



**United States
Environmental Protection Agency
Chief FOIA Officer Report
2022**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
2022 CHIEF FOIA OFFICER REPORT**

**Jeffrey M. Prieto
General Counsel**

TABLE OF CONTENTS

Executive Summary1

Section I: Steps Taken to Apply the Presumption of Openness.....5

 A. FOIA Leadership.....5

 B. FOIA Training.....5

 C. Outreach.....9

 D. Other Initiatives.....10

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for
Responding to Requests13

Section III: Steps Taken to Increase Proactive Disclosures.....19

Section IV: Steps Taken to Greater Utilize Technology.....28

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing
Backlogs31

 A. Simple Track31

 B. Backlogs31

 Backlogged Requests32

 Backlogged Appeals.....33

 C. Backlog Reduction Plans.....33

 D. Status of Oldest Requests, Appeals, and Consultations.....35

 Oldest Requests.....35

 Ten Oldest Appeals.....35

 Ten Oldest Consultations.....36

 E. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans36

 F. Success Stories.....38

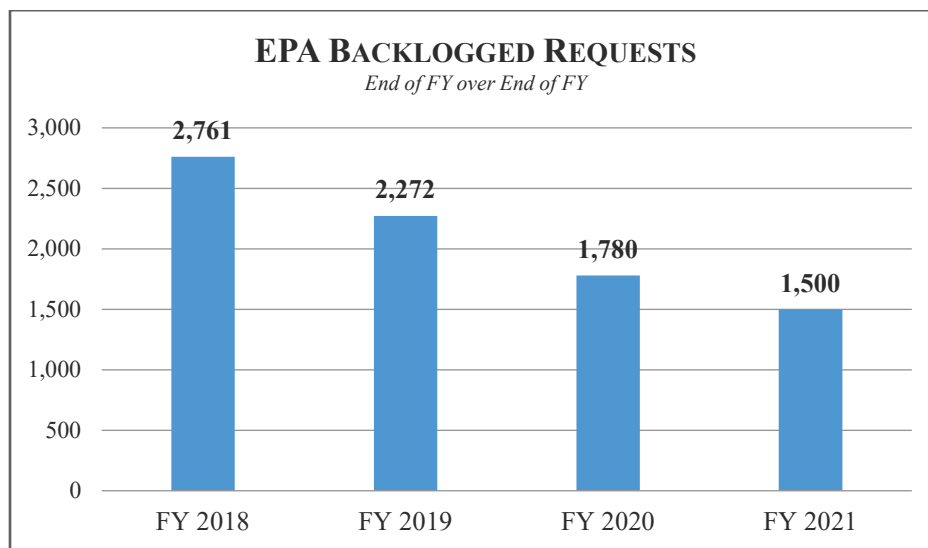
Appendix40

Executive Summary

The Environmental Protection Agency (EPA) is committed to implementing the Freedom of Information Act (FOIA) to promote transparency and build public trust in agency actions. In FY 2021, EPA significantly enhanced its FOIA processing program by building on initiatives started in prior years and by launching new ones under a commitment to continuous improvement.

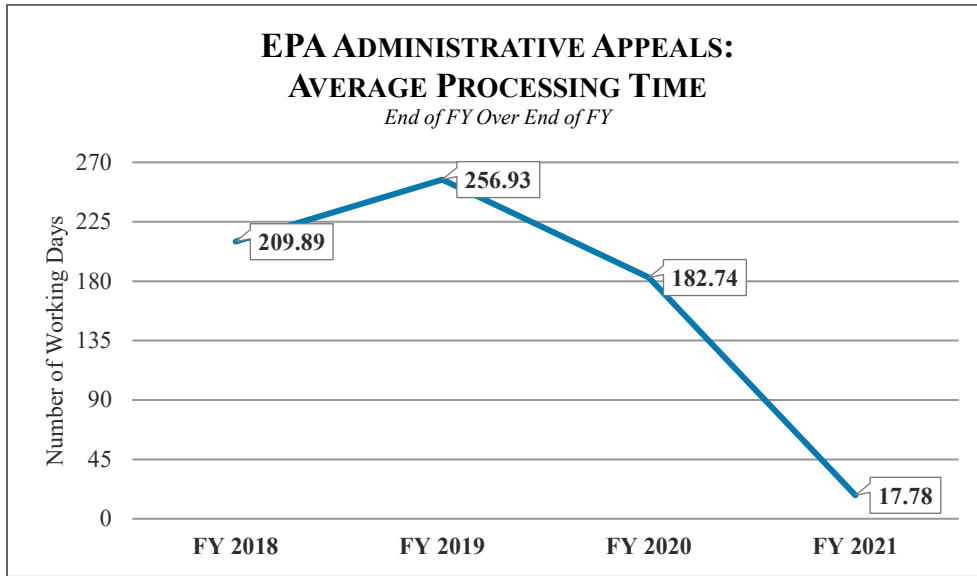
EPA Reduced Its Requests Backlog and Eliminated Its Appeals Backlog.

In FY 2021, EPA reduced its FOIA request backlog as reported in its Annual FOIA Report by 280 requests, or 16%. This extraordinary result builds on reductions in prior years: EPA reduced its backlog of FOIA requests by more than 1,250 requests over three fiscal years. 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 data.



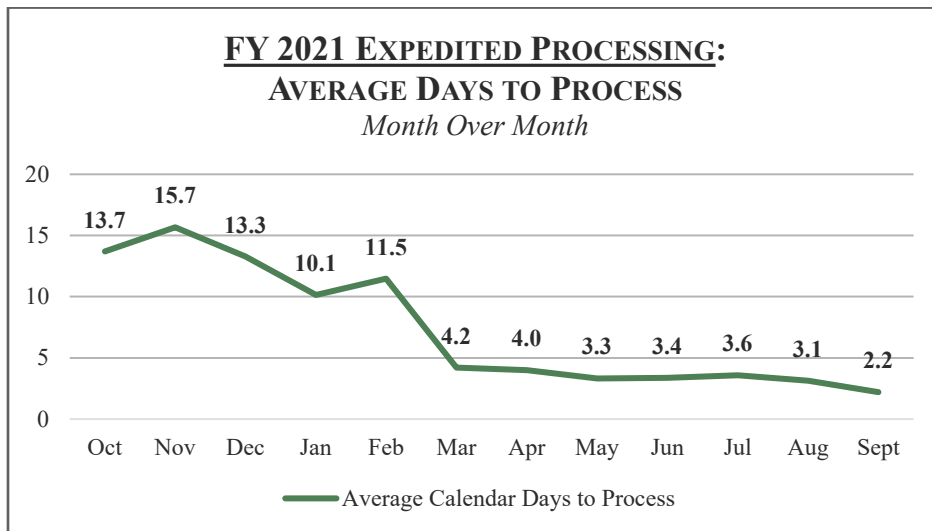
EPA also eliminated the administrative appeals backlog in FY 2021, and EPA reduced its average appeal response time from 256.93 days in FY 2019 to 17.78 days in FY 2021—a 93% reduction—by applying lean management methods such as weekly workflow meetings on all pending appeals. In FY 2021, EPA processed more than 99% of the appeals within the statutory timeframe. Since the 2nd quarter of FY 2021, EPA has not had a backlogged appeal.

ADMINISTRATIVE APPEALS DATA			
<i>FY 2018 through FY 2021</i>			
<u>Fiscal Year</u>	<u>Median Number of Days</u>	<u>Average Number of Days</u>	<u>Backlog</u>
FY 2018	73	209.89	140
FY 2019	107	256.93	64
FY 2020	20	182.74	1
FY 2021	18	17.78	0



Increased Speed of Issuing Decisions on Requests for Expedited Processing Applications.

In FY 2021, EPA identified a need to increase the speed of its decisions on applications for expedited processing, and EPA applied lean management methods and techniques to dramatically reduce the time to issue these decisions. EPA implemented process improvement innovations reducing the average number of days to adjudicate an expedited processing application from 21.06 days in FY 2020 to only 7.77 days in FY 2021, a 63% improvement in the speed of issuing these decisions. This measurable processing speed improvement illustrates the results EPA has achieved by its commitment to continual improvement through applying lean management methods, techniques and principles throughout EPA’s decentralized FOIA processing program. While management identified the need for this improvement, credit goes to the individual staff who reviewed their own process steps and identified ways to eliminate steps and speed the process through focused attention and continuous problem solving.



FOIA Fee Invoice Verification and Improvement Project.

This year, EPA conducted a FOIA Fee Invoice Verification and Improvement Project to ensure the quality of fee invoicing data recorded in EPA's FOIA case management database. This project reviewed and verified or corrected all FOIA delinquent invoices recorded in the FOIAonline system. The review looked at more than 14,000 invoices, totaling approximately \$1.5 million covering the period of FY 2013 to FY 2021. The Project verified all outstanding invoices, resolved or wrote off uncollectable debt, and refunded overpayments totaling approximately \$30,000. The Project also included a review and revision of the Agency's guidance to program offices on how to properly assess FOIA fees, to estimate fees, and to invoice for fees incurred. In August 2021, EPA issued a FOIA Fees Checklist as an addendum to the Agency's FOIA Toolkit to provide more clear guidance and enhance consistency in FOIA fee assessment.

Training.

EPA is also committed to issuing high quality decisions throughout the FOIA response process. In FY 2021, EPA launched a new initiative to improve staff knowledge and skills in applying the FOIA by creating a centralized FOIA training committee to review and progressively strengthen the training provided throughout EPA's decentralized FOIA processing program. This initiative will increase the quality and consistency of EPA's training while building on EPA's strong tradition of encouraging EPA FOIA professionals to share their skills, knowledge, enthusiasm, and leadership by developing or presenting FOIA trainings to the EPA FOIA Community and EPA at-large.

EPA FOIA Training Committee.

The Training Committee leverages the FOIA knowledge and expertise of its members from regional and headquarters FOIA professional staff to: (1) assess the training needs of the EPA FOIA Community; (2) provide a centralized point for review to ensure quality of widely disseminated FOIA trainings at EPA; and (3) design training resources that emphasize prevailing FOIA best practices and improve consistency of FOIA practice across the Agency.

