

**CHIEF FOIA OFFICER REPORT**  
**High-Volume Agencies**

**2024**

(Reporting period - March 2023 to March 2024)

**Stacey George, Esq.**  
**Chief FOIA Officer**

**Section 1: FOIA Leadership and Applying the Presumption of Openness**

The guiding principle underlying the Attorney General’s 2022 FOIA Guidelines is the presumption of openness. The Guidelines also highlight the importance of agency leadership in ensuring effective FOIA administration. Please answer the following questions about FOIA leadership at your agency and describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.

**A. Leadership Support for FOIA**

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at the Assistant Secretary or equivalent level. *See* 5 U.S.C. § 552(j)(1) (2018). Is your agency’s Chief FOIA Officer at this level?

*Answer: Yes. The FOIA program is the responsibility of our Office of the General Counsel (“OGC”). I, FMSHRC’s Chief FOIA Officer, am an Assistant General Counsel in OGC, and I administer the FOIA program under the authority of the General Counsel Michael McCord.*

2. Please provide the name and title of your agency’s Chief FOIA Officer.

*Answer: Stacey George, Attorney-Advisor or Assistant General Counsel, Office of the General Counsel.*

3. What steps has your agency taken to incorporate FOIA into its core mission? For example, has your agency incorporated FOIA milestones into its strategic plan?

*Answer: While FOIA has been and continues to be a priority for the Commission, the program has not been incorporated into the Agency’s strategic plan. We have made it standard operating procedure to provide FOIA training for all incoming employees.*

**B. Presumption of Openness**

4. The Attorney General’s 2022 FOIA Guidelines provides that “agencies should confirm in response letters to FOIA requesters that they have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.” Does your agency provide such confirmation in its response letters?

*Answer: Depending on the complexity of the release or denial, we sometimes provide the foreseeable harm confirmation. However, we do not provide it in every single response as boilerplate language.*

5. In some circumstances, agencies may respond to a requester that it can neither confirm nor deny the existence of requested records if acknowledging the existence of records would harm an interested protected by a FOIA exemption. This is commonly referred to as a Glomar response. With respect to these responses, please answer the below questions:

a. In addition to tracking the asserted exemption, does your agency specifically track whether a request involved a Glomar response?

*Answer: Yes. We track Glomar responses. However, we did not issue any Glomar responses this year.*

b. If yes, please provide:

i. the number of times your agency issued a full or partial Glomar response (separate full and partial if possible);

*Answer: We did not issue any Glomar responses this year.*

ii. the number of times a Glomar response was issued by exemption (e.g., Exemption 7(C) – 20 times, Exemption 1 – 5 times).

*Answer: Zero.*

6. If your agency does not track the use of Glomar responses, are you planning to track this information in the future?

*Answer: N/A*

7. Optional -- If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

*Answer: Beyond proactively publishing records and making sure to apply the foreseeable harm analysis, there are no others to speak of at this time.*

## **Section II: Ensuring Fair and Effective FOIA Administration**

The Attorney General’s 2022 FOIA Guidelines provide that “[e]nsuring fair and effective FOIA administration requires . . . proper training, and a full understanding of FOIA obligations by the entire agency workforce.” The Guidelines reinforce longstanding guidance to “work with FOIA requesters in a spirit of cooperation.” The Attorney General also “urge[s] agency Chief FOIA Officers to undertake comprehensive review of all aspects of their agency’s FOIA administration” as part of ensuring fair and effective FOIA administration.

### **A. FOIA Training**

1. The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. See 5 U.S.C. § 552(a)(j)(2)(F). Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.

