

## Commodity Futures Trading Commission

### 2022 Chief FOIA Officer Report

#### Section 1: 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.**

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

**John Einstman, Deputy General Counsel for General Law**

##### **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.

**All new FOIA employees receive multiple FOIA trainings on areas such as FOIAXpress, Relativity, FOIA exemptions, document review and redactions, response letters, and communicating with requesters and other CFTC offices. In addition, all new division and office directors receive FOIA training so that they can ensure their team properly fulfills its FOIA responsibilities. The Chief FOIA Officer regularly encourages FOIA staff to attend any FOIA trainings they are interested in and promotes FOIA training attendance for new FOIA employees. He is also a strong supporter of continuing education for more senior FOIA staff so that everyone can continue to improve and keep apprised of any changes or additions to DOJ's guidance. He always forwards to staff any notifications he receives regarding upcoming training to make sure everyone is aware of the trainings and has the opportunity to attend. He has never denied a FOIA training request and has continued to support any and all FOIA training requests. In addition, he encourages staff of all levels to attend higher-level meetings, such as the Chief FOIA Officer Council meeting, to continue to increase exposure and education.**

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.**

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

**Our FOIA attorney attended the FOIA Annual Report training covering FOIA data reporting. She also attended the Chief FOIA Officer Council meeting. She would have attended more but was out of the office on leave for 6 months. She plans to attend the Advanced Freedom of Information Act training on February 2, 2022. We briefly had another FOIA staff member who attended the FOIA Annual Report training as well but has left the Commission. We are in the process of hiring a new FOIA staff member to fill the vacant position and will make sure that person attends training as soon as possible after starting (we anticipate that this person will attend the Advanced Freedom of Information Act training in February as well).**

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.

**100%.**

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.

**N/A.**

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

**Yes, Records Management training was completed within the past several months.**

### **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 – one requester expressed concerns about comments (not regarding any current FOIA requests) made by a non-FOIA staff member. Our FOIA attorney, as well as the Chief FOIA Officer, engaged in phone calls with the requester to discuss his concerns. We then followed up with the relevant staff member to address the requester’s concerns.**

### **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?

**Each time a new division or office director starts at the Commission, we include FOIA training as part of their onboarding process. This is to ensure that leadership for every office/division throughout the Commission understands the FOIA process and the associated obligations. We have conducted this training approximately every few months in the past and, with the change in administration, will be conducting many onboarding trainings for upcoming new employees. The format of the training is a one-on-one training with our FOIA attorney. The training is usually done in person, but has been conducted virtually for this reporting period due to the COVID-19 pandemic and will continue to be virtual until further notice.**

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.

**Yes – over the past year, we have reached out to several other agencies to consult with them on how they handle certain types of records to better understand our options and arguments for releasing certain information. We have also made a greater effort this past year to proactively post records for the public on our website.**

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

DOJ’s [FOIA Guidelines](#) emphasize that “[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests.” It is essential that agencies effectively manage their FOIA program.

Please answer the following questions to describe the steps your agency has taken to ensure that the management of your FOIA program is effective and efficient. You should also include any additional information that that describes your agency's efforts in this area.

1. For Fiscal Year 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 2021 Annual FOIA Report.

**18.25**

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.

**We had four requests for expedited processing. Three of them were adjudicated within ten days, while the fourth took longer than ten days and brought up our average. Our only FOIA attorney went out on leave unexpectedly due to an emergency, which resulted in some delays in FOIA processing while we did our best to fill in while she was out. We have a system in place for checking new FOIA requests for expedited processing requests, so as long as we have FOIA staff, adjudicating requests for expedited processing efficiently should not be an issue going forward.**

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?

**Yes, our FOIA regulations have been updated since 2016. We would also like to make further updates once we have the staff resources to do so.**

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?

**Some SOPs are up-to-date but others should be updated.**

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

**As mentioned, we currently have only one FOIA staff member, so we plan to work on updating the SOPs as soon as we have proper staffing. We anticipate having a new FOIA staff member start in early 2022.**

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

**Yes.**

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.

**One option is to routinely release large data sets via the D2D platform in an aggregated or un-identifiable format. This year, we de-identified our MD175 workforce tables by working with our Chief Data Officer and our Office of Minority and Women Inclusion to make the report publicly available.**

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.