Already in its first year, the EPA FOIA Training Committee:

- Conducted an initial survey of training needs;
- Provided training on fee assessments to support EPA's FOIA Fee Invoice Verification and Improvement Project;
- Delivered a training at a monthly FOIA Community Meeting on application of the deliberative process privilege;
- Instituted a regular practice of reporting at FOIA Community Meetings on significant new court decisions and on frequent counseling questions; and
- Oversaw the creation of the FY 2022 all staff training and the conversion of the prior in-person Supervisor Training into two eLearning modules hosted in EPA's FedTalent learning management system, one on management oversight responsibilities and the other on application of exemptions.

Internal EPA FOIA Training Events.

EPA FOIA experts provided a wide variety of training, briefing, and assistance on an as needed or project-specific basis throughout the year. Comprehensive training to EPA FOIA professionals and Agency personnel covered several FOIA topic areas, including: Exemption 5, Deliberative Process

Privilege; Still Interested Inquiries and Negotiating with FOIA Requesters; Conducting Self-Audits of Due Date Extensions and Supporting Documentation; and several FOIA fees-related topics.

EPA's Decision to Sunset FOIAonline in Two Years.

In November 2021, EPA announced its decision to sunset FOIAonline and cease operating FOIAonline as a shared federal service after the end of fiscal year 2023. EPA made this decision recognizing the substantial programming costs needed to modernize FOIAonline and the problems experienced transitioning FOIAonline to operate in a cloud environment. EPA believes that the decision and two-year timeline gives all partner agencies the opportunity for an orderly process to transition to alternative software solutions available on the market. While FOIAonline was innovative and widely recognized as the best available, cost effective option when EPA first created it, the commercial market has since significantly developed with a variety of products now available with a range of pricing structures for partner agencies to choose among.

EPA, like the other FOIAonline partner agencies, has the challenge over the next two years to procure, deploy, and train staff and requesters on an appropriate new FOIA case management software solution that meets the public's and EPA's needs. Key features that EPA is committed to offering to the public include: a user-friendly portal for the public to submit requests to EPA, a personal dashboard to track progress of requests, ability to receive notices from and communicate directly with the Agency at all points in the process, electronically receive and retrieve records from EPA, and generate analytical reports regarding agency FOIAs. EPA remains committed to the principle of release to one is release to all. Consequently, EPA is committed to offering the public a means to search for records previously released to other requesters through a user-friendly portal.

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, a Senate confirmed, Presidential appointment position.

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

Jeffrey M. Prieto, 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 intersection of the FOIA and the Privacy Act, and FOIA Exemption 6, Personal Privacy. In FY 2021, 96%¹ of EPA employees successfully completed the training.

FOIA Supervisor Training (In-house).

Initiated in 2019, FOIA experts from EPA's Office of General Counsel developed and provided in-person trainings to EPA SES and non-SES supervisors regarding the essential FOIA knowledge supervisors need to successfully comply with the FOIA, support Agency Strategic Plan goals related to FOIA, and fulfill new FOIA-specific elements and performance measures in performance agreements. The National FOIA Office made available to EPA supervisors a video recording of a prior in-person training that can be remotely accessed on-demand.

In 2021, the National FOIA Office converted the Supervisor Training into two eLearning modules hosted in EPA's FedTalent learning management system, one on oversight responsibilities and the other on application of exemptions. Hosting a module in FedTalent increases accessibility and data reporting, is user accessibility tested for assistive technologies, and complies with Section 508 requirements. The training module on oversight responsibilities will be available to EPA supervisors in March 2022.

¹ 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 substantive FOIA training during the reporting period.

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

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 (DOJ), Office of Information Policy:

Virtual Best Practices FOIA Administration During the Pandemic: Opportunity for agencies to discuss challenges and to learn successful strategies that small, medium, and large agencies have implemented to adjust to the workplace challenges associated with the COVID-19 pandemic.

Virtual Continuing FOIA Education: Discussion of current legal and policy developments impacting FOIA administration, and an overview of recent FOIA court decisions.

Virtual Procedural Requirements, Proactive Disclosures and Fees and Fee Waivers Workshop: Overview of the FOIA's procedural requirements, proactive public disclosures, and statutory fees and fee waiver provisions.

Virtual Annual/Quarterly FOIA Report Training: Overview of requirements for completing and submitting agencies' Annual and Quarterly FOIA Reports in accordance with the FOIA and DOJ guidance.

Virtual Chief FOIA Officer Report Training: Overview of requirements for agencies' Chief FOIA Officer Reports.

District of Columbia Bar Association (External).

EPA FOIA professionals and staff with FOIA responsibilities attended the following training offered by the District of Columbia Bar Association:

Basics of Filing and Litigating Freedom of Information Act Requests 2021: The class focused on the litigation of FOIA cases before district courts and the different standards and procedures that apply to FOIA cases through the different perspectives of lawyers for the defendant-agency and for the plaintiff-requester. The instructors demonstrated how to frame and pursue FOIA requests before different federal agencies, discussed FOIA exemptions, and provided a brief discussion of Privacy Act requests and litigation.

American Society of Access Professionals (External).

EPA FOIA professionals and staff with FOIA responsibilities attended the following training offered by the American Society of Access Professionals:

Tech Talk: Honorable John Facciola shared his expertise and years on the bench to help expand the eDiscovery knowledge to the Federal family. Judge Facciola highlighted how legal technology can help advance many areas of the law including FOIA.

EPA FOIA Training Committee (In-house).

In FY 2021, EPA launched a new initiative to improve staff knowledge and skills in applying the FOIA by creating a new, centralized FOIA training committee to review and progressively strengthen the training provided throughout EPA's decentralized FOIA processing program. This initiative will increase the quality and consistency of EPA's training while building on EPA's strong tradition of encouraging EPA FOIA professionals to share their skills, knowledge, enthusiasm, and leadership by developing or presenting FOIA trainings to the EPA FOIA Community and EPA at-large.

The Committee leverages the FOIA knowledge and expertise of its members from regional and headquarters FOIA professional staff to ensure the quality of FOIA training provided throughout EPA. The Committee has the following objectives:

- Identify and respond to EPA FOIA Community needs for new training resources;
- Facilitate access to existing training resources, including the development and maintenance of an archive or library for use by the EPA FOIA Community;
- Ensure training resources are tailored to diverse roles, tasks, and concepts related to EPA FOIA processing; and
- Design resources that emphasize prevailing FOIA best practices and improve consistency in FOIA practice across the Agency in accordance with statutory requirements, regulatory requirements, and EPA FOIA Policy and Procedures.

Already in its first year, the EPA FOIA Training Committee:

- Conducted an initial survey of training needs;
- Provided training on fee assessments to support EPA's FOIA Fee Invoice Verification and Improvement Project;
- Delivered a training at a monthly FOIA Community Meeting on application of the deliberative process privilege;
- Instituted a regular practice of reporting at FOIA Community Meetings on significant new court decisions and on frequent counseling questions; and
- Oversaw the creation of the FY 2022 all staff training and the conversion of the prior in-person Supervisor Training into two eLearning modules hosted in EPA's FedTalent learning management system, one on oversight responsibilities and the other on application of exemptions.

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.

- The National FOIA Office, in the Office of General Counsel, provided comprehensive training to FOIA professionals and agency employees in several FOIA topic areas, including: Identifying Proactive Disclosures; Choosing the Appropriate Disposition at Closeout; Still Interested Inquires and Negotiating with FOIA Requesters; Conducting Self-Audits of Due Date Extensions and Supporting Documentation; EPA's Awareness Notification Process; FY 2021 issued Fees Checklist; and several fees-related topics.
- The Office of General Counsel regularly presented to the EPA FOIA Community updates on federal court decisions involving significant or novel FOIA issues.

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, case law developments, and FOIA related topics.

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

EPA FOIA professionals attended several eDiscovery training events:

- RelativityFest 2021 conference to stay abreast of advances in eDiscovery technology and best practices applicable to processing FOIA document reviews using Relativity software.
- FEDWG Virtual Conference sponsored by FDIC focusing on eDiscovery case law, Ethics, and Privacy and FOIA.
- Electronic Discovery Symposium for Government Agencies presented by Deloitte highlighting the intersection between technology, including artificial intelligence and cybersecurity, and federal eDiscovery and FOIA.
- The EPA provided training throughout the year to EPA FOIA professionals on the analytics tools included in EPA’s e-Discovery Relativity platform that can be leveraged to more efficiently review records for response to FOIA requests.

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 nearly all EPA FOIA professionals took substantive FOIA training in FY 2021. Ninety-six percent of all EPA employees took the FY 2021 Annual FOIA Training, and EPA identified less than 5 FOIA professionals who did not take this annual 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.

This is not applicable to EPA.

8. Did the personnel at your agency who have FOIA responsibilities attend training in federal records management during this reporting period?

Yes. EPA policy requires all Agency employees to complete Annual Records Management Training. The FY 2021 training helped EPA personnel better understand the importance of records management and records management responsibilities. The training covered the following topics: identification of official records; importance of records management; records management responsibilities; records life-cycle, records schedules and file plans; the EPA National Records Management Program and its role in records management; and how to find answers to records management questions.

In May 2021, the EPA Chief Information Officer sent out an agency wide email reminding EPA personnel of their federal records responsibilities.



MESSAGE FROM THE
**CHIEF INFORMATION OFFICER,
OFFICE OF MISSION SUPPORT**

This email message is being sent to EPA employees.

