



UNITED STATES DEPARTMENT *of* JUSTICE

# Guidelines for 2016 Chief FOIA Officer Reports



## President Obama's FOIA Memorandum

“All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government.”



## President Obama's FOIA Memorandum

Directed all agencies to administer the FOIA with:

- a clear presumption in favor of disclosure,
- to ensure that requests are responded to in “a spirit of cooperation,”
- that disclosures are made timely, and
- that modern technology is used to make information available to the public even before a request is made.



## Attorney General's 2009 FOIA Guidelines

Department of Justice issued FOIA guidelines in 2009 which call on all agencies to reaffirm the government's "commitment to accountability and transparency."

Guidelines strongly encourage agencies to make discretionary disclosures of information and to consider making partial disclosures when full disclosures are not possible.



## Attorney General's 2009 FOIA Guidelines

Guidelines stress the importance of agencies ensuring that they:

- apply the presumption of openness
- have in place an effective system for responding to requests,
- make proactive disclosure of information,
- use technology, and
- respond to requests promptly.



# Attorney General's 2009 FOIA Guidelines

Guidelines emphasize that “[e]ach agency must be fully accountable for its administration of the FOIA.”



## Agency Accountability

2009 FOIA Guidelines direct agency Chief FOIA Officers to review “all aspects of their agencies’ FOIA administration” and to report each year to the Department of Justice on the steps taken “to improve FOIA operations and facilitate information disclosure.”



## Agency Accountability

The first Chief FOIA Officer Reports were submitted in March 2010.

Ever since, agencies have highlighted in their Chief FOIA Officer Reports a wide range of initiatives, big and small, that have been undertaken to improve transparency in keeping with DOJ's 2009 FOIA Guidelines.





## Agency Accountability

### Office of Information Policy:

- Prepares an extensive summary and assessment of the Chief FOIA Officer Reports, and
- Issues guidance to agencies on steps they can take to achieve even greater transparency in the years ahead.



# DOJ Summary of Agency CFO Reports

## **Summary of Agency Chief FOIA Officer Reports for 2015 and Assessment of Agency Progress in Implementing the President's FOIA Memorandum and Attorney General Holder's FOIA Guidelines With OIP Guidance for Further Improvement**

This year marks the sixth anniversary of [Attorney General Holder's Freedom of Information Act \(FOIA\) Guidelines](#), and the sixth year that agencies have published their Chief FOIA Officer Reports. Attorney General Holder's FOIA Guidelines highlighted the importance of the FOIA as a reflection of "our nation's fundamental commitment to open government." In his [Guidelines](#), Attorney General Holder directed agency Chief FOIA Officers to annually review "all aspects of their agencies' FOIA administration" and to report each year to the Department of Justice (DOJ) on the steps taken to "improve FOIA operations and facilitate information disclosure."

Over the past six years, these [Chief FOIA Officer Reports](#) have illustrated agencies' efforts to improve FOIA administration in the five key areas addressed by [Attorney General Holder's 2009 FOIA Guidelines](#):

- (1) applying the presumption of openness;
- (2) ensuring that there are efficient and effective systems in place for responding to requests;
- (3) increasing proactive disclosures;
- (4) increasing greater utilization of technology; and
- (5) improving timeliness and reducing backlogs.



# Assessment of Departments & Agencies



2015 Chief FOIA Officer Reports - Assessment of Federal Departments and Agencies  
Agencies Receiving More than 1,000 Requests (FY 2013)

U.S. Department of Justice  
Office of Information Policy

Section I -- Steps Taken to Apply the Presumption of Openness										
Agency	Training				Agency 2014 Training Plan	Agency Conducted Outreach	Discretionary Disclosure			
	Held/ Conducted Training	Attended Outside Training	Estimate of FOIA Professionals who Attended Training				Process in Place for Review	Components Have a Process	Made a Dis. Disclosure	Exs. Used in Connection with Dis. Disclosure
			Grade	Estimate						
CIA		Yes		80%				N/A		3
USDA		Yes		85%				Yes		2, 5, 9
DOC		Yes		67%				Yes		5
DOD		Yes		90%				N/A		5, 7(E)
ED		Yes		90%				Yes		5
DOE		Yes		100%				Yes		5, 7(E)
HHS		Yes		~70%				No		2, 5, 7(E)
DHS		Yes		90%				Yes		5, 7(E)





# 2014-2015 Agency FOIA Success Stories

## 2014-2015 AGENCY FOIA SUCCESS STORIES

### **Department of Agriculture (USDA): Closing its Ten Oldest Requests, Continuing to Work on Backlog Reduction, and Improving the Quality of Data Disclosed Online**

