

High-Volume Agencies Receiving More Than 50 Requests in FY18

Content of 2019 Chief FOIA Officer Reports

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 least at the Assistant Secretary or equivalent level. 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. **Ms. Janet J. Brewer, Senior Vice President and Chief Communications & Marketing Officer.**

B. FOIA Training

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

Being located outside the Washington DC area, the TVA FOIA Officer and TVA's primary advisory attorney stay informed of news and developments in FOIA through participation in online training webinars available from the American Society of Access Professionals (ASAP) and online resources available from the Department of Justice; membership in professional organizations such as ASAP; subscriptions to newsletters such as Access Reports; and through social media and news sites such as the FOIA Blog, among others. Both the FOIA Officer and the primary advisory attorney who supports the FOIA Office have more than 15 years' experience working with FOIA.

5. 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% (FOIA Officer and primary advisory attorney).**

6. 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.**

C. Outreach

7. Did your FOIA professionals engage in any outreach or dialogue 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.

TVA has a Stakeholder Relations staff that work with TVA’s stakeholders, some of whom make FOIA requests, to provide information and listen to feedback on TVA actions and issues of interest to them. The staff has been helpful over the past year in engaging in dialogue with environmental groups who filed several FOIA requests to help explain TVA’s determinations on their requests and to provide explanatory information on TVA actions.

D. Other Initiatives

8. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In 2016, the Department **publicized** FOIA-related performance standards for employees that have any role in administering the FOIA, including non-FOIA professionals. Please also indicate whether your agency has considered including FOIA-related performance standards in employee work plans for employees who have any role in administering the FOIA.

FOIA training and counsel is provided to agency personnel by the FOIA Officer and TVA’s primary advisory attorney year-round, as needed. TVA’s standard operating procedures governing communications incorporate the presumption of openness and outline the responsibilities of all agency personnel to comply with the requirements of FOIA.

An article on FOIA was published in TVA’s daily internal newsletter during Sunshine Week in March 2018 to remind all employees and contractors of TVA’s commitment to openness and transparency in its operations and activities.

Currently, the TVA FOIA Officer has FOIA-related performance standards in her annual performance goals and is evaluated on performance towards those goals.

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

All records responsive to FOIA requests are carefully reviewed to ensure that as much information as possible is disclosed. In particular, internal agency information subject to exemption 5 is withheld only if a foreseeable harm exists.

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 2018, 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 2018 Annual FOIA Report.

Seven (7) 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. **N/A**

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.

In June 2018, TVA conducted a self-assessment of its FOIA program using the FOIA Self-Assessment Tool Kit provided by OIP. We answered the questions under each module of the tool using the scoring provided. We identified several areas that we will further examine for possible improvements.

- Note: In September 2017, OIP released a FOIA Self-Assessment Toolkit as a resource for agencies conducting a self-assessment of their FOIA program. The Toolkit is available on OIP's website for all agencies to use.

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 2018 (please provide a total number or an estimate of the number).

None.

5. Please describe the best practices used to ensure that your FOIA system operates efficiently and effectively and any challenges your agency faces in this area.

Request tracking is accomplished through use of an electronic database system. Through this system, requests are assigned a tracking number and a processing track in TVA's multi-track processing system to increase efficiency. The system also calculates response due dates to assist the FOIA Officer in timely responses.

TVA has multiple points of contact for FOIA requesters to check on the status of their requests, ask questions about their requests or the FOIA process in general and other inquiries.

Responses are sent electronically whenever possible.

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

[SEC Financial Filings](#)

[Environmental Reviews](#)

[TVA Rates](#)

[TVA Newsroom](#)

2. Please describe how your agency identifies records that have been requested and released three or more times (and are therefore required to be proactively disclosed pursuant to 5 U.S.C. § 552(a)(2)(D)).

The TVA FOIA Officer closely monitors information requested under FOIA to identify records that meet the requirement for online posting.

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?

Yes.

4. If yes, please provide examples of such improvements.

In 2015, a complete overhaul of TVA's web properties was executed to enhance our ability to make information available to our users. The web redesign focused on streamlining available content, a mobile-first approach, improved usability, and an all-new search engine. TVA has several feedback mechanisms in place for website visitors to comment on all aspects of information posted on its website and strives for continuous improvement.

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

The FOIA Officer closely monitors the information requested under FOIA to identify records are of interest to the public or may be required to be posted on the TVA website. Information on TVA's actions or activities that are of wide interest is made available to the public and interested parties through multiple channels, such as the TVA website, public meetings, press releases and advisories, among other methods.

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. Is your agency leveraging technology to facilitate efficiency in conducting searches, including searches for emails? If so, please describe the type of technology used. If not, please explain why and please describe the typical search process used instead.

TVA is in the last phases of its multi-year implementation of a new, efficient records and document system using an industry-leading product. The Enterprise Content Management (ECM) system is a new technology solution that ensures all documents remain available, secure and retrievable reducing the risk of system failure and impact to daily operations.

2. 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.**

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2018? **Yes.**

4. 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 2019. **N/A.**

5. 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 2017 Annual FOIA Report and, if available, for your agency's Fiscal Year 2018 Annual FOIA Report.