Dear Colleagues,

EPA's National Records Management Program (NRMP) provides direction, policy and guidance on managing the records that support EPA's mission. NRMP would like to remind Agency employees about the importance of our federal records management (RM) responsibilities, including the two important points below:

- **Use of Personal Messaging Accounts and Devices for Official Agency Business:**
EPA **strongly discourages** the use of personal email or other personal electronic messaging systems, including text messaging on a personal mobile device, for sending or receiving Agency records, but to the extent such use occurs, the individual creating or sending the record from a non-EPA electronic messaging system must copy their EPA email account at the time of transmission or forward. The Federal Records Act (FRA) prohibits the creation or sending of a federal record using a non-EPA electronic messaging account unless the individual creating or sending the record either: (1) copies their EPA email account at the time of initial creation or transmission of the record, or (2) forwards a complete copy of the record to their EPA email account within 20 days of the original creation or transmission of the record.
- **Text Messages/Pictures/Videos/Audio Records on your EPA Mobile Device:**
EPA discourages the use of text messages for sending or receiving records on your EPA mobile device. To the extent such use occurs, forward a copy of the message to your EPA email account within 20 days of creation or sending. When forwarding text messages, pictures, videos, and audio from the mobile device to the EPA email system, be sure to include the time, date, subject, and sender/recipient of the message whenever possible. Follow these [instructions](#) to forward a text message from a mobile device to your EPA email account.

Records help document, codify, and explain our work as an Agency. That's why it's so important that records created or received using various tools and platforms must always be properly preserved in accordance with applicable statutes, regulations, EPA policy, guidance, and records schedules. It's also why all of us as EPA employees are responsible for identifying and managing records created or received on a mobile device, just like any other record source.

For more information about EPA's records management program and how you can improve your own records management practices, please see the [National Records Management Program SharePoint site](#).

Thank you,

Vaughn Noga
Chief Information Officer and
Deputy Assistant Administrator for Environmental Information

C. Outreach

9. Did your FOIA professionals engage in any outreach or dialogue, outside of the standard request process, 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.

Two EPA personnel, Patricia Weth, a manager in EPA’s Office of General Counsel and Matthew Schwarz, an attorney advisor in EPA’s Office of General Counsel, currently serve as government members of the FOIA Advisory Committee for the 2020-2022 term. The FOIA Advisory Committee establishes an open and transparent way for the public to provide the federal government advice regarding FOIA implementation, and it consists of members both inside and outside the Federal government, who have considerable FOIA expertise. NARA created the Advisory Committee to foster dialogue between the Federal Government and the requester community and to solicit public comments and develop recommendations for improving FOIA administration and proactive disclosures.

Chief FOIA Officers Council Technology Committee.

Four EPA personnel, Jennifer MacDonald, an attorney-adviser in EPA’s Region 10 Office of Regional Counsel, Mark Muro, a government information specialist in EPA’s Region 5, Brian Thompson, a manager in the EPA’s Office of Mission Support, and Heather Thompson, an attorney-adviser in EPA’s Office of General Counsel; represent EPA on the Chief FOIA Officers Council, Technology Committee. The Chief FOIA Officers Council established the Technology Committee to study the use and deployment of technology in FOIA programs across agencies, and to identify best practices and recommendations that can be implemented across agencies. Mark Muro co-chairs the FOIAonline Working Group.

Chief FOIA Officers Council Committee on Cross-Agency Collaboration and Innovation.

Two EPA personnel, Brittany Pugh, a government information specialist in EPA’s Office of Chemical Safety and Pollution Prevention, and Nicole Rementer, an attorney-adviser in EPA’s Office of General Counsel, serve as EPA members on the Chief FOIA Officers Council, Committee of Cross-Agency Collaboration and Innovation (COCACI). The Chief FOIA Officers Council created the COCACI in October 2020 to implement Recommendation 16 from the 2018-2020 FOIA Advisory Committee Final Report and Recommendations. Its purpose is to research and propose cross-agency grant programs and funding sources, create federal career paths for FOIA professionals, and promote models to align agency resources with agency transparency. Nicole Rementer co-chairs the Government Information Specialists (Job Series) Professionalization Subcommittee.

D. Other Initiatives

10. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe:

- * How often and in what formats your agency provides FOIA training or briefings to non-FOIA staff; and*
- * If senior leaders at your agency received a briefing on your agency’s FOIA resources, obligations and expectations during the FOIA process?*

Message From the Administrator.

On May 19, 2021, Administrator Regan issued an email message to all EPA employees emphasizing the importance of the FOIA as a tool that “implements a bedrock principle of democracy that the public is entitled to ‘know what their government is up to.’” This message implements the 2018-2020 FOIA Federal Advisory Committee Recommendation 17, which encourages “agency leadership annually issue a memorandum reminding the workforce of its

responsibilities and obligations under FOIA and encouraging the workforce to contact the agency's FOIA officer for assistance with the FOIA process." Administrator Regan committed EPA "to being a flagship example of transparent, efficient, and effective government," and EPA employees "will work together to serve the public interest, ensure the public trust, and emphasize transparency, disclosure, and cooperation." *See Appendix.*

Mandatory Annual FOIA Training.

EPA required all employees to complete mandatory FOIA Awareness Training in FY 2021. The training was provided via an online training platform, FedTalent, 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 2021, 96% of employees successfully completed the required training, which focused on the intersection of the FOIA and the Privacy Act, and FOIA Exemption 6, Personal Privacy.

FOIA-Related Performance Standards.

EPA requires that all senior manager performance agreements contain FOIA-related performance responsibilities to ensure Agency management promotes compliance with FOIA laws, regulations, policies, and Executive Orders. 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.

Starting in 2020, FOIA experts from EPA's Office of General Counsel developed and provided in-person trainings to EPA SES and non-SES supervisors regarding the essential FOIA knowledge supervisors need to successfully comply with the FOIA, to support Agency Strategic Plan goals related to FOIA, and to fulfill new FOIA-specific elements and performance measures in performance agreements. The National FOIA Office made available to EPA supervisors a video recording of a prior in-person training that can be remotely accessed on-demand.

In 2021, the National FOIA Office converted the Supervisor Training to be an eLearning module hosted in EPA's FedTalent training management system used to provide training to EPA personnel. Hosting the module in FedTalent increases accessibility and data reporting. Available in January 2022, the FedTalent version is Section 508 compliant and user accessibility tested for assistive technologies.

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 records 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. The FOIA SharePoint site also prominently displays news highlights including regarding recent court decisions.

11. *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.*

EPA Championed Accountability Through Transparency Agency-wide.

This year, EPA championed FOIA implementation and worked to enhance transparency throughout the year to better ensure that the presumption of openness is applied and to improve compliance. Steps taken included:

- Monthly FOIA Backlog Reports to Senior Leadership. 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.
- Routine Meetings of EPA FOIA Professionals. The National FOIA Office emphasized the presumption of openness and FOIA compliance during regular meetings of the FOIA Community.
- Requester Engagement for More Efficient Processing. EPA's FOIA professionals regularly work with requesters throughout the FOIA process to seek clarification and to develop schedules for interim releases when appropriate.
- Post Simplified Calendars of Senior Officials on EPA Webpage. In response to inquiries from the requester community, EPA proactively posts on the EPA webpage simplified, or abridged, calendars of Agency senior leadership. The simplified calendars provide the public with information regarding key activities of EPA Senior Leaders.
- Proactively Release Monthly Visitors Logs of Headquarters Buildings. EPA uploads Headquarters visitors logs to the FOIA website by the 15th of each month. Posting the visitors logs eliminates the need for the public to submit a FOIA request to obtain this information.
- Superfund Redevelopment Mapper. To help communities affected by Superfund sites reclaim and return land to safe and beneficial use, EPA developed the Superfund Redevelopment Mapper to help stakeholders explore potential reuse opportunities. It provides users with Superfund site locations and options for adding data layers that highlight site features and site surroundings.
- Improving Public Access to Information About Chemicals. EPA is constantly expanding content in ChemView, a search tool that provides public access to key health and safety information about various chemicals, including EPA assessments and actions on chemicals.

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 describes your agency's efforts in this area.

1. For Fiscal Year 2021, 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 achieved a significant improvement in adjudicating requests for expedited processing by reducing the average number of days to 7.77 in FY 2021, a 63% reduction compared with 21.06 days in 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 2021 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.

This is not applicable to EPA. EPA's average number of days to adjudicate requests for expedited processing was 7.77 days.

3. The FOIA Improvement Act of 2016 required all agencies to update their FOIA regulations within 180 days. In 2016, OIP issued Guidance for Agency FOIA Regulations and the accompanying Template for Agency FOIA Regulations to assist agencies in updating their regulations in accordance with the statute. 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.

4. Standard Operating Procedures (SOPs) generally document your agency's internal processes for administering the FOIA beyond your FOIA regulations and FOIA Reference Guide. As noted in OIP's guidance, having SOPs can improve the consistency and quality of an agency's FOIA process. SOPs can also serve as a significant resource for incoming FOIA professionals and a way to preserve much of the agency's institutional knowledge on administering the FOIA from how to handle requests from start-to-finish, to identifying and making proactive disclosures, to maintaining a FOIA website. Does your agency have up-to-date internal SOPs for your FOIA administration?

In November 2020, EPA 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 an updated step-by-step “FOIA Toolkit” guide and training tool for the life-cycle of FOIA processing at EPA. EPA initially issued an updated draft of the FOIA Toolkit in November 2020 and then finalized the current version in April 2021. EPA intends the FOIA Toolkit to be a “living document” that EPA can easily update. For example, in August 2021, EPA issued a FOIA Fees Checklist as an addendum to the FOIA Toolkit in order to provide more clear guidance and enhance consistency in FOIA fee assessment.

5. *If not, please provide a timeline for when your agency plans to develop or update its SOPs.*

This is not applicable to EPA.

6. *Has your agency established alternative means of access to first-party requested records outside of the FOIA process?*

The EPA does have an alternative means of access to first party requested records outside of the FOIA.

7. *If yes, please provide examples. If no, please explain if such opportunities exist at your agency and whether there are any challenges in establishing alternative means of access.*

In the External Civil Rights Compliance Office, incoming civil rights complaints from members of the public that are accepted for investigation are provided to EPA recipients with any needed redactions as an attachment with the formal acceptance letter initiating the investigation process, so that recipients can respond in writing as described in 40 C.F.R. Part 7.

