

**2017 U.S. Nuclear Regulatory Commission
Chief FOIA Officer Report
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Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's FOIA Memorandum and the DOJ'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.

A. 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?

Yes.

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

The U.S. Nuclear Regulatory Commission (NRC) Freedom of Information Act (FOIA) professionals have attended various FOIA training sessions offered by the U.S. Department of Justice (DOJ) on a wide variety of FOIA topics, such as DOJ Continuing FOIA Education Program June 2016.

The NRC FOIA staff planned and conducted a FOIA seminar in May 2016, which was open to all agency employees and covered a variety of topics of interest to staff. This seminar included guest speakers from DOJ/Office of Information Policy (OIP).

The agency's FOIA officer as well as acting FOIA officer provided FOIA training to agency leadership and program office personnel. Topics covered included an overview of the FOIA, exemptions, and the role and responsibilities of program offices and employees.

The agency's acting Privacy officer attended the American Society of Access Professionals 9th Annual Training Conference, held in Arlington, VA, July 18-20.

Several NRC FOIA staff participated in training hosted by AINS, Inc. for FOIAXpress training offered in April 2016 as well as their FOIAXpress User Conference & Technology Summit in October 2016.

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

100 percent.

4. 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.

N/A

B. Outreach:

5. *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?

In March 2016, the NRC FOIA staff in, collaboration with the Office of Government Information Services (OGIS), held a public meeting which included members of the public, the media, and special interest groups. The meeting was an opportunity for the FOIA staff to inform the FOIA requester community on steps the agency has undertaken to improve FOIA administration and to solicit feedback on how the agency could further improve its FOIA process. The NRC sought input from some of its most frequent FOIA requesters to identify items of interest for this public meeting.

C. Other Initiatives:

6. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA?

The NRC FOIA staff planned and conducted a FOIA seminar in May 2016, which was open to all agency employees and covered a variety of topics of interest to staff. This seminar included guest speakers from DOJ/OIP.

The agency's FOIA officer as well as acting FOIA officer provided FOIA training to agency leadership and program office personnel. Topics covered included an overview of the FOIA, exemptions, and the role and responsibilities of program offices and employees.

The NRC also recommended that non-FOIA staff take the DOJ Module "FOIA Training for Federal Employees" as well as participate in the above-mentioned trainings.

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

N/A

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

The DOJ's 2009 FOIA Guidelines emphasized that "application 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.

A. Processing Procedures

1. For Fiscal Year 2016, 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 2016 Annual FOIA Report.

1 day.

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.

N/A

3. *OPTIONAL*: During the reporting period, did your agency conduct a self-assessment of its FOIA program? If so, please describe the methods used, such as reviewing Annual Report data, using active workflows and track management, reviewing and updating processing procedures, etc.

The NRC is continuously looking for ways to improve our FOIA program. We often meet to discuss options for improving the program. For these meetings, the FOIA Office staff will solicit the NRC program office staff for input in areas they feel could use improvement. The NRC has also solicited the public for items of interest or concerns they have on the FOIA program so that we may continue to improve.

4. Please provide an estimate of how many requests your agency processed in Fiscal Year 2016 that were from commercial use requesters. If your agency is decentralized, please identify any components within your agency that received a majority of their requests from commercial use requesters.

15 percent.

B. Requester Services

5. *OPTIONAL*: Does your agency provide a mechanism for requesters to provide feedback about their experience with the FOIA process at your agency? If so, please describe the methods used, such as making the FOIA Public Liaison available to receive feedback, using surveys posted on the agency's website, etc.

The NRC provides FOIA requesters with the ability to contact the FOIA Public Liaison, in addition to providing each requester with a survey form. The FOIA Public Liaison information is provided in each of our FOIA responses, their full contact information is available on our website, <http://www.nrc.gov/reading-rm/foia/contact-foia.html>, as well as on www.FOIA.gov. The surveys are provided along with the final response to each FOIA request, whether in electronic form or by mail.

