

2016 Chief FOIA Officer Report
of the
Federal Communications Commission
Jonathan Sallet, Chief FOIA Officer and General Counsel

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 2015 to March 2016. The FCC conducted a review of its administration of the FOIA and analyzed the data from its FOIA Annual Report from Fiscal Year 2015 (October 1, 2014, to September 30, 2015), supplemented by data gathered for the period through March 2016. Highlights of this review and analysis are:

- During the reporting period, the FCC substantially completed its transition to FOIAonline. On February 17, 2015, the FCC became the 12th federal agency partner to begin a transition to FOIAonline, an electronic FOIA tracking system. FOIAonline allows FCC requesters, among other things, to file requests and track status. FOIAonline also reflects all actions taken by the FCC on its FOIA requests and appeals.
- The FCC reported a strong performance in its Quarterly FOIA Report for the first quarter of Fiscal Year 2016. Specifically, the agency processed 258 initial requests, compared with 150 requests processed in the first quarter of FY 2015, an increase of 72%. There were only 17 backlogged requests, a 58% drop from the backlog of 40 that was reported in the first quarter of FY 2015. The agency also closed eight of the ten oldest initial requests that were pending at the beginning of the first quarter of FY 2016, compared with zero such complaints closed during the first quarter of FY 2015.
- The average number of days to adjudicate requests for expedited processing was greatly reduced, by nearly half, from 19.28 days during Fiscal Year 2014 to 11.27 during Fiscal Year 2015. The FCC was very close to the target of 10 days, even though it experienced a second year of significant increase in the number of requests for expedited processing received, from two during FY 2013 and 25 during FY 2014, to 49 during FY 2015.

Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's [FOIA Memorandum](#) and the Attorney General's [2009 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. As explained in more detail in response to Question 2 below, the agency's FOIA professionals and other staff attended training offered by OIP, as well as training offered by the FCC, jointly with an outside contractor or solely by the agency.

- 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.***

At least 80 percent¹ of the FCC's approximately 75 FOIA professionals and staff with FOIA responsibilities attended at least one of multiple special training sessions, offered in-person and by webinar, jointly by the FCC's FOIA Requester Service Center (Office of Managing Director, or OMD-PERM) and an outside contractor, specifically to implement the FCC's transition to FOIAonline. The training sessions included substantive FOIA topics as well as software use. In addition, at least three staff took in-person FOIA training offered by the Department of Justice and eighteen staff attended on-demand DOJ FOIA training. The FCC also offers other in-depth FOIA training via webcasts.

- 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***

¹ We believe this is a conservative estimate based on attendance records for only four of the five FOIA training sessions that were offered. In addition, a precise estimate is difficult as the number of full time FOIA professionals and staff with FOIA responsibilities varies because of routine staffing changes. Notwithstanding, we have determined that sixty FOIA professionals attended training from a total of seventy-five staff with FOIA responsibilities.

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.

Not applicable.

Outreach:

OPTIONAL: Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA?

- ***This question addresses outreach that is conducted outside of the individual request or appeal process. Outreach activities can include engaging with frequent requesters by holding meetings or events which include them, conducting surveys or otherwise soliciting requester feedback, or participating in any other requester initiative coordinated by your agency or by others, such as OIP.***
- ***Example: An agency receives numerous requests from one organization seeking similar types of records. The organization does not know how the agency organizes its records or how its FOIA professionals must conduct searches. When submitting FOIA requests, the organization often submits broad requests that take a long time to process and that result in the review of a lot of records that are ultimately of no interest to the requester. The agency holds a meeting with the organization to discuss its record keeping system, search capabilities, and overall FOIA process to assist the organization in the formulation of future FOIA requests. Because of the meeting, the organization now submits more targeted requests that result in the agency being able to provide the requester the records it is interested in more quickly.***

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. In each case 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, to facilitate a comprehensive and consistent application of this formal process agency-wide, FCC FOIA staff in all Bureaus and Offices have been provided with a FOIA response template that includes language to use that acknowledges the agency's responsibility to determine if discretionary release is appropriate, and the result of that determination.

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 2009 FOIA Memoranda](#).