8. *Did your agency conduct a self-assessment of its FOIA administration during the reporting period? If so, please describe the self-assessment methods used, such as analyzing Annual Report or raw data, using active workflows and track management, reviewing and updating processing procedures, etc. In addition, please specifically highlight any data analysis methods or technologies used to assess your agency's FOIA program.*

This year, EPA conducted a FOIA Fee Invoice Verification and Improvement Project to ensure the quality of fee invoicing data recorded in EPA’s FOIA case management database. This project reviewed and verified or corrected all FOIA delinquent invoices recorded in the FOIAonline system. The review looked at more than 14,000 invoices, totaling approximately \$1.5 million covering the period of FY 2013 to FY 2021. The Project verified all outstanding invoices, resolved or wrote off uncollectable debt, and refunded overpayments totaling approximately \$30,000. The Project also included a review and revision of the Agency’s guidance to program offices on how to properly assess FOIA fees, to estimate fees, and to invoice for fees incurred. In August 2021, EPA issued a FOIA Fees Checklist as an addendum to the Agency’s FOIA Toolkit to provide more clear guidance and enhance consistency in FOIA fee assessment.

9. *The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency’s FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency’s FOIA Public Liaison during FY 2021 (please provide a total number or an estimate of the number).*

For FY 2021, EPA’s FOIA Public Liaison responded to an estimated 60 requests for assistance. The FOIA Public Liaison email account received approximately 5 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 as well as in every FOIA closeout letter and interim response letters.

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

EPA's National FOIA Office has conducted a number of office-specific and agency-wide reviews of FOIA staffing. As an outgrowth of those reviews, EPA's National FOIA Office partnered with EPA's Office of Chemical Safety and Pollution Prevention, EPA's Office of Water, and EPA's Office of the Administrator to establish a contract for FOIA document reviewers for up to 3 years and \$4 million in contractor document review services. This contract is a pilot designed to provide additional contractor staff to assist with two offices that have the largest backlogs of overdue FOIA requests at the agency and as surge capacity where needed in response to evolving circumstances during the life of the contract.

In FY 2022, the EPA will conduct assessments to assist in the evaluation of FOIA-related staffing needs.

11. Optional -- Please describe:

- * *Best practices used to ensure that your FOIA system operates efficiently and effectively*
- * *Any challenges your agency faces in this area.*

EPA'S BEST PRACTICES TO ENSURE EFFICIENT AND EFFECTIVE FOIA OPERATIONS

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 re delegated 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.

In November 2020, EPA updated its agencywide FOIA Policy and FOIA Procedures and a draft guidance and training manual known as the FOIA Toolkit. EPA also highlighted the FOIA

Toolkit at an agency-wide training conference for all EPA FOIA professionals, known as the FOIA Leadership Academy. EPA initially issued an updated draft of the FOIA Toolkit in November 2020 and then finalized it in April 2021. EPA intends the FOIA Toolkit to be a “living document” that EPA can easily update.

In June 2021, EPA established the EPA FOIA Training Committee with the objective both to leverage the FOIA knowledge and expertise of EPA’s FOIA professional community and to provide centralized review of training materials to ensure the quality of FOIA training provided throughout EPA. In August, 2021, EPA issued a FOIA Fees Checklist as an addendum to the FOIA Toolkit in order to provide more clear guidance and enhance consistency throughout EPA in FOIA fee assessment. The EPA FOIA Training Committee also converted a Supervisor Training to be an eLearning module hosted in EPA’s FedTalent training management system used to provide training to EPA personnel. The Supervisor Training had previously been developed as an in-person training and video training for EPA SES and non-SES supervisors regarding the essential FOIA knowledge supervisors need to successfully comply with the FOIA, to support Agency Strategic Plan goals related to FOIA, and to fulfill new FOIA-specific elements and performance measures in performance agreements.

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 in 2014 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:

This 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 also provides consulting services to EPA programs that need help assessing and identifying areas of improvement in their FOIA programs or processes. Depending on the specific needs of the Agency and each request for assistance, the FEAT adjusts its level of involvement on a particular project.

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 reporting period, EPA highlights two FEAT projects: COVID-19 FOIAs and a program improvement initiative in the Office of Chemical Safety and Pollution Prevention.

COVID-19 FOIAs.

The FEAT counseled 15 FOIA Program Offices across the Agency to manage and respond to 118 COVID-19-related FOIA requests by means of publicly available information, communications with requesters to conclusively understand the breadth of the requests, search for responsive records, review responsive records for exemptions, and ensure timely responses.

FOIA Program Improvement and Backlog Reduction Initiative: Office of Chemical Safety and Pollution Prevention (OCSPP)

Since May 2020, the FEAT has been working with the OCSPP FOIA Program to reduce the program's backlog, and establish and operate an efficient FOIA program that timely processes a high volume of incoming FOIA requests of varying complexity in accordance with statutory, regulatory, and programmatic requirements. In support of this effort, the FEAT accomplished the following:

- Lead a volunteer document review team that reviewed over 53,000 records, leading to the closure of 47 of OCSPP's most complex FOIA requests.
- Provided trainings on FOIA concepts, first and second level reviewer training, advanced technical reviewer training, and Relativity workspace staging training.

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).

CHALLENGES EPA FACES IN ACHIEVING AN EFFICIENT AND EFFECTIVE FOIA PROGRAM

EPA's Decision to Sunset FOIAonline by December 2023.

In November 2021, EPA's Chief Information Office announced that EPA will shutdown FOIAonline at the end of December 2023. As a result, EPA must search for and procure a contract for a replacement FOIA processing software solution, including replacement of FOIAonline as a best practice of disclosure to one is disclosure to all.

Increase in Volume of Electronic Records.

As use of electronic communication technology has increased, including during the global COVID-19 pandemic that started in March 2020, the volume of electronic records has also increased, sometimes significantly, in the collections of records for FOIA responses. This ever-increasing volume of electronic records coupled with a trend towards more complicated, multi-part FOIA requests has increased the burden to collect and review records for response to many FOIA requests. That burden is somewhat off-set by improvements in document review technology but the need to continually keep up with new technology developments, to update technology, and to train staff on use of new technology methods and techniques, itself presents challenges and requires EPA to hire and retain staff with the knowledge, skills and abilities to do this work. In short, performing record reviews in the current context in which sophisticated software programs are used to aid electronic record searches and reviews requires a FOIA professional staff with more training and harder to find skills and abilities (including the ability to continually learn new skills).

Impact of FOIA Litigations on Processing Resources.

Typically, a FOIA litigation requires the EPA FOIA program office leading EPA's response to dedicate additional staff time and attention to assist the litigation attorney to review all actions already taken in the FOIA response, support the preparation and review of pleadings and

declarations, and, in cases where the litigation was filed before EPA completed its final response, coordinate with the litigation attorney on subsequent action and productions of records. These staff resources, generally, are the very same FOIA professionals whose primary day-to-day duties are to process pending FOIA requests. As a result, FOIA litigation can negatively impact a program office's ability to timely process non-litigation requests in their queue because, to meet court ordered deadlines or production schedules, work on FOIA litigation must be prioritized. The diversion of resources to litigation can result in more backlogged requests if an office has insufficient FOIA staff to simultaneously process both the litigation and non-litigation requests.

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

In his May 19, 2021 email to all staff, EPA Administrator Michael Regan called upon EPA offices and programs to strive, when possible, to proactively provide the public with access to information that is likely to be requested under FOIA to better assist the public to participate and engage with the agency. He encouraged offices to identify information useful to the public and to consider the best ways to make that information accessible on the agency's website without waiting for a request from the public to do so. *See Appendix.*

During the June 2021 EPA FOIA Community Meeting, the National FOIA Office gave a proactive disclosure presentation. During this presentation, examples were provided of the types of records that could be proactively posted on the agency website. Additionally, discussions regarding the benefits to the requester community and to the EPA, including the immediate review of agency records and decreased the need to file a FOIA request.

Below is a listing of significant proactive disclosures the Agency made in FY 2021:

- On October 6, 2021, the U.S. Environmental Protection Agency (EPA) released 2020 greenhouse gas (GHG) data collected under the EPA's Greenhouse Gas Reporting Program (GHGRP). In 2020, reported emissions from large industrial sources were approximately 9% lower than in 2019, reflecting both the economic slowdown due to the COVID-19 pandemic, and ongoing, long-term industry trends.
- EPA created a webpage to provide the public information regarding EPA's response activities associated with Hurricane Ida, which made landfall August 29, 2021, at approximately 12:00 pm west of Grand Isle, Louisiana, with winds at 150 mph.

2. 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:

Per- and Polyfluoroalkyl Substances (PFAS).

EPA is committed to providing meaningful, understandable, and actionable information on PFAS to the American public. The following is a list of some of the additional disclosures EPA made this year regarding PFAS and related chemicals:

- In April 2021, EPA announced the release of the final Human Health Toxicity Values for Perfluorobutane Sulfonic Acid (CASRN 375-73-5) and Related Compound Potassium

Perfluorobutane Sulfonate (CASRN 29420-49-3). Perfluorobutane sulfonic acid (PFBS) is a member of a larger group of per- and polyfluoroalkyl substances (PFAS). The toxicity assessment is a written summary of the potential health effects associated with PFBS and identifies the dose levels at which those health effects may occur in order to calculate toxicity values.

- On May 19, 2020, EPA as part of its commitment to address drinking water challenges across America, the U.S. Environmental Protection Agency's (EPA) announced an update to the Drinking Water Treatability Database with new references and treatment options for per- and polyfluoroalkyl substances (PFAS). This update helps states, tribes, local governments, and water utilities make informed decisions to manage PFAS in their communities. The Drinking Water Treatability Database presents an overview of different contaminants and possible treatment processes to remove them from drinking water. This information is supported by scientific references, such as journal articles, conference proceedings, reports and webinars with treatability data. With this update, EPA added treatment information for eleven PFAS compounds. This update brings the total number of PFAS with treatment information in the database to 37, including PFOA and PFOS. Researchers also added 38 new scientific references to the existing PFAS entries, which increases the depth of scientific knowledge available in the database.
- On July 29, 2021, EPA published preliminary Toxics Release Inventory (TRI) data about chemical releases, chemical waste management, and pollution prevention activities that took place during 2020 at nearly 21,000 federal and industrial facilities across the country. The preliminary data released includes the first-ever reporting on per-and polyfluoroalkyl substances (PFAS) added to the TRI by the 2020 National Defense Authorization Act (NDAA).

