

2023 Chief FOIA Officer Report Guidelines
Agencies Receiving More Than 50 Requests in Fiscal Year 2021

SECTION I: FOIA LEADERSHIP AND APPLYING THE PRESUMPTION OF OPENNESS

The guiding principle underlying the Attorney General’s [FOIA Guidelines](#) is the presumption of openness. The Guidelines also highlight the importance of agency leadership in ensuring effective FOIA administration. Please answer the following questions about FOIA leadership at your agency and describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.

A. Leadership Support for FOIA

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at least at the Assistant Secretary or equivalent level. See 5 U.S.C. § 552(j)(1) (2018). Is your agency’s Chief FOIA Officer at or above this level? **Yes, similar to the structure at the Department of Justice (i.e., the associate attorney general is the Chief FOIA Officer, and s/he reports to the Deputy Attorney General, who reports to the Attorney General). At the Consumer Product Safety Commission, the assistant general counsel is the Chief FOIA Officer; she reports to the General Counsel, who reports directly to the Chairman of the Commission.**
2. Please provide the name and title of your agency’s Chief FOIA Officer. **Abioye Oyewole, Assistant General Counsel**
3. What steps has your agency taken to incorporate FOIA into its core mission? For example, has your agency incorporated FOIA milestones into its strategic plan? **Beginning FY22, CPSC has incorporated FOIA milestones into its annual Operating Plan for the agency, with public reporting.**

B. Presumption of Openness

4. The Attorney General’s 2022 FOIA Guidelines provides that “agencies should confirm in response letters to FOIA requesters that they have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.” Does your agency provide such confirmation in its response letters? **Yes.**
5. In some circumstances, agencies may respond to a requester that it can neither confirm nor deny the existence of requested records if acknowledging the existence of records would harm an interested protected by a FOIA exemption. This is commonly referred to as a *Glomar* response. With respect to these responses, please answer the below questions:
 - a. In addition to tracking the asserted exemption, does your agency specifically track whether a request involved a *Glomar* response? **Yes.**
 - b. If yes, please provide:
 - i. the number of times your agency issued a full or partial *Glomar* response (separate full and partial if possible); **0**
 - ii. the number of times a *Glomar* response was issued by exemption (e.g., Exemption 7(C) – 20 times, Exemption 1 – 5 times). **N/A**

- c. If your agency does not track the use of *Glomar* responses, what would your agency need to do to track in the future? If possible, please describe the resources and time involved. **N/A**

6. 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.

SECTION II: ENSURING FAIR AND EFFECTIVE FOIA ADMINISTRATION

The Attorney General's [FOIA Guidelines](#) provide that "[e]nsuring fair and effective FOIA administration requires . . . proper training, and a full understanding of FOIA obligations by the entire agency workforce." The Guidelines reinforce longstanding guidance to "work with FOIA requesters in a spirit of cooperation." The Attorney General also "urge[s] agency Chief FOIA Officers to undertake comprehensive review of all aspects of their agency's FOIA administration" as part of ensuring fair and effective FOIA administration.

A. FOIA Training

1. The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. See 5 U.S.C. § 552(a)(j)(2)(F). Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel. **New hire FOIA Office staff received training on FOIA exemptions, processing, procedures, and technology. Incumbent FOIA Office staff must demonstrate continuing FOIA education as required by their performance plans. Agency FOIA Liaisons receive bi-annual, live FOIA training on topics relevant to their roles. And all agency staff receive FOIA training as part of their onboarding as well as an annual refresher course through FedTalent.**

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

3. If yes, please provide a brief description of the type of training attended or conducted and the topics covered. **DOJ's virtual training on exemptions, fees, and procedures.**

4. Please provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period. **100%.**

5. 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. **N/A**

6. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff; and if senior leaders at your agency received a briefing on your agency's FOIA resources, obligations and expectations during the FOIA process? **In addition to the answer provided in Section II(A)(1), senior staff receive a briefing during onboarding, and one-on-one discussions upon request.**

B. Outreach

7. Did your FOIA professionals engage in any outreach or dialogue, outside of the standard request process, with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency's FOIA administration. **On September 20, 2022, the Consumer Product Safety Commission held a roundtable discussion for CPSC requesters and FOIA Office staff to discuss issues related to requests for CPSC FOIA records. This FOIA Roundtable focused on common issues with requesting and processing CPSC FOIA requests, including the scope, agency jurisdiction and the subject of FOIA requests, fee categories, requests for expedited processing, essential elements of a perfected FOIA request, clarification process, timing, and how the Office searches for responsive records and what bearing that may have on request formulation.**

8. As part of the standard request process, do your FOIA professionals proactively contact requesters concerning complex or voluminous requests in an effort to clarify or narrow the scope of the request so requesters can receive responses more quickly? Please describe any such outreach or dialogue, and, if applicable, any specific examples. **Our FOIA professionals reach out to requesters as a matter of regular practice to clarify requests and negotiate narrowing requests where responsive records are voluminous and would take several years to process.**

9. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during Fiscal Year 2022 (please provide a total number or an estimate of the number). **We estimate that requesters sought assistance from our FOIA Public Liaisons a total of 60 times in FY22.**

C. Other Initiatives

10. Has your agency evaluated the allocation of agency personnel resources needed to respond to current and anticipated FOIA demands? If so, please describe what changes your agency has or will implement. **Yes. CPSC's FOIA Office has been operating at reduced employee staffing for the past several fiscal years. In FY 22, the agency funded contract resources to eliminate the resulting backlog of pending FOIA requests..**

11. How does your agency use data or processing metrics to ensure efficient management of your FOIA workload? For example, case management reports, staff processing statistics, etc. In addition, please specifically highlight any data analysis methods or technologies used. **The agency sets processing targets in its annual Operating Plans; the FOIA Office uses metrics reports on a weekly basis.**

12. Optional -- If there are any other initiatives undertaken by your agency to ensure fair and effective FOIA administration, please describe them here.

The Attorney General's [FOIA Guidelines](#) emphasize that “proactive disclosure of information is . . . fundamental to the faithful application of the FOIA.” The Guidelines direct agencies to post “records online quickly and systematically in advance of any public request” and reiterate that agencies should post records “in the most useful, searchable, and open formats possible.”

1. Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures. **Subject matter experts send their proactive disclosures through an established agency clearance process, then send the records to the Office of the Secretary for posting on our website.**
2. Provide examples of any material that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D). Please include links to these materials as well. **In FY22 the FOIA Office finalized a plan to begin posting records requested 3 or more times, including providing manufacturers with notice of online publication during our required notice and comment period, consistent with Section 6 of the Consumer Product Safety Act (an Exemption 3 statute). We are working with our Web Team to ensure a seamless process. We should begin posting (a)(2)(D) records in February 2023.**
3. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website? **Public feedback is essential to creating useful CPSC websites. CPSC regularly evaluates its websites and content for ways to improve usefulness for the public. This evaluation incorporates comments received from the public through social media, the suggestions@cpsc.gov email available to the public at the bottom of CPSC.gov, third-party stakeholders who regularly use CPSC websites, and internal stakeholders. These comments often extend beyond website content, and mention specific improvements that would enhance the design and functionalities available to the public on CPSC.gov. For example, it was consumer feedback that led to the redesign of CPSC.gov's recalls section, business education section, and tools such as the FOIA PAL, NEISS Query System, Clearinghouse Query System, Lab Search, and Regulatory Robot.**

Since 2016 CPSC has posted all .pdf content to the agency's websites in machine readable formats. CPSC has also gone through multiple .pdf remediation efforts to ensure older .pdfs are also machine readable. Moving forward, CPSC plans to update our .pdf creation policies to achieve even further satisfaction of the 508 Amendment to the Rehabilitation Act of 1973 .pdf recommendations – for example, applying metatag text to all images in newly created pdfs.

4. If yes, please provide examples of such improvements. In particular, please describe steps your agency is taking to post information in open, machine-readable, and machine-actionable formats, to the extent feasible. If not posting in open formats, please explain why and note any challenges. **Since 2016 CPSC has posted all .pdf content to the agency's websites in machine readable formats. CPSC has also gone through multiple .pdf remediation efforts to ensure older pdfs are also machine readable. Moving forward, CPSC plans to update our .pdf creation policies to achieve even further compliance with the 508 Amendment to the Rehabilitation Act of 1973 .pdf recommendations – for example, applying metatag text to all images in newly create pdfs.**

5. Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office, such as IT or data personnel? If so, describe this interaction. **The FOIA Office collaborates with the agency's Web Team.**

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

SECTION IV: STEPS TAKE TO GREATER UTILIZE TECHNOLOGY

A key component of FOIA administration is using technology to make information available to the public and to gain efficiency in FOIA processing. The Attorney General's [FOIA Guidelines](#) emphasize the importance of making FOIA websites easily navigable and complying with the [FOIA.gov](#) interoperability requirements. Please answer the following questions to describe how your agency is using technology to improve its FOIA administration and the public's access to information.