- USDA is pleased to report that it closed its ten oldest pending perfected requests from Fiscal Year 2013.
- USDA is also pleased to report that a number of its components were able to achieve significant decreases in their backlog of FOIA requests. USDA's FOIA Service Center, which processes requests on behalf of ten Department Management Components, decreased its backlog by 69.69%. Similarly, the Natural Resources Conservation Service reduced its backlog by 86%. Although slight, reductions were also reported by the Agricultural Marketing Service and Rural Development. At the conclusion of the fiscal year, the Farm Service Agency, Grain Inspection, Packers & Stockyards, Office of Budget & Program Analysis, and Research, Education and Economics had no backlogged FOIA requests.
- As one of the government's fourteen principal statistical agencies, USDA's Economic Research Service (ERS) provides high quality, objective statistics and data on the food, agricultural, and rural sector. In Fiscal Year 2014, ERS conducted a comprehensive review of its current data products and dissemination methods in order to develop a forward-looking vision that provides high-quality, objective, timely, and useful statistics, indicators, and research data. The Data Product Review Committee recently completed a pilot round of data reviews and the resulting policies and framework for data development resulted in greater consistency of procedures across the Agency. Information about ERS data product quality (including data product quality standards and product quality reviews) can be found here: <http://www.ers.usda.gov/about-ers/ers-data-product-quality.aspx>



## Agency Accountability

OIP issues guidance each year addressing areas for further improvement based on report review. Topics have included:

- Importance of utilizing advanced technology
- Using multi-track processing & improving processing times for simple requests
- Providing quality FOIA training



## Agency Accountability

- Converting FOIA professionals to new GIS job series
- Adding distinct steps to identify discretionary releases
- Taking an active role in making proactive disclosures
- Electronic communication with requesters
- Improving timeliness, reducing backlogs, and the importance of closing the 10 Oldest Requests, Appeals, and Consultations



## **Topics to Be Addressed in 2016 Chief FOIA Officer Reports**

OIP is responsible for providing guidance to agencies on the timing and content of agency Chief FOIA Officer Reports to the Attorney General.



## **Topics to Be Addressed in 2016 Chief FOIA Officer Reports**

For 2016, while the overall topics remain the same, the five key areas contain a few more targeted elements that should be addressed.





## **Five Key Areas to Be Addressed in 2016** **Chief FOIA Officer Reports**

1. The steps taken to apply the presumption of openness;
2. The steps taken to ensure that the agency has an effective system in place for responding to requests;
3. The steps taken to increase proactive disclosures;



## **Five Key Areas to Be Addressed in 2016** **Chief FOIA Officer Reports**

4. The steps taken to greater utilize technology; and
5. The steps taken to improve timeliness in responding to requests and reduce any backlogs



## Topics to Be Addressed in 2016 Chief FOIA Officer Reports

New questions for 2016 include:

- Training plans to ensure a high percentage of agency FOIA professionals receive training,
- Proper Procedures for “still-interested” inquiries,



## Topics to Be Addressed in 2016 Chief FOIA Officer Reports

New questions for 2016 include:

- Steps to strengthen Requester Service Centers, FOIA Public Liaisons, and dispute resolution services, and
- The role of the FOIA professionals in posting records online.



# **Format for 2016 Chief FOIA Officer Reports**

As in past years, for decentralized agencies:

- Report should be organized by the five topical areas and include within each key area, data and examples for the various components,
- Report must still contain an agency overall answer for each of the questions.



# Format for 2016 Chief FOIA Officer Reports

Separate reporting requirements for:

- The 71 agencies receiving a lower volume of FOIA requests (less than 1,000 in FY 2015), and
- Remaining 29, larger volume agencies



# **Format for 2016 Chief FOIA Officer Reports**

Small volume agency reporting requirements are streamlined, while large volume guidelines remain comprehensive.

Small volume agencies may answer questions from the large volume requirements if they so choose.



## **Time Frame for 2016 Chief FOIA Officer Reports**

The general reporting period for the Chief FOIA Officer Reports is **March 2015** to **March 2016**.

Agencies can include activities that are anticipated to take place between submission of their report and March 2016.





# Content for 2016 Chief FOIA Officer Reports

Include Name and Title of your Agency's  
Chief FOIA Officer at the start of your report



# Content for 2016 Chief FOIA Officer Reports

\* = Questions to be answered by all agencies

**Bold** = New question for 2016



## Section I: Steps Taken to Apply the Presumption of Openness

- The guiding principle underlying the President's FOIA Memorandum and DOJ's 2009 FOIA Guidelines is the presumption of openness.
- Describe steps taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.



## Section I: FOIA Training

1. Did your agency conduct FOIA training during the reporting period for FOIA professionals?
2. If yes, provide a brief description of the type of training conducted and the topics covered.
3. **If no, explain why your agency did not hold training during the reporting period.**



## Section I: FOIA Training

4. Did your FOIA professionals attend any FOIA training or conference?\*
  
5. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training.\*



## Section I: FOIA Training

**6. If 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.\***



## Section I: 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?\*
8. If you did not conduct any outreach, please explain why.