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 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>.
- EPA is committed to promote transparency and public participation in the settlement process involving lawsuits against EPA. As a part of that commitment, the Agency provides information regarding the public review and comment period for all draft settlement agreements and proposed consent decrees that resolve claims against EPA, available here: <https://www.epa.gov/ogc/proposed-consent-decrees-and-draft-settlement-agreements>.

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>.

- Website Snapshots: EPA maintains historical, static material reflecting the EPA website as it existed on January 19th of previous administrations.
 - January 19, 2021 Snapshot: <https://19january2021snapshot.epa.gov/>.
 - January 19, 2019 Snapshot: <https://19january2019snapshot.epa.gov/>.

General Data Disclosure. EPA has contributed over 4,400 data sets to data.gov: <https://www.data.gov>.

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’).
 - 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’).
 - 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’).

- Flickr. EPA's official Flickr account publishes photos of EPA events and meetings, available here: <https://www.flickr.com/people/usepagov/>.

Senior Leadership Calendars. EPA is proactively posting simplified 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>.

Speeches. EPA posts prepared speeches for delivery by Administrator Regan: <https://www.epa.gov/speeches>.

Administrator's Messages to EPA Employees. EPA displays Administrator Regan's messages to EPA employees regarding transparency and maintaining the public trust, available here: <https://www.epa.gov/aboutepa/administrator-regan-messages-epa-employees>.

Testimony Statements. Organized by Congressional sessions, EPA publishes written prepared testimony provided by EPA officials for the Congressional Record at hearings held by Congressional Committees: <https://www.epa.gov/ocir/epa-testimony-statements>.

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>.

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>.

- Headquarters Buildings Visitor Logs. EPA routinely receives requests for copies of visitors logs for headquarters buildings. EPA uploads headquarters visitors logs to the FOIA website by the 15th of each month, available here: <https://www.epa.gov/foia/epa-building-visitor-logs>.

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:

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

- EJSCREEN is an environmental justice mapping and screening tool that provides EPA with a nationally consistent dataset and approach for combining environmental and demographic indicators, using publicly-available data. EJSCREEN simply provides a simple way to display this information and includes a method for combining

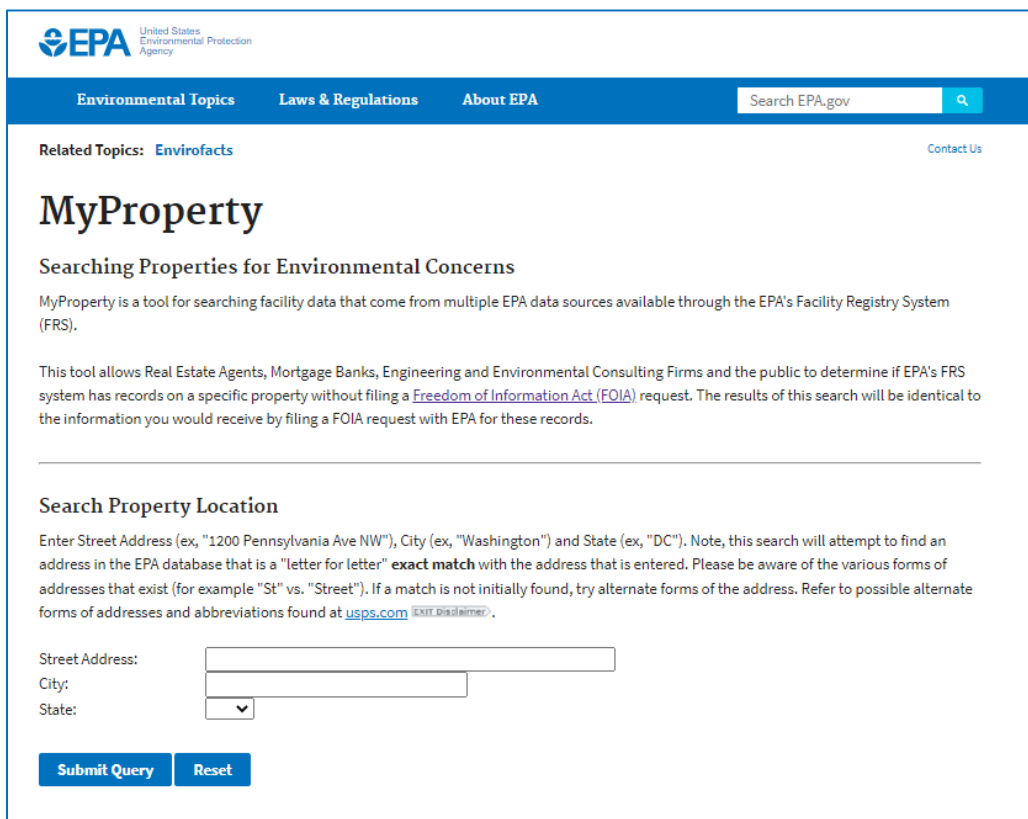
environmental and demographic indicators into EJ indexes: <https://www.epa.gov/ejscreen>.

- MyEnvironment provides a cross-section of environmental data for any location in the US, <https://www3.epa.gov/myem/envmap/find.html>.
- ArcGIS StoryMap and Tracking CyanoHABs. On August 3, 2021, EPA announced that it published a new ArcGIS StoryMap that will allow the public to learn about and track reported cyanobacterial HABs (cyanoHABs) in freshwaters across the country. CyanoHABs can harm ecosystems and contaminate freshwaters with toxins that can lead to serious human health impacts. EPA's Tracking CyanoHABs story map creates a single online resource for information about cyanoHAB events across the U.S. It consolidates freshwater advisory and closure information from state environmental and health agencies into user-friendly, interactive maps. In addition, the story map includes links to information on freshwater HABs causes and effects; several EPA tools on HABs preparedness and response; and state and local HAB resources such as the laboratories that perform analysis of water samples for cyanotoxins. On July 21, EPA the announced the release of a new tool, CyANWeb, that can help federal, state, Tribal, and local partners identify when a harmful algal bloom (HAB) may be forming where people swim, fish, and boat.
- The Power Plants and Neighboring Communities webpage. On July 29, 2021, the U.S. Environmental Protection Agency (EPA) published a new web resource with interactive maps and supporting materials that combine information on air pollution emitted by fossil fuel-fired power plants with key demographical data on nearby communities. The mapping tool improves access to data on power plant emissions and can increase understanding of how the power sector affects the air quality and environmental health of surrounding communities. By highlighting what groups of people might be impacted and how, the Power Plants and Neighboring Communities webpage provides state and local policymakers with information that can be used to protect their most vulnerable populations. The Power Plants and Neighboring Communities webpage includes explanatory text, supplemental graphs and maps, and data sets. The supplemental graphs compare six key population groups of the communities near power plants to the rest of the nation. The groups tracked are the following: low-income; people of color; those with less than high school education; people who are linguistically isolated; children under 5; and those over age 64.
- Update to AirNow mobile app. On July 29, 2021, EPA announced that it has updated its popular AirNow mobile app to give app users easier access to actionable information about air quality during wildfires. The Fire and Smoke Map, jointly developed by EPA and the U.S. Forest Service, provides information on fire locations, smoke plumes and air quality from monitors and low-cost sensors. EPA and the Forest Service released improvements to the map that include a "dashboard" that gives users quick access to key information that can help them plan their activities, including: the current Air Quality Index (AQI) category at the monitor/sensor location; information showing whether air quality is getting better or worse; and information about actions to consider taking, based on the current AQI.

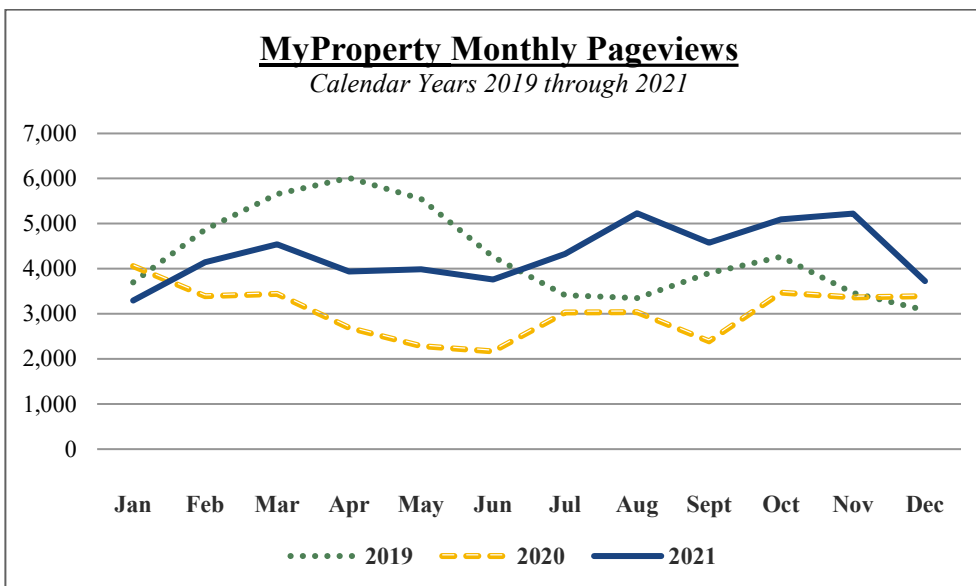
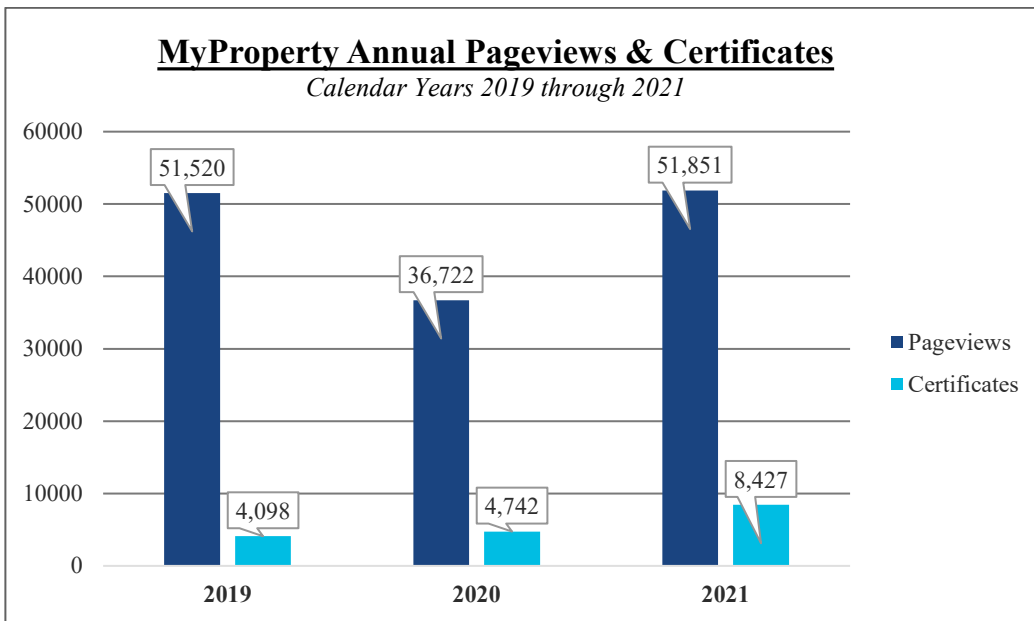
3. Does your agency disseminate common types of material outside of FOIA, including in online databases where the public may access them? If yes, please provide examples and, if applicable, statutory authority.

