



U.S. Agency for Global Media 2024 Chief FOIA Officer Report

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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.

David Kligerman, Chief Legal Officer.

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?

Given its mission to “inform, engage, and connect people around the world,” USAGM is uniquely situated to appreciate the importance of transparency and the freedom of information. It directly incorporates those principles in agency-wide priorities, listing “expanding freedom of information and expression” as one of its two driving, overarching strategic goals in its Strategic Plan.

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?

Yes.

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. 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);
- the number of times a *Glomar* response was issued by exemption (e.g., Exemption 7(C) – 20 times, Exemption 1 – 5 times).

The agency issued one partial denial that neither confirmed nor denied the existence of records. It did so in order to preserve interests otherwise protected by Exemption 6.

6. If your agency does not track the use of Glomar responses, are you planning to track this information in the future?

Not applicable.

7. 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.

The agency identifies the foreseeable harm in its determination letters whenever asserting an exemption.

Section II: Ensuring Fair and Effective FOIA Administration

The Attorney General’s 2022 [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 provided to FOIA team members training available from private vendors and via Aglearn from the US Department of Agriculture.

The agency’s Office of General Counsel provided bespoke training to FOIA personnel and agency subject matter experts responsible for conducting FOIA searches.

Representatives of the agency’s FOIA office attended trainings lead by the Department of Justice Office of Information Policy and by the American Society of Access Professionals.

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.

Department of Justice Office of Information Policy trainings.

American Society of Access Professionals National Training Conference.

Extensive training on using the agency’s new e-discovery tool, RelativityOne, for FOIA workflows.

Internal training delivered by the Office of General Counsel.

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 percent.

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.

Not applicable.

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 Office of General Counsel conducted live training available to all subject matter experts responsible for overseeing component FOIA searches. The Office of General Counsel additionally provided ad hoc training on request on a variety of subjects, including how to conduct and document a search, the definition of agency records, and FOIA fee assessments.

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. Agency FOIA professionals regularly contact requesters in efforts to clarify or narrow the scope of requests. Our processors attempt to provide estimated timelines for processing complex requests and work with requesters to identify efficiencies and more targeted methods of identifying the records and information the requesters seek. In one circumstance, the requester sought emails containing a series of keywords. Initial searches identified more than 3,000 responsive email records. During a conversation with an agency FOIA professional, the requester indicated that they sought only one specific record, but had phrased the request broadly to ensure that the record would be included. The conversation saved the agency more than 100 hours of processing time.

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.

Yes. Agency representatives contacted several of the agency’s more frequent FOIA requesters in an effort to establish positive communications and relationships.

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 2023 (please provide a total number or an estimate of the number for the agency overall).

USAGM's FOIA Public Liaison received requests for assistance from requesters on 12 occasions during Fiscal Year 2023.

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.

After two years without permanent leadership of the agency FOIA program, the Office of General Counsel hired an attorney with significant FOIA experience to oversee all agency FOIA operations. USAGM additionally hired a contract paralegal to assist with FOIA administration.

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.

The FOIA office reviews monthly statistical reports identifying: the number of requests and appeals that are received and closed; the number of requests and appeals currently pending; the mean and median processing times of requests closed in the previous month; and a listing of the oldest open requests. Personnel are adjusted to address need.

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

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.

Representatives from the FOIA Office meet regularly with the USAGM Office of Public Affairs and the Voice of America Office of Public Relations to identify records that may receive significant public attention and may become the subject of future FOIA requests. The offices then discuss whether those records are best housed on USAGM's FOIA Electronic Reading Room, or elsewhere on the USAGM public-facing websites.

Regarding records that have already been requested at least three times, the head of the agency FOIA program reviews each request as it comes in to determine whether the same records were the subject of previous requests.

2. How long after identifying a record for proactive disclosure does it take your agency to post it?

This varies based on circumstance and the work load of the web team. The web team can post some records within the same day. Others may take up to one week.

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

- If so, what information is contained in the logs?
- Are they posted in CSV format? If not, what format are they posted in?

USAGM annually posts a log of requests either processed or received during the fiscal year. It posts two versions of the logs. One contains the same information used to tabulate the information contained in the agency's FOIA Annual Report. This version is posted in xlsx format. The second log contains: the request tracking number, requester name (unless releasing the requester name would constitute a clearly unwarranted invasion of personal privacy), the requester's organization, a short description of the request, the date the agency initially received the request, the date the agency completed processing of the request, and the disposition of the request. This version is posted in PDF format.

4. 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.

Requesters did not seek the same record three or more times in the last fiscal year.

The agency proactively posts records that may be of significant public interest or that may become the subject of FOIA requests as appropriate throughout the agency's website in locations that the interested public will be most likely to locate them. For example, the agency's [Research and Reports](#) page includes records such as the Agency's [Strategic Plan](#) and [Congressional Budget Justification](#). Other records are posted on the agency's FOIA [Electronic Reading Room](#).

