



**United States  
Environmental Protection Agency  
Chief FOIA Officer Report  
*2021***

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
2021 CHIEF FOIA OFFICER REPORT**

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## Executive Summary

The Environmental Protection Agency (EPA) is committed to operating openly and transparently and to implementing the Freedom of Information Act (FOIA) to promote transparency and build public trust in agency actions.

**EPA reduced its request and appeal backlogs.** EPA developed new initiatives during this reporting cycle and continued building on actions started in the previous reporting cycle to enhance EPA's FOIA program. EPA's efforts yielded substantial results in FY 2020: EPA reduced its FOIA request backlog as reported in its Annual FOIA Report by nearly 500 requests, or 21%, and it reduced its FOIA appeals backlog by more than 98%.

Over the last two years, EPA reduced its backlog of FOIA requests as reported in EPA's Annual FOIA Reports by nearly 1,000 requests and EPA eliminated all but one of the administrative appeal backlogs. In addition, through better, more consistent early communication with requesters the Agency was able to extend due dates on additional requests thereby further reducing the number of requests that are statutorily overdue, an accomplishment not reflected in the reported request backlog.

**EPA proactively disclosed key information.** EPA excelled at proactively disclosing public health and environmental data this year, working to rapidly published on its website new information and resources in response to the global COVID-19 public health pandemic, as the pandemic swept the country forcing business shutdowns. EPA created a new webpage -- <https://www.epa.gov/coronavirus> -- displaying in one location critical information on the virus including effective disinfectants and cleaning agents. EPA organized the webpage to be a one-stop-shop for the public to find the most important EPA information on the virus and response techniques. The page covers: information on disinfectants; impacts to drinking water; and EPA's efforts to identify and provide personal protective equipment to support the country's response. Most important, EPA launched a new web-based tool – the List N Tool: COVID-19 Disinfectants – for the public to easily identify EPA screened disinfectant products for use in preventing the spread of the COVID-19 virus. The List N Tool is available at <https://www.epa.gov/listntool>.

As part of EPA's plan to address its remaining backlog of overdue responses, described more fully in Section V.C, Question 14 below, EPA also is exploring options for increasing proactive disclosure of certain record categories that frequently contain requested records, in order to increase the availability of these records to the public.. The proactive disclosure of some records has the potential to reduce the number of FOIA requests received and processed by offices that now have, or recently had, a backlog of overdue FOIA requests, thus helping EPA address and reduce its backlog over time.

**EPA issued updated agency FOIA policy and procedures and excelled at FOIA training.** In FY 2020, EPA reviewed and updated its agency wide FOIA Policy and FOIA Procedures to enhance coordination in FOIA processing among the Agency's 22 program and regional offices. EPA's National FOIA Office also issued a step-by-step "FOIA Toolkit" guide and training tool for the life-cycle of FOIA processing at EPA, and EPA's National FOIA Office developed and delivered a 4-day, multi-session, intensive distance learning leadership training conference attended by more than 250 EPA FOIA professionals and managers from EPA's 10 regional and 12 headquarters program offices. FOIA experts from EPA's Office of General Counsel provided training regarding best

practices and leading-edge techniques in FOIA processing management. Through this and other office-specific and supervisor training events, EPA continued to build the professionalism and expertise of its staff and managers who implement the FOIA.

**EPA's Commitment to Transparency.** The Agency's leadership is committed to continue to enhance the efficiency and quality of EPA's FOIA responses and to proactively disseminate information. In 2018, EPA established a strategic objective to increase transparency and public participation and a performance goal to eliminate EPA's FOIA backlog by 2022. EPA leadership remains committed to that objective and goal. EPA will continuously improve FOIA implementation including by applying Lean management principles and methods to every stage of the FOIA response process in every Agency component and office. Lean management principles draw attention to performance data in every agency component, thereby empowering EPA FOIA professionals and staff to make EPA a flagship example of transparent, efficient, and effective government.

## Section I: Steps Taken to Apply the Presumption of Openness

*The guiding principle underlying DOJ's FOIA Guidelines is the presumption of openness.*

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

### **A. FOIA Leadership**

*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?*

Yes, the EPA's Chief FOIA Officer is the Agency's General Counsel or Acting General Counsel, a Senate confirmed, Presidential appointment position.

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

Melissa Hoffer, Acting General Counsel.

### **B. FOIA Training**

*3. 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.*

#### **EPA Annual FOIA Training (In-house).**

EPA requires all employees to take annual online FOIA training. This year's training focused on the use of FOIA Exemptions. More than 95%<sup>1</sup> of EPA employees successfully completed the training in FY 2020.

#### **FOIA Supervisor Training (In-house).**

FOIA experts from EPA's Office of General Counsel developed and provided trainings to EPA SES and non-SES supervisors regarding the essential FOIA knowledge supervisors need to successfully comply with the FOIA, support Agency FY18-22 Strategic Plan goals related to FOIA, and fulfill new FOIA-specific elements and performance measures in performance agreements.

#### **FOIA Leadership Academy Training (In-house).**

OGC National FOIA Office developed and delivered a 4-day, multi-session, intensive distance learning leadership training conference attended by more than 250 EPA FOIA professionals and managers from EPA's 10 regional and 12 headquarters program offices. FOIA experts from EPA's Office of General Counsel provided training regarding best practices and leading-edge techniques in FOIA processing management.

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<sup>1</sup> In this report, EPA rounded percentages to the nearest whole number using commonly applied decimal rounding rules. If the calculated number in the tenths place was 5 or higher, EPA rounded up to the next whole number; if the calculated number in the tenths place was 4 or lower, EPA rounded down to the nearest whole number.

4. 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?

Yes. FOIA professionals and staff who have FOIA responsibilities attended training offered by EPA and/or the Department of Justice (DOJ).

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

**National FOIA Leadership Academy (In-house).**

OGC National FOIA Office developed and delivered a 4-day, multi-session, intensive distance learning leadership training conference attended by more than 250 EPA FOIA professionals and managers from EPA's 10 regional and 12 headquarters program offices. FOIA experts from EPA's Office of General Counsel provided training regarding best practices and leading-edge techniques in FOIA processing management.