## Section I: Discretionary Releases

9. Do you have a distinct process or system in place to review records for discretionary release?\*
10. Did your agency make any discretionary releases of information?\*
11. What exemption(s) would have covered the material released as a matter of discretion?\*





## Section I: Discretionary Releases

12. Provide a narrative description, as well as some specific examples, of the types of information that your agency released as a matter of discretion?\*
13. If your agency was not able to make any discretionary releases of information, please explain why.\*



## Section I: Other Initiatives

14. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA.
15. 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: Effective System in Place for Responding to Requests

- “Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests.”
- Describe steps taken to ensure that your agency’s system for responding to requests is effective and efficient.



## Section II: Processing Procedures

1. For FY 2015, what was the average number of days your agency reported for adjudicating requests for expedited processing?\*
2. If your average was above 10 days, describe your plan to ensure that requests for expedited processing are adjudicated within 10 calendar days or less.\*



## Section II: Processing Procedures

3. If decentralized, has your agency taken steps to make the routing of misdirected requests within your agency more efficient? If so, please describe those steps.



## Section II: Processing Procedures

- 4. Please confirm here that to the extent your agency may have had occasion to send a "still interested" inquiry, it has done so in accordance with the new guidelines issued by OIP, including affording requesters 30 working days to respond.\***



## **Section II: Requester Services**

- 5. Please explain any steps taken to strengthen the services provided by your agency's FOIA Requester Service Center(s) and FOIA Public Liaison(s) to better inform requesters about their requests and to prevent or resolve FOIA disputes.\***



## Section II: Other Initiatives

6. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc., please describe them here.\*





## **Section III: Steps Taken to Increase Proactive Disclosures**

- Both the President and DOJ focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.
- Describe steps taken to increase the quantity and quality of material that is available on your agency website.



## Section III: Posting Material

1. Describe your process or system for identifying "frequently requested" records required to be posted online under Subsection (a)(2) of the FOIA.\*



## Section III: Posting Material

2. Does your agency have a distinct process or system in place to identify other records for proactive disclosure? If so, please describe your process or system.\*



## **Section III: Posting Material**

**3. When making proactive disclosures, are your agency's FOIA professionals involved in coding the records for Section 508 compliance or otherwise preparing them for posting?**

**If so, provide an estimate of how much time is involved for each of your FOIA professionals and your agency overall.\***



## Section III: Posting Material

4. Has your agency encountered challenges that make it difficult to post records?\*
5. If so, please briefly explain those challenges.\*



## **Section III: Posting Material**

6. Provide examples of material that your agency has proactively disclosed, including links to the posted material.\*
  
7. Did your agency use any means to publicize or highlight important proactive disclosures? If yes, please describe those efforts\*



## Section III: Other Initiatives

8. If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.\*



## Section IV: Steps Taken to Greater Utilize Technology

- A key component of the President’s FOIA Memorandum was the direction to “use modern technology to inform citizens about what is known and done by their Government.”
- Describe how your agency is utilizing technology to improve its FOIA administration.





## **Section IV: Making Material Posted Online More Usable**

1. Beyond posting new material, is your agency taking steps to make the posted information more useable to the public, especially to the community of individuals who regularly access your agency's website?\*
2. If yes, please provide examples of such improvements.\*



## **Section IV: Making Material Posted Online More Usable**

3. Have your agency's FOIA professionals interacted with other agency staff (such as technology specialists or public affairs or communications professionals) in order to identify if there are any new ways to post agency information online?



## **Section IV: Use of Technology to Facilitate Processing of Requests**

- 4. Did your agency conduct training for FOIA staff on any new processing tools during the reporting period, such as for a new case management system, or for search, redaction, or other processing tools.**



## **Section IV: Use of Technology to Facilitate Processing of Requests**

5. Beyond using technology to redact documents, is your agency taking steps to use more advanced technology to facilitate overall FOIA efficiency?
6. Are there additional tools that could be utilized by your agency to create further efficiencies?



## Section IV: Other Initiatives

7. Did your agency successfully post all four quarterly reports for FY 2015?\*
8. 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 FY 2016.\*



## Section IV: Other Initiatives

9. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible?\*
  
10. If no, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such limitations.\*



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

- The President and DOJ have emphasized the importance of improving timeliness in responding to requests.
- This section of your Chief FOIA Officer Report addresses both processing times and backlog reduction.



## Section V: Simple Track

1. Does your agency utilize a separate track for simple requests?\*
2. If so, was your FY 2015 average time for simple requests 20 working days or fewer?\*





## Section V: Simple Track

3. Provide the % of requests processed in FY 2015 that were placed in your simple track.
4. If you don't track simple requests separately, was your average for all non-expedited requests 20 working days or fewer?



