources for the public.

Q7. Optional --Please describe:

- Best practices used in greater utilizing technology
- Any challenges your bureau/office faces in this area.

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

Q7. If your bureau/office's request backlog increased during Fiscal Year 2021, please explain why and describe the causes that contributed to your bureau/office not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming requests.
- A loss of staff.
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Impact of COVID-19 and workplace and safety precautions.
- Any other reasons –please briefly describe or provide examples when possible.

A: The Office of the Secretary's FOIA backlog decreased by approximately [REDACTED] % during FY21.

Q13. Did your bureau/office implement a backlog reduction plan last year? If so, describe your bureau/office's efforts in implementing this plan and note if your bureau/office was able to achieve backlog reduction in Fiscal Year 2021?

A: Yes, we achieved a goal of [REDACTED] % backlog reduction. (b) (5)

[REDACTED] additional support through our Departmental FOIA Office to assist in processing very aged requests. (b) (5)

Q14. Please explain your bureau/office's plan to reduce this backlog during Fiscal Year 2022. In particular, please also detail how your bureau/office developed and plans to execute your backlog reduction plans.

A: (b) (5)

Q15. In Fiscal Year 2021, did your bureau/office close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2020 Annual FOIA Report?

A: (b) (5)

Q16. If no, please provide the number of these requests your bureau/office was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

A: (b) (5)

Q17. Beyond working on the ten oldest requests, please describe any steps your bureau/office took to reduce the overall age of your pending requests.

A: (b) (5)

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

Q21. In Fiscal Year 2021, did your bureau/office close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2020 Annual FOIA Report?

A: (b) (5)

Q22. If no, please provide the number of these consultations your bureau/office was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

Q23. Briefly explain any obstacles your bureau/office faced in closing its ten oldest requests and consultations from Fiscal Year 2020.

A: N/A.

Q24. If your bureau/office 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 bureau/office, the date when your bureau/office sent the consultation, and the date when you last contacted the bureau/office where the consultation was pending.

A: N/A

Q25. If your bureau/office did not close its ten oldest pending requests or consultations, please provide a plan describing how your bureau/office intends to close those "ten oldest" requests and consultations during Fiscal Year 2022.

A: N/A.

From: [Heard, Preston S](#)
Subject: Secretary Memo - Freedom of Information Act Responsibilities
Date: Friday, May 7, 2021 2:36:56 PM
Attachments: [Secretary Memo-FOIA Responsibilities \(2021-05-07\)-Final.pdf](#)

Please find attached a memorandum from the Secretary.




THE SECRETARY OF THE INTERIOR
WASHINGTON

MAY 07 2021

Memorandum

To: Assistant Secretaries
Heads of Bureaus and Offices
Deputy Bureau Directors

From: Secretary 

Subject: Freedom of Information Act Responsibilities

Providing accurate and timely information to the public instills trust in the Government and keeps us all accountable to the people we serve. The efforts currently underway to improve the quality and capacity of the work performed by the Freedom of Information Act (FOIA) Offices at the Department of the Interior (Department) are extremely important. We all have a role to play to ensure those efforts are successful.

The Department experienced sharp increases in the volume and complexity of incoming FOIA requests during the last 4 years. Those increases helped to identify ways our FOIA Offices can improve processing procedures, staffing, and technology, all of which will strengthen our ability to process the increased volume of requests in a timely manner.

The Department's FOIA Offices are still struggling with the large backlogs that accumulated during that timeframe. The Department currently has over 4,000 requests that are pending past the statutory response time of 20-30 workdays, demonstrating the ongoing challenge the Department faces in meeting its statutory obligations to the public. The backlogged requests also present a financial risk, as requesters may sue the Department for not providing timely responses to their requests and can often recover attorney fees. Those costs come out of the operating budgets of the programs involved.

Meaningful first steps have been taken to begin addressing the situation. In 2019, the Solicitor was designated as the Department's Chief FOIA Officer to raise the visibility of the FOIA. The Department also created the career senior executive position of Deputy Chief FOIA Officer to oversee the Bureau/Office FOIA Offices and improve their request-processing capacity. Subsequently, in 2020, the Deputy Chief FOIA Officer was granted expanded authority, and the Departmental FOIA Office (DFO) was established.

