



U.S. Small Business
Administration

**If you have any questions regarding this report, please contact SBA's FOIA Chief, Oreoluwa Fashola, at oreoluwa.fashola@sba.gov.*

Content of Fiscal Year 2025 Chief FOIA Officer Reports (High-Volume Agencies)

Eric S. Benderson, Associate General Counsel for Litigation & Claims, Office of General Counsel

(SBA Chief FOIA Officer)

EXECUTIVE SUMMARY

Within the Small Business Administration (SBA), day-to-day FOIA operations are decentralized. As a result, each of the agency components has been given the flexibility to design a program that meets its needs. Each component headquarters office, field office, and loan center have their own FOIA point of contact that processes requests and responds directly to requesters.

The Office of Hearings and Appeals (OHA) is responsible for providing Agency-wide guidance regarding FOIA compliance, making administrative appeal determinations, assigning requests, and monitoring FOIA performance measurement, including the statutorily mandated FOIA Annual Report. The Office of General Counsel (OGC) provides legal advice on substantive complex FOIA matters and represents the Agency during FOIA litigation.

Section I: FOIA LEADERSHIP AND APPLYING THE PRESUMPTION OF OPENNESS

The guiding principle underlying the Attorney General's 2022 [FOIA Guidelines](#) is the presumption of openness. The Guidelines also highlight the importance of agency leadership in ensuring effective FOIA administration. Please answer the following questions about FOIA leadership at your agency and

describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.

A. Leadership Support for FOIA

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

Yes

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

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

N/A

B. Presumption of Openness

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

No

5. In some circumstances, agencies may respond to a requester that they can neither confirm nor deny the existence of requested records if acknowledging the existence of records would harm an interested party protected by a FOIA exemption. This is commonly referred to as a *Glomar* response. If your agency tracks Glomar responses, please provide:

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

0

- The number of times a *Glomar* response was issued by exemption.

Ex. 1 – 0

Ex. 7(A) – 0

Ex. 7(B) – o

Ex. 7(C) – o

Ex. 7(D) – o

Ex. 7(E) – o

Ex. 7(F) – o

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

N/A

Section II: ENSURING FAIR AND EFFECTIVE FOIA ADMINISTRATION

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

A. FOIA Training

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

Online training has been made available to Agency personnel via its learning portal. FOI/PA Office partnered with the Office of General Counsel (OGC) and provided training to SBA FOIA POC’s.

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

Yes.

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

- FOIA Advisory Committee Meetings

- Chief FOIA Officers Council Meetings
- FOIA Advisory Committee Meetings
- Introduction to the FOIA Workshops

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

100%

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

N/A

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

The SBA FOIA Office provides email notifications Agency-wide regarding FOIA training through the SBA Daily newsletter. Also, the Senior Legal Counsel for FOIA and Privacy Act provides briefings to senior managers regarding their responsibilities under the FOIA.

B. Outreach

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

Yes, on many occasions the SBA FOIA Office in partnership with the Office of General Counsel (OGC) have assisted various program offices in contacting requesters to clarify or narrow the scope of the request, in particular complex requests made by news media and non-profit advocacy organizations such as the Washington Post, Wall Street Journal, Bloomberg, The Heritage Foundation, and Protect the Public Trust (PPT).

8. Outside of the standard request process or routine FOIA Liaison or FOIA Requester Service Center interactions, did your FOIA professionals engage in any outreach or dialogue with the requester

community or open government groups regarding your administration of the FOIA? For example, did you proactively contact frequent requesters, host FOIA-related conference calls with open government groups, or provide FOIA training to members of the public? Please describe any such outreach or dialogue and, if applicable, any specific examples of how this dialogue has led to improvements in your agency's FOIA administration.

N/A

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 the Fiscal Year 2022 (please provide a total number or an estimate of the number).

Estimate - 2600

C. Other Initiatives

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

Yes, the FOIA Office has hired a GIS this year. OGC hired three attorneys to assist the program offices with FOIA.

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

Quality control metrics reporting is being provided to the program offices with the highest caseload.

12. The federal FOIA Advisory Committee, comprised of agency representatives and members of the public, was created to foster dialogue between agencies and the requester community, solicit public comments, and develop recommendations for improving FOIA administration. Since 2020, the FOIA Advisory Committee has issued a number of recommendations. Please answer the below questions:

- Is your agency familiar with the FOIA Advisory Committee and its recommendations?
Yes
- Has your agency implemented any of its recommendations or found them to be helpful? If so, which ones?
Yes, [2024-03](#) - Provide requesters an interim response consisting of a small sample of documents found as the result of searches conducted and subsequently reviewed for partial or full withholding.