***Answer: We provide FOIA training to all FMSHRC staff, including all new hires and Senior Leaders within their first 60 days at the Commission. We held new hire FOIA training throughout FY 2023. The training consists of the agency's FOIA responsibilities, how the FOIA works, the FOIA scenarios the particular employees are likely to encounter in their departments, and the role they will play in ensuring that the FOIA is properly carried out. Additionally, this year we required all agency personnel to complete the e-Learning modules provided by the Office of Information Policy ("OIP"). The modules were a huge success amongst our staff.***

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

***Answer: Yes.***

3. If yes, please provide a brief description of the type of training attended or conducted and the topics covered.

***Answer: In addition to completing the e-Learning modules provided by OIP, FOIA Personnel attended the virtual Exemptions 4 and 5 training held on Wednesday January 18, 2023, which covered the requirements for protecting trade secrets, certain commercial and financial information, the submitter-notice process for exemption determinations, and incorporating civil discovery privileges into the FOIA. We also attended the virtual Privacy Considerations Training held on Wednesday January 25, 2023, which discussed Exemptions 6 and 7c and the FOIA/Privacy Act interface and how the Privacy Act impacts our FOIA responsibilities.***

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

***Answer: 100% of our personnel took the OIP e-modules training this year, whereas 66% of our personnel attended OIP virtual training.***

5. OIP has directed agencies to "take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year." If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency's plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

***Answer: We had one of three of our FOIA officials unable to attend training this year. Our FOIA Public Liaison ("FPL") did not attend, partly because nearly all, if not all, of the trainings target FOIA personnel who process requests. Our FPL does not process requests so none of the trainings really seemed right for his particular responsibilities. When a course was selected during the year for the FPL, registration was full so he was unable to register. Moving forward, each of our FOIA professionals will work towards attending at least one virtual or in-person core training session offered by OIP during each reporting period. We will try our best to search OIP's website for opportunities and register for the necessary courses as early as possible.***

6. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff; and if senior leaders at your agency received a briefing on your agency's FOIA resources, obligations and expectations during the FOIA process?

*Answer: We provide FOIA training to all new FMSHRC staff, including senior leaders such as our Administrative Law Judges, Commissioners, and upper management, within their first 60 days at the Commission. In addition to recently introducing our agency to OIP's e-learning modules, historically we have conducted agency-wide refresher training every few years for all staff. The trainings also give agency employees an opportunity to meet our entire FOIA staff, so they know who to contact with questions. These trainings are sometimes in person and sometimes virtual.*

## **B. Outreach**

7. As part of the standard request process, do your FOIA professionals proactively contact requesters concerning complex or voluminous requests in an effort to clarify or narrow the scope of the request so requesters can receive responses more quickly? Please describe any such outreach or dialogue and, if applicable, any specific examples.

*Answer: Yes. Whenever we have a particularly voluminous or confusing requests, we routinely reach out to the requesters to narrow and/or refine the scope of their requests. Requesters generally welcome this as it helps to decrease their processing time and on occasion their processing fees. Sometimes we reach out through email communications and other times we call them directly. Whenever we speak with them over the phone, we always send a follow-up email describing the telephone discussion and asking the requester to confirm the FOIA Office's understanding of their amended request.*

8. Outside of the standard request process or routine FOIA Liaison or FOIA Requester Service Center interactions, did your FOIA professionals engage in any outreach or dialogue, with the requester community or open government groups regarding your administration of the FOIA? For example, did you proactively contact frequent requesters, host FOIA-related conference calls with open government groups, or provide FOIA training to members of the public? Please describe any such outreach or dialogue and, if applicable, any specific examples of how this dialogue has led to improvements in your agency's FOIA administration.

*Answer: No.*

9. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during Fiscal Year 2023 (please provide a total number or an estimate of the number for the agency overall).

*Answer: Assistance from our FOIA Public Liaison was sought one time during FY 2023.*

### C. Other Initiatives

10. Has your agency evaluated the allocation of agency personnel resources needed to respond to current and anticipated FOIA demands? If so, please describe what changes your agency has or will implement.

*Answer: No. While we had previously discussed enlisting an employee from our Office of the Executive Director to assist with some administrative needs of the FOIA office, we had some personnel changes in our upper management in 2022. Unfortunately, this initiative is not a priority for the agency right now.*

11. How does your agency use data or processing metrics to ensure efficient management of your FOIA workload? For example, case management reports, staff processing statistics, etc. In addition, please specifically highlight any data analysis methods or technologies used.

