

2015 Chief FOIA Officer Report
of the
Federal Communications Commission
Jonathan Sallet, General Counsel and Chief FOIA Officer
March 2014 - March 2015

The Federal Communications Commission (FCC) is an independent regulatory agency. It was established by the Communications Act of 1934 and is charged with regulating interstate and international communications by radio, wire, satellite and cable. It is directed by five Commissioners nominated by the President and confirmed by the United States Senate. The President designates one of the Commissioners as Chairman, who acts as the chief executive officer of the agency. The FCC is organized by function into seven operating Bureaus and eleven Staff Offices. Implementation of the Freedom of Information Act (FOIA) is the responsibility of all FCC components, as FOIA requests are processed by the Bureau or Office that is the custodian of the records sought. The Commission's General Counsel is the FCC's Chief FOIA Officer. The general reporting period for the Chief FOIA Officer (CFO) Report is March 2014 to March 2015. The FCC conducted a review of its administration of the FOIA and analyzed the data from its FOIA Annual Report from Fiscal Year 2014 (October 1, 2013 to September 30, 2014), supplemented by data gathered for the period through March 2015. Highlights of this review and analysis are:

- The backlog of FOIA appeals was dramatically reduced from 21 reported at the end of FY 2013 to 5 reported at the end of FY 2014;
- On February 17, 2015, the FCC became the 12th federal agency partner to transition to FOIA Online, an electronic FOIA tracking system allowing the public to 1) file requests under FOIA; 2) track status, 3) search and view requests, appeals, and responsive records; and 4) access FOIA reports. Registered users also can file appeals.
- The agency proactively posted a wide range of new resources for the public, thus further improving access to agency records. These include 1) FOIA webpages that consolidate all of the agency's FOIA material in one location; 2) webpages that consolidate information on numerous agency initiatives, including the Open Government Initiative, Connect2HealthFCC Task Force; consumer outreach initiatives, and merger review proceedings; 3) interactive maps that provide a geographic representation of fiber connectivity to public schools and libraries; 4) an online consumer help center providing more user-friendly complaint filing and monitoring procedures and more efficient access to information resources for consumers.

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.

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

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? Such training or events can include offerings from OIP, your own agency or another agency or organization.*

Yes.

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.*

We estimate that at least 45-50 % of the FCC's FOIA professionals and staff with FOIA responsibilities attended a special training session offered in December 2014 specifically to implement, among other things, OIP's recent guidance for improving FOIA processing and other substantive FOIA topics.¹ In addition, at least six FOIA staff attended substantive FOIA training offered by the Department of Justice.

3. *In the [2014 Chief FOIA Officer Report Guidelines](#), OIP asked agencies to provide a plan for ensuring that core, substantive FOIA training is offered to all agency FOIA professionals at least once each year. Please provide the status of your agency's implementation of this plan. Include any successes or challenges your agency has seen in implementing your plan.*

The FCC has broadly succeeded in implementing its FOIA training plan. In December 2014, agency staff in the Office of General Counsel (OGC) and Office of Managing Director (OMD) provided a training session. This was specifically developed to implement OIP's recent guidance for further improvement in FOIA processing based on its assessment of the 2014 Chief FOIA Officer Reports and other substantive FOIA topics, and to prepare for the FCC's transition to online FOIA tracking using FOIA Online. The training session was offered to

¹ We arrive at this figure by noting that approximately 60 individual staff have significant FOIA responsibilities at the agency, at least 27 of whom participated in the training session. The training session also provided information on the FCC's upcoming transition to online FOIA tracking.

senior agency management and all agency FOIA professionals. Attendance at these sessions is tracked and documented consistent with the agency's general training practices. In addition, the FCC offers in-depth FOIA training via webcasts and by publicizing government-wide FOIA training sessions that are available to individual FOIA staff on demand.