Exemption 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 FCC increased the amount of material released discretionarily during the reporting period, by sharing DOJ training on discretionary release with the Bureaus and Offices and providing examples of material that may be suitable for such release. The released information includes, among other things, draft tweets, media roll-out plans, and discussions of congressional hearing preparation and legislative review. More generally, in other FOIA responses the FCC released information identifying the 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. For example, you should note here if your agency did not have an opportunity to make discretionary disclosures because you provided full releases in response to all requests or the only exemptions that were applied were those that do not lend themselves to discretionary release (i.e., Exemptions 1, 3, 4, 6, 7A, 7B, 7C, 7F).

Not applicable.

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. In addition, FOIA legal staff recently conducted meetings with Bureaus and Offices to better inform them about the types of protected information that could be disclosed, by sharing DOJ training on discretionary release with the Bureaus and Offices and providing examples of material that may be suitable for such release. FOIA staff also review exempt documents to determine whether partial disclosures may be made. To facilitate a comprehensive and consistent application of this formal process agency-wide, FCC FOIA staff in all Bureaus and Offices have been provided with a FOIA response template that includes language to use that acknowledges the agency's responsibility to determine if discretionary release is appropriate, and the result of that determination.

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 that "[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 the 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 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.***
 - ***Please note here if your agency did not adjudicate any requests for expedited processing during Fiscal Year 2015.***

The average number of days to adjudicate requests for expedited processing during Fiscal Year 2015 was 11.27 days. The FCC experienced a second year of significant increase in the number of requests for expedited processing received, from two during FY 2013 and 25 during FY 2014, to 49 during FY 2015. The option of an "expedited processing" checkbox on FOIAonline, and the agency's practice of broadly interpreting requests as seeking

expedited processing, likely increased the number of requests. In addition, there were 34 denials issued in FY 2015 compared with 13 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.***

As indicated in the 2015 Chief FOIA Officer's Report, 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. The guidelines were a significant contributing factor to the agency's ability to process an increased number of expedited processing requests during FY 2015 while significantly reducing the average processing time from 19.28 days during FY 2014 to 11.27 days during FY 2015. We will continue to rely on this practice to reduce further the average processing time for expedited processing requests.

- 3. On July 2, 2015, OIP issued [new guidance](#) to agencies on the 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 in accordance with the new guidelines for doing so, including affording requesters thirty working days to respond.***

The FCC sent "still interested" inquiries to requesters at the initial FOIA and appeal stage in a limited number of instances during the reporting period. In accordance with its existing policies and the new OIP Guidance in 2015, the FCC issued such inquiries only when a change in circumstances indicated that the requester's interest in the records may have changed, and not solely because of the passage of time. These inquiries also were made in accordance with OIP's previous 2010 Guidance and virtually all other aspects of the new 2015 Guidance, except that at least two inquiries issued subsequent to July 2, 2015 afforded requesters 30 calendar days, rather than 30 working days, to respond. We have adjusted our policies to comply fully with the OIP Guidance in this regard.

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 Centers 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.

- ***If your agency has not taken any steps recently to strengthen these services, either because there has been no need due to low demand or because these services are already robust, please briefly explain that here.***

The services provided by the FCC's FOIA Requester Service Center and FOIA Public Liaison already are robust. Notwithstanding, during the reporting period the Service Center instituted a new practice intended to assist requesters in better formulating their requests. Prior to assignment of the request to a Bureau or Office for response, the FOIA Public Liaison consults with a designated team of FOIA legal specialists concerning new FOIA requests that seek broadly defined categories of information, potentially involve numerous Offices and Bureaus, and/or present novel or complex issues. The Service Center or FOIA legal staff will then communicate with the requester to clarify or revise the request as necessary so that the Bureau or Office subsequently assigned to process the request will be able to locate the responsive records and issue a response as efficiently as possible. More generally, the FOIA Requester Service Center and FOIA Public Liaison have primary responsibility for managing the agency's implementation of FOIAonline. FOIAonline allows requesters to obtain information about their requests electronically and at any time.

Other Initiatives:

5. ***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.***

During the reporting period, the FCC substantially completed its transition to FOIAonline begun on February 17, 2015. FOIAonline permits the public to file both initial requests and appeals. In addition, the Commission maintains dedicated electronic mail boxes to accept both initial requests and appeals. This dual system enables both initial FOIA requesters, and those appealing initial FOIA decisions, to efficiently file their requests. In addition, the FCC's FOIA Requester Service Center instituted a plan to send weekly notices to an email group of FOIA professionals and other staff with significant FOIA responsibilities concerning backlog status, updated fees, and other matters of current interest to staff.