**E-Discovery & Technology Training for FOIA Experts (External & In-house).**

EPA FOIA professionals from EPA's Office of General Counsel, Office of Mission Support, and Regional offices attended the 2020 RelativityFest conference to stay abreast of advances in eDiscovery technology and best practices applicable to processing FOIA document reviews using Relativity software. EPA provided training throughout the year to EPA FOIA professionals on the features of the analytics tools included in EPA's e-Discovery Relativity platform that can be leveraged to more efficiently manage the processing of records for response to FOIA requests.

**Department of Justice, Office of Information Policy Trainings (External).**

EPA FOIA professionals and staff with FOIA responsibilities attended the following training offered by the Department of Justice, Office of Information Policy:

The Freedom of Information Act for Attorneys and Access Professionals: A two-day program that provides multiple lectures and workshops for a comprehensive overview of the FOIA, including:

- An overview of the FOIA's procedural requirements and exemptions,
- Workshops on individual FOIA Exemptions,
- Basic principles for processing FOIA requests from start to finish,
- The FOIA's proactive disclosure requirements, and
- The interface between the FOIA and the Privacy Act.

**EPA FOIA Community Meetings (In-house).**

The OGC National FOIA Office held monthly meetings with the Agency's FOIA Community to provide guidance and updates on FOIA-related matters. These monthly meetings provided key FOIA personnel with ongoing training relevant to the performance of their duties, including but not limited to: information on Agency FOIA processes and procedures; explanations of how to apply FOIA exemptions, negotiate with requesters and appropriately extend the response due date, estimate fees, and make discretionary disclosures; as well as guidance on other administrative processing matters and FOIA related topics.

### **Focused EPA FOIA Training Events (In-house).**

FOIA experts in EPA's Office of General Counsel also provided a wide variety of training, briefing, and assistance on an as needed or project-specific basis throughout the year.

- OGC/National FOIA Office provided comprehensive training to FOIA professionals and agency employees in EPA Region 3 and the Office of Enforcement and Compliance Assurance.
- OGC/National FOIA Office provided specialized FOIA training to FOIA professionals in the Office of General Counsel and Office of Chemical Safety and Pollution Prevention.

*6. 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.*

EPA estimates all EPA FOIA professionals took substantive FOIA training in FY 2020. More than 95% of all EPA staff took the FY 2020 Annual FOIA Training and EPA was not able to identify any FOIA professionals who did not take this substantive training. In addition, EPA's National FOIA Office provides substantive training as part of its monthly "FOIA Community" meetings, which are routinely attended by more than 150 FOIA professionals and managers.

*7. 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.*

Not applicable, as all EPA FOIA professionals attended substantive FOIA training at least once in FY 2020.

### **C. Outreach**

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

Yes. The EPA FOIA Public Liaison, FOIA Officers, and FOIA professionals engaged in dialogue with members of the FOIA requester community regularly throughout the year regarding administration of the FOIA.

### **NARA FOIA Advisory Committee.**

An Attorney-Adviser in EPA's Office of General Counsel currently serves as a government member of the FOIA Advisory Committee for the 2020-2022 term, and another Attorney-Adviser in EPA's Office of General Counsel served as a member of the FOIA Advisory Committee for the 2018-2020 term. In addition, several EPA Attorney-Advisors, managers and professionals serve on the FOIA Advisory Committee's technology subcommittee for the 2020-2022 term. The FOIA Advisory Committee consists of members both inside and outside the Federal government, who have considerable FOIA expertise. The Committee was created to foster dialogue between the Federal Government and the requester community, soliciting public

comments, and developing recommendations for improving FOIA administration and proactive disclosures.

### **FOIA Public Liaison & Targeted Conversations with Frequent Requesters.**

EPA's FOIA Public Liaison and attorneys in EPA's Office of General Counsel spoke with a variety of requesters to resolve disputes as well as to gain perspective on requester needs and concerns, including targeted conversations with some of the most frequent requesters whose requests typically take the Agency much longer than 20 working days to respond. Through these conversations, EPA described, and received informal feedback on, recent initiatives to streamline and enhance EPA's FOIA implementation, and EPA conveying information to them to more effectively target their requests.

## **D. Other Initiatives**

*9. 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.*

### **Mandatory Annual FOIA Training.**

EPA required all employees to complete mandatory FOIA Awareness Training in FY 2020. The training was provided via an online training platform, with regular reminders to each employee and to their supervisors to ensure completion by the end of the fiscal year. The online platform also provided data tracking for accountability. In FY 2020, more than 95% of employees successfully completed the required training.

### **FOIA-Related Performance Standards.**

Beginning in FY 2019 and continuing through FY 2021, all senior manager performance agreements contain FOIA-related language to ensure Agency management promotes compliance with FOIA laws, regulations, policies, and Executive Orders, consistent with EPA's commitments to transparency, timeliness, quality, and professionalism pronounced in then Acting Administrator Wheeler's November 2018 FOIA memorandum. Managers are accountable to manage FOIA responses and to supervise and train all EPA employees who have a role in administering the FOIA.

### **FOIA Supervisor Training.**

FOIA experts from EPA's Office of General Counsel developed and provided trainings to EPA SES and non-SES supervisors regarding the essential FOIA knowledge supervisors need to successfully comply with the FOIA, support Agency FY 2018-22 Strategic Plan goals related to FOIA, and fulfill new FOIA-specific elements and performance measures in performance agreements.

### **Self-Learning Resources.**

The National FOIA Office regularly reviewed and updated the Agency's internal FOIA SharePoint site available to EPA FOIA professionals and agency employees. This intranet site includes a subsection on "FOIA Training and How To's," training documents and guidance issued by the Department of Justice, and other learning resources useful to non-FOIA professionals new to FOIA processing or needing refresher training.