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 this process. If your agency is decentralized, please specify whether all components of your agency have such a process or system in place?***

Yes, the FCC has a formal process in place to review records for discretionary release. When records have been determined to be exempt from disclosure under one or more FOIA exemptions, FCC FOIA processing staff then review these records in accordance with the guidance issued by DOJ/OIP concerning discretionary release. This process is followed by FOIA staff in all FCC Bureaus and Offices, and at both the initial FOIA level and the appeal level. In addition, the formal discretionary release process was included in the FOIA training session described above following the issuance of OIP guidance for further improvement in FOIA processing.

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

Yes.

- 6. What exemption(s) would have covered the material released as a matter of discretion? For a discussion of the exemptions that allow for discretionary releases, please see OIP's guidance on implementing the President's and Attorney General's FOIA Memoranda.***

Exemption 5, 5 U.S.C. § 552(b)(5).

- 7. Provide a narrative description, as well as some specific examples, of the types of information that your agency released as a matter of discretion during the reporting year.***

The Commission released information identifying the persons involved, timing, subject matter, and other portions of internal emails.

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

As indicated above, the Commission has made discretionary disclosures in accordance with its formal process for reviewing discretionary releases. Consistent with the DOJ FOIA Guidance, however, the FCC is constrained in its ability to make discretionary disclosures of records that are covered by certain FOIA exemptions. Specifically, many of the agency's decisions to withhold all or part of a record are based on FOIA Exemption 4, 5 U.S.C. § 552(b)(4), and the Trade Secrets Act, 18 U.S.C. § 1905. In addition, the Commission carefully balances personal privacy interests with the public interest in making determinations whether to redact personal information based on the personal privacy exemptions, 5 U.S.C. §§ 552(b)(6) and (7)(C). When records are withheld in full or in part based on Exemption 5, 5 U.S.C. § 552(b)(5), usually involving the deliberative process privilege, staff reviews them to determine whether there will be any foreseeable harm from the release of the record. Factors considered include the age of the record and the sensitivity of its content, the nature of the decision at issue, the status of the agency decision, and the personnel involved. For records withheld under the subsections of FOIA Exemption 7 other than subsection (7)(C) (personal information), staff reviews the records to ensure that the harm to law enforcement activities is not speculative or abstract.

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.*

As indicated above, FOIA staff in all FCC Bureaus and Offices follow the Commission's formal process for reviewing discretionary releases, and at both the initial FOIA level and the appeal level. Similarly, FOIA staff also review exempt documents to determine whether partial disclosures may be made. The decisions on discretionary review and partial disclosure are discussed in each initial FOIA decision and appeal decision.

More generally, the agency established a new webpage providing consolidated access to the FCC's Open Government Initiative, in accordance with the President's Open Government Directive. The webpage features the Measuring Broadband America program that develops open and transparent platforms for measuring broadband performance and releasing Open Data solutions driven by the contributions of volunteers. The page also contains a consolidated list of its progress on Open Government activities, including other Open Data resources and activities, proactive disclosures by the agency, and other Open Government resources. The new Open Government webpage may be accessed at: <http://www.fcc.gov/open>.

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

As the Attorney General emphasized in his [FOIA Guidelines](#), "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies effectively manage their FOIA program.

Please answer the following questions to describe the steps your agency has taken to ensure that your management of your FOIA program is effective and efficient. You should also include any additional information that describes your agency's efforts in this area.

Processing Procedures:

- 1. For Fiscal Year 2014, 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 2014 Annual FOIA Report. Please note here if your agency did not adjudicate any requests for expedited processing during Fiscal Year 2014.***

The average number of days to adjudicate requests for expedited processing during Fiscal Year 2014 was 19.28 days. The FCC experienced a striking increase in the number of requests for expedited processing received, from two during FY 2013 to twenty-five during FY 2014. The increase was due in part to the agency's interpreting more initial FOIA requests as seeking expedited processing. In addition, there were no denials issued in FY 2013 versus thirteen denials during FY 2014, and typically it is more time-consuming for staff to process an expedited processing denial because it involves issuance of a separate decision.

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

OGC staff prepared guidelines for processing expedited processing requests within the statutorily-required ten day period, in response to the increase in requests received during FY 2014. These guidelines are attached to all incoming initial FOIA requests seeking expedited processing.

