

# 2016 CHIEF FOIA OFFICER REPORT

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## SECTION I

### STEPS TAKEN TO APPLY THE PRESUMPTION OF OPENNESS

The guiding principle underlying the President’s FOIA Memorandum and the Attorney General’s FOIA Guidelines is the presumption of openness.

#### *FOIA TRAINING*

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

No.

- 2. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.**

Zero percent.

3. **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.**

The Copyright Office will ensure that all of the agency’s FOIA professionals receive substantive FOIA updates and information on the ongoing basis. Next year the agency plans to send its FOIA professionals to training sessions as offered by the Office of Information Policy.

#### ***DISCRETIONARY RELEASES:***

4. **Does your agency have a distinct process or system in place to review records for discretionary release? If so, please briefly describe the process. If your agency is decentralized, please specify whether all components at your agency have a process in place for making discretionary releases.**

The analysis applied by FOIA staff begins from the perspective that a responsive record will be released, unless consideration of its particular content indicates that there is a reasonable and foreseeable harm that requires it to be withheld to protect a legitimate interest identified by one of the exemptions. The Copyright Office routinely redacts documents in order to release any portion that is not protected by an exemption. Finally, records are not withheld in order to protect the personal interests of Government officials, to avoid embarrassment, or to hide errors or failures.

5. **During the reporting period did your agency make any discretionary releases of otherwise exempted information?**

The Copyright Office did not make any discretionary disclosures in Fiscal Year 2015.

**6. What exemptions would have covered the information that was released as a matter of discretion?**

N/A. Please see item I.5 above.

**7. Provide a narrative description of some examples of, the types of information that your agency released as a matter of discretion.**

N/A. Please see item I.5 above.

**8. If your agency was not able to make any discretionary releases of information, please explain why.**

The Copyright Office had no requests involving records withheld based on exemptions subject to discretionary release.

**OTHER INITIATIVES:**

**9. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here. If any of these initiatives are online, please provide links in your description.**

N/A.

**SECTION II**

**STEPS TAKEN TO ENSURE THAT YOUR AGENCY HAS AN EFFECTIVE SYSTEM IN PLACE FOR RESPONDING TO REQUESTS**

The Attorney General's 2009 *FOIA Guidelines* emphasized "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies manage their FOIA program.

**PROCESSING PROCEDURES:**

1. For Fiscal Year 2015 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 2015 Annual FOIA Report.

The Copyright Office did not receive any requests for expedited processing in Fiscal Year 2015.

2. If your agency's average number of days to adjudicate requests for expedited processing was above 10 calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

N/A. Please see item II.1 above.

3. On July 2, 2015, OIP issues *new guidance* to agencies on proper procedures to be used in the event an agency has a reason to inquire whether a requester is still interested in the processing of his or her request. Please confirm here that to the extent your agency may have had occasion to send a "still interested" inquiry, it has done so, including affording requesters thirty working days to respond.

The Copyright Office did not send any "still interested" inquiries.

**REQUESTER SERVICES:**

4. Agency FOIA Requester Service Centers and FOIA Public Liaisons serve as the face and voice of an agency. In this capacity they provide a very important service for requesters, informing them about how the FOIA process works and providing specific details on the handling of their individual requests. The FOIA also calls on agency FOIA Requester Service and FOIA Public Liaisons to assist requesters in resolving disputes. Please explain here any steps your agency has taken to strengthen these services to better

**inform requesters about their requests and to prevent or resolve FOIA disputes.**

Due to low demand and the robustness of information available on the agency website, the Copyright Office has not taken any steps to strengthen these services during this reporting period.

**OTHER INITIATIVES:**

- 5. If there are any other steps your agency has undertaken by 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.**

N/A.

**SECTION III**

**STEPS TAKEN TO INCREASE PROACTIVE DISCLOSURES**

Both the *President* and *Attorney General* focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

**POSTING MATERIAL:**

- 1. Describe your agency's process or system for identifying "frequently requested" records required to be posted online under Subsection (a)(2) of the FOIA. For example, does your agency monitor its FOIA logs or is there some other system in place to identify these records for posting.**

The agency monitors its logs to identify such records.

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

Agency program officers regularly suggest that documents be proactively disclosed.

3. **When making proactive disclosures of your records, 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.**

All records on the agency website are posted in compliance with Section 508. However, Copyright Office FOIA professionals are not involved in the coding process.

4. **Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?**

Yes.

5. **If so, please briefly explain what those challenges are.**

The Copyright Office wishes to post recorded documents related to copyright registrations as well as records related to pre-1978 registrations.

6. **Provide examples of material that you agency has proactively disclosed during the past reporting year, including links to the posted material.**

Updated circulars, forms and informational fact sheets, Federal Register notices, public comments to rulemakings; data about registered works and documents recorded by the U.S. Copyright Office; online service provider "designated agents;" reports and studies; and transcripts of Register's testimony. All of these materials can be found on the Copyright Office's website: [www.copyright.gov](http://www.copyright.gov).

- 7. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If yes, please describe those efforts.**

The Copyright Office uses an email social-media engagement tool to publicize important copyright events and information available on our website.

#### ***OTHER INITIATIVES:***

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

N/A.

## **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." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

#### ***MAKING MATERIAL POSTED ONLINE MORE USEFUL:***

- 1. 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?**

In 2015, the Copyright Office continued to improve the design of our website, increase searchability of copyright-related documents, and make accessible 70 million copyright registration records dating back to 1790, including FOIA-requested materials.

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

The FOIA webpage was redesigned to improve visibility, accessibility, and transparency. In addition please see item III.8 above.