10. *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.*

### **COVID-19 Global Health Pandemic Resources and Response**

EPA rapidly published on its website new information and resources in response to the global COVID-19 public health pandemic. In the early weeks as the impact and scope of the COVID-19 pandemic was just beginning to unfold, EPA created a new webpage -- <https://www.epa.gov/coronavirus> -- collecting and displaying in one location critical information on the virus including effective disinfectants and cleaning agents. EPA organized the webpage to be a one-stop-shop for the public to find the most important EPA information on the virus and response techniques. The page covers: information on disinfectants; information on drinking water and waste water; EPA's efforts to identify and provide personal protective equipment to support the country's response; recent EPA news developments and EPA announcements; most recent research on COVID-19 in the environment; and links to other federal agency resources and information. In particular, EPA launched a new web-based tool – the List N Tool: COVID-19 Disinfectants – for the public to easily identify disinfectant products that EPA screened for use in preventing the spread of the COVID-19 virus.

### **EPA's Agency-wide Reorganization and Increased Centralization of FOIA Administration.**

This year, EPA continued to reorganize its national FOIA program to better ensure that the presumption of openness is applied and to improve compliance. Steps taken included:

- The National FOIA Office issued monthly FOIA backlog reports to the heads of all Agency program and regional offices, identifying each office's existing FOIA backlog and the change from the prior month.
- The National FOIA Office emphasized the presumption of openness and FOIA compliance during regular meetings of the FOIA Community.
- EPA's FOIA professionals regularly work with requesters throughout the FOIA process to seek clarification and to develop schedules for interim releases when appropriate.

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

*DOJ's FOIA Guidelines emphasize 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 that describes your agency's efforts in this area.*

*1. For Fiscal Year 2020, 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 2020 Annual FOIA Report.*

EPA's average number of days to adjudicate requests for expedited processing was 21.06 days, based on the FOIA Annual Report for FY 2020.

*2. 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 2020 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.*

EPA has taken steps to speed processing of requests for expedited process, and for the period of July 1 through December 31, 2020, EPA has significantly reduced the average number of working days taken to adjudicate such requests, down to an average of 13.97 calendar days. EPA intends to apply Lean management techniques and methods in FY 2021 to further reduce the average days for adjudicating requests for expedited processing.

*3. 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.*

In FY 2020, EPA reviewed and updated its agency wide FOIA Policy and FOIA Procedures to enhance coordination in FOIA processing among the Agency's 22 program and regional offices. Throughout FY 2020, EPA conducted an internal review of its old FOIA Policy and Procedures, including "listening sessions" with FOIA professionals, managers and staff, and issued the new updated FOIA Policy and FOIA Procedures on November 6, 2020. The Agency's updated FOIA Policy and FOIA Procedures identify appropriate coordination practices to ensure the Agency, as a whole, responds appropriately to each FOIA request and performs the appropriate search, collection, and review of records, particularly when records are stored in multiple offices. The updated FOIA Procedures also emphasize the importance of using the Agency's centralized electronic discovery service as the primary method to search electronic records, and the updated Procedures identify appropriate coordination practices among the Lead and Contributing Programs in the electronic records search.

In addition, in FY 2020, building upon efforts initiated in FY 2019, EPA continued agency-wide implementation of Lean management principles to continuously review and improve EPA's FOIA response processing. EPA applied Lean management techniques in its intake and assignment process to enhance the speed of EPA's initial assignment of FOIA requests to the proper agency component for record search and response. While EPA centralized the intake process for incoming FOIA requests in FY 2019, FOIA request processing (search, review, and release of records) is still decentralized across the 12 national program offices (including the Office of Inspector General) and 10 regions. Multiple offices across the Agency continued lean management improvement projects and implemented visual management tools concentrated on FOIA processes, as well as deployed new improvement projects related to aspects of FOIA processing. For example, EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) decided to reorganize and centralize its FOIA processing into a single office responsible for FOIA processing. OCSPP receives the highest volume of FOIA requests compared to EPA's other program offices, and OCSPP has received an increasing volume of requests as a result of its role in implementing a new chemical review process and its role in evaluating disinfectants for the COVID-19 virus. OCSPP with the assistance of experts from EPA's National FOIA Office evaluated its FOIA response process, including the root causes for its increasing backlog of overdue FOIA requests, and decided that a full reorganization and centralization would be needed. OCSPP launched the reorganization at the very end of FY 2020 and expects results to become evident as a result of data analysis and additional process changes in FY 2021.

Data reviewed. As part of these events and continually throughout the reporting period, EPA reviewed monthly, quarterly, and annual statistical reports and other information and data. In FY 2020, EPA's National FOIA Office issued a monthly backlog report to each office and to EPA senior leadership. For FY 2021, each region and headquarters office set office-specific FOIA backlog reduction annual goals and monthly targets aligned with the agency-wide goal. Through deployment of Lean management methods to FOIA processing, many offices hold weekly or more frequent meetings to review FOIA processing data and to identify challenges as they occur.

*4. Standard Operating Procedures (SOPs): Having SOPs can improve the consistency and quality of an agency's FOIA process. In addition, describing an agency's standard practices for handling FOIA requests on agency FOIA websites can help requesters better understand how their request will be handled.*

*a) Does your agency have SOPs that outline general processes for handling FOIA requests and appeals?*

Yes. EPA's Acting Chief FOIA Officer issued revised and updated FOIA Policy and FOIA Procedures that set forth the Agency's approach and basic instructions for complying with the FOIA statute, EPA's FOIA Regulations, and applicable open government and transparency policies when handling FOIA requests and appeals. The Agency's updated FOIA Policy and FOIA Procedures identify appropriate coordination practices to ensure the Agency, as a whole, responds appropriately to each FOIA request and performs the appropriate search, collection, and review of records, particularly when records are stored in multiple offices. In addition, EPA's National FOIA Office has issued a step-by-step "FOIA Toolkit" guide and training tool for the life-cycle of FOIA processing at EPA.

*b) If not, does your agency have plans to create FOIA SOPs?*

Not Applicable.

*c) If yes, how often are they reviewed/updated to account for changes in law, best practices, and technology?*

The Acting Chief FOIA Officer issued updated Agency-wide FOIA Policy and Procedures documents on November 6, 2020, accounting for changes in the FOIA statute, EPAs FOIA Regulations, best practices, and technology at the agency. EPA plans to periodically review and update the FOIA Policy and Procedures documents as necessary to respond to significant changes in the statute, case law and EPA's regulations, as well as to stay abreast of technology and practice changes.