Section III: Steps Taken to Increase Proactive Disclosures

Both the [President's](#) and [Attorney General's](#) FOIA memoranda 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?***

In addition to maintaining a conventional room at its headquarters, the FCC maintains an electronic reading room on its website in order to provide "frequently requested" records to the public as required under Subsection (a)(2) of the FOIA. Agency staff identify and select for posting on an ongoing basis documents that are among the four categories of information required under Subsection (a)(2)(A)-(D). More specifically, because the agency processes relatively few FOIA requests using the same staff, it is readily apparent to them when records are requested multiple times. As to the final opinions and orders in Subsection (a)(2)(A), a summary of the agency's final decisions is released each business day, and a summary of pending Commission decisions is made available weekly. As to Subsection (a)(2)(B)-(D), consisting of agency policy statements, administrative staff manuals, and records deemed likely to be frequently requested under FOIA, these are identified and selected for posting on an ongoing basis. In addition, the agency makes available to the public a vast amount of information beyond that required under the statute. The FCC Electronic Reading Room may be accessed at:

<https://www.fcc.gov/general/freedom-information-act-electronic-reading-room>.

- 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.***
 - Please note that this question is directed towards proactive disclosure of records that go beyond frequently requested records required to be posted under Subsection (a)(2) of the FOIA.***

Yes. It is the FCC's policy to post on its website any of its information that is of general interest to the public so long as there are no national security, law enforcement, legal, or privacy issues that prohibit its publication. Pursuant to this policy, agency staff in the individual Bureaus and Offices, in consultation with Information Technology (IT) staff, review and select material for proactive disclosures on an ongoing basis. Although this process is an informal one, it has led to numerous disclosures on its website, some of which are listed below.

- 3. When making proactive disclosures of 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.

- ***Please note that this question is directed at the efforts of actually posting the records online once all disclosure determinations have been made. For example, efforts to load the records in your web content platform or making the releasable documents accessible in compliance with Section 508 of the Rehabilitation Act.***

The FCC's IT staff, rather than FOIA staff, are responsible for making information posted on the agency's website compliant with Section 508 of the Rehabilitation Act. The agency incorporates Section 508 compliance testing in the design, development and maintenance of our website. Except in limited instances, materials posted on our website comply with Section 508 standards.

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

No.

5. If so, please briefly explain those challenges.

Not applicable.

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

Overall fcc.gov Redesign. Following several months of research and development, in December 2015 the agency launched a complete redesign of its fcc.gov website. The new site features a more responsive design, a new site navigation structure, and an improved search capability. The site has moved from a flat design with minimal linking between pages to a hierarchical design that utilizes cross-linking, menus, and greater clarity of user location on the site map. It also features a new search application, and a display that will adjust to whether the user device is a mobile device, tablet or computer. Additional information may be found at: <https://www.fcc.gov/news-events/blog/2015/12/10/introducing-new-fccgov>.

Broadcast Incentive Auction. A total redesign and expansion of the agency's webpage with one-stop access to the agency's resources on the upcoming Broadcast Incentive Auction, including links to new webpages for individual auctions, available at: <https://www.fcc.gov/about-fcc/fcc-initiatives/incentive-auctions>.

Public Safety Support Center. A new webpage providing a one-stop portal to enable public safety entities to request support or information from the agency and to notify it of problems or issues impacting the provision of emergency services, including 911 services

outages, tower lighting outages, and interference to public safety services or devices, available at: <https://www.fcc.gov/general/public-safety-support-center>.

Open Internet. A redesign of the agency's webpage for release of the Commission's *Open Internet Order* in March 2015 providing consolidated access to publicly filed comments and other resources, available at: <https://www.fcc.gov/general/open-internet>.

Consumer Help Center Improvements. The FCC modified its online consumer help center to include more user-friendly complaint filing procedures. Consumers may now file complaints categorized by the type of communications service, at: <https://consumercomplaints.fcc.gov/hc/en-us#block-menu-block-4>.