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

N/A

Section III: PROACTIVE DISCLOSURES

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

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

In consultation with the Office of General Counsel (OGC) and the program offices, we frequently identify requested records that are of importance to the public, such as loan data, congressional correspondence, etc. Opinions, pleadings, and orders are all posted to the SBA's website. The website is regularly updated by the relevant program office with new items posted based on the actions of the program office(s). Similarly, administrative staff manuals, statements of policy, and interpretations adopted by the SBA are also posted and intermittently updated by the appropriate program offices.

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

No

- If so, what information is contained in the logs?

N/A

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

N/A

- Please provide a link to the page where any FOIA logs are posted. If applicable, please provide component links.

N/A

3. Provide examples of any material (with links) 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).

[Dataset - U.S. Small Business Administration \(SBA\) | Open Data](#)

4. Please provide a link (or component links, if applicable) where your agency routinely posts its frequently requested records.

The Agency's most significant proactive disclosure postings are SBA's complete loan level 7(a) and 504 data sets and data dictionary from January 1, 1990, to the present found here:

[7\(a\) & 504 FOIA - Dataset - U.S. Small Business Administration \(SBA\) | Open Data](#)

These data sets represent the agency's most frequently requested information.

In addition, SBA has also posted data from the Paycheck Protection Program:

[PPP data | U.S. Small Business Administration](#)

SBA has also posted information on various funding programs authorized by the CARES Act for small businesses:

Economic Injury Disaster Loans (EIDL)

<https://www.sba.gov/document/report-covid-19-eidl-reports-2020>

<https://www.sba.gov/document/report-covid-19-eidl-advance-reports-2020>

<https://www.sba.gov/document/report-covid-19-eidl-reports-2022>

<https://data.sba.gov/dataset/covid-19-eidl>

Restaurant Revitalization Fund

<https://data.sba.gov/dataset/rrf-foia>

Shuttered Venue Operators Grant

<https://www.sba.gov/funding-programs/loans/covid-19-relief-options/shuttered-venue-operators-grant/svog-data>

5. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website? If yes, please provide examples of such improvements, such as steps taken to post information in open and machine-readable formats. If you are not taking steps to make posted information more useful, please explain why.

The Office of Communications and Public Liaison (OCPL), is responsible for maintaining www.sba.gov, and continuously evaluates the agency website for improvement. OCPL recently made the following updates:

<https://www.sba.gov/about-sba/open-government/about-sbagov-website/accessibility>

<https://www.sba.gov/about-sba/open-government/foia>

[Welcome - U.S. Small Business Administration \(SBA\) | Open Data](#)

[SBA Public Access Link-Home](#)

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

Yes, our office coordinates proactive disclosures with the program offices and the Office of General Counsel (OGC) by determining what information is legally releasable, and the Office of the Chief Information Officer (OCIO) to ensure the posted information is 508 compliant.

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

N/A

Section IV: Steps Taken to Greater Utilize Technology

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

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

Yes

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

SBA utilizes FOIAXpress, an electronic document management and tracking system. This system is updated intermittently to account for anticipated FOIA issues and demands – and to simply make processing more efficient.

In support of FOIA litigation, the Office of the General Counsel utilizes an eDiscovery platform called Relativity, which allows for de-duplication to reduce the number of potentially responsive records. It also provides search functions to enable staff to work with requesters to identify records of interest and to narrow the scope of requests.

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

SBA uses FOIAXpress to automate its record processing. Records are integrated into this platform, and redaction functions are employed for processing. Upgrades are consistently implemented to SBA's FOIA processing system. The FOIAXpress application undergoes regular updates to enhance current features and implement security patches.

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

Yes.

5. Did all four of your agency's quarterly reports for the Fiscal Year 2024 appear on your agency's website and on FOIA.gov?

No, the Agency completed all four quarterly reports, but FOIA.gov was given an old URL; the new URL will be emailed to OIP to mitigate future omissions.

6. 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 the Fiscal Year 2025.

The new URL will be emailed to OIP to mitigate future omissions.

7. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2021 Annual FOIA Report and, if available, for your agency's Fiscal Year 2024 Annual FOIA Report.