*d) In addition to having SOPs, does your agency post or otherwise describe your standard processes for handling requests on your website?*

EPA has published its updated FOIA Policy and FOIA Procedures on its website.

*5. 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 FY 2020 (please provide a total number or an estimate of the number).*

For FY 2020, EPA's FOIA Public Liaison responded to an estimated 25 requests for assistance. The FOIA Public Liaison email account received approximately 2 inquiries a month specifically requesting FOIA Public Liaison services. The National FOIA Office responds to emailed inquiries by email or follow up phone call. In addition, the National FOIA Office, which includes EPA's FOIA Public Liaison and FOIA Requester Center, issues a unique correspondence to each requester as part of its intake review of FOIA requests and includes information on how to contact EPA's Public Liaison in that correspondence.

*6. Does your agency frequently receive common categories of first-party requests? If so, please describe the types of requests and if your agency has explored establishing alternative means of access to these records outside of the FOIA process?*

EPA does not receive common categories of first-party requests.

*7. The FOIA Improvement Act of 2016 required all agencies to update their FOIA regulations within 180 days. Has your agency updated its FOIA regulations in accordance with the FOIA Improvement Act of 2016? If not, what is your agency's plan to update your regulations?*

EPA updated its FOIA regulations in July 2019 to implement the statutory changes prescribed in the FOIA Improvement Act of 2016.

8. *Please explain how your agency worked to mitigate the impact of the COVID-19 pandemic on FOIA processing. Examples could include, but are not limited to: altering workflows, implementing new technology, providing notices and instructions or otherwise communicating directly with requesters.*

Starting in March of 2020, most EPA staff, including EPA FOIA professionals and staff with FOIA responsibilities, began working remotely full-time at alternative work locations separate from their assigned duty station offices as a result of the COVID-19 pandemic. While EPA prioritized action to minimize the spread of the COVID-19 virus and to help the American public respond to the pandemic, EPA also took action to mitigate the impact of the pandemic on EPA's FOIA processing. Agency leadership encouraged EPA FOIA professionals and staff with FOIA responsibilities to identify and solve challenges and to support continued FOIA processing during the pandemic.

#### **Agency Website Main Page**

EPA placed a 'Resources related to COVID-19' banner at the top of the main content area of the agency website that includes links to mission-related COVID-19 information and a notice concerning "hard copy" submissions to EPA. The notice tells the public that there are "practical limitations" on Agency staff's ability to collect and respond to queries directly mailed to Agency office locations, and it tells the public that "FOIA requests for Agency records are most effectively submitted through FOIAonline".

#### **Written Notices to Requesters**

EPA made a commitment to prioritize the search and review of electronic records during the pandemic and to issue interim or final responses involving those records. For those requests seeking paper or "hard copy" records, EPA communicated with the requesters to tell them about EPA's commitment to prioritize the search, review and release of electronic records and EPA asked requesters to agree to due date extensions for the hard copy records. When EPA was unable to reach a particular requester seeking hard copy records, EPA issued written correspondence to requesters telling them that the search for and review of any responsive hardcopy records would be delayed and that EPA FOIA programs would prioritize the search, review, and release of electronic records. The letters also told requesters of the availability of the FOIA Public Liaison to discuss their particular requests and included the contact information for EPA's FOIA Public Liaison and the Office of Government Information Services.

#### **FOIA Processing Adaptations**

In order to help the Agency support employees teleworking during the pandemic, EPA's National FOIA Office developed and delivered training for EPA employees on electronic document review if they needed additional portable work to perform while teleworking. The National FOIA Office also modified its existing training to be delivered via distance learning platforms, and the National FOIA Office assisted a large program office to remotely stand up a "tiger team" of document reviewers. That team has reviewed thousands of documents during the pandemic. EPA also adapted other FOIA training materials to be delivered via distance learning platforms, including the 2020 National FOIA Leadership Academy, which EPA delivered over 4 days to more than 250 FOIA professionals and managers.

9. *Optional -- Please describe: Best practices used to ensure that your FOIA system operates efficiently and effectively and any challenges your agency faces in this area.*

EPA highlights the following best practices EPA uses to ensure the Agency's FOIA system operates efficiently and effectively:

**Increased Centralized FOIA Management.**

EPA began reorganizing and increasing centralization of its FOIA program in FY 2018 by establishing the National FOIA Office within the Office of General Counsel and redelegated the Chief FOIA Officer function to the General Counsel to raise the profile and accountability of EPA's FOIA implementation.

In 2019, EPA increased centralization of the FOIA programs in each of the 10 EPA regional offices through a realignment that moved those programs into the Regional Counsel's Offices to provide clear authority and reporting lines through the Regional Counsels up to the Agency's General Counsel, who is the Agency's Chief FOIA Officer. EPA also centralized FOIA request submissions to EPA's National FOIA Office. Centralizing FOIA request submission enables the EPA to improve efficiency, consistency, and quality of EPA's assignment determinations and responses, and to apply best practices in early communication with requesters.

In 2020, EPA implemented a programming change in FOIAonline to direct all incoming FOIA request to the National FOIA Office. As a result of this technology modification, centralized intake of FOIA requests in the National FOIA Office achieved additional efficiency gains, and EPA more fully realized its goal to provide first-rate service and communication to the FOIA requester community. EPA also applied other programming upgrades to FOIAonline to increase its effectiveness as a FOIA processing tool for displaying and communicating information with requesters.

**FOIA Expert Assistance Team (FEAT).**

EPA's FOIA Expert Assistance Team (FEAT), located in EPA's National FOIA Office in the Office of General Counsel, was created to provide strategic direction and project management assistance on the most challenging or complex FOIA requests. The original functional statement described the FEAT as follows:

[T]his unit provides legal counsel on all issues pertaining to selected FOIA requests that have been determined to be [the] most complex and/or potentially sensitive requests received across the Agency. Utilizing an extraordinary breadth of FOIA knowledge and experience, together with in-depth organizational and external awareness, the team provides advice and guidance to the highest echelons of management within the Agency.

