

**FY 2022 Chief FOIA Officer Report US Agency for Global Media (March 2023)**  
**Agencies Receiving More Than 50 Requests**

**SECTION I: FOIA LEADERSHIP AND APPLYING THE PRESUMPTION OF OPENNESS**

The guiding principle underlying the Attorney General's [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.

**David Kligerman, General Counsel.**

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?

**None.**

**B. Presumption of Openness**

4. The Attorney General's 2022 FOIA Guidelines provides 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 it can neither confirm nor deny the existence of requested records if acknowledging the existence of records would harm an interested protected by a FOIA exemption. This is commonly referred to as a *Glomar* response. With respect to these responses, please answer the below questions:

- a. In addition to tracking the asserted exemption, does your agency specifically track whether a request involved a *Glomar* response? **Yes.**
- b. If yes, please provide:
  - i. the number of times your agency issued a full or partial *Glomar* response (separate full and partial if possible); **None.**
  - ii. the number of times a *Glomar* response was issued by exemption (e.g., Exemption 7(C) – 20 times, Exemption 1 – 5 times). **None.**

- c. If your agency does not track the use of *Glomar* responses, what would your agency need to do to track in the future? If possible, please describe the resources and time involved. **N/A.**

6. 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.

## 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.

**USAGM's Workforce Training Office identified and provided to FOIA team members training available from private vendors and via Aglearn from the US Dept of Agriculture.**

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. One of the two members of the FOIA Office attended at least one of the training classes provided by OIP. The other member did FOIA CLE through Bar-sponsored class.**

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

**We both did FOIA Exemption 5 training.**

**Our former employee took a DOJ/OIP Virtual Class - title/date unknown**

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?

**Our FOIA POCs received training from the FOIA paralegal – a briefing and written guidance. Senior leaders have been briefed on FOIA resources and expectations, and have increased funding to assist meeting FOIA needs.**

## **B. Outreach**

7. 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.

**Our FOIA Office routinely engaged in open dialogues with our requesters designed to narrow requests and prioritize the FOIA Office's workload. Numerous requests were overbroad, seeking all e-mails and attachments over a 7-month period sent or received by numerous agency officials. While some requesters agreed to narrow their search, many continued to seek identifiable but voluminous material in search of a story or political soundbite. In addition, 2022 saw a rise in requests for "Global Entry" information, which is not handled by our Agency. We liaised with other agencies and adjusted our website to diminish the number of "not our agency" letters.**

8. 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. See answer to question 7. A specific example is a request for 3 years' of e-mails from 19 different employees seeking evidence of bias in a language service. For each of the 19 employees this is a request for approximately 60,000 e-mails (including strings). Efforts to narrow are still ongoing in FY 23.**

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

**Two.**

## **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.

**The agency lost its sole FOIA attorney in March 2021 and its sole FOIA paralegal January 2023. A new FOIA lawyer was hired and a new FOIA contract paralegal onboarded (both March 2023).**

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.

**Senior leaders provided funds to contract for “Relativity” for litigation and FOIA processing in November 2022.**

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

**None.**

**SECTION III: PROACTIVE DISCLOSURES**

The Attorney General’s [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.
2. **We seek material from Voice of America that we know is of interest to the public and post it to our FOIA website.** 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.

**Examples of Proactive Disclosures include the executive correspondence of the CEO and front staff June 2020 – January 2021 (over 7,000 pages). Here is a link to the reading room:** <https://www.usagm.gov/foia/electronic-reading-room/>.

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?

**The posting of the Executive correspondence of the agency June 2020 – January 2021 is compartmentalized and labelled according to subject matter covered and the name or position of the person whose correspondence is provided.**

4. 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.

**USAGM highlights certain high-interest topics, makes information available in open or native formats, and publicizes high-interest topics on social media to make information more useful.**

5. 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.

**We engage with Voice of America to provide material to post on our FOIA website.**

6. 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 TAKE 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 [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 resources needed to respond to current and anticipated FOIA demands?

**Currently, the USAGM FOIA Office does not have a content management system to support its FOIA system. Instead, we rely heavily on our OCIO to do email searches required to identify responsive records and Adobe Pro to redact and paginate our productions. Production of FOIA releases is labor intensive as a result; the FOIA office has invested in Relativity software and has received several training sessions.**

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

**None – Relativity will be implemented in 2023.**

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.