The DFO is making systemic changes to improve the Department's FOIA program by providing central governance and support to the FOIA Offices. I am committed to making a more responsive FOIA program at the Department a reality. I appreciate your collaboration with the

DFO as partners in this change management challenge. It is essential that you engage with your [FOIA Officer](#) to understand the operational status of your FOIA Office, ensure they have sufficient resources to succeed, and hold all employees in your organization accountable for responding in a thoughtful and timely manner to search requests from your FOIA Office. To assist you in leading by example, the DFO compiled the attached best practices that you can implement with your immediate staff to make the processing of requests for your records more efficient.

Thank you in advance for your support of this important initiative to promote transparency and accountability to ensure the public understands how government works by meeting our Department's FOIA obligations. I look forward to seeing the results of our efforts in the coming year.

cc: Solicitor
Chiefs of Staff

Attachment



U.S. Department of the Interior
Departmental FOIA Office



Freedom of Information Act (FOIA) Best Practices for Senior Leaders

General Recommendations

- Meet with your Bureau/Office FOIA Officer to understand their general procedures.
- Designate a senior advisor as a point person on incoming FOIA requests (e.g., your chief of staff) who will be able to assist the FOIA office in locating responsive records within the organization and assist them in making informed [foreseeable harm determinations](#).
- Ensure that your administrative staff obtain adequate permissions to access your files and are otherwise prepared to assist in searching for and transmitting your records to the FOIA office.
- There is a significant interrelationship between records management and FOIA. Having your staff work with your records team to implement an effective file plan for your records will assist in lessening the FOIA burden on both you and your FOIA office.
- Work with your FOIA office to make proactive disclosures (i.e., online postings) of your calendar, ethics records, and travel records on a regular basis.
- Consider the tone of your written communications, bearing in mind that anything you write down could potentially be released. For example, the FOIA office may not be able to withhold casual remarks or language that could be embarrassing.

Email and Calendar

- To the extent possible, rather than sending one email discussing multiple subjects, send multiple emails, each discussing a single subject.
- Do not put telephone numbers in your email signature block unless you are comfortable with them being released.
- To the greatest extent possible, do not put personal information that will require redaction on your calendar. List personal appointments as simply "Leave" or "Out of Office," rather than including additional details.
- Do not create multiple versions of your calendar.

Mobile Devices

- Use government-issued devices (not personal devices) for government business. If a business message is sent to a personal device or account, forward it to your government-issued device immediately.
- Consider putting a protocol in place to have your IT staff regularly collect the text messages from your work cell phone (e.g., once/month) and store them in an identified place so that they are on hand when needed.
- To the extent that you have personal or transitory text messages you no longer need, delete them unless they have been requested under the FOIA.

Microsoft Teams

- Teams chats and transcribed voicemails left via Teams are also subject to disclosure under the FOIA. Consider the tone of your chats and voicemail messages accordingly.
- Only make recordings of Teams meetings when necessary for your business needs because they are also subject to disclosure and burdensome to process under the FOIA. If you do decide to record a meeting, ensure that all participants consent to the recording and delete the recording when you no longer need it, unless it has been requested under the FOIA.

If you have any questions or need further assistance, please contact your [Bureau/Office FOIA Officer](#).

From: [Holzerland, William H](#)
To: [Cardinale, Richard](#)
Subject: Secretary's Briefing Memo
Date: Friday, May 21, 2021 4:52:00 PM
Attachments: [Secretary Meeting Briefing Memo.OES-OSF.20210521.docx](#)

Attached. Thanks again, Rich!