The FEAT adjusts its level of engagement based on the specific needs of the Agency and each request. Notable FEAT projects have included the Team's engagement on requests related to the spill of polluted water from Gold King Mine, EPA's response to Volkswagen's use of defeat devices, and requests related to drinking water contamination in Flint, Michigan. This year, the FEAT assisted the Agency in responding to more than 100 FOIA requests related to the COVID-19 global pandemic and it performed a comprehensive review of the FOIA processing in EPA's Office of Chemical Safety and Pollution Prevention.

**Disclosure to One is Disclosure to All: FOIAonline.**

All FOIA requests EPA receives are managed throughout their lifecycle in FOIAonline, which enables requesters to create individual accounts and view status information regarding the processing and managing of their individual requests (e.g., when the request was received, where the request has been assigned, etc.). FOIAonline also enables the public to locate and search all FOIA requests EPA has received as well as most of EPA's responses (exceptions include protection of information specific to the requester).

## Section III: Steps Taken to Increase Proactive Disclosures

*The Department of Justice has long 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.*

*1. 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.*

EPA continually updates its website with new information regarding public health and environmental protection topics. These updates demonstrate EPA's commitment to proactively disclose information to the public. The following illustrate these proactive disclosures:

### **COVID-19 Global Health Pandemic Resources and Response.**

EPA rapidly published on its website new information and resources in response to the global COVID-19 public health pandemic. In the early weeks as the impact and scope of the COVID-19 pandemic was just beginning to unfold, EPA created a new webpage -- <https://www.epa.gov/coronavirus> -- collecting and displaying in one location critical information on the virus including effective disinfectants and cleaning agents. EPA organized the webpage to be a one-stop-shop for the public to find the most important EPA information on the virus and response techniques, available at <https://www.epa.gov/coronavirus>. The page covers: information on disinfectants; information on drinking water and waste water; EPA's efforts to identify and provide personal protective equipment to support the country's response; recent EPA news developments and EPA announcements; most recent research on COVID-19 in the environment; and links to other federal agency resources and information. In particular, EPA launched a new web-based tool – the List N Tool: COVID-19 Disinfectants – for the public to easily identify disinfectant products that EPA screened for use in preventing the spread of the COVID-19 virus. The List N Tool is available at <https://www.epa.gov/listntool>.

### **Easy-to-use Website Tools.**

To help the public access new information and previously disclosed information, EPA provides a variety of easy-to-use tools and indexes readily available on EPA's website.

EPA Homepage Highlights. EPA's website homepage includes a banner that features the most important new information that EPA recently proactively disclosed on its website. EPA's website homepage also includes links to proactively disclosed information on key Administration priorities and particularly important public health topics. EPA's home page can be found here: <https://www.epa.gov/>

Index of Environmental Topics. EPA's website also includes a list of and links to proactively disclosed information by "Environmental Topics": Air; Chemicals and Toxics; Environmental Information by Location; Greener Living; Health; Land, Waste, and Cleanup; Science; Water;



and narrower topics including Bed Bugs, Lead, Mold, Pesticides; Radon. The link to this Environmental Topics list is here: <https://www.epa.gov/environmental-topics>.

Laws & Regulations Index. EPA's website also includes a list of and links to proactively disclosed information on "Laws & Regulations," available here: <https://www.epa.gov/laws-regulations>.

- EPA's Office of General Counsel regularly and timely posts to the website Notices of Intent to Sue EPA submitted by citizens in accordance environmental statutes that contain citizen suit notice requirements, available here: <https://www.epa.gov/ogc/notices-intent-sue-us-environmental-protection-agency-epa>.
- The Office of General Counsel also regularly and timely posts to the website Complaints and Petitions for Review filed by citizens alleging EPA failure to perform an act or mandatory duty required by one or more environmental statutes, or petitioning judicial review of EPA action(s) pursuant to one or more environmental statutes, available here: <https://www.epa.gov/ogc/complaints-and-petitions-review>.

About EPA. EPA's website also includes a list of and links to proactively disclose information about EPA, its organizational structure, and its leadership, available here: <https://www.epa.gov/aboutepa>.

General Data Disclosure. EPA has contributed over 4,400 data sets to data.gov: [www.data.gov](http://www.data.gov).

Senior Leadership Calendars. EPA is proactively posting the calendars of the senior leadership team on the EPA webpage in response to requests from the requester community. The information is available here: <https://www.epa.gov/senior-leaders-calendars>.

Planning, Budget, and Results Activities. EPA's website includes current information about EPA's financial strategic planning efforts, current and proposed annual budgets, and financial and performance results, available here: <https://www.epa.gov/planandbudget>.

Public Affairs. EPA uses several electronic outlets to provide important and current information to the media and the public.

- Newsroom is where EPA's press office posts news releases, public service announcements, and contact information for EPA press officers, available here: <https://www.epa.gov/newsroom>.
- EPA also stays connected with and conveys information to the public through social media channels, including:
  - Twitter (@USEPA, @EPAMichaelRegan, @EPAespanol, @EPALive, etc.) A full list official national and regional EPA Twitter accounts is available here: <https://www.epa.gov/web-policies-and-procedures/list-social-media-platforms-epa-uses> (navigate to expandable menu 'Twitter').
  - Facebook (e.g., @EPA, @epaespanol, etc.) A full list of official national and regional EPA Facebook pages is available here: <https://www.epa.gov/web-policies-and-procedures/list-social-media-platforms-epa-uses> (navigate to expandable menu 'Facebook').

- EPA YouTube posts videos related to EPA activities and environmental and public health information. The channel has over 4.5 million views and 16.9 thousand subscribers. Information about USEPAgov on YouTube is available here: <https://www.epa.gov/web-policies-and-procedures/list-social-media-platforms-epa-uses> (navigate to expandable menu ‘YouTube’).

National FOIA Library. EPA utilizes the National Online FOIA library to quickly release records of national interest including: final opinions, administrative staff manuals and instructions, frequently requested records, major information systems, statements of policy, and Superfund related information. The National Online FOIA library is located here: <https://www.epa.gov/foia/national-online-foia-library>.