Communications Security, Reliability and Interoperability Council V. A new webpage for the new charter of this advisory committee, whose mission is to provide recommendations to the FCC to ensure, among other things, optimal security and reliability of communications systems, including telecommunications, media, and public safety. Available at: <https://www.fcc.gov/about-fcc/advisory-committees/communications-security-reliability-and-interoperability>.

2016 Completed Domestic Section 214 Transfer of Control Transactions. A new webpage providing consolidated access to orders and public notices for all such transactions completed in 2016, available at: <https://www.fcc.gov/general/2016-completed-domestic-section-214-transfer-control-transactions>.

Merger Transactions. Two new merger review webpages for new pending transactions during the reporting period. Each contains an interactive graphic showing the timeline, status, and history of the pending transaction. The new pages also provide consolidated access to relevant publicly available documents, available at: <https://www.fcc.gov/transaction/altice-cablevision> and <https://www.fcc.gov/proceedings-actions/mergers-transactions/charter-time-warner-cable-bright-house-networks-mb-docket>.

18th Annual Commercial Mobile Radio Service (CMRS) Competition Report. Three new interactive maps based on 2015 data and showing wireless competition nationwide by census block, available at: <https://www.fcc.gov/reports-research/maps/terrestrial-mobile-wireless-digital-coverage-july-2015>; <https://www.fcc.gov/reports-research/maps/nationwide-mobile-wireless-coverage-july-2015>; and <https://www.fcc.gov/reports-research/maps/nationwide-lte-coverage-july-2015>.

New Consumer Guides. The agency issued and posted on its website three new consumer guides: i) *Telecommunications FAQs for Travelers to Cuba*; ii) *Cramming Settlements for Consumers*; and iii) *Spoofing and Caller ID*. These are available at: <https://www.fcc.gov/consumers/guides/telecommunications-faqs-travelers-cuba>, <https://www.fcc.gov/consumers/guides/cramming-unauthorized-charges-your-phone-bill>, and <https://www.fcc.gov/consumers/guides/spoofing-and-caller-id>.

Events and Videos. New webpage for each of 69 events, *e.g.*, Open Commission Meetings, forums, roundtables, that were held at the agency, available at: <https://www.fcc.gov/news-events/events/archived>. Videos of agency events, for instance the Public Safety and Telecommunications Cyber Summit held in December 2015, available at: <https://www.fcc.gov/news-events/events/2015/12/public-safety-and-telecommunications-cyber-summit>.

FCC Blog. The agency posted 81 new blog posts during the reporting period: <https://www.fcc.gov/news-events/blog>.

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

- ***For example, this can be done through social media or with the offering of e-mail subscription services.***

Yes. The FCC participates in numerous social media and e-mail subscription services through which, among other things, it publicizes proactive disclosures for public awareness. These include Facebook, Twitter, Instagram (launched May 2015), YouTube, and many others. For instance, the FCC maintains over fifty-five RSS Feeds, by which users can receive automatic updates covering the FCC Blog, actions by individual Bureaus and Offices, and numerous types of FCC documents and databases. Users can also receive this information by email subscription.

Other Initiatives:

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

It is the FCC's policy to post on its website any of its information that is of general interest to the public so long as there are no national security, law enforcement, legal, or privacy issues that prohibit its publication. The inventory of website content disclosed pursuant to this policy also is posted online at <https://www.fcc.gov/general/website-inventory-priorities-and-schedules>.

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 that describes your agency's efforts in this area.

Making Material Posted Online More Usable:

1. ***Beyond posting new material, is your agency taking steps to make the posted information more usable 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.***

The FCC's policy on open data is showcased in a webpage providing further links, 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 participating 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 <https://www.fcc.gov/general/open-government-fcc>.

Use of Technology to Facilitate Processing of Requests:

Not required, but agencies may answer the questions for this section from the [high-volume guidelines](#) if they have information they would like to include.

Other Initiatives:

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

- ***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 of FOIA.gov, please contact OIP in order to resolve the issue.)

Yes.

- 4. 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 2016.*

Not applicable.

- 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 that are utilized by your agency to communicate with requesters?*

Yes. As indicated above, during the reporting period the FCC substantially completed its transition to FOIAonline, an electronic FOIA tracking system that the agency's FOIA professionals use to communicate with requesters, including acknowledgement and disposition notices. The Commission's FOIA professionals also use e-mail whenever appropriate to issue responses and other communications with requesters at both the initial and appellate levels.

