



**Agencies Receiving More than 50 Requests in FY16**

**2018 Chief FOIA Officer Report**

**Reporting Period March 2017- March 2018**

**Agency Chief FOIA Officer India Pinkney, General Counsel**

**INTRODUCTION**

*The National Endowment for the Arts (NEA) is a small agency with approximately 160 staff members and no agency components. The agency's day-to-day FOIA operations are proportionately small. One FOIA Officer processes all of the NEA's FOIA requests. The FOIA Officer is supervised by the NEA General Counsel/Chief FOIA Officer, India Pinkney. The NEA is committed to making its work more transparent and recognizes that FOIA is a fundamental element of Open Government. By applying a presumption of openness and maintaining effective FOIA operations, the agency seeks to expand the availability of its information to the public. The following report describes the steps taken by the NEA to implement the Freedom of Information Act during the past year.*

**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 Training**

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

**Answer: Yes**

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

**Answer: The primary FOIA professional and the FOIA Public Liaison attend various trainings offered by DOJ such as *FOIA for Attorneys and Access Professionals, FOIA Litigation Seminar, Continuing FOIA Education and the Report Refresher Trainings.***

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

***Answer: 85% of the FOIA professionals attended substantive FOIA training. However remaining Office of General Counsel Staff (who don't have FOIA responsibilities) will participate in at least one DOJ sponsored training before next reporting period.***

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

#### **B. Outreach**

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

***Answer: Yes, both the FOIA officer and the FOIA Public Liaison participated in the open government group discussions in person and via teleconference.***

#### **C. Other Initiatives**

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

***Answer: Information regarding FOIA responsibilities are provided with the on-boarding of new staff. FOIA professionals are also available for one-on one consultations as needed and to respond to specific FOIA related questions. FOIA modules are in the process of being re uploaded to the agency electronic learning systems due to changes in service provider.***

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

***Answer: The presumption of openness is consistently reinforced in Senior Management and Office Heads meetings throughout the agency. Newsletter subscriptions managed by the Office of Public Affairs also provides the public with updated access to information about the agency.***

**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 2017, 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 2017 Annual FOIA Report.

***Answer: In Fiscal year 2017 we adjudicated one request for expediting processing within six days.***

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less. ***Not Applicable***

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

***Answer: Yes. The agency utilized the OIP FOIA Self-Assessment Toolkit as a guideline to review its current FOIA program and processes.***

4. 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 2017 (please provide a total number or an estimate of the number).

***Answer: The FOIA Public Liaison was utilized in one instance during Fiscal Year 2017***

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

**Answer: All aspects of the current FOIA administration is being reviewed for efficiency and compliance.**

### **Section III: Steps Taken to Increase Proactive Disclosures**

The Department of Justice has long focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

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

**Answer:**

[Open Government | NEA](#)

[Grants | NEA](#)

[Annual Report | NEA](#)

[News | NEA](#)

[FOIA Reading Room, Frequently Requested Records | NEA](#)

[Publications | NEA](#)

[Staff Directory | NEA](#)

[NEA Credit Card Holders | NEA](#)

[Panelists | NEA](#)

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

**Answer: The Office of Public Affairs (OPA) continues to reach out via social media avenues such as Twitter and Facebook.**

3. 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?

**Answer:** *OPA also operates a direct email subscriptions providing an agency newsletter with information and updates about agency activity.*

4. If there are any other steps your agency has taken to improve proactive disclosures, please describe them here.

**Answer:**

For example, has your agency engaged requesters in determining how and what to post? Has your agency used web analytics to inform your proactive disclosures?

**Answer:** *We use Google Analytics to measure traffic statistics for the website as well as a combination of measures available through the social media platform to capture those statistics.*

#### **Section IV: Steps Taken to Greater Utilize Technology**

A key component of FOIA administration is using technology to make information more accessible. In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that that describes your agency's efforts in this area.

1. Has your agency identified any best practices to leverage technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents? If yes please describe the best practices, the types of technology used and the impact on your agency's processing. **Answer: Not at this time**

2. Did your agency successfully post all four quarterly reports for Fiscal Year 2017?

**Answer: Yes**

3. 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 2018. **Not Applicable**

4. 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 2016 Annual FOIA Report and, if available, for your agency's Fiscal Year 2017 Annual FOIA Report.

**Answer:** [Agency FOIA Reports](#) | [NEA](#)

5. If there are any other steps your agency has taken to improve use of technology in FOIA, please describe them here.

**Answer:** *Not at this time*

### **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 2017 Annual FOIA Report and, when applicable, your agency's 2016 Annual FOIA Report.

#### **A. Simple Track**

Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

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

**Answer:** *Yes*

2. If so, for your agency overall in Fiscal Year 2017, was the average number of days to process simple requests twenty working days or fewer?

**Answer:** *Yes. The average number of days to process simple requests was thirteen..*

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2017 that were placed in your simple track.

**Answer: 87.65% of requests received by the agency 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?

**Answer: Yes**

## **B. Backlogs**

Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2016 and Fiscal Year 2017 when completing this section of your Chief FOIA Officer Report.

### **BACKLOGGED REQUESTS**

5. If your agency had a backlog of requests at the close of Fiscal Year 2017, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2016?

**Answer: There was one backlog at the end of the Fiscal Year.**

6. If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors: **Answer: The volume of documents that have to be reviewed for release.**

7. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2017.

**Answer: 1%**

### **BACKLOGGED APPEALS**

8. If your agency had a backlog of appeals at the close of Fiscal Year 2017, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2016? **Not Applicable**

9. If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors: **Not Applicable**

10. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2017. If your agency did not receive any appeals in Fiscal Year 2017 and/or has no appeal backlog, please answer with "N/A." **N/A**

### **C. Backlog Reduction Plans**

11. In the 2017 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2016 was asked to provide a plan for achieving backlog reduction in the year ahead. Did you 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 2017? **N/A**

12. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2017, what is your agency's plan to reduce this backlog during Fiscal Year 2018? **N/A**

### **D. Status of Ten Oldest Requests, Appeals, and Consultations**

Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2016 and Fiscal Year 2017 when completing this section of your Chief FOIA Officer Report.

#### **TEN OLDEST REQUESTS**

13. In Fiscal Year 2017, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

**Answer: Yes**

14. 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 2016 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that. **NEA has no ten oldest to close at the end of FY 16.**

15. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?

**Answer: Yes**

#### TEN OLDEST APPEALS

16. In Fiscal Year 2017, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

**Answer: Not Applicable**

17. 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 2016 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

#### TEN OLDEST CONSULTATIONS

18. In Fiscal Year 2017, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2016 Annual FOIA Report? **Not Applicable**

19. 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 2016 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

**Answer: There were no consultations reported in the Fiscal Year 2016 Annual Report.**

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

20. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2017. **Not Applicable**

21. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending. **Not Applicable**

22. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2017. **Not Applicable**