6. 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 how often requesters sought assistance from your agency's FOIA Public Liaison.

2 times.

7. The FOIA Improvement Act of 2016 requires agencies to make their reference material or guide for requesting records or information from the agency electronically available to the public. Please provide a link to your agency's FOIA reference guide.

<https://www.nrc.gov/reading-rm/foia/foia-privacy.html>

C. Other Initiatives

8. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as improving search processes, eliminating redundancy, etc., please describe them here.

- The NRC FOIA office tracks program office response times against agency goals and provides monthly metrics to the heads of each program office. By the end of fiscal year (FY) 2016, the overall average for program offices responding within the metric for search and review of documents is 81 percent, a decrease of 8 percent from FY 2015.
- The FOIA Officer meets with the FOIA staff weekly, the Office of General Counsel (OGC) and Office of Inspector General on a monthly basis.
- The NRC has a FOIA coordinator in each program office and the FOIA Officer meets with all of them on a quarterly basis.
- The FOIA Office is working to update its Management Directive (MD) to incorporate changes in FOIA processing, as well as incorporate the updates from the FOIA Improvement Act of 2016.
- The FOIA Office is working to update its response templates to be in alignment with the FOIA Improvement Act of 2016.

Section III: Steps Taken to Increase Proactive Disclosures

Both the President's and DOJ'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.

A. Posting Material

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

The agency's FOIA processing system links similar or duplicate requests and identifies frequently requested records.

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

The NRC has a longstanding policy of conducting its regulatory responsibilities in an open and transparent manner and proactively makes records publicly available without waiting for a FOIA request. NRC MD 3.4, "Release of Information to the Public," provides policy guidance on proactive disclosures of agency information of interest to the public when no request for information has been made under the FOIA. The policy statement found within MD 3.4 reads, "The U.S. Nuclear Regulatory Commission makes as much information as possible available to the public relating to its health and safety mission, in accordance with its legal responsibilities to protect specific types of information. It is the intent of NRC to routinely make information publicly available that is anticipated to be of interest to the public to make it unnecessary for persons to file a request for the information under the Freedom of Information Act (FOIA). Also, this directive requires review of Commission Decision Documents (SECY papers [SECY's], Commission memoranda [COMs], and staff requirements memoranda [SRMs] for mandatory release under the FOIA, 5 U.S.C. 552(a)(1) and (a)(2)."

The records are released in Agencywide Documents Access and Management System (ADAMS) with stringent time constraints to ensure timely release of non-sensitive records to the public in an accessible electronic format.

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

Yes.

4. If so, briefly explain those challenges and how your agency is working to overcome them.

Records that pre-date digitization and are in paper or microfiche format require digitization and individual review before posting to the NRC's public ADAMS online library.

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

NRC regulatory guides: <http://www.nrc.gov/reading-rm/doc-collections/reg-guides/>

Office of the Inspector General reports:
<http://www.nrc.gov/reading-rm/doc-collections/insp-gen/>

Commission documents:
<http://www.nrc.gov/reading-rm/doc-collections/commission/recent/2015/>

quarterly generic issues:
<http://www.nrc.gov/reading-rm/doc-collections/generic-issues/quarterly/index.html>

Congressional testimony:
<http://www.nrc.gov/reading-rm/doc-collections/congress-docs/congress-testimony/>

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

No.

B. Other Initiatives

7. If there are any other steps your agency has taken to improve proactive disclosures, please describe them here. For example, has your agency engaged requesters in determining how and what to post? Has your agency used web analytics to inform your proactive disclosures?

Effective June 15, 2015, the staff discontinued the practice of presumptively withholding documents containing fire protection or emergency preparedness information from public release. Since then, the staff has been proactively applying the NRC's policies on protecting sensitive information to the review, release, and withholding of such documents.

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.

A. 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?

Yes.