MyProperty.

MyProperty (<https://enviro.epa.gov/facts/myproperty>) is an internet-based tool for searching facility data that come from multiple EPA data sources available through the EPA's Facility Registry System (FRS). This tool allows Real Estate Agents, Mortgage Banks, Engineering and Environmental Consulting Firms and the public to determine if EPA's FRS system has records on a specific property without filing a FOIA request. If a search of an address returns a 'No Information Found for the Submitted Address' response, the user can generate a "No Records Certificate". Environmental due diligence professionals often require documentation that EPA does not possess environmental contamination records about a specific property, and submit FOIA requests to obtain such documentation. The MyProperty "No Records Certificate" satisfies such documentation requirements in several state and local jurisdictions.



The public has been increasingly utilizing the MyProperty site since EPA began informing FOIA requesters about the site and "No Records Certificate" tool. In 2021, the monthly average site Pageviews reached an all-time high of 4,321, compared to 3,060 in 2020. The MyProperty site issued 8,427 "No Records Certificates" in 2021, an increase of 78% over 2020.



Envirofacts.

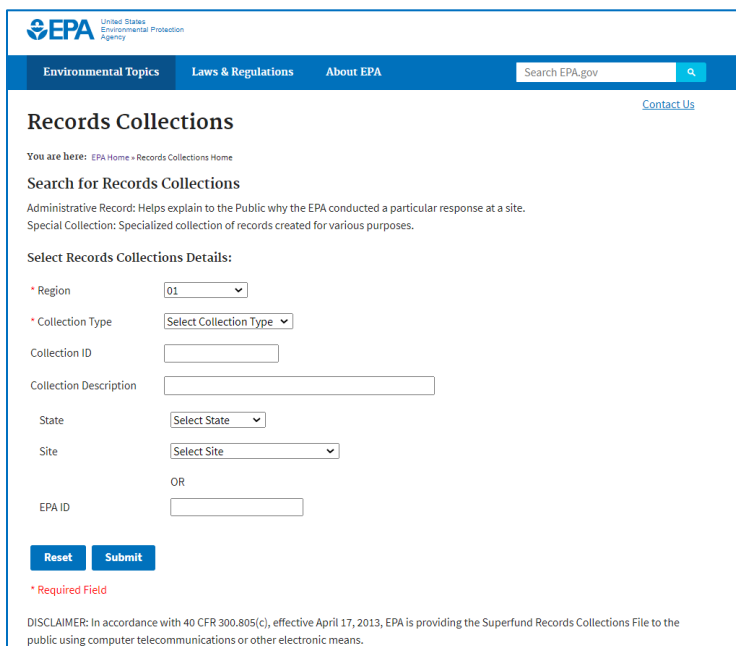
The EPA tool, Envirofacts (<https://enviro.epa.gov/>), is a single point of access to several EPA databases to provide the public with information about environmental activities that may affect air, water, and land anywhere in the United States and generate maps of environmental information.

Title VI Cases Tracker.

The External Civil Rights Compliance Office posts a current case status table, tracking cases from January 1, 2014 to present. https://www.epa.gov/system/files/documents/2021-11/complaints-received-in-fy-2022-to-date-11-12-2021-thru-fy2014_0.pdf

Region 10 Superfund Sites Records.

Region 10's Mission Support Services, Information Service Branch regularly make Superfund site related records available online on <https://sempub.epa.gov/>.



The screenshot shows the EPA website's 'Records Collections' search interface. At the top, there is a navigation bar with 'Environmental Topics', 'Laws & Regulations', and 'About EPA', along with a search bar for 'EPA.gov'. The main heading is 'Records Collections' with a 'Contact Us' link. Below this, there is a breadcrumb trail 'You are here: EPA Home > Records Collections Home' and a sub-heading 'Search for Records Collections'. A brief description follows: 'Administrative Record: Helps explain to the Public why the EPA conducted a particular response at a site. Special Collection: Specialized collection of records created for various purposes.' The 'Select Records Collections Details:' section contains several input fields: 'Region' (dropdown menu with '01' selected), 'Collection Type' (dropdown menu with 'Select Collection Type' selected), 'Collection ID' (text input), 'Collection Description' (text input), 'State' (dropdown menu with 'Select State' selected), 'Site' (dropdown menu with 'Select Site' selected), and 'EPA ID' (text input). There are 'Reset' and 'Submit' buttons at the bottom of the form. A red asterisk indicates a 'Required Field'. A disclaimer at the bottom states: 'DISCLAIMER: In accordance with 40 CFR 300.805(c), effective April 17, 2013, EPA is providing the Superfund Records Collections File to the public using computer telecommunications or other electronic means.'

4. *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?*

EPA upgraded its content management system, ensuring that the site is 508 compliant and allowing the FOIA public site to be re-configured for clarity. The home page is now structured in three distinct columns with links to *Frequently Requested Records* featured prominently in the center of the page.

5. *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.*

To further the Open Government Initiative, EPA is posting information in open, machine readable, machine actionable formats by providing the public with an Environmental Dataset Gateway (EDG). The EDG offers data consumers a catalog of all EPA open data content, available at <https://edg.epa.gov/metadata/catalog/main/home.page>.

Further, EPA provides open data policies governing the open data initiative as well as guidance for viewing or downloading datasets curated by the EPA, available at <https://www.epa.gov/data>.

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

EPA Program Offices and Regions work with the Office of Mission Support to post records or databases on the agency website.

Optional -- Please describe:

- * *Best practices used to improve proactive disclosures*
- * *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.

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 describes your agency's efforts in this area.

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

In November 2021, EPA announced its decision to sunset FOIAonline FOIA case management system in two years by the end of the 2023 calendar year. EPA's National FOIA Office and Office of Mission Support are working together to research alternative FOIA case management systems and solutions.

In February 2022, EPA attended the NexGen FOIA Tech Showcase in order to get gain knowledge of new FOIA technologies to assist the agency with its FOIA mission. The Chief FOIA Officers (CFO) Council's Technology Committee, in conjunction with The Office of Information Services (OGIS) at the National Archives and Records Administration and the U.S. Department of Justice (DOJ) Office of Information Policy (OIP), hosted this event for federal agencies.

2. Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program.

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. The Agency uses Relativity to electronically review the centrally collected documents to respond to FOIA requests.

EPA Regions 8 and 10 use the file transfer program Go Anywhere to deliver to requesters large volumes of responsive records when a DVD or portable data storage device is requested as a delivery method. During the pandemic, access to mailing services, DVDs, and portable data storage devices has been extremely limited. As a result, for some requesters delivery of responsive records has been delayed. Go Anywhere has provided an accessible method for requesters to download responsive records. Use of this program reduced the download time by more than 90%, compared to the traditional method of downloading responsive records from FOIAonline. In addition, Go Anywhere is utilized within the Agency—FOIA Professionals, Records Centers staff, subject matter experts, and managers use the program to exchange records throughout the processing of a FOIA request—as remotely accessing large PDF records and saving the redacted records has proved a challenge.

EPA's Region 8 established procedures to utilize EPA's Enterprise Virtual Desktop Infrastructure (EVDI) to securely access a virtualized desktop on a centralized regional server

and upload records to FOIAonline. Personnel reported saving more than 70% of their time accessing and saving their work before the records were returned to network drives to be uploaded to FOIAonline using the EVDI direct connect server access.

Also, EPA's Region 8 uses Microsoft SharePoint to facilitate record review for multi-regional FOIA responses and Awareness Notifications. The use of these technologies enhances the Region's ability to share, consult, and review materials using the best agency resources available without additional costs.

The EPA's Office of the Administrator and Region 10 use a Teams based Excel workbook to manage workflow (new requests, closed requests, requests that are being actively worked on). They use this workbook during their weekly meetings where they discuss requests that are being actively processed.

EPA's Office of Air Radiation has built a tracking system that mirrors the FOIA process through Microsoft SharePoint lists and Teams. This system enables the entire OAR FOIA team to see where FOIA requests are in the process, identify bottle necks, and quickly address many issues before they become significant. Since March of 2020, OAR has continually improved the system and shared it with numerous offices throughout EPA.

3. 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. This year, using an updated content management system, Drupal 8, the FOIA homepage is re-configured for visual clarity. The page features frequently requested records including additions such as, current and historical COVID information; senior leaders' calendars; and building visitor logs.

4. Did all four of your agency's quarterly reports for Fiscal Year 2021 appear on your agency's website and on FOIA.gov?

Yes. EPA posted all four quarterly reports for FY 2021 to its public facing website, available at <https://www.epa.gov/foia/departments-justice-quarterly-reports>.

5. 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 2022.

This is not applicable to EPA.

6. 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 2020 Annual FOIA Report and, if available, for your agency's Fiscal Year 2021 Annual FOIA Report.