Regional FOIA Libraries. Regional FOIA online libraries provide the public with information specific to each region and are available here: <https://www.epa.gov/foia/foia-online-libraries>.

### **Important Environment and Public Health Disclosures.**

EPA’s most important proactive disclosures of environmental and public health information this year included the following:

CompTox Chemicals Dashboard. In July 2020, EPA issued the 10<sup>th</sup> release of the CompTox Chemicals Dashboard with more than 7,000 additional substances added to the dataset. The CompTox Dashboard now gives the public access to information on more than 883,000 substances and chemicals. Here is a link to the CompTox Dashboard: <https://comptox.epa.gov/dashboard>

Environmental Information by Location. EPA’s website contains public information on environmental conditions and EPA activities for specific locations of the United States.

- MyEnvironment provides a cross-section of environmental data for any location in the US, <https://www3.epa.gov/myem/envmap/find.html>.
- Envirofacts is a single point of access to several EPA databases to provide the public with information about environmental activities that may affect air, water, and land anywhere in the United States and generate maps of environmental information, available here: <https://enviro.epa.gov/>.

Southeast Chicago Environmental Issues. In cooperation with Illinois EPA and the City of Chicago’s Department of Public Health, over 75 companies were investigated for Clean Air Act compliance since 2014. EPA’s Region 5 continues to post updated information about 14 sites on its public facing website, including custom interactive geographic information system (GIS) map for the Southeast Chicago area that provides site-specific information pop-ups linking to particularized information, background, history, and status; and websites for each environmental site with documents, monitoring and sampling data, EPA records collections, advice for residents, and community involvement plans. This information, which is an example of how data transparency can be used to empower a local and historically overburdened community, is available at this link: <https://www.epa.gov/il/environmental-issues-southeast-chicago>.

2. *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. EPA has taken steps to make the posted information more useful to the public and the community of individuals who regularly access EPA's website.

3. *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.*

EPA regularly reviews its websites and reorganizes the information to make it more accessible to the public, and EPA creates new "dashboards" and interactive tools to manage information the public seeks. EPA's new webpage on the COVID-19 virus and new interactive tools available on that webpage is a prime example of EPA's efforts.

4. *Optional -- Please describe: Best practices used to improve proactive disclosures and any challenges your agency faces in this area.*

EPA continually strives to improve and increase disclosure of important environmental and public health information to the public. EPA does this in a variety of ways, including the following best practices:

- Disclosure to One is Disclosure to All. EPA makes publicly available most records that have been released under FOIA (except records responsive to first party requests) through FOIAonline regardless of the number of times requested.
- EPA program offices continuously disclose to the public, including through interactive websites, the public health and environmental information that EPA collects.
- EPA's new webpage on the COVID-19 virus and new interactive tools available on that webpage is a prime example of EPA's efforts.

## Section IV: Steps Taken to Greater Utilize Technology

*A key component of FOIA administration is using technology to make information more accessible. 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.*

*1. Please briefly describe the types of technology your agency uses to support your FOIA program. In addition, please highlight if your agency is leveraging or exploring any new technology that you have not previously reported. If so, please describe the type of technology.*

EPA uses FOIAonline to organize data regarding FOIA processing. EPA also uses a centralized search tool to identify and collect responsive records stored on EPA's Microsoft Office 365 environment. A team of specialists in EPA's eDiscovery Division conducts email searches using the Microsoft Office 365 Security and Compliance Center and delivers to EPA staff the results for review and processing using Relativity, the Agency's record review platform. Agency uses Relativity to electronically review the centrally collected documents to respond to FOIA requests.

EPA has also made available to the public an internet-based search tool, MyProperty (<https://enviro.epa.gov/facts/myproperty/>), to allow the public to obtain environmental information on site-specific addresses without the need to file a FOIA request. EPA also leverages existing tools, like Envirofacts (<https://enviro.epa.gov/>), to allow the public to conduct a search and obtain a certificate when these data systems have no information about the specific address.

*2. 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?*

Yes. EPA reviewed its FOIA website during the reporting period to ensure the website addresses the elements in OIP's 2017 guidance. In particular, EPA's website homepage has a prominently-displayed link to EPA's FOIA homepage, which has prominently-displayed links to: the FOIA statute and EPA regulations; a page on how to make a FOIA request; a page regarding the EPA FOIA library; a page regarding EPA's FOIA Public Liaison; a page regarding how to search existing FOIA requests; a series of pages with more detail about FOIA at EPA including EPA's FOIA reports; and pages on specific frequently asked questions. EPA regularly posts new information to its FOIA website.

*3. Did your agency successfully post all four quarterly reports for Fiscal Year 2020?*

Yes. EPA posted all four quarterly reports for FY 2020 to its public facing website, available at <https://www.epa.gov/foia/department-justice-quarterly-reports>.

*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 2021.*

EPA has successfully posted all quarterly reports for FY 2020 to its public facing website, but only 3 of the 4 FY 2020 quarterly reports successfully appeared on the FOIA.gov National FOIA Portal. EPA commits to work with Department of Justice Office of Information Policy in FY 2021 to identify and resolve the issues impeding EPA's data from displaying on the National FOIA Portal.

*5. 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 2019 Annual FOIA Report and, if available, for your agency's Fiscal Year 2020 Annual FOIA Report.*

As of the date of this report, the raw statistical data for the EPA FY 2019 FOIA Annual Report, is not yet available on EPA's website for public inspection and bulk download. EPA is working to quickly resolve this omission and will make the raw statistical data for FY 2019 electronically available for public inspection at the same URL for prior reports, <https://www.epa.gov/foia/foia-reports#annual>. Regarding FY 2020 FOIA Annual Report data, EPA will timely post the raw statistical data at the same URL above.

*6. Optional -- Please describe: Best practices used in greater utilizing technology and any challenges your agency faces in this area.*

EPA's strategy to greater utilize technology in FOIA processing include routinely providing essential training on the available technology and, at the same time, adapting available technology in response to new challenges. For example, EPA's FOIA Expert Assistance Team (FEAT), located in EPA's National FOIA Office, provides FOIA training to reviewers and sets up kick-off training meetings that cover EPA's FOIA processing technologies, including document review technology. EPA's FOIA processing technology includes Relativity version 10.5 document review technology, which includes Email Threading and Textual Near Duplicate Identification (TNDI).