*Answer: Our current number of FOIA personnel is able to adequately manage our workload and ensure efficient management by utilizing our FOIA log. Our agency's small size coupled with our yearly number of FOIA requests averaging less than 100 alleviates the need for more sophisticated data metrics systems.*

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

*Answer: N/A*

### Section III: Proactive Disclosures

The Attorney General's 2022 FOIA Guidelines emphasize that "proactive disclosure of information is . . . fundamental to the faithful application of the FOIA." The Guidelines direct agencies to post "records online quickly and systematically in advance of any public request" and reiterate that agencies should post records "in the most useful, searchable, and open formats possible."

1. Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures.

*Answer: We routinely publish all final opinions and orders rendered in the adjudication of cases on our website. Once an adjudicatory opinion/order is issued, our docketing department forwards it to our website director for publication. When we receive a request for records not usually requested, we automatically consider whether it is appropriate for proactive disclosure. If we determine that it is, our FOIA Public Liaison has it published in our e-FOIA Library in the relevant proactive disclosure category (<https://www.fmshrc.gov/content/foia-library>). We also preemptively identify records that we believe may be of significant public interest. If we deem it suitable for proactive disclosure, we have it published in our e-FOIA Library. Finally, we rely heavily on our FOIA log to track and subsequently publish records that have been requested three or more times or even records requested only twice but may be of public interest.*

2. How long after identifying a record for proactive disclosure does it take your agency to post it?

*Answer: Typically, less than a week.*

3. Does your agency post logs of its FOIA requests?

*Answer: Yes.*

a. If so, what information is contained in the logs?

*Answer: Our log includes received date, disposal date, information requested, disposition, exemption/description/information withheld, tracking number, and FOIA Portal tracking number (if applicable).*

b. Are they posted in CSV format? If not, what format are they posted in?

*Answer: No. They are posted in human readable format, specifically HTML.*

4. Provide examples of any material that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D). Please include links to these materials as well.

*Answer: Under records we believe may be of public interest, we posted our “Return to Workplace Agency Plans,” and a letter from two agency Commissioners to the Senate Committee on Health, Education, Labor & Pensions regarding a controversial, internal agency dispute. Under records released three or more times, we posted a 2010 Congressional Correspondence Log and a letter from our former Chair to a sitting U.S. Senator regarding the same controversial, internal agency dispute mentioned above. We also posted our 2023 EEO Policy Statement. These postings can be found at <https://www.fmsshrc.gov/content/foia-library>.*

5. 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?

*Answer: Yes.*

6. If yes, please provide examples of such improvements. In particular, please describe steps your agency is taking to post information in open, machine-readable, and machine-actionable formats, to the extent feasible. If not posting in open formats, please explain why and note any challenges.

*Answer: After our latest website re-design, the FMSHRC site is more user-friendly. It is easier to navigate as the material is clearly laid out and organized into simpler categories. All documents are accessible in plain text and PDF format. The site now contains enhanced search capabilities for FMSHRC decisions. In addition, the site contains a PDF version of each volume of the agency’s official reporter publishing all substantive agency decisions and orders. In the FOIA Library, we clearly delineate the categories of proactive disclosures so that the requester community understands why the record has been proactively disclosed.*

*One challenge we face as an agency is that we are a micro-agency (less than 70 employees) with a very limited budget. Unfortunately, this budget has just been cut for the upcoming year. This further limits resources that were already limited to begin with. We have also been told that our capabilities are narrow within our contract with our website developer and/or the*

*developer's capabilities are limited, and thus are unable to carry out certain functions on our website.*

*In spite of our inadequate resources, we recognize that there is still room for improvement. Therefore, we intend to take steps this year to (hopefully) increase the number of formats in which we publish information in the FOIA section of the Commission's website. We will start with our website director, who will find out what options are currently available to us from our website developer. In the meantime, we will continue to do our best to keep the website updated and running smoothly.*

7. Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office, such as IT or data personnel? If so, describe this interaction.