**No.**

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? **No.**

5. Did all four of your agency's [quarterly reports](#) for Fiscal Year 2022 appear on FOIA.gov? **No.**

6. If your agency did not successfully post all quarterly reports on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2023.

**Insufficient manpower. We only closed 77 FOIA requests. In one quarter we only closed two. New personnel hired 2023. The Agency FOIA website shows closed FOIA logs for all four quarters, with date FOIA was submitted and subject of FOIA.**

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 2022 Annual FOIA Report.

**USAGM will work to post the raw data at <https://www.usagm.gov/foia-reports/>.**

8. In February 2019, 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, we do not have an automated case management system.**

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

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

The Attorney General's [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? **No.**

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

**All requests for contract data and for HR data sent to those entities are forwarded to FOIA despite it being more efficient for them to handle request.**

### B. Timeliness

3. For Fiscal Year 2022, 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 2022 Annual FOIA Report. **6.**

4. 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 2022 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. **N/A.**

5. Does your agency utilize a separate track for simple requests? **No.**

6. 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 2022? **N/A.**

7. If not, did the simple track average processing time decrease compared to the previous Fiscal Year? **N/A.**

8. Please provide the percentage of requests processed by your agency in Fiscal Year 2022 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. **N/A.**

9. 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? **No.**

### C. Backlogs

## BACKLOGGED REQUESTS

10. If your agency had a backlog of requests at the close of Fiscal Year 2022, 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 2021?

**No. USAGM's backlog increased from 13 in 2019 to 42 in 2020 to 82 in 2021 to 84 in 2022. We processed almost three times as many requests in FY'21 as FY'20, and matched our 2021 processing number in 2022.**

11. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2022 than it did during Fiscal Year 2021?

**No, the numbers processed were the same - 77.**

12. If your agency's request backlog increased during Fiscal Year 2022, 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

**USAGM received twice as many FOIA requests in 2021 as it did in 2020 and three times the number of 2019 requests. In 2022, the number of requests dropped from 113 to 92, but 62 of the 92 are in litigation and we have not been able to process them.**

13. 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 2022. 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."

**91.3% (84 backlogged requests at end of FY22, divided by 92 received in FY22 x 100)**

#### **BACKLOGGED APPEALS**

14. If your agency had a backlog of appeals at the close of Fiscal Year 2022, 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 2021?

**YES. It decreased from 3 to 1.**

15. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2022 than it did during Fiscal Year 2021?

**N/A.**

16. If your agency's appeal backlog increased during Fiscal Year 2022, 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.**

17. 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 2022. 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 2022 and/or has no appeal backlog, please answer with "N/A."

**100% (1 backlogged appeal at end of FY22, divided by 1 appeal received in FY22 x 100)D.  
Backlog Reduction Plans**

18. In the 2022 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2021 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 2022? **N/A.**

19. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2022, please explain your agency's plan to reduce this backlog during Fiscal Year 2023. **N/A.**

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

### **TEN OLDEST REQUESTS**

20. In Fiscal Year 2022, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2021 Annual FOIA Report?

**YES.**

21. 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 2021 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that. **N/A.**

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



**We worked on the oldest FOIA requests in terms of date received, i.e., 11<sup>th</sup>, then 12<sup>th</sup> oldest.**

#### **TEN OLDEST APPEALS**

23. In Fiscal Year 2022, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2021 Annual FOIA Report?

**YES.**

24. 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.

**USAGM closed three out of three.**

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

**We had fewer than 10.**

#### **TEN OLDEST CONSULTATIONS**

26. In Fiscal Year 2022, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2021 Annual FOIA Report?

**N/A.**

27. 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 – no outstanding consultations.**

#### **ADDITIONAL INFORMATION REGARDING TEN OLDEST**

28. 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 Fiscal Year 2023.

**N/A.**

#### **F. Additional Information about FOIA Processing**

29. 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, and any other information to illustrate the impact of litigation on your overall FOIA administration.

**We have 62 FY 22 FOIA requests subject to litigation – all consolidated from one requester/appellant. The appellant filed within a few months of making his requests. Due to the time we spent on FOIA litigation we could only process half what we could otherwise have done for non-litigation requests. This has been a pattern for two years.**

30. How many requests during Fiscal Year 2022 involved unusual circumstances as defined by the FOIA? (This information is available in your agency's FY22 raw data). **Zero.**