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

Yes

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

The FOIA Office routinely provides training to FOIAXpress end-users on how to use certain features to automate tasks.

Section V: STEPS TAKEN TO REMOVE BARRIERS TO ACCESS, IMPROVE TIMELINESS IN RESPONDING TO REQUESTS, AND REDUCE BACKLOGS

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

A. Remove Barriers to Access

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

Yes,

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

Once a requester's identity has been verified, certain documents in loan files can be accessed outside of FOIA, such as individual loss reports.

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

The FOIAXpress case management system helps remove barriers to accessing government information by providing functionality that includes the Public Access Link, which enables the general public to submit FOIA requests directly to the agency by creating accounts within the system. The general public also can communicate directly with SBA staff who are processing their requests via the FOIAXpress built-in

messaging system. Requesters are also able to obtain processing status updates, as well as receive responsive documents directly from FOIAXpress.

B. Timeliness

4. For the Fiscal Year 2024, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2023 Annual FOIA Report.

21.95

5. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2024 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.

Although the Agency has improved in this area, our office will continue to provide reminders to the program offices to adjudicate requests for expedited processing 5 days after the request has been assigned.

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

Yes.

7. If your agency uses a separate track for simple requests, according to Annual FOIA Report section VII.A, was the agency's overall average number of days to process simple requests twenty working days or fewer in the Fiscal Year 2024?

27.53

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

Yes

9. Please provide the percentage of requests processed by your agency in Fiscal Year 2024 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.

59.1%

10. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?

N/A

C. Backlogs

BACKLOGGED REQUESTS

11. If your agency had a backlog of requests at the close of Fiscal Year 2024, 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 2023

Yes

12. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2024 than it did during Fiscal Year 2023?

N/A

13. If your agency's request backlog increased during the Fiscal Year 2024, 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:

N/A.

14. If you had a request backlog, please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in the Fiscal Year 2024. 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."

6.06%

BACKLOGGED APPEALS

15. If your agency had a backlog of appeals at the close of the Fiscal Year 2024, according to Section XII.E.2 of the Annual FOIA Report, did that backlog decrease compared with the backlog reported at the end of the Fiscal Year 2023?

N/A

16. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during the Fiscal Year 2024 than it did during the Fiscal Year 2023?

N/A

17. If your agency's appeal backlog increased during the Fiscal Year 2024, 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:

N/A

18. If you had an appeal backlog, please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in the Fiscal Year 2024. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received from Section VI.A) x 100. This number can be greater than 100%. If your agency did not receive any appeals in the Fiscal Year 2024 and/or has no appeal backlog, please answer with "N/A."

N/A

D. Backlog Reduction Plans

19. In the 2024 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2024 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 the Fiscal Year 2024.

Our office worked with the two program offices with the highest number of overdue requests to help them reduce their 10 oldest requests every month, which has helped the Agency bring its backlog under 1000.

20. If your agency had a backlog of more than 1,000 requests in the Fiscal Year 2024, please explain your agency's plan to reduce this backlog during the Fiscal Year 2025.

N/A

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

21. In Fiscal Year 2024, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2023 Annual FOIA Report?

No

22. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2023 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

Yes, 6

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

Our office worked with the two program offices with the highest number of overdue requests to help them reduce their 10 oldest requests every month.

TEN OLDEST APPEALS

24. In the Fiscal Year 2024, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2023 Annual FOIA Report?

Yes, 3

25. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2021 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

N/A

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

N/A

TEN OLDEST CONSULTATIONS

27. In Fiscal Year 2024, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2023 Annual FOIA Report?

SBA did not have any consultations.

28. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2021 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

N/A

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

29. If your agency did not close its ten oldest pending requests, appeals, or consultations, please explain why and provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during the Fiscal Year 2025.

In addition, assisting the program offices in closing their 10 oldest requests every month, we have provided additional training to SBA staff on using FOIAXpress to send correspondence and redact records.

F. Additional Information about FOIA Processing

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

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

There were five FOIA requests involved in litigation during the reporting cycle for attorney fees, use of Exemption 5 (Presidential Communications Privilege), use of multiple exemptions, and non-responsiveness. The requests were generally complex, involving internal and external coordination in addition to the review of thousands of potentially responsive records.

This involved crafting detailed Vaughn indices across thousands of pages of produced records and several declarations. These requests required a significant amount of time and personnel hours for processing and expenses for attorney's fees.