## Section V: Backlogs – Requests

5. If you had a backlog of requests at the end of FY 2015, did that backlog decrease as compared to the prior year?\*
6. If not, explain why. Indicate if any of the following were contributing factors:• Increase in number of requests  
• Loss of staff  
• Increase in complexity of requests  
• Any other reasons – please briefly describe or provide examples



## Section V: Backlogs – Requests

7. If you had a request backlog, report the percentage of requests that make up the backlog out of the total number of requests received by your agency in FY 2015.\*
  - Calculation: (Number of backlogged requests from FY 2015  $\div$  Number of requests received in FY 2015)  $\times$  100



## Section V: Backlogs – Appeals

8. If you had a backlog of appeals at the end of FY 2015, did that backlog decrease as compared to the prior year?\*
9. If not, explain why. Indicate if any of the following were contributing factors:• Increase in number of appeals  
• Loss of staff  
• Increase in complexity of appeals  
• Any other reasons – please briefly describe or provide examples



## Section V: Backlogs – Appeals

10. If you had an appeal backlog, report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in FY 2015.\*

- Calculation: (Number of backlogged appeals from FY 2015  $\div$  Number of appeals received in FY 2015)  $\times$  100



## **Section V: Backlog Reduction Plans**

11. Last year, any agency with a backlog of over 1,000 requests in FY 2014 was asked to provide a backlog reduction plan.

Did your agency implement its backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if you were able to achieve backlog reduction in FY 2015.



## **Section V: Backlog Reduction Plans**

12. If your agency had a backlog of more than 1,000 requests in FY 2015, what is your backlog reduction plan for FY 2016?



## **Section V: 10 Oldest Requests**

13. In FY 2015, did your agency close its 10 oldest pending requests from FY 2014?\*
  
14. If no, provide the number of these requests you were able to close by the end of the FY.





## **Section V: 10 Oldest Requests**

15. Of the requests your agency closed from your 10 oldest, indicate how many were closed because the request was withdrawn? If any were withdrawn, did you provide any interim responses prior to the withdrawal?



## **Section V: 10 Oldest Appeals**

16. In FY 2015, did your agency close its 10 oldest pending appeals from FY 2014?\*
  
17. If no, provide the number of these appeals you were able to close by the end of the FY.



## **Section V: 10 Oldest Consultations**

18. In FY 2015, did your agency close its 10 oldest pending consultations from FY 2014?\*
  
19. If no, provide the number of these consultations you were able to close by the end of the FY.



## **Section V: Additional Information on 10 Oldest**

20. Explain any obstacles in closing your 10 oldest requests, appeals, and consultations.\*
21. If unable to close any of your 10 oldest requests because you were waiting to hear back on consultations, provide the:
  - Date the request was initially received,
  - Date you sent the consultation, and
  - Date you last contacted the agency where the consultation was pending.



## **Section V: Additional Information on 10 Oldest**

22. If your agency did not close its ten oldest pending requests, appeals, or consultations, provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during FY 2016.\*



## Section V: Interim Responses

23. Does your agency have a system in place to provide interim responses to requesters when appropriate?
  
24. If your agency had a backlog in FY 2015, provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.



## **Section V: Use of Law Enforcement Exclusions**

1. Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during FY 2015?
2. If so, please provide the total number of times exclusions were invoked.



## Success Story

Out of all the activities undertaken by your agency since March 2015, briefly describe at least one success story that you would like to highlight as emblematic of your agency's efforts in FOIA.

These success stories will be highlighted during Sunshine Week 2016.

Use bullets to describe your success story and limit your text to a half page.





## **Deadlines for Submitting 2016 Chief FOIA Officer Reports**

The twenty-nine high-volume agencies must submit a draft of their Chief FOIA Officer Report to OIP for review by **no later than January 15, 2016.**

All other agencies must submit a draft of their Chief FOIA Officer Report to OIP for review by **no later than February 5, 2016.**



## Deadlines for Submitting 2016 Chief FOIA Officer Reports

The drafts should be submitted by e-mail to DOJ.OIP.FOIA@usdoj.gov. The subject line should read: “*Draft [insert agency name] 2016 Chief FOIA Officer Report.*”

Each agency should post its final Chief FOIA Officer Report on its website **by no later than March 14, 2016.**



## Questions on the Chief FOIA Officer Report?

If you have any questions regarding this presentation, the 2016 Chief FOIA Officer Report Guidelines, or on the completion of your Chief FOIA Officer Report, please contact OIP's Compliance Team.

Phone: (202) 514-FOIA (3642)

Email: [DOJ.OIP.FOIA@usdoj.gov](mailto:DOJ.OIP.FOIA@usdoj.gov)



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**Questions?**