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

*The Department of Justice has 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 FY 2019 and 2020 Annual FOIA Reports.*

### 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 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 2020?*

No. While EPA's average number of days to process simple requests in FY 2020 was 48.77 days, EPA processed 63% of simple requests within 20 working days.

*3. Please provide the percentage of requests processed by your agency in Fiscal Year 2020 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.*

Of the 7,665 requests EPA processed in FY 2020, 73.29% of the requests processed were placed in the Simple track.

*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.

### 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 2019 and Fiscal Year 2020 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 2020, according to Annual FOIA Report Section XII.A, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2019?*

Yes. EPA's backlog of requests at the close of FY 2019 was 2,272 applying the definition DOJ requires for the Annual FOIA Report. EPA's backlog of requests at the close of FY 2020 as reported in EPA's Annual FOIA Report was 1,783. EPA decreased its backlog of requests by 21.35%, FY 2020 over FY 2019. DOJ requires, for consistency across agencies, that the annual report backlog calculation account for only 20-day or 30-day statutory response timeframes. Although the backlog reported in the FY 2020 Annual FOIA Report using this calculation is 1,783, when accounting for additional time to process requests under unusual circumstances and reflecting EPA's communication with requesters, the number of requests pending at the end of the fiscal year that were beyond the timeframe for a response, including alternative timeframes for processing as provided in § 552(a)(6)(B)(ii), was 1,395.

6. *If not, according to Annual FOIA Report Section V.A, did your agency process more requests during Fiscal Year 2020 than it did during Fiscal Year 2019?*

The backlog of requests EPA reported in its Annual FOIA Report at the close of FY 2020 was less than the backlog of requests reported at the close of FY 2019.

7. *If your agency's request backlog increased during Fiscal Year 2020, 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.*
- *Any other reasons – please briefly describe or provide examples when possible.*

EPA reduced the backlog of requests during FY 2020.

8. *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 2020. 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. If your agency has no request backlog, please answer with "N/A."*

EPA received 6,891 requests in FY 2020. The number of requests in the backlog reported in EPA's Annual FOIA Report at the close of FY 2020 was 1,783. The ratio of the number of backlogged requests reported in EPA's Annual FOIA Report at the close of FY 2020 to the number of requests received in FY 2020 is 25.87%.

## BACKLOGGED APPEALS

9. *If your agency had a backlog of appeals at the close of Fiscal Year 2020, according to Section XII.A of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2019?*

Yes. EPA's backlog of appeals at the close of FY 2019 was 64. EPA's backlog of appeals at the close of FY 2020 was one (1). EPA decreased its backlog of appeals by 98.41%, FY 2020 over FY 2019. EPA currently has no backlog of appeals.

10. *If not, according to section VI.A of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2020 than it did during Fiscal Year 2019?*

EPA reduced the backlog of appeals at the close of FY 2020 as compared to the backlog of appeals at the close of FY 2019, and currently has no backlog of appeals.

11. *If your agency's appeal backlog increased during Fiscal Year 2020, 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.*
- *Any other reasons – please briefly describe or provide examples when possible.*

EPA reduced its backlog of appeals during FY 2020.

12. *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 2020. 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. If your agency did not receive any appeals in Fiscal Year 2020 and/or has no appeal backlog, please answer with "N/A."*

EPA received 180 FOIA appeals in FY 2020. The number of appeals in the backlog at the close of FY 2020 was one (1). The ratio of the number of backlogged appeals at the close of FY 2020 to the number of appeals received in FY 2020 is 0.55%.

## C. Backlog Reduction Plans

13. *In the 2020 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2019 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 2020?*

Yes, EPA successfully implemented a backlog reduction plan in FY 2020: EPA reduced its FOIA request backlog as reported in its Annual FOIA Report by nearly 500 requests, or 21%.



During this reporting cycle, EPA developed new initiatives and continued building on actions started in the previous reporting cycle to improve its FOIA program.

- In 2018, EPA set a Strategic Goal to increase transparency and public participation as part of the Agency's FY 2018-22 Strategic Plan. EPA also started to restructure its FOIA program by establishing the National FOIA Office within the Office of General Counsel and redelegated to the General Counsel the Chief FOIA Officer functions. EPA also realigned its FOIA programs in its 10 regional offices into the Regional Counsel Offices to increase accountability and reporting through the Regional Counsels to the General Counsel, who is the Agency's Chief FOIA Officer.
- In FY 2020, EPA continued to use Lean management principles to continuously review and improve EPA's FOIA response processing. By deploying Lean management methods agency-wide, many offices across the agency conducted lean management improvement events around FOIA processing and deployed visual management tools to bring greater focus to FOIA processing. Headquarters FOIA program offices collectively reduced their FOIA request backlog by 25.6% over FY 2019, surpassing the Agency-wide 21% FY 2020 backlog reduction.
- EPA's National FOIA Office supported agency-wide backlog reduction efforts by issuing monthly FOIA backlog reports to EPA's senior leadership showing the backlog of overdue FOIA requests in each EPA headquarters and regional offices, as well as previous months' data trends.
- For FY 2020, each region and headquarters FOIA program office set office-specific annual goals and targets to reduce the backlog of overdue FOIA requests aligned with the agency-wide goal. Office-specific FOIA backlog reduction annual goals and monthly targets have been set for FY 2021, aligned with the Agency's FY 2018-22 Strategic Plan goal to eliminate the Agency's FOIA backlog by end of FY 2022.
- EPA maintained FOIA accountability language in all senior manager performance agreements Agency-wide in FY 2020, and EPA continued delivering specialized FOIA training for supervisors.

*14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2020, please explain your agency's plan to reduce this backlog during Fiscal Year 2021.*

EPA plans to continue the reforms it started in the prior year, including monthly data reporting of overdue FOIA requests showing progress towards the agency-wide and office-specific backlog reduction goals. EPA will also increase staff training and continue to deliver training to supervisors on their FOIA duties. EPA will continue attention to accountability through the performance review process.