**OTHER INITIATIVES:**

**3. Did your agency successfully post all four quarterly reports for Fiscal Year 2015?**

Yes, it did.

**4. If your agency did not successfully post all quarterly reports with information appearing on [FOIA.gov](http://FOIA.gov), please explain why and provide your agency's plan for ensuring that such reporting is successful in 2015.**

N/A. See item IV.3 above.

**5. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible? See OIP Guidance, "*The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications.*" (Nov. 22, 2013). If yes, what are the different types of electronic means utilized by your agency to communicate with requesters?**

Whenever feasible, email is the only electronic means used by the agency's FOIA professionals to communicate with requesters.

**6. If your agency does not communicate electronically with requester as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requester about such limitations?**

N/A, see item IV.5 above.

## SECTION V

## STEPS TAKEN TO IMPROVE TIMELINESS IN RESPONDING TO REQUESTS AND REDUCE BACKLOGS

The President's *FOIA Memorandum* and the Attorney General's *2009 FOIA Guidelines* have emphasized the importance of improving timeliness in responding to requests. This section of Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations.

### ***SIMPLE TRACK:***

Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests—Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

#### **1. Does your agency utilize a separate track for simple requests?**

The Copyright Office is utilizing a multi-track system to process FOIA requests with categories: simple, complex and expedited processing. However, the CO receives few FOIA requests every year and a majority of them are in a "simple" category.

#### **2. If so, for your agency overall, for Fiscal Year 2015, was the average number of days to process simple requests twenty working days or fewer?**

Yes, the average number of days to process simple requests was 17.9 for Fiscal Year 2015.

3. **Please provide the percentage of requests processed by your agency in Fiscal Year 2015 that were placed in your simple track.**

One hundred percent of requests received by the agency in Fiscal Year 2015 were simple track requests.

4. **If your agency does not track simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer?**

N/A.

### **BACKLOGS**

Sections XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" show the numbers of any backlogged requests or appeals from the fiscal year. You should refer to those numbers from your Annual FOIA Reports for both Fiscal Year 2014 and Fiscal Year 2015 when completing this section of your Chief FOIA Officer Report.

### **BACKLOGGED REQUESTS**

5. **If your agency had a backlog of requests at the close of Fiscal Year 2015, did that backlog decrease as compared with Fiscal Year 2014?**

Yes, there were three backlogged requests at the end of Fiscal Year 2014 and one at the end of Fiscal Year 2015.

6. **If not, explain why and describe the causes that contributed to your agency not being able reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:**

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

- **Any other reasons — please briefly describe or provide examples when possible.**

N/A. See Section V.5 above.

- 7. 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 2015. If your agency did not receive any requests in Fiscal Year 2015 and/or has no request backlog, please answer with “N/A.”**

The one request backlogged at the end of Fiscal Year 2015 made 2.7 percent of the 36 requests received.

- 8. If your agency had a backlog of appeals in Fiscal Year 2015, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2014?**

The Copyright Office appeal backlog remained at zero in 2015. There was no appeal backlog in 2014, either.

- 9. If not, explain why and describe the causes that contributed to your agency not being able reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:**
  - **An increase in the number of incoming appeals.**
  - **A loss of staff.**
  - **An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.**
  - **Any other reasons — please briefly describe or provide examples when possible.**

N/A. See Section V.8.

10. 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 2014. If your agency did not receive any appeals in Fiscal Year 2014 and/or has no appeal backlog, please answer with “N/A.”

N/A.

## STATUS OF TEN OLDEST REQUESTS, APPEALS AND CONSULTATIONS:

### *TEN OLDEST REQUESTS*

11. In Fiscal Year 2015, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2014 Annual FOIA report?

There were three pending requests at the end of Fiscal Year 2014, and all of them closed in Fiscal Year 2015.

12. 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 2014 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that. For example, if you had only seven requests listed as part of your “ten oldest” in Section VII.E. and you closed two of them, you should note that you closed two out of seven “oldest” requests.

Three out of three oldest requests closed in Fiscal Year 2015.

13. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn, did you provide any interim responses prior to withdrawal.

None of the three backlogged requests that were closed in Fiscal Year 2015 was withdrawn.

**TEN OLDEST APPEALS**

- 14. In Fiscal Year 2015, did your agency close the ten oldest appeals that were pending as of the end of Fiscal Year 2014?**

There were no pending appeals at the end of Fiscal Year 2014 and 2015.

- 15. If no, please provide the number of these appeals your agency was able to close by the end of fiscal year, as listed in Section VII.C. (5) of your Fiscal Year 2014 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.**

N/A.

**TEN OLDEST CONSULTATIONS**

- 16. In Fiscal Year 2015, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2014 Annual FOIA Report?**

There were no pending consultations at the end of Fiscal Year 2014.

- 17. 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 2014 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.**

N/A. Please see above, Section V. 14.

**ADDITIONAL INFORMATION ON TEN OLDEST REQUESTS, APPEALS, AND CONSULTATIONS & PLANS:**

- 18. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals and consultations from Fiscal Year 2014.**

The FOIA office encounters some difficulties in finding archived materials.

**19. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.**

N/A. Please see above, Section V. 14.

**20. If your agency did not close its ten oldest pending requests, appeals or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2016.**

N/A.

#### ***USE OF THE FOIA'S LAW ENFORCEMENT EXCLUSIONS***

**21. Did your agency invoke a statutory exclusion, 5 U.S.C. § 552 (c)(1), (2), (3), during Fiscal Year 2015?**

No, none of the statutory exclusions were invoked during Fiscal Year 2015.



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