**Yes – we conducted various forms of self-assessment this past reporting period. We analyzed our Annual Report data to identify areas for improvement and areas where standard written guidance is likely to resolve inconsistencies. We also utilized two different forms of track management to facilitate greater efficiency in conducting follow-ups for requests. In addition, we have been**

**reviewing our processing procedures to identify areas where updates or clarification would be beneficial.**

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).

**Most questions are handled directly by the FOIA professional processing the request, since that person has the most knowledge of the request. We estimate that the FOIA Public Liaison received less than ten requests for assistance.**

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

**Yes – we are in need of additional FOIA staff. We are in the process of hiring one new FOIA staff member, which will bring us to a total of two FOIA staff members. Ideally, we would be able to increase the FOIA staff number to four to five people in order to efficiently process our many requests.**

11. Optional -- Please describe:

- Best practices used to ensure that your FOIA system operates efficiently and effectively

**A best practice is the FOIA office's collaboration with the CFTC's forensics team to conduct centralized searches, which has greatly reduced our search times while effectively capturing the universe of responsive records.**

- Any challenges your agency faces in this area.

**A major challenge has been a lack of sufficient FOIA staff and FOIA staff turnover.**

### **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.

**We have a Content Managers team dedicated to updating and posting records for public access. Regarding (a)(2)(D), every time we receive a new FOIA request, we first do a search to check whether we have had any past requests on the same topic to track repeat requests for records. Although we receive requests on a large variety of topics and do not often receive repeat requests, our tracking process of searching past requests as a first step ensures that we efficiently identify records to post and proactively disclose.**

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.

**The FOIA Office proactively discloses information that we anticipate FOIA requesters will be interested in, as well as information that has been requested three or more times:**

[https://www.cftc.gov/FOI/foia\\_freqrequestinfo.html](https://www.cftc.gov/FOI/foia_freqrequestinfo.html)

**Other Program Offices throughout the agency also proactively disclose records. We proactively disclose information in connection with our numerous Dodd-Frank Act rulemakings:**

<https://www.cftc.gov/LawRegulation/DoddFrankAct/Rulemakings/index.htm>

**Pursuant to its transparency policy, the agency continues to list all rulemaking meetings with outside stakeholders:** <https://www.cftc.gov/LawRegulation/DoddFrankAct/ExternalMeetings>

**The agency regularly posts No-Action Letters, Interpretative Letters and Exemptive Letters on the agency website to inform the public on various agency matters:**

<https://www.cftc.gov/LawRegulation/CFTCStaffLetters/index.htm>

**The agency's press office routinely posts advisory notices, speeches, testimony, notices of enforcement actions, and other materials of interest on the agency website:**

<https://www.cftc.gov/PressRoom/PressReleases>

**The agency also routinely proactively discloses many market-related materials to assist the public, including:** <https://www.cftc.gov/MarketReports/index.htm>

**And as mentioned above, every time we receive a new FOIA request, we first do a search to check whether we have had any past requests on the same topic to track repeat requests for records. Although we receive requests on a large variety of topics and do not often receive repeat requests, our tracking process of searching past requests as a first step ensures that we efficiently identify records to post and proactively disclose.**

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.

**Yes, our agency is dedicated to making market-related data available to the public. For example:**

**Commitments of Traders Reports:**

<https://www.cftc.gov/MarketReports/CommitmentsofTraders/index.htm>

**Weekly Swaps Reports:** <https://www.cftc.gov/MarketReports/SwapsReports/index.htm>

**Bank Participation Reports:**

<https://www.cftc.gov/MarketReports/BankParticipationReports/index.htm>

**Cotton-On-Call Reports:** <https://www.cftc.gov/MarketReports/CottonOnCall/index.htm>

**Financial Data for FCMS:** <https://www.cftc.gov/MarketReports/financialfcmdata/index.htm>

**Net Position Changes Data:**

<https://www.cftc.gov/MarketReports/NetPositionChangesData/index.htm>

**Staff Reports:**

[https://www.cftc.gov/About/CFTCReports/cftcreports\\_historical.html?combine=&tid=4116&year=all](https://www.cftc.gov/About/CFTCReports/cftcreports_historical.html?combine=&tid=4116&year=all)

**Cleared Margin Reports:** <https://www.cftc.gov/MarketReports/ClearedMarginReports/index.htm>

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?

Yes.

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.