The EPA FY 2020 FOIA Annual Report is posted on the agency website at <https://www.epa.gov/foia/foia-reports-quarterly-reports-annual-reports-chief-foia-officer-reports#annual>

Regarding the EPA FY 2021 FOIA Annual Report, upon DOJ's report approval, EPA will timely post the raw statistical data at <https://www.epa.gov/foia/foia-reports-quarterly-reports-annual-reports-chief-foia-officer-reports#annual>

7. *Optional -- Please describe:*

- * *Best practices used in greater utilizing technology*
- * *Any challenges your agency faces in this area*

EPA strategically deploys complementary FOIA technology tools and technical knowledge to enhance conventional FOIA practices. EPA routinely presents user software trainings to regional and headquarters FOIA program professionals, including on Relativity, Microsoft SharePoint, and Drupal. For example, EPA's National FOIA Office conducted several workshops instructing the FOIA staff in EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) on how to use Relativity's analytic tools to more efficiently review the records collected through centralized electronic records searches. During the first four months of employing such methods, OCSPP staff reduced the number of records requiring line-by-line review from roughly 550,000 to 24,000—an efficiency gain of 96%.

EPA's National FOIA Office also created an inter-agency SharePoint application to collect and prioritize FOIAonline enhancement requests. The multi-agency input and prioritization tool allowed FOIAonline users the ability to clarify and discuss needs as a unified user-group.

EPA's National FOIA Office maintains a SharePoint intranet site housing: daily updates to agency and national FOIA news and case law; FOIA professionals' directories; and an extensive record repository and an application to submit and track consultations sent to the White House. The site provides a common resource for the EPA FOIA community and receives an average of 150 –200 visits per day.

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 2020 and 2021 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 2021?

No. While EPA's average number of days to process simple requests in FY 2021 was 52.55 days, EPA processed 68% of simple requests within 20 working days.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2021 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 6,943 requests EPA processed in FY 2021, 67% 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

When answering these questions, please refer to your Fiscal Year 2021 Annual FOIA Report, Sections XII.D-E, which compare the numbers of requests and appeals received, processed, and backlogged between Fiscal Years 2020 and 2021.

BACKLOGGED REQUESTS

5. *If your agency had a backlog of requests at the close of Fiscal Year 2021, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?*

Yes. EPA's backlog of requests at the close of FY 2020 was 1,780 applying the definition DOJ requires for the Annual FOIA Report. EPA's backlog of requests at the close of FY 2021 as reported in EPA's Annual FOIA Report was 1,500. EPA decreased its backlog of requests by 16%, FY 2021 over FY 2020.

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 2021 Annual FOIA Report using this calculation is 1,500, 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 1,056.

6. *If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2021 than it did during Fiscal Year 2020?*

This is not applicable to EPA. The backlog of requests EPA reported in its Annual FOIA Report at the close of FY 2021 was less than the backlog of requests reported at the close of FY 2020.

7. *If your agency's request backlog increased during Fiscal Year 2021, 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.*
- * *Impact of COVID-19 and workplace and safety precautions*
- * *Any other reasons – please briefly describe or provide examples when possible.*

EPA reduced the backlog of requests during FY 2021.

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 2021. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. This number can be greater than 100%. If your agency has no request backlog, please answer with "N/A."*

EPA received 6,485 requests in FY 2021. The number of requests in the backlog reported in EPA's Annual FOIA Report at the close of FY 2021 was 1,500. The ratio of the number of backlogged requests reported in EPA's Annual FOIA Report at the close of FY 2021 to the number of requests received in FY 2021 is 23%.

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 2020?

Yes. EPA's backlog of appeals at the close of FY 2020 was 1. EPA's backlog of appeals at the close of FY 2021 was 0. EPA decreased its backlog of appeals by 100%, FY 2021 over FY 2020.

10. If not, according to section VI.A of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2021 than it did during Fiscal Year 2020?

This is not applicable to EPA. EPA eliminated its backlog of appeals during FY 2021.

11. If your agency's appeal backlog increased during Fiscal Year 2021, 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.
- * Impact of COVID-19 and workplace and safety precautions.
- * Any other reasons – please briefly describe or provide examples when possible.

This is not applicable to EPA. EPA eliminated its backlog of appeals during FY 2021.

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 2021. 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."

This is not applicable to EPA. EPA had no appeals backlog at the end of FY 2021.

C. Backlog Reduction Plans

13. In the 2021 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2020 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 2021?

Yes, EPA successfully implemented a backlog reduction plan in FY 2021: EPA reduced its FOIA request backlog as reported in its Annual FOIA Report by 280 requests, or 16%.

During this reporting cycle, EPA developed new initiatives and continued building actions started in previous reporting cycles 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 restructured 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. In 2019, EPA 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 2019 and 2020, EPA trained all program and regional offices on the use of lean management principles, methods, and techniques and applied those approaches along with office-specific targets cascading from the agency-wide goal to identify and implement office-specific process improvements.

- In FY 2021, EPA continued to use lean management principles, methods and techniques 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. Through these efforts, the Agency reduced its FOIA response backlog by 16% in FY 2021.
- 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 2021, each region and headquarters program office set office-specific annual goals and monthly targets to reduce the backlog of overdue FOIA requests aligned with the agency-wide goal.
- EPA maintained FOIA accountability language in all senior manager performance agreements Agency-wide in FY 2021, and EPA continued delivering specialized FOIA training for supervisors.
- EPA proactively disclosed more records publicly available through FOIAonline and on the EPA website.

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2021, please explain your agency's plan to reduce this backlog during Fiscal Year 2022. In particular, please also detail how your agency developed and plans to execute your backlog reduction plans.

EPA plans to continue the reforms it started in the prior years that have led to an overall FOIA backlog reduction of 62 percent since FY 2018, 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 paying attention to accountability through the performance review process. EPA will also continue to apply lean management principles, methods and techniques to FOIA agency-wide, thereby promoting continuous improvement through initiatives developed in each FOIA processing office. 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.

In FY 2021, EPA's National FOIA Office procured a FOIA support contract for FOIA professionals to assist in the review of records for FY 2022 and for two additional option years. This document review contract is a pilot to address need for additional document review capacity in two offices with the largest FOIA backlogs and for surge capacity in other offices if needed. Need for additional document review capacity was identified through application of lean management techniques.

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 2020 and Fiscal Year 2021 when completing this section of your Chief FOIA Officer Report.

OLDEST REQUESTS

15. In Fiscal Year 2021, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2020 Annual FOIA Report?

No, EPA did not close all of the ten oldest requests reported in the FY 2020 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 2020 Annual FOIA Report. If you had fewer than ten total oldest requests to close, please indicate that.

In FY 2021, EPA successfully closed five of the ten oldest FOIA requests that were pending and reported in the FY 2020 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 2021, did your agency close the ten oldest appeals that were reported pending in Section VII.C.5. of your Fiscal Year 2020 Annual FOIA Report?

Yes. EPA successfully closed all 9 pending appeals reported in the FY 2020 Annual FOIA 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 VI.C.(5) of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

This is not applicable to EPA. EPA had fewer than ten total appeals in the FY 2020 Annual FOIA Report. EPA successfully closed the 9 appeals reported as pending in the FY 2020 Annual FOIA 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 EPA General Law Office (GLO), in the Office of General Counsel (OGC), maintained the prior fiscal year's process improvements and continued to make improvements throughout FY21 to the administrative appeals process to maximize efficiency and reduce response times. Within days of receiving an appeal, GLO notifies program offices and EPA regional offices responsible for the initial response to the FOIA request that the response has been appealed and to be prepared

to coordinate with an OGC attorney shortly. GLO holds a weekly group meeting for each attorney to give an update on the processing of each open appeal and to raise any issues for discussion and elevation. Additionally, attorneys abide by a strict timeline to draft appeal determinations in order to provide management sufficient time to review. To manage the operations of the Agency’s FOIA appeals program, GLO established a Team Lead for Administrative Appeals position. Before a draft determination is presented to the Assistant General Counsel for review and signature, the Team Lead reviews the draft to ensure completeness and legal sufficiency. The Team Lead also briefs management with regular status updates, coordinates with EPA programs and regions on individual appeals, and assists attorneys with the processing of individual appeals as needed.

As a result of these efforts, the Agency further reduced its average response time from 256.93 days in FY 2019 to 17.78 days in FY 2021, which is a 93% reduction. In FY 2021, EPA processed more than 99% of the appeals within the statutory timeframe. Since the 2nd quarter of FY 2021, EPA has not had a backlogged appeal. From the FY 2018 FOIA administrative appeal backlog of 140, EPA eliminated its backlog in FY 2021.

ADMINISTRATIVE APPEALS DATA			
<i>FY 2018 through FY 2021</i>			
<u>Fiscal Year</u>	<u>Median Number of Days</u>	<u>Average Number of Days</u>	<u>Backlog</u>
FY 2018	73	209.89	140
FY 2019	107	256.93	64
FY 2020	20	182.74	1
FY 2021	18	17.78	0

TEN OLDEST CONSULTATIONS

21. *In Fiscal Year 2021, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2020 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 2020 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.*

EPA closed four of the ten oldest consultations that were pending and reported in the FY 2020 Annual FOIA 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 2020.*

The challenge in closing the 10 oldest requests from FY 2020 was due to the need to confer internally with multiple EPA offices on the review of records with shared equities and the review of voluminous responsive records. EPA plans to close the remaining requests and consultations in FY 2022.

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.

This is not applicable to EPA.

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 2022.