Requester Services:

- 3. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and***

Records Administration? See OIP Guidance, "[Notifying Requesters of the Mediation Services Offered by OGIS](#)" (July 9, 2010).

Yes, the FCC includes a written notification of the OGIS mediation services in every decision at the appeal level, including OGIS contact information.

- 4. When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester? For example, does your agency explain the amount of fees attributable to search, review, and duplication? 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).*

Yes, the FCC includes the number of hours needed for search and review and estimated total search and review cost based on the GS level of the relevant staff person(s), and the number of pages that will need to be copied.

- 5. If estimated fees estimates are particularly high, does your agency provide an explanation for the estimate to the requester? See [id.](#)*

Yes.

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.*

As indicated above, in February 2015 the agency transitioned to FOIA Online, an electronic FOIA tracking system allowing the public to 1) file requests under FOIA; 2) track status, 3) search and view requests, appeals, and responsive records; and 4) access FOIA reports. In addition, OGC staff work closely with the FOIA Liaison and agency FOIA staff to monitor the status of individual pending initial FOIA requests and to ensure timely response thereto.

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

Yes. The agency reviews and selects material for proactive disclosures on an ongoing basis. To further the goals of transparency and public participation, whenever feasible agency staff proactively discloses data and other materials that will be useful to the entities it regulates, consumers, and other members of the public. Although this process is an informal one, it has led to numerous disclosures on its website, some of which are listed below.

- 2. Does your process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.***

Yes. Staff in the FCC's Bureaus and Offices generally identifies material for public disclosure on the agency's website on an ongoing basis, and specifically in collaboration with the agency's FOIA staff as needed to ensure that disclosures may be made consistent with the FOIA.

- 3. Describe your agency's process or system for identifying "frequently requested" records that should be posted online.***

The agency follows an informal process for identifying "frequently requested" records for proactive disclosure on an ongoing basis. As indicated above, this process has resulted in numerous proactive disclosures during the reporting period and as indicated in previous reports. The FOIA Office monitors incoming FOIA requests to discern requests for the same or similar records. The Bureau or Office processing the FOIA requests may recognize that it is receiving multiple requests for similar records that meet the statutory definition of "frequently requested" records that should be posted on the agency's website. Also, the processing Bureau or Office may seek to post records of great public interest proactively. The agency's commitment to transparency has led to numerous proactive disclosures on topics of broad applicability and interest, thus eliminating the public's need to file a FOIA for this information.

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

- FOIA.
 - Appeals. The agency added a new webpage linked to its main FOIA page, listing the Commission's decisions acting on FOIA appeals, including a link to the decision. The page may be accessed at: <http://www.fcc.gov/foia/foia-related-decisions>.