- 6. If your agency does not communicate electronically with requests 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? See [id.](#)*

Not applicable.

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing 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 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 2015 Annual FOIA Report and, when applicable, your agency's 2014 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 2015, 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 20 days and the average was 23.93 days.

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

99%, or 722 of 729 total requests processed in Fiscal Year 2015.

- 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 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 the backlog reported at the end of Fiscal Year 2014?***

Yes. The number of initial FOIA requests reported as backlogged at the close of FY 2015 was 25, a decrease from 28 as reported for FY 2014. The backlog number decreased even

as the number of initial requests received increased by 15.61%, to 785, thereby increasing the work demands placed on FOIA processing staff. In addition, during the first quarter of FY 2016, the backlog number was further decreased to 17, even as the number of initial requests received during this period by 34%, from 146 during the first quarter of FY 2015 to 196 during the first quarter of FY 2016.

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.*

Not applicable.

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.*

- *To calculate your agency's percentage, you must divide the number of backlogged requests reported in Section XII.A. of your Fiscal Year 2015 Annual FOIA Report by the number of requests received in Fiscal Year 2015, 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.*

3.2%, i.e., 25 of 785 total initial FOIAs received in FY 2015 were backlogged.

BACKLOGGED APPEALS

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

No. The number of backlogged appeals reported at the end of FY 2015 was 9, an increase from 5 reported at the end of FY 2014.

9. *If not, explain why and describe the causes that contributed to your agency not being able to reduce 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.*

Some of the appeals processed involved complex issues. For instance, the agency processed an appeal regarding enforcement matters involving thousands of pages of records that included confidential commercial materials. We note that, unlike other agencies, action on FCC FOIA appeals is taken by Commission vote and has not been delegated to staff. The other factors listed above were not significant contributing factors.

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 2015. If your agency did not receive any appeals in Fiscal Year 2015 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 2015 Annual FOIA Report by the number of appeals received in Fiscal Year 2015, 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.*

56.25%, i.e., 9 of 16 total appeals received during FY 2015, were backlogged.

Backlog Reduction Plans:

Not required, but agencies may answer the questions for this section from the [high-volume guidelines](#) if they have information they would like to include.

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 2014 and Fiscal Year 2015 when completing this section of your Chief FOIA Officer Report.

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?*

No.

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 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.**

During FY 2015, the agency closed seven of the ten oldest requests reported as pending at the end of FY 2014. The remaining three requests have since been closed.

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

Three of the ten oldest requests reported as pending at the end of FY 2014 were closed during FY 2015 because they were withdrawn by the requester. In each case, the agency communicated to the requester regarding their continued interest in the requested information, but did not provide any substantive interim response.

TEN OLDEST APPEALS

14. In Fiscal Year 2015, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

No.

15. 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 VI.C.(5) of your Fiscal Year 2014 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 VI.C.(5) and you closed six of them, you should note that you closed six out of seven "oldest" appeals.**

During FY 2015, the agency closed four of the five appeals that were reported as pending at the end of FY 2014. The remaining appeal has since been closed.

TEN OLDEST CONSULTATIONS

- 1. 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 reported in the Fiscal Year 2014 Annual Report.

- 2. 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.**

- 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:

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

As indicated above, the agency was unable to close during Fiscal Year 2015 one appeal, and three requests, that were reported as among the ten oldest still pending at the end of Fiscal Year 2014. The appeal decision subsequently was adopted in January 2016. Similarly, decisions responding to the three oldest initial requests subsequently were issued. As indicated above, there were no pending consultations reported in the Fiscal Year 2014 Annual Report.

- 4. 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.

- 5. 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.**

As indicated above, the agency was unable to close during Fiscal Year 2015 one of five appeals, and three of the ten oldest requests, reported as pending at the end of Fiscal Year 2014. All of these were subsequently closed.

Interim Responses:

Not required, but agencies may answer the questions for this section from the [high-volume guidelines](#) if they have information they would like to include.

Use of the FOIA's Law Enforcement Exclusions

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

No.

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

Not applicable.

Success Story

Not required, but agencies may answer the questions for this section from the [high-volume guidelines](#) if they have information they would like to include.

Please see highlights at the beginning of this report.