Regards,

Bill

William H. Holzerland

U.S. Department of the Interior

Office of the Secretary, FOIA

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MEETING BRIEFING MEMO

May 21, 2021

MEMORANDUM FOR THE SECRETARY

FROM: Richard T. Cardinale, Director
Office of the Executive Secretariat and
Regulatory Affairs
202-219-7724
Richard_Cardinale@ios.doi.gov

William H. Holzerland, FOIA Officer
Office of the Executive Secretariat and
Regulatory Affairs
202-282-1962
William_Holzerland@ios.doi.gov

SUBJECT: Office of the Secretary (OS) Freedom of Information Act (FOIA) Backlog
Update

DATE: May 26, 2021

TIME: 9:30 – 10:00 AM

VIRTUAL: Teams

[Click here to join the meeting](#)

I. PURPOSE

The purpose of this meeting is to update the Secretary on actions taken to reduce the existing backlog of OS FOIA requests, results achieved to date, and current risks or challenges.

II. BACKGROUND AND HISTORY

The Freedom of Information Act (FOIA) provides a right for any person to request access to records in the possession or control of Executive Branch agencies, and generally requires responses be issued to requesters within 20 business days, with certain exceptions. Requesters are entitled enforce this right through judicial review.

Requests pending beyond the statutory timeframe are considered “backlogged” requests. Backlogged requests carry certain risk to the Department, including, but not limited to, legal and financial liability, negative publicity, and erosion of public trust in the Department.

Programmatic Challenges and Opportunities:

Given that the statutory timeframe for response to requests for records is generally twenty business days,¹ and the statutory requirement for and emphasis on timely release of records, the greatest area of risk is likely the current backlog of requests. Backlogged cases are those requests or administrative appeals that are pending beyond the statutory timeframe for response.

The OS FOIA program averaged 474 incoming FOIA requests per year from Fiscal Year (FY) 2010 through FY16; from FY17-19, the program averaged 1,334 incoming requests. In FY20, the OS FOIA program received 772 requests, and at the present pace, is projected to receive 504 requests in FY21.

The OS FOIA program reported an average of 57 backlogged cases per year from FY10-16; the backlog increased to 377 in FY17, 1,326 in FY18, and reached its zenith of 1,718 in FY19.

The program reported 1,541 cases in backlog status at the end of FY20; currently, the program has approximately 1,404 cases backlogged, a reduction of approximately 9% over the intervening timeframe.

¹ 5 U.S.C. § 552 (a)(6)(A)(ii).

Briefing Memo – Office of the Secretary FOIA Backlog

Filed on: 05/21/2021 (for Scheduling)

From FY10-16, the OS FOIA program reported an average of 9.18 “Full-time Equivalent” (FTE) staff members; from FY17-19, the program reported 10.17 FTE, and 13.47 in FY20.

Concurrently, during the FY17-19 spike, OS FOIA increased its processing output significantly, processing an average of 767 requests per year, or 158% of its average output from 2010-2016 of 486 requests processed annually. The OS FOIA program processed 947 cases in FY20.

FOIA Lawsuit Data – 2010-Present:

From 2010-2016, the Department was sued an average of 23 times per year under FOIA. From January 1, 2017 through the present, the Department was sued approximately 300 times under this cause of action, or approximately 67 times per year.

During the same time period, OS FOIA program records indicate OS has been a defendant or co-defendant in at least 96 FOIA lawsuits.² The OS FOIA program was defending 52 FOIA lawsuits as of August 2020; currently, OS FOIA is defending 32, a reduction of 41%, which has occurred as a result of monthly productions pursuant to joint settlement agreements with plaintiffs. Currently, OS FOIA anticipates closing an additional 12 FOIA litigation matters.

Mitigating Risk for Financial Exposure for FY22 and Beyond:

To mitigate pending risk and minimize the likelihood of its recurrence, OES and the OS FOIA program have employed an aggressive, multi-pronged approach to eradicating the existing FOIA backlog. In addition, the program is executing a business transformation as part of a strategic plan aimed towards building a modern, sustainable FOIA program.

When the OS FOIA Officer joined the Department in August 2020, several contract vehicles for FOIA support were executed and implemented. Moreover, additional hiring actions are in process to ensure the OS FOIA team carries a

² *The FOIA Project*, www.foiaproject.org/lawsuit/ (last visited May 21, 2021).