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?

The agency attempts to identify the portion of its website that requesters will be most likely to visit when searching for the particular records. It additionally posts searchable PDFs of the records it posts to enable requesters to pinpoint the information they are looking for within the records.

6. 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.

The agency makes every effort to post information in open, machine-readable formats.

7. 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.

USAGM's proactive disclosure process includes communication with the USAGM Office of Public Affairs and the Voice of America Office of Public Relations. Both offices identify and flag issues that may become of interest to the requester community and public at large.

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

USAGM's FOIA Office is in regular contact with agency subject matter experts to help identify records that appropriate for proactive release.

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 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 resources needed to respond to current and anticipated FOIA demands?

USAGM identified a gap in its ability to manage large scale email requests. It procured Relativity One to assist with email de-duplication and analysis, including structured and targeted review.

2. Please briefly describe any new types of technology your agency uses to support your FOIA program.

In the past fiscal year, the FOIA office began using Microsoft Teams as a central repository of FOIA files and trackers. It also began using an e-discovery tool, Relativity One, to assist with review of large email record sets.

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.

Relativity One features responsiveness predictions which the agency has incorporated into its review process. Any predictions are reviewed by humans, but those initial determinations are anecdotally faster when aided by the predictions.

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 Fiscal Year 2023 appear on FOIA.gov?

Yes.

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 2024.

Not applicable.

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 2022 Annual FOIA Report and, if available, for your agency's Fiscal Year 2023 Annual FOIA Report.

<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.

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

USAGM regularly strives to identify new efficiencies created by technology. Most significantly, in the last year the agency incorporated an e-discovery tool into its FOIA process to assist with the voluminous requests.

One significant challenge is the return on investment in FOIA technologies. As an agency that ordinarily receives between 50 and 125 requests per year, dedicating tens of thousands of dollars (or more) per year to technology may not be the most efficient use of agency funds.

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 typical FOIA or Privacy Act process?

No.

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

USAGM does not receive many first-party requests. Most first-party requests seek records that the agency does not possess. Others ask for personnel records, which can be adequately addressed by the FOIA process.

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

The very mission of USAGM is to prepare and disseminate information about the United States, its people and its policies through press, publications, radio, motion pictures, then Internet and other information media. Nearly every action the agency takes is directed towards making information more accessible and digestible.

B. Timeliness

4. For Fiscal Year 2023, 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.

Not Applicable.

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 2023 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.

Not Applicable.

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 overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2023?

No.

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 2023 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.

25 percent.

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?

Not Applicable.

C. Backlogs

Backlogged Requests

11. If your agency had a backlog of requests at the close of Fiscal Year 2023, 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 2022?

Decrease.

12. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2023 than it did during Fiscal Year 2022?

Yes.

13. If your agency's request backlog increased during Fiscal Year 2023, 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)

- Litigation
- Any other reasons – please briefly describe or provide examples when possible

Not Applicable.

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 Fiscal Year 2023. 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."

5.83 percent.

Backlogged Appeals

15. If your agency had a backlog of appeals at the close of Fiscal Year 2023, 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 2022?

The backlog was exactly the same: 1 appeal.

16. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2023 than it did during Fiscal Year 2022?

The total appeals processed were exactly the same: 1 appeal.

17. If your agency's appeal backlog increased during Fiscal Year 2023, 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)
- Litigation
- Any other reasons – please briefly describe or provide examples when possible

Not Applicable.

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 Fiscal Year 2023. 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 2023 and/or has no appeal backlog, please answer with "N/A."

100 percent.

D. Backlog Reduction Plans

19. In the 2023 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2022 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 2023?

Not Applicable.

20. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2023, please explain your agency's plan to reduce this backlog during Fiscal Year 2024.

Not Applicable.

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

Ten Oldest Requests

21. In Fiscal Year 2023, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2022 Annual FOIA Report?

Yes.

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 2022 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

Not Applicable.

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

USAGM re-staffed its FOIA office after having vacancies for nearly two years.

Ten Oldest Appeals

24. In Fiscal Year 2023, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2022 Annual FOIA Report?

Yes.

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 2022 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

Not Applicable.

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

USAGM restructured its appeal process to allow greater flexibility on the makeup of the Access Appeals Committee convened to address appeals.

Ten Oldest Consultations

27. In Fiscal Year 2023, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2022 Annual FOIA Report?

Not Applicable.

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 2022 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

Not Applicable.

Additional Information Regarding Ten Oldest

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 Fiscal Year 2024.

Not Applicable.

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

USAGM litigated two requests in FY23. Both were due to challenges of constructive denials. Both sapped significant agency resources while addressing the litigations, each of which sought voluminous records.