- *FOIA Activity Comparison.* The agency added a new webpage linked to its main FOIA page, showing comparisons of the FCC's FOIA activity for Fiscal Years 2011-2013, including visual graphics. The page may be accessed at: <http://www.fcc.gov/encyclopedia/comparison-fcc-foia-activity-fiscal-years-2011-2013>.
- *FOIA Reports.* The agency added a new webpage linked to its main FOIA page and the FCC's Encyclopedia, listing FOIA reports that the FCC has submitted to the Department of Justice beginning in 1998, *i.e.*, previous Chief FOIA Officer Reports, Annual Reports, and Quarterly Reports, including a link to each report. The page may be accessed at: <http://www.fcc.gov/encyclopedia/foia-reports>.
- *Open Government.* As indicated above, the FCC established a new webpage providing consolidated access to the FCC's Open Government Initiative, in accordance with the President's Open Government Directive. The page contains a page featuring Measuring Broadband America, a consolidated list of its progress on Open Government activities, consisting of other Open Data resources and activities, proactive disclosures by the agency, and other Open Government resources. The new Open Government webpage may be accessed at: <http://www.fcc.gov/open>.
 - *Open Government/Measuring Broadband America 2014.* Working collaboratively with industry, academia, public interest organizations and others, the FCC's Measuring Broadband America (MBA) program develops open and transparent platforms for measuring broadband performance and releasing Open Data solutions driven by the contributions of volunteers from across the country. The new MBA webpage, among other things, consolidates access to the FCC's annual reports on consumer wireline broadband performance. In addition to the 2014 Report and previous year reports, the public may access the comprehensive technical methodology used to collect the data and produce the report; the source code for the tests as open source; and the data used to produce each year's report coincident with the report's release, and releasing all data within one year of collection. The webpage is available at: <http://www.fcc.gov/reports/measuring-broadband-america-2014>.
 - *Open Government/Open Data.* The FCC's policy on open data is consolidated in a webpage providing links to features of its policy, including: i) FCC Open Data, enabling public innovation by publishing data underlying FCC regulatory proceedings with a focus on improving quality, openness, accessibility and utility; ii) FCC Developers Page, promoting the innovative application of FCC data by connecting developers with the tools they need to unlock government data; iii) FCC Digital Strategy, the agency's participation in federal cross-agency initiatives to increase data usability and consumption; and iv) FCC Data and Information Officers, a roster of FCC staff members dedicated to providing data and information; and v) FCC blog

posts on open government. The webpage may be accessed at <http://www.fcc.gov/open>.

- *Outreach Resource Library*. The agency established a new webpage providing the public with consolidated access to its consumer outreach events and resources, including i) distracted driving; ii) online access for the elderly; iii) cybersecurity; and iv) communications during an emergency event. The library may be accessed at: <http://www.fcc.gov/outreach/resource-library>.
- *FCC Federal Register Webpage*. A new webpage providing consolidated access to FCC publications in the Federal Register beginning in mid-December 2014, and a link to the Federal Register website providing for agency-specific searches of the entire database. The webpage may be accessed at: <http://www.fcc.gov/federal-register-documents>.
- *Connect2HealthFCC*. A new webpage showcasing Connect2HealthFCC, the new senior-level, multi-disciplinary Task Force charged with exploring the intersection of broadband, advanced technology, and health. Among other things, the webpage provides a consolidated location for information concerning FCC health-oriented activities and proceedings. It also contains an interactive graphic tool summarizing the FCC's major policy milestones in the areas of broadband and health from 1996-present. The webpage may be accessed at: <http://www.fcc.gov/health>.
- *E-rate Modernization Interactive Maps*. Two maps were published on the FCC's website that provide a geographic representation of the data submitted in the *E-rate Modernization* proceeding regarding fiber connectivity to public schools and libraries. The interactive fiber maps each have a mouseover feature that also allows users to view the percentage of public schools with fiber connectivity at the district-wide level and the number of annual visits to the library system. These maps are available at www.fcc.gov/maps/E-rate-fiber-map.
- *FCC Employee Profile*. These are graphics posted on the FCC's website showing percentage breakdowns of the agency's employees by race and gender, updated during the reporting period. The graphics are available at: <http://www.fcc.gov/encyclopedia/employee-profile-fcc>.
- *Merger Transactions*. The agency revised its merger review pages, among other things, to add a new webpage for each pending transaction containing an interactive graphic showing the timeline, status, and history of each transaction. The new pages also provide consolidated access to relevant publicly available documents. The pages may be accessed at: <http://www.fcc.gov/transaction/att-directv>, <http://www.fcc.gov/transaction/comcast-twc>, and <http://www.fcc.gov/transaction/verizonwireless-grain-cincinnati-bell>.

- *FCC Process Reform/Consumer Help Center.* In January 2015, the FCC launched a new online consumer help center. The improvements include more user-friendly complaint filing procedures, more efficient access to information resources that may enable consumers to resolve issues without need to file a complaint, and ability to monitor complaint status 24 hours a day, 7 days a week. The help center will also streamline the process of synthesizing and analyzing consumer complaint trends, and will make more of that data readily accessible to the public. The new consumer help center may be accessed at <https://consumercomplaints.fcc.gov/hc/en-us>.