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

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

3. Does your agency currently use any technology to automate record processing? For example, does your agency use machine learning, predictive coding, technology assisted review or similar tools to conduct searches or make redactions? If so, please describe and, if possible, estimate how much time and financial resources are saved since implementing the technology. **Not at this time.**

4. 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.**

5. Did all four of your agency's [quarterly reports](#) for Fiscal Year 2022 appear on FOIA.gov? **Yes.**

6. If your agency did not successfully post all quarterly reports on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2023. **N/A**

7. 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 2021 Annual FOIA Report and, if available, for your agency's Fiscal Year 2022 Annual FOIA Report. **FY21 raw statistical data is available at [FOIA Annual Report Raw Data Collection FY 2021 | CPSC.gov](#). FY22 raw statistical data is available at [FOIA Annual Report FY 2022 | CPSC.gov](#).**

8. In February 2019, DOJ and OMB issued joint [Guidance](#) establishing interoperability standards to receive requests from the National FOIA Portal on FOIA.gov. Are all components of your agency in compliance with the guidance? **Yes.**

9. Optional -- Please describe the best practices used in greater utilizing technology and any challenges your agency faces in this area.

SECTION V: STEPS TAKEN TO REMOVE BARRIERS TO ACCESS, IMPROVE TIMELINESS IN RESPONDING TO REQUESTS, AND REDUCE BACKLOGS

The Attorney General's [FOIA Guidelines](#) instruct agencies "to remove barriers to requesting and accessing government records and to reduce FOIA processing backlogs." Please answer the following questions to describe how your agency is removing barriers to access, improving timeliness in responding to requests, and reducing FOIA backlogs.

A. Remove Barriers to Access

1. Has your agency established alternative means of access to first-party requested records outside of the FOIA process? **Yes.**
2. If yes, please provide examples. If no, please indicate why not. Please also indicate if you do not know. **Saferproducts.gov.**

B. Timeliness

3. For Fiscal Year 2022, 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 2022 Annual FOIA Report. **9.**
4. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2022 Annual FOIA Report, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less. **N/A**
5. Does your agency utilize a separate track for simple requests? **Yes**
6. If your agency uses a separate track for simple requests, according to Annual FOIA Report section VII.A, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2022? **No; it took 118 days to process simple requests in FY2022.**
7. If not, did the simple track average processing time decrease compared to the previous Fiscal Year? **No (last year was 92.79; this year was 118, so CPSC's backlog did not decrease).**
8. Please provide the percentage of requests processed by your agency in Fiscal Year 2022 that were placed in your simple track. Please use the following calculation based on the data from your Annual FOIA Report: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) x 100. **21%**
9. 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? **N/A**

C. Backlogs

BACKLOGGED REQUESTS

10. If your agency had a backlog of requests at the close of Fiscal Year 2022, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2021? **Yes**

11. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2022 than it did during Fiscal Year 2021? **N/A**

12. If your agency's request backlog increased during Fiscal Year 2022, 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: **N/A**

- 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

13. 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 2022. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. This number can be greater than 100%. If your agency has no request backlog, please answer with "N/A." **96%**

BACKLOGGED APPEALS

14. If your agency had a backlog of appeals at the close of Fiscal Year 2022, according to Section XII.E.2 of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2021? **N/A**

15. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2022 than it did during Fiscal Year 2021? **Yes**

16. If your agency's appeal backlog increased during Fiscal Year 2022, 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: **N/A**

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

17. 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 2022. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received from Section VI.A) x 100. This number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2022 and/or has no appeal backlog, please answer with "N/A." **N/A**

D. Backlog Reduction Plans

18. In the 2022 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2021 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 2022? **While we do not have a backlog of over 1000 we did implement a backlog reduction plan.**

19. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2022, please explain your agency's plan to reduce this backlog during Fiscal Year 2023. **We hired contractors to work solely on processing requests aged FY21 and older.**

E. Reducing the Age of Requests, Appeals, and Consultations

TEN OLDEST REQUESTS

20. In Fiscal Year 2022, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2021 Annual FOIA Report? **No, not all of them.**

21. 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 2021 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that. **Six.**

22. Beyond work on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests. **We hired contractors to work solely on processing requests aged FY21 and older.**

TEN OLDEST APPEALS

23. In Fiscal Year 2022, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2021 Annual FOIA Report? **N/A**

24. 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 2021 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that. **N/A**

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

TEN OLDEST CONSULTATIONS

26. In Fiscal Year 2022, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2021 Annual FOIA Report? **N/A**

27. 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 2021 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that. **N/A**

ADDITIONAL INFORMATION REGARDING TEN OLDEST

28. If your agency did not close its ten oldest pending requests, appeals, or consultations, please explain why and provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2023. **CPSC hired contractors to eliminate the FY21 backlog, which includes its ten oldest pending requests. The agency does not have any pending appeals or consultations at this time.**

F. Additional Information about FOIA Processing

29. Were any requests at your agency the subject of FOIA litigation during the reporting period? If so, please describe the impact on your agency’s overall FOIA request processing and backlog. If possible, please indicate the number and nature of requests subject to litigation, common causes leading to litigation, and any other information to illustrate the impact of litigation on your overall FOIA administration. **No.**

30. How many requests during Fiscal Year 2022 involved unusual circumstances as defined by the FOIA? (This information is available in your agency’s FY22 raw data). **100.**