<https://www.tva.com/Information/Freedom-of-Information/Freedom-of-Information-Act-Annual-Reports>

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

The ECM system, described above, allows for efficient information searches, integrates with key TVA systems, manages retention requirements and facilitates documentation processes necessary to TVA's business and to comply with laws and regulations. Full implementation of ECM will increase work productivity and collaboration across the agency.

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 2018 Annual FOIA Report and, when applicable, your agency's 2017 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? **Yes.** If your agency uses a multi-track system beyond simple, complex, and expedited to process requests, please describe the tracks you use and how they promote efficiency.
2. If your agency uses a separate track for simple requests, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2018? **Yes.**
3. Please provide the percentage of requests processed by your agency in Fiscal Year 2018 that were placed in your simple track. **60% of requests were processed 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? **N/A.**

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 2017 and Fiscal Year 2018 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 2018, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2017? **No.**

6. If not, did your agency process more requests during Fiscal Year 2018 than it did during Fiscal Year 2017? **Yes.**

7. If your agency's request backlog increased during Fiscal Year 2018, 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. **Yes. There was a 12% increase in the number of requests received in FY 18.**
- A loss of staff. **No.**
- An increase in the complexity of the requests received. **Yes.** If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase. **We received several complex requests around the same time that contributed to the backlog. Examples include requests that require searches for records created over a 20-year time frame and requests that seek confidential competitive information from customers and require multiple submitter notices, among others.**
- Any other reasons – please briefly describe or provide examples when possible.

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 2018. If your agency has no request backlog, please answer with "N/A." **5% of total requests received were backlogged at the end of Fiscal Year 2018.**

BACKLOGGED APPEALS

9. If your agency had a backlog of appeals at the close of Fiscal Year 2018, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2017? **N/A.**

10. If not, did your agency process more appeals during Fiscal Year 2018 than it did during Fiscal Year 2017? **N/A.**

11. If your agency's appeal backlog increased during Fiscal Year 2018, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors: **N/A.**

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

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 2018. If your agency did not receive any appeals in Fiscal Year 2018 and/or has no appeal backlog, please answer with "N/A."

N/A.

C. Backlog Reduction Plans

13. In the 2018 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2017 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 2018? N/A.

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2018, what is your agency's plan to reduce this backlog during Fiscal Year 2019? 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 2016 and Fiscal Year 2017 when completing this section of your Chief FOIA Officer Report.

OLDEST REQUESTS

15. In Fiscal Year 2018, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2017 Annual FOIA Report? **Yes.**

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 2016 Annual FOIA Report. If you had fewer than ten total oldest requests to close, please indicate that. N/A.

17. 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? **None were withdrawn.**

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

TVA had a 12% increase in the total number of requests received from 2017 to 2018. However, through multi-track processing, we were still able to process 60% of requests within 20 business days of receipt. We completed half the requests backlogged at the end of Fiscal Year 2018 in the first quarter of Fiscal Year 2019. The remaining requests are complex and have required longer processing times.

TEN OLDEST APPEALS

19. In Fiscal Year 2018, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2017 Annual FOIA Report? **Yes.**

20. 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 2017 Annual FOIA Report. If you had fewer than ten total oldest appeals to close, please indicate that. **N/A.**

21. Beyond work on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals. **TVA generally responds to appeals within 20 business days of their receipt. At the end of Fiscal Year 2017, there was one appeal that had been pending 15 days. It was closed in Fiscal Year 2018 within 20 business days of receipt.**

TEN OLDEST CONSULTATIONS

22. In Fiscal Year 2018, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2017 Annual FOIA Report? **TVA had no consultations pending at the end of Fiscal Year 2017 or 2018.**

23. 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 2017 Annual FOIA Report. If you had fewer than ten total oldest consultations to close, please indicate that. **N/A.**

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

24. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2017. **N/A.**

25. 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.

26. 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 2018. N/A.

F. Success Stories

Out of all the activities undertaken by your agency since March 2018 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. As noted above, OIP will highlight these agency success stories during Sunshine Week. 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.

•In conjunction with a 2018 rate restructuring, we made a multimedia push to communicate through traditional and new media the reasons and ramifications of the change, including launching the TVA Rates website tvarates.com.

•Given confusion about the costs and benefits of solar power in our region v. national averages, we launched a region-specific, consumer focused tool, the Tennessee Valley Solar Calculator (<https://edt.tva.gov>).

•So as to improve our reach to and improve our dialog with the public, TVA created an official Speakers Bureau, making speakers available to public events throughout the seven states that comprise the Tennessee Valley. <https://www.tva.com/About-TVA/speakers/Request-a-Speaker>.

•In order to help resolve customer complaints regarding their electric accounts with TVA-served local power companies, TVA opened a new Complaint Resolution Process, through which TVA will investigate complaints, answer questions and attempt to resolve complaints. The service can be accessed via email at complaintresolution@tva.gov, via phone at (888) 289-8409 or via website at <https://www.tva.com/About-TVA/Complaint-Resolution-Process>.

•To help visitors to the TVA website (tva.com) better understand the scope and function of TVA, we retooled our About TVA section to create visual factsheets that provide at-a-glance information about our endeavors in energy, the environment and economic development.

<https://www.tva.gov/About-TVA>