Other Initiatives:

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

The agency generally seeks to increase proactive disclosures on its website on an ongoing basis. In addition, as indicated above, the agency implemented most of the FCC Process Reform recommendations as set forth in the 2014 CFO Report. Specifically, the FCC transitioned to electronic FOIA management using FOIA Online that, among other things, provides the public with online status of their pending FOIA requests. As indicated above, the agency revised its FOIA webpage to provide consolidated access to the FCC's FOIA reports to the Department of Justice. Additional webpages were added to the agency's FOIA webpage, providing consolidated access to the Commission's FOIA appeal decisions, and graphics showing comparisons of the FCC's FOIA activity for Fiscal Years 2011-2013.

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.

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

Online Tracking of FOIA Requests and Appeals:

The FCC is not required to provide information concerning online tracking in this report because it is a small-volume agency. Notwithstanding, on February 17, 2015, the FCC became the 12th federal agency partner to transition to FOIA Online, an electronic FOIA tracking system. For participating agencies, FOIA Online allows the public to 1) file requests under FOIA; 2) track status, 3) search and view requests, appeals, and responsive

records; and 4) access FOIA reports. Registered users also can file appeals using FOIA Online.

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? Steps can include soliciting feedback on the content and presentation of posted material, improving search capabilities on your agency website, posting material in open formats, making information available through mobile applications, providing explanatory material, etc.***

Yes.

- 2. If yes, please provide examples of such improvements. If your agency is already posting material in its most useful format, please describe these efforts.***

Open Government/Open Data. As indicated above, the FCC's policy on open data is showcased in a webpage providing links to features of its policy, including: i) FCC Open Data, enabling public innovation by publishing data underlying FCC regulatory proceedings with a focus on improving quality, openness, accessibility and utility; ii) FCC Developers Page, promoting the innovative application of FCC data by connecting developers with the tools they need to unlock government data; iii) FCC Digital Strategy, the agency's participation in federal cross-agency initiatives to increase data usability and consumption; and iv) FCC Data and Information Officers, a roster of FCC staff members dedicated to providing data and information; and v) FCC blog posts on open government. The webpage may be accessed at <http://www.fcc.gov/open>.

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

No.

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

Not applicable.

Use of Technology to Facilitate Processing of Requests:

The FCC is not required to provide information in response to this section of the report because it is not a high-volume agency. Notwithstanding, as indicated above, on February 17, 2015, the FCC became the 12th federal agency partner to transition to FOIA Online, an electronic FOIA tracking system. For the FCC as a participating agency, FOIA Online allows the public to 1) file requests under FOIA; 2) track status, 3) search and view requests,

appeals, and responsive records; and 4) access FOIA reports. Registered users also can file appeals using FOIA Online.

Other Initiatives:

5. ***Did your agency successfully post all four quarterly reports for Fiscal Year 2014? Please see OIP's guidance for posting of quarterly reports to ensure that your agency is following all required steps (including using the correct file type and URL structure) so that your quarterly reports are properly appearing on FOIA.gov. (If your reports are posted to your website but not appearing on FOIA.gov, please contact OIP in order to resolve the issue.)***

Yes.

6. ***If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2015.***

Not applicable.

7. ***Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible? If yes, what are the different types of electronic means that are utilized by your agency to communicate with requesters?***

The Commission's FOIA professionals use e-mail to communicate with requesters at both the initial and appellate levels. The agency also permits the electronic filing of initial FOIAs and applications for review.

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

Not applicable.

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

The [President](#) and the [Attorney General](#) have emphasized the importance of improving timeliness in responding to requests. This section your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and

consultations. For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2014 Annual FOIA Report and, when applicable, your agency's 2013 Annual FOIA Report.

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

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

Yes.

2. If so, for your agency overall in Fiscal Year 2014, was the average number of days to process simple requests twenty working days or fewer?

No. The median number of days to process simple requests was 19 days and the average was 25.04 days.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2014 that were placed in your simple track.

94.5%.

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

Not applicable.