*Answer: Yes. Currently, when we identify any record that we believe may be suitable for proactive disclosure, we usually discuss it with the custodian of the record, which could be in any of the various agency departments. During this discussion, we ask that the keeper of the record identify any sensitive aspect of the record that we are unfamiliar with and why they believe the information to be sensitive. We then have to work with our website director to ensure proper placement and publication of our proactive disclosures.*

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

*Answer: One best practice we employ is that in addition to the FOIA team actively looking for records suitable for proactive disclosure, we have asked department heads to identify records they believe may be of sufficient interest to the public. Another best practice is that we clearly identify the category of proactive disclosure a record falls within when we publish the record.*

*The primary challenge we face in this area is that we already routinely proactively disclose the documents that are appropriate for this initiative, and we rarely have documents requested more than twice. Therefore, unless a major action has been taken in a case of significant interest to the public, we seldom have new documents suitable for proactive disclosure. It makes carrying out this initiative difficult.*

#### **Section IV: Steps Taken to Greater Utilize Technology**

A key component of FOIA administration is using technology to make information available to the public and to gain efficiency in FOIA processing. The Attorney General's 2022 FOIA Guidelines emphasize the importance of making FOIA websites easily navigable and complying with the FOIA.gov interoperability requirements. Please answer the following questions to describe how your agency is using technology to improve its FOIA administration and the public's access to information.

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

*Answer: Yes.*

2. Please briefly describe any new types of technology your agency uses to support your FOIA program.

***Answer: There were no new technologies introduced to our FOIA program this year.***

3. Does your agency currently use any technology to automate record processing? For example, does your agency use machine learning, predictive coding, technology assisted review or similar tools to conduct searches or make redactions? If so, please describe and, if possible, estimate how much time and financial resources are saved since implementing the technology.

***Answer: Yes. As stated above, we were recently introduced to Office 365 Security & Compliance Center eDiscovery, which is a more reliable and comprehensive means to search for specific agency records. This system is vast and very complex, so it will take some time to become proficient in using it. As for the time, it does not appear to save much time for the FOIA team right now. We have only two processing officers, working on FOIA part-time, and we use the system infrequently. Thus, there is a constant need to refamiliarize ourselves when we use it, which takes more time than we would like. It does, however, provide the FOIA team with direct access to certain agency records rather than having to go through IT or individual employees to gain access. It is also extremely useful when searching for records that were under the control of former employees or employees on leave. The financial resources saved, if any, is unclear at this time.***

4. OIP issued guidance in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?

***Answer: Yes. Our FOIA homepage is in compliance with the key information and resources requirements discussed in the 2017 Guidance. We also make updates to the site as needed throughout the year.***

5. Did all four of your agency's quarterly reports for Fiscal Year 2023 appear on FOIA.gov?

***Answer: Yes.***

6. If your agency did not successfully post all quarterly reports on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2024.

***Answer: N/A.***

7. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2022 Annual FOIA Report and, if available, for your agency's Fiscal Year 2023 Annual FOIA Report.

***Answer: The link for the FY 2022 report is <https://www.fmshrc.gov/content/2022-annual-foia-report>. The link for the FY 2023 report is <https://www.fmshrc.gov/content/2023-annual-foia-report>.***

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



*Answer: Yes. Currently, the Commission accepts FOIA requests via a formal, structured email to a designated e-mail inbox. We also maintain an account on FOIA.gov where we update information about the Commission's FOIA administration, including our FOIA contact information. We also maintain a customized FOIA request form on our website tailored to our own FOIA regulations.*

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

*Answer: We rely heavily on email as our primary mode of communication. This makes receiving and responding to requests quicker and more efficient. We also went completely paperless in March of 2020, which we believe has resulted in greater efficiency with our program. The main challenge faced by our agency is our lack of access to more sophisticated technology, which is largely due to our small size and commensurate budget. While a more sophisticated system may be more helpful sometime in the near future, our current, basic methods adequately address our needs for now.*

#### **Section V: Steps Taken to Remove Barriers to Access, Improve Timeliness in Responding to Requests, and Reduce Backlogs**

The Attorney General's 2022 FOIA Guidelines instruct agencies "to remove barriers to requesting and accessing government records and to reduce FOIA processing backlogs." Please answer the following questions to describe how your agency is removing barriers to access, improving timeliness in responding to requests, and reducing FOIA backlogs.

##### **A. Remove Barriers to Access**

1. Has your agency established alternative means of access to first-party requested records, outside of the typical FOIA or Privacy Act process?