Briefing Memo – Office of the Secretary FOIA Backlog

Filed on: 05/21/2021 (for Scheduling)

full complement of experienced staff.

During FY 2021, the OS FOIA program has taken concrete steps to meet three strategic priorities:

1. Improve service to the public, resulting in a backlog reduction of 20%.
2. Improve service to stakeholders, resulting in achievement of the following:
 - a. Increase reliability and consistency of the services provided;
 - b. Increase reliability and consistency of business processes;
 - c. Increase reliability and consistency of programmatic performance data; and
 - d. Mitigate risk, inclusive of litigation and resulting financial risk.
3. Employee engagement, resulting in achievement of the following:
 - a. Implementation of outcome-based performance management goals;
 - b. Invest in OS FOIA staff through substantive training and career development.

The OS FOIA program is implementing an outcome-based and data-driven approach to FOIA processing. This necessitates ongoing collection and analysis of individual and team performance metrics in a variety of areas to increase fairness in setting expectations for OS FOIA staff, increase employee empowerment and accountability, and enhance transparency into the FOIA process itself. This will permit faster identification of opportunities for improvement and provide senior leadership data to drive programmatic investment decisions.

Through increased reliability and consistency of programmatic data collected and reported, the OS FOIA program will increase the likelihood that quicker, more accurate, and better-documented programmatic decisions will be made.

Accordingly, the OS FOIA program is engaged in the first phase of process improvement, continuing intensive, substantive training for OS FOIA staff on the Act and Departmental implementing regulations, vigorous management oversight of the FOIA intake process, and stakeholder engagement.

Briefing Memo – Office of the Secretary FOIA Backlog

Filed on: 05/21/2021 (for Scheduling)

A revised intake process has been implemented. We anticipate immediate results in the form of improved ability to route requests for search to appropriate custodians more quickly, more timely and frequent contact with FOIA request recipients to ascertain the status of completing searches by holders of potentially responsive records, greater efficiency in the review of records returned for responsiveness and completeness, reduced age of open requests, and more accurate responses to requests issued in a timely manner.

III. TALKING POINTS

N/A

From: [Spector, Rachel X](#)
To: [Wanderer, Agnes C](#); [Holzerland, William H](#); [Willis, Cathy M](#); [Piland, Michelle L](#); [Witt, Ryan C](#); [Wilson, Charis](#); [Purvis, Lance](#); [Short Bull, Marietta](#); [Ingersoll, Janet L](#); [Jewett, Stefanie C](#); [Tinker, Dorothy J](#); [Rychak, Ashley E](#); [Parsky, Keith](#); [Cafaro, Cindy S](#); [Banco, Nicholas A](#); [Davis, Justin E](#)
Cc: [Strayhorn, Darrell R](#); [Rushbrook, Amanda L](#); [Moore, Angela G](#); janet.ingersoll@bie.edu; [Fairman, Leah S](#); [Bell, Meleanie](#); [Alcantara, Natasha Y](#); [Hall, Darren P](#); [Moore, Julia A](#)
Subject: Secretary's Memorandum to Senior Leadership Regarding FOIA
Date: Tuesday, May 11, 2021 8:53:15 AM
Attachments: [Secretary Memo-FOIA Responsibilities \(2021-05-07\)-Final.pdf](#)

Hi everyone:

On Friday, Secretary Haaland issued the attached memorandum to senior leadership concerning their FOIA responsibilities. As you will see, the Secretary asks senior leaders to reach out to their FOIA Officers to understand the operational status of their FOIA programs and provide needed resources and support. I urge you prepare for this exchange with your leadership so you are able to provide an executive level briefing that outlines the challenges you are facing and demonstrates your readiness to address those challenges with leadership support. I will begin scheduling follow-up meetings with bureau/office leaders in the coming months, but is important to the ultimate success of our effort to strengthen the FOIA programs that your leadership hears directly from you.

Please let me know if you have any questions or concerns about it,

Rachel

Rachel Spector

Deputy Chief Freedom of Information Act Officer
Office of the Solicitor | U.S. Department of the Interior
(202) 208-6029