**Last year, we completely revamped our public website to make it more useful, clear, and organized, so that visitors can locate information more efficiently and to ensure access to a broader range of information. Notably, we also spent a great deal of time on an organizational update to our FOIA webpages. In addition, we follow requirements for posting information in machine-readable formats, such as the posting of the FOIA Annual Report.**

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

**Yes – we work closely with the Content Managers web team, which is part of the Office of Public Affairs to make sure that information is posted in the proper locations and in required formats. We have also collaborated to post information in a way that is user-friendly and are both always open to changes and improvements. We also collaborate with our divisions, who are the subject-matter experts, on any questions that arise about the posting of substantive information.**

Optional -- Please describe:

- Best practices used to improve proactive disclosures

**The agency is mindful of and tracks events that we anticipate will be of great interest to the public, such as significant market data events, “hot topics” in the news, and recent agency press releases.**

- Any challenges your agency faces in this area

**A challenge is that we must always balance the goal of making proactive disclosures with the often sensitive and proprietary nature of our data. Much of our data comes from third parties who have submitted Requests for Confidential Treatment.**

**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?

**Yes.**

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

**We have started using an agency-wide email search capability that allows us to quickly estimate the number of responsive records/universe of relevant records.**

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.**

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.**

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.

**N/A.**

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.

<https://www.cftc.gov/FOI/foiareadingrooms.html>

7. Optional -- Please describe:

- Best practices used in greater utilizing technology

**The agency continues to further its best practices in utilizing technology, particularly through the increased use of forensics tools.**

- Any challenges your agency faces in this area

**Our greatest challenge is centered on insufficient staff numbers on our FOIA team.**



## **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, the average was 24.35 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.

**(112/144)100 = 77.78%.**

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

**N/A.**

### **B. Backlogs**

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?

No.

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?

No.

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.

**Our backlog increase was due to a lack of staff. Our only FOIA attorney had an emergency and unexpectedly went out on leave for 6 months. It took us a couple months to hire another FOIA staff member in the meantime. The agency did its best to fill in, but a lack of no full-time FOIA staff for months resulted in a backlog which was impossible to fully resolve by the end of the fiscal year.**

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."

**(14/157)100 = 8.92%.**

## BACKLOGGED APPEALS

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

N/A.

10. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2021 than it did during Fiscal Year 2020?

N/A.

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.

N/A.

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. This number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2021 and/or has no appeal backlog, please answer with "N/A."

N/A.

### **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?

N/A.

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.

N/A.

#### **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.**

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 less than ten total oldest requests to close, please indicate that.

**We had nine total requests pending at the end of Fiscal Year 2020. We were able to close seven of those nine requests.**

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

**We reached out to requesters to try and narrow the scope of large requests. Also, we sometimes included division staff on calls with requesters when it made sense, since division staff have first-hand knowledge of the scope of the responsive records.**

#### **TEN OLDEST APPEALS**

18. In Fiscal Year 2021, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2020 Annual FOIA Report?

**N/A.**

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.

**We did not have any pending appeals at the end of Fiscal Year 2020.**

20. 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

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?

N/A.

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.

**We did not have any consultations pending at the end of Fiscal Year 2020.**

### 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.

**As mentioned previously, we faced a big obstacle this year of not having any full-time FOIA staff for several months. This situation resulted from an employee needing to be out of the office unexpectedly due to a personal emergency. For the past several months, we have been faced with an additional challenge of only having one FOIA staff member to handle our many requests, due to staff turnover.**

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.

N/A.

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.

**We did not close two of our oldest requests from last year. At this point, we have already closed one of those two. For the remaining request, our plan is to prioritize and complete this request as soon as we onboard an additional FOIA staff member, which we anticipate to be in early 2022. Once we have two FOIA team members, this should allow for the time to focus on this oldest request.**

### 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.

- **Due to an emergency situation, we had only one FOIA staff member over the past year.**
- **For several months, we did not have any full-time FOIA staff.**
- **Unsurprisingly, our backlog increased during this time.**
- **We had over 40 backlogged requests when our FOIA attorney returned from leave at the end of July.**
- **This left only about eight weeks to try and reduce the backlog before the end of the fiscal year.**
- **Despite this challenge, we were able to reduce the backlog to only 14 requests at the end of the fiscal year.**
- **We accomplished this reduction due to communication with requesters, use of technology to increase efficiency, and collaboration with our divisions.**
- **We are proud that we were able to decrease the backlog in a short amount of time and with limited staff.**