*Answer: Outside of requesters having the ability to submit Privacy Act requests, we have not established any alternative means of access.*

2. If yes, please provide examples. If no, please indicate why not. Please also indicate if you do not know.

*Answer: We have not experienced any problems with first-party requesters obtaining records, so we saw no need to seek an alternative means of access. Additionally, we receive limited first-party requests.*

3. Please describe any other steps your agency has taken to remove barriers to accessing government information.

*Answer: None to speak of at this time.*

##### **B. Timeliness**

4. For Fiscal Year 2023, 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 2023 Annual FOIA Report.

*Answer: N/A.*

5. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2023 Annual FOIA Report, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

*Answer: N/A.*

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

*Answer: Yes.*

7. If your agency uses a separate track for simple requests, according to Annual FOIA Report section VII.A, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2023?

*Answer: Yes.*

8. If not, did the simple track average processing time decrease compared to the previous Fiscal Year?

*Answer: N/A.*

9. Please provide the percentage of requests processed by your agency in Fiscal Year 2023 that were placed in your simple track. Please use the following calculation based on the data from your Annual FOIA Report: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) x 100.

*Answer: 81.48%.*

10. 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?

*Answer: N/A.*

### **C. Backlogs**

#### **BACKLOGGED REQUESTS**

11. If your agency had a backlog of requests at the close of Fiscal Year 2023, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2022?

*Answer: No.*

12. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2023 than it did during Fiscal Year 2022?

*Answer: Yes.*

13. If your agency's request backlog increased during Fiscal Year 2023, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- 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)
- Litigation
- Any other reasons – please briefly describe or provide examples when possible

*Answer: Our agency usually does not have a backlog. However, in the last quarter of FY 2023, including in the last month, we received a substantial number of complex requests from the same requester, which made it virtually impossible to process the requests by the close of FY 2023.*

14. 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 2023. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. This number can be greater than 100%. If your agency has no request backlog, please answer with "N/A."

*Answer: 4.7%.*

## **BACKLOGGED APPEALS**

15. If your agency had a backlog of appeals at the close of Fiscal Year 2023, according to Section XII.E.2 of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2022?

*Answer: N/A.*

16. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2023 than it did during Fiscal Year 2022?

*Answer: N/A.*

17. If your agency's appeal backlog increased during Fiscal Year 2023, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- 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)
- Litigation
- Any other reasons – please briefly describe or provide examples when possible

*Answer: N/A.*

18. 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 2023. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received from Section VI.A) x 100. This number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2023 and/or has no appeal backlog, please answer with "N/A."

*Answer: N/A.*

#### **D. Backlog Reduction Plans**

19. In the 2023 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2022 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2023?

*Answer: N/A.*

20. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2023, please explain your agency's plan to reduce this backlog during Fiscal Year 2024.

*Answer: N/A.*

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

##### **TEN OLDEST REQUESTS**

21. In Fiscal Year 2023, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2022 Annual FOIA Report?

*Answer: No.*

22. 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 2022 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

*Answer: Of the two oldest requests backlogged, we closed one during FY 2023.*

23. Beyond work on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests.

*Answer: With only a part-time FOIA staff who have other duties, we try to prioritize processing the oldest requests as best we can.*

#### **TEN OLDEST APPEALS**

24. In Fiscal Year 2023, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2022 Annual FOIA Report?

*Answer: N/A.*

25. 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 2022 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

*Answer: N/A.*

26. Beyond work on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.

*Answer: N/A.*

#### **TEN OLDEST CONSULTATIONS**

27. In Fiscal Year 2023, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2022 Annual FOIA Report?

*Answer: N/A.*

28. 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 2022 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

*Answer: N/A.*

#### **ADDITIONAL INFORMATION REGARDING TEN OLDEST**

29. If your agency did not close its ten oldest pending requests, appeals, or consultations, please explain why and provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2024.

*Answer: N/A.*

#### **F. Additional Information about FOIA Processing**

30. Were any requests at your agency the subject of FOIA litigation during the reporting period? If so, please describe the impact on your agency’s overall FOIA request processing and backlog. If possible, please indicate:

- The number and nature of requests subject to litigation
- Common causes leading to litigation
- Any other information to illustrate the impact of litigation on your overall FOIA administration

*Answer: No.*