Backlogs: Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2013 and Fiscal Year 2014 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 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013? 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*

The number of initial FOIA requests reported as backlogged at the close of FY 2014 is the same as that reported for FY 2013. The backlog number of 28 remained constant although the number of initial requests received increased by 18.9% to 679, and the number of complex requests nearly tripled from 6 to 17, thereby increasing the work demands placed on FOIA processing staff. In addition, the number of full time FOIA staff decreased from 26.55 in FY 2013 to 18 in FY 2014.

6. *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 2014. If your agency did not receive any requests in Fiscal Year 2014 and/or has no request backlog, please answer with "N/A." To calculate your agency's percentage, you must divide the number of backlogged requests reported in Section XII.A. of your Fiscal Year 2014 Annual FOIA Report by the number of requests received in Fiscal Year 2014, which can be found in Section V.A. of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get the percentage.*

4.1%, i.e., 28 of 679 total initial FOIAs received in FY 2014 were backlogged.

BACKLOGGED APPEALS

7. *If your agency had a backlog of appeals at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013? If not, explain why and describe the causes that contributed to your agency not being able reduce backlog. When doing so, please also indicate if any of the following were contributing factors:*
- *An increase in the number of incoming appeal*
 - *A loss of staff*
 - *An increase in the complexity of the appeals received*

Yes, the backlog of FOIA appeals was dramatically reduced from 21 reported at the end of FY 2013 to 5 reported at the end of FY 2014.

8. *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." To calculate your agency's percentage, you must divide the number of backlogged appeals reported in Section XII.A. of your Fiscal Year 2014 Annual FOIA Report by the number of appeals received in Fiscal Year 2014, which can be found in*

Section VI.A. of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get the percentage.

20.8%, i.e., 5 of 24 total appeals received during FY 2014 were backlogged.

Status of Ten Oldest Requests, Appeals, and Consultations: Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2013 and Fiscal Year 2014 when completing this section of your Chief FOIA Officer Report.

TEN OLDEST REQUESTS

9. ***In Fiscal Year 2014, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2013 Annual FOIA Report?***

Yes.

10. ***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 2013 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that. For example, if you only had seven requests listed as part of your "ten oldest" in Section VII.E. and you closed six of them, you should note that you closed six out of seven "oldest" requests.***

Not applicable.

11. ***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 by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?***

None of the ten oldest requests that were closed during FY 2014 was withdrawn.

TEN OLDEST APPEALS

12. ***In Fiscal Year 2014, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2013 Annual FOIA Report?***

No.

13. ***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***

2013 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that. For example, if you only had seven appeals listed as part of your "ten oldest" in Section VII.C.(5) and you closed six of them, you should note that you closed six out of seven "oldest" appeals.

The Commission closed nine of the ten oldest appeals by the end of Fiscal Year 2014. The remaining appeal was adopted by the Commission prior to the end of Fiscal Year 2014 but was not released until October 2014 (hence during Fiscal Year 2015).

TEN OLDEST CONSULTATIONS

14. *In Fiscal Year 2014, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2013 Annual FOIA Report?*

There were no pending consultations reported in the Fiscal Year 2013 Annual Report.

15. *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 2013 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that. For example, if you only had seven consultations listed as part of your "ten oldest" in Section XII.C. and you closed six of them, you should note that you closed six out of seven "oldest" consultations.*

Not applicable.

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

16. *Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2013.*

As indicated above, at the end of FY 2014, nine of the ten oldest initial FOIA requests pending from FY 2013 were closed and the remaining appeal was adopted by the Commission but not yet released. The remaining appeal was released in October 2014.

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

Not applicable.

18. *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 2015.

The staff of the Chief FOIA Officer, working closely with the FOIA personnel throughout the agency, will continue vigilantly to monitor the progress of the oldest pending initial FOIA requests and FOIA appeals to ensure speedy resolution of those matters.

Use of the FOIA’s Law Enforcement Exclusions

Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2014?

No.

If so, please provide the total number of times exclusions were invoked.

Not applicable.