EPA will also continue to apply Lean Management principles to FOIA agency-wide, thereby promoting continuous improvement through initiatives developed in each FOIA processing office, such as the Lean management project that the National FOIA Office currently has underway pertaining to the FOIA intake process. EPA will also continue to enhance FOIA processing in EPA's Office of Chemical Safety and Pollution Prevention, which reorganized and centralized its FOIA program at the end of FY 2020. Through regular review of data and

meetings to discuss both challenges and successes, EPA is committed to continuously identify ways to improve FOIA processing.

EPA also is exploring options for increasing proactive disclosure of certain record categories that frequently contain requested records, in order to increase the availability of these records to the public. The proactive disclosure of some records also has the potential to reduce the number of FOIA requests received and processed by offices that now have, or recently had, a backlog of overdue FOIA requests, thus helping EPA address and reduce its backlog over time. For example, EPA's Office of Chemical Safety and Pollution Prevention has identified the [Certification with Respect to Citation of Data \(EPA Form 8570-34\)](#) and the [Data Matrix \(EPA Form 8570-35\)](#) as strong candidates for proactive disclosure. These forms are frequently requested under FOIA but, unlike many OCSPP records, do not contain confidential business information. These forms are frequently requested by firms either to protect their rights as data submitters to ensure that follow-on applicants fully comply with data citation and compensation requirements or by follow-on applicants. This spring, OCSPP will explore making these records publicly available via an existing product-based public facing database called the Pesticides Products Label System, or PPLS.

#### D. Status of 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 2019 and Fiscal Year 2020 when completing this section of your Chief FOIA Officer Report.*

##### OLDEST REQUESTS

*15. In Fiscal Year 2020, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2019 Annual FOIA Report?*

No, EPA did not close all the ten oldest requests reported in the FY 2019 Annual FOIA Report.

*16. 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 2019 Annual FOIA Report. If you had fewer than ten total oldest requests to close, please indicate that.*

In FY 2020, EPA successfully closed nine of the ten oldest FOIA requests that were pending and reported in the FY 2019 Annual FOIA Report.

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

EPA's efforts to reorganize and improve FOIA processing described in response to the questions above are the steps that EPA took to reduce the overall age of FOIA requests pending with EPA.

## TEN OLDEST APPEALS

18. *In Fiscal Year 2020, did your agency close the ten oldest appeals that were reported pending in Section VII.C.5. of your Fiscal Year 2019 Annual FOIA Report?*

Yes, EPA successfully closed all of the ten oldest appeals reported in the FY 2019 Report

19. *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 2019 Annual FOIA Report. If you had fewer than ten total oldest appeals to close, please indicate that.*

EPA successfully closed the ten oldest appeals pending in the FY 2019 Annual Report.

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

The General Law Office, situated in the Office of General Counsel, made numerous improvements throughout FY 2020 to the administrative appeal process to maximize efficiency. Management applied Lean management methods and techniques, including a weekly workflow huddle, and met weekly with attorneys to discuss workload, substantive legal issues, and next steps. These meetings allowed management to more quickly identify when an appeal needed to be reassigned to a different attorney due to workload.

As a result of these efforts, the office had faster response times (decreased the median number of days to respond to appeals from 107 in FY 2019 to 20 in FY 2020) and ended FY 2020 with only one backlogged appeal. That appeal has since been closed, leaving EPA with no appeals backlog as of the end of February 2021.

## TEN OLDEST CONSULTATIONS

21. *In Fiscal Year 2020, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2019 Annual FOIA Report?*

No.

22. *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 2019 Annual FOIA Report. If you had fewer than ten total oldest consultations to close, please indicate that.*

EPA closed five of the ten oldest consultations that were pending and reported in the FY 2019 Annual Report.

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

23. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2019.

The primary challenge in closing the oldest requests from FY 2020 was due to the need to confer internally with multiple EPA offices on review of records with shared equities. EPA anticipates closing the remaining requests, appeals, and consultations in FY 2021.

24. 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.

25. 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 2021.

The program offices assigned to process any of the ten oldest requests or consultations have assigned a FOIA professional for processing.

As for appeals, the Office of General Counsel closed all of the ten oldest appeals reported in the FY 2019 Annual report and only carried nine pending appeals into FY 2021.

## F. Success Stories

*Out of all the activities undertaken by your agency since March 2020 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, but should not be something that you have reported in a prior year. As noted above, OIP will highlight these agency success stories during Sunshine Week. 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.*

- **EPA successfully reduced its request and appeal backlogs significantly this year.**
  - EPA reduced its FOIA appeals backlog by more than 98%.
  - EPA also reduced its FOIA request backlog as reported in its Annual FOIA Report by nearly 500 requests, or 21% in FY 2020 and by nearly 1,000 requests in the past two years.
- **EPA successfully launched a new webpage proactively disclosing COVID-19 information.**
  - EPA created a new webpage -- <https://www.epa.gov/coronavirus> -- displaying in one location critical information on the virus including effective disinfectants and cleaning agents.

- The page provides information on: disinfectants; impacts to drinking water; and EPA’s efforts to identify and provide personal protective equipment to support the country’s response.
  - EPA launched a new web-based tool – the List N Tool: COVID-19 Disinfectants – for the public to easily identify EPA screened disinfectant products for use in preventing the spread of the COVID-19 virus. <https://www.epa.gov/listntool>.
- **EPA issued updated agency FOIA policy and procedures and provided a distance learning training for more than 250 FOIA professionals.**
    - EPA reviewed and updated its agency wide FOIA Policy and FOIA Procedures to enhance coordination in FOIA processing among the Agency’s 22 program and regional offices.
    - EPA’s National FOIA Office also issued a step-by-step “FOIA Toolkit” guide and training tool for the lifecycle of FOIA processing at EPA.
    - EPA’s National FOIA Office developed and delivered a 4-day, multi-session, intensive distance learning leadership training conference attended by more than 250 EPA FOIA professionals and managers from EPA’s 10 regional and 12 headquarters program offices.