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

The agency has a single, unified public site, available at <http://www.nrc.gov>, for public users to perform full-text searches of all NRC public records, Web pages, and files. A search can be conducted by a specific topic. The site also has an advanced search feature for all NRC public records with full access to metadata attributes.

After a review of the NRC FOIA Web site, a new search field was added to shorten the time spent by the public searching for records that have been provided to requesters in FOIA responses. The addition of the search field box makes the public repository of FOIA responses more user-friendly because it enables the public to more effectively wade through thousands of pages of FOIA responses and find what they may be looking for; which reduces the need for making a FOIA request.

B. Other Initiatives

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2016?

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 2017.

N/A

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

The President's FOIA Memorandum and the DOJ'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 2016 Annual FOIA Report and, when applicable, your agency's 2015 Annual FOIA Report.

A. 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 2016, was the average number of days to process simple requests twenty working days or fewer?

Yes.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2016 that were placed in your simple track.

89 percent.

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?

N/A

B. 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 2015 and Fiscal Year 2016 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 2016, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2015? If not, explain why and describe the causes that contributed to your agency not being able reduce its backlog.

No, our FOIA request backlog increased by 13 requests in FY 2016. The increase was caused by the increase in FOIA requests. The NRC received an additional 280 FOIA requests in FY 2016 than in FY 2015. This increase can also be associated, in part, to one of the NRC's most frequent FOIA requesters who submitted 49 percent of our FOIA requests. Another contributing factor is the NRC had a decrease in staffing levels between FY 2015 and FY 2016.

6. If not, 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. – Yes by 280 requests
- A loss of staff. – Yes a decrease of 4 Government Information Specialists
- 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. – No there was not an increase in complexity of requests received.
- Any other reasons – please briefly describe or provide examples when possible. - N/A

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 2016.

2.7 percent.

BACKLOGGED APPEALS

8. If your agency had a backlog of appeals at the close of Fiscal Year 2016, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2015? If not, explain why and describe the causes that contributed to your agency not being able reduce backlog.

No, our FOIA appeal backlog increased by 1 in FY 2016. The increase was caused by the increase in FOIA appeals, which increased by 103 appeals in FY 2016. This increase can also be associated, in part, to one of the NRC's most frequent requesters who submitted 89 percent of the appeals.

9. If not, 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. – Yes by 103 appeals
- A loss of staff. – Yes a decrease of 4 Government Information Specialist
- 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. - No
- Any other reasons – please briefly describe or provide examples when possible. – N/A

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 2016. If your agency did not receive any appeals in Fiscal Year 2016 and/or has no appeal backlog, please answer with "N/A."

0.50 percent.

C. 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 2015 and Fiscal Year 2016 when completing this section of your Chief FOIA Officer Report.

TEN OLDEST REQUESTS

11. In Fiscal Year 2016, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2015 Annual FOIA Report?

Yes, the NRC closed all ten of the oldest requests from FY 2015.

12. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2015 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

N/A

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?

0.

TEN OLDEST APPEALS

14. In Fiscal Year 2016, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2015 Annual FOIA Report?

N/A, there were no pending appeals at the start of FY 2016.

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 VII.C.(5) of your Fiscal Year 2015 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

N/A

TEN OLDEST CONSULTATIONS

16. In Fiscal Year 2016, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2015 Annual FOIA Report?

N/A, there were no pending consultations at the start of FY 2016.

17. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2015 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

N/A

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

18. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2015.

Requesters continue to ask for any and all records. The subjects of the requests are typically complex, classified, and voluminous and often require consultations with other federal agencies or outside entities. Also, budget constraints across the NRC have not allowed the NRC to purchase better software that will aid in the search and redaction of the records, as well as not allowed the agency to hire personnel, provide additional training outside of what is already provided by DOJ.

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

N/A

20. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2017.

N/A

F. Success Stories

OPTIONAL: Out of all the activities undertaken by your agency since March 2016 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency’s efforts. The success story can come from any one of the five key areas. As noted above, these agency success stories will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

N/A