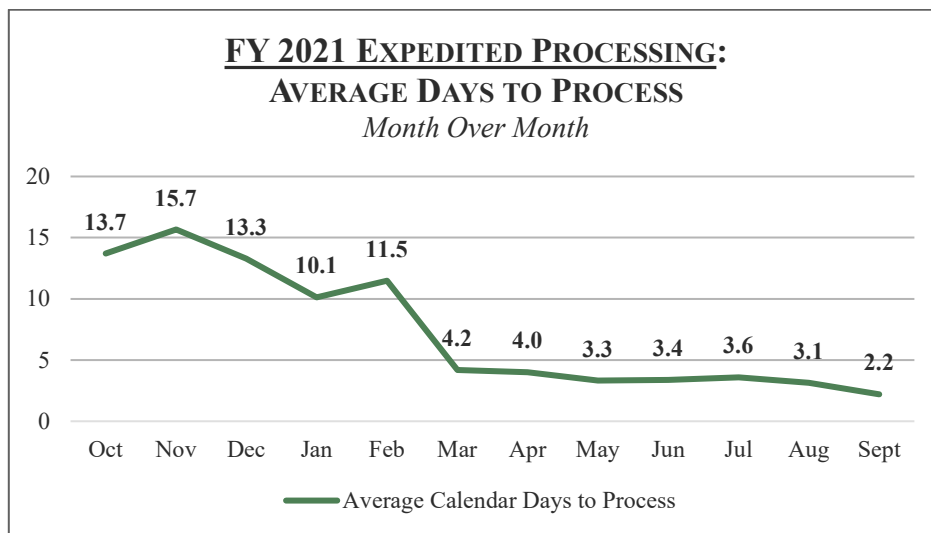
Each month, the NFO’s Associate General Counsel sends a backlog FOIA report to the FOIA Coordinators and the FOIA Officers for the Region and the Headquarters Offices. The FOIA officers and FOIA coordinators use these reports to prioritize and strategize for focused closure of the backlog cases. Additionally, as discussed above, the NFO secured a FOIA support contract for FOIA professionals to assist in the review of records for FY 2022 and for two additional option years. This FOIA support will provide the assistance in reviewing the voluminous responsive records for the 10 oldest FOIA requests.

As for appeals, the Office of General Counsel is current on all FOIA appeals and had no pending appeals at the start of FY 2022.

F. Success Stories

Out of all the activities undertaken by your agency since March 2021 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, 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.

- EPA successfully reduced its backlogs of FOIA requests and administrative appeals significantly this year.
 - From the FY 2018 FOIA administrative appeal backlog of 140, EPA eliminated its backlog in FY 2021, a 100% backlog reduction.
 - EPA also reduced its FOIA request backlog by 280 requests, or 16 % as reported in the FY 2021 Annual FOIA Report.
- EPA reduced the response time to adjudicate expedited processing requests.
 - EPA implemented a process improvement innovation reducing the FY 2020 average number of days to adjudicate an expedited processing request from 21.06 days to the FY 2021 amount of 7.77 days, which reflects a 63% process improvement speed.



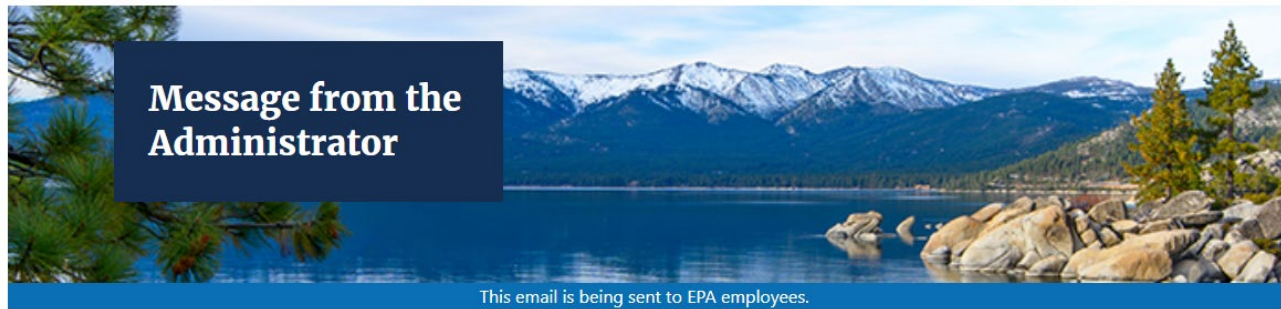
EPA successfully conducted an audit and reconciliation of its FOIA Fee Invoice Verification and Improvement Project. This project had several components. One component, led by Alan Engels, a government information specialist from EPA's Region 8, reviewed and verified or corrected all FOIA delinquent invoices reported in the FOIAonline system covering the period of FY 2013 to FY 2021. The review was conducted by many FOIA professionals from all over the agency and looked at more than 14,000 delinquent debt lines totaling about \$1.5 million. The review focused on validating

outstanding debt, and posting payments of debt which had been satisfied and not recorded in FOIAonline.

The FOIA Fee Invoice Verification and Improvement Project:

- Updated and corrected the data in FOIAonline;
- Reconciled the EPA Office of Chief Financial Officer FOIA Accounts Receivables;
- Provided advice to the Accounts Receivable Office to place delinquent FOIA requesters on the Do Not Serve Listing after 60 days of the establishment of the debt in accordance with 40 C.F.R. § 2.107 (h);
- Discovered recording discrepancy where some payments received Pay.Gov since FY 2020 were not properly recorded within the FOIAonline and alerted the FOIAonline Team for correction;
- Issued reimbursement for approximately \$30,000.00 from an estimated 40 FOIA cases where requesters had made overpayments;
- Provided guidance to EPA FOIA Officers and FOIA Coordinators regarding the proper method to create an invoice in FOIAonline and Chief Financial Officer Accounts Receivable Office;
- Reviewed and revised the Agency's guidance to program offices on how to properly assess FOIA fees, to estimate fees, and to invoice for fees incurred; and
- Issued a FOIA Fees Checklist as an addendum to the Agency's FOIA Toolkit to provide more clear guidance and enhance consistency in FOIA fee assessment.

Appendix



The Freedom of Information Act (FOIA): Transparency and Public Trust

May 19, 2021

Dear Colleagues,

The Environmental Protection Agency's mission is to protect human health and the environment, a hugely important task that requires public trust and accountability. The Freedom of Information Act (FOIA) implements a bedrock principle of democracy that the public is entitled to "know what their government is up to." Implementing the FOIA will promote transparency and build public trust in agency actions. I therefore reaffirm EPA's commitment to FOIA implementation as a critical tool to promote transparency as we take on the climate crisis, advance environmental justice, restore the role of science, protect public health, and rebuild stronger than before.

General Principles

Like all federal agencies, EPA is subject to FOIA, which promotes accountability through transparency. Pursuant to the FOIA, any person has the right to access agency records, except where the information is protected from disclosure. EPA is committed to conducting its business in an open and transparent manner through high quality and timely FOIA responses. The agency will work to ensure that its FOIA professionals have the support needed to meet FOIA's requirements in a timely and efficient a manner, including by providing training for all agency staff, supervisors and FOIA professionals. EPA is committed to being a flagship example of transparent, efficient, and effective government.

We will work together to serve the public interest, ensure the public trust, and emphasize transparency, disclosure, and cooperation.

Transparency

EPA is committed to operating in a transparent manner. EPA offices and programs should strive, when possible, to proactively provide the public with access to information that is likely to be requested under FOIA to better assist the public to participate and engage with the agency.

I encourage offices to identify information useful to the public and consider the best ways to make that information accessible on the agency's website without waiting for a request from the public to do so.

Disclosure

FOIA's presumption of openness requires EPA to disclose information unless it reasonably foresees that disclosure would cause harm to an interest protected by the relevant FOIA exemption.

All agency personnel should ensure that this principle of openness is applied when responding to a FOIA request. Managers should give their staff and the agency's FOIA professionals the support needed to satisfy FOIA's transparency requirement in as timely and efficient a manner as possible. Offices should assert an exemption to disclosure only where the agency reasonably foresees that disclosure would harm an interest protected by an exemption or disclosure is prohibited by law.

Federal agencies are required to disclose any record requested under the FOIA unless it falls under one of nine exemptions which protect interests such as personal privacy, confidential business information, national security, privileged communications, and law enforcement. EPA's FOIA Regulations are available [here](#).

Cooperation

FOIA is everyone's responsibility at EPA. Agency FOIA professionals, managers, record custodians, reviewers, eDiscovery service professionals, public affairs staff, attorneys, and many others must coordinate to maintain and improve our FOIA program. In addition, we will endeavor to provide excellent customer service to the public by adhering to FOIA best practices including good communication with requesters, the provision of interim responses where possible, and the proactive release of records. When we work together, FOIA works better.

FOIA Innovation and Improvement

I encourage all staff and agency FOIA professionals to continue to offer innovative ideas to improve FOIA processing. The agency has a backlog of overdue FOIAs, and we are committed to reduce and eliminate that backlog and to improve and increase our communication with FOIA requesters and the public.

The agency will continue FOIA training for all staff coordinated by the National FOIA Office in the Office of General Counsel. These training efforts and continued annual training of all staff will help ensure that the agency is responding effectively and efficiently to FOIA requests and leveraging available technological resources. The FY2021 FOIA training for all EPA is now available in FedTalent. You may also access various FOIA resources and additional trainings on the [EPA National FOIA Office SharePoint Site](#).

Questions about processing, or whether FOIA exemptions apply to certain information, can be directed to local FOIA professionals, the Office of General Counsel, and the Offices of Regional Counsel. Questions about FOIA policy, procedures, appeals, and litigation should be directed to the appropriate components in the Office of General Counsel.

We will solicit public feedback to assess and improve the FOIA program to identify new opportunities for cross-agency collaboration, improvement, and access. As we do so, we will redouble our efforts to be inclusive of all stakeholders.

Celebrating FOIA Implementation

Earlier this year, we celebrated Sunshine Week, an opportunity for federal agencies to join news organizations and the public in emphasizing the importance of transparency in government operations. The Department of Justice's Virtual Sunshine Week Kickoff included a Sunshine Week FOIA awards presentation. I am proud that two EPA FOIA Professionals received Lifetime Service Awards for their many years of work on FOIA at EPA:

- Janet Bressant, from EPA's Office of Chemical Safety and Pollution Prevention, and
- Ivry Johnson from EPA's Region 9

Please join me in congratulating Janet and Ivry!

Conclusion

I look forward to working with you to enhance our implementation of the Freedom of Information Act as we work together to restore public confidence in our agency and our mission. Promoting transparency, information disclosure, and cooperation through FOIA implementation will help us achieve the agency's mission to protect human health and the environment and to achieve our ambitious goals.

Michael S. Regan
Administrator