

**Vernon Curry, Chief FOIA Officer:**

## **Section 1: Steps Taken to Apply the Presumption of Openness**

The guiding principle underlying DOJ's FOIA Guidelines is the presumption of openness.

Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

### ***A. FOIA Leadership***

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at the Assistant Secretary or equivalent level. Is your agency's Chief FOIA Officer at this level?

No, The Chief FOIA Officer no longer reports at this level due to a re-org decision. The Chief FOIA Officer used to report at this level up until June 2019 when the re-org was implemented. The Chief FOIA Officer is working currently to get this resolved and reporting back at the proper level.

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

Vernon Curry, Chief FOIA 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, the Census FOIA staff did attend FOIA training and conferences during the reporting period.

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

The FOIA office attended the ASAP conference as well as met with Commerce attorneys throughout the year for training on redactions and council. Also, the Census FOIA staff hosted a training for the DOJ on FOIA and the PA. The FOIA staff also conducted trainings on FOIA and the Privacy Act to regional Census staff to sharpen their knowledge on FOIA and PA.

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% of FOIA staff have had FOIA training and attended a FOIA training conference in the reporting year.

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?

Yes, The Census FOIA Office engaged in outreach and dialogue with the internal Census community and outside community. The FOIA Office participated in several FOIA and Privacy events where the public and other individuals from outside agencies can come and learn about FOIA and some of our processes and procedures. Also, the Census FOIA office was very proactive during the reporting period going out to regional offices to train and counsel regional staff on the FOIA and PA.

### *D. Other Initiatives*

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

The FOIA Office initiated an outreach training campaign throughout the agency to inform Senior managers at the Census Bureau their importance of processing FOIA’s and the risks and implications of not properly responding to FOIA requests. The FOIA Office trained over 200 Census employees within the reporting period.

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

The Census FOIA office is always looking for ways to enhance and expand outreach and openness to the public and other federal agencies. The FOIA Office enhanced their internal web website to include more information about FOIA processes and how the public can obtain more information. We also enhanced our public facing website to share links and other information currently inquired by the public on Census operations.

## 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 2019, 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 2019 Annual FOIA Report.

17.55 is the average number of days the Census Bureau took to adjudicate requests for expedited processing

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.

1. Quickly inform the requester if an extension is necessary to review records
2. Send a shorter number of responsive documents on a rolling basis instead of waiting until a large batch of records are complete before sending,

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.

- 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.

3. 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).

The FOIA public Liaison was not utilized by requesters in 2017.

5. Please describe:

- Best practices used to ensure that your FOIA system operates efficiently and effectively
- Any challenges your agency faces in this area.

The Census FOIA Office does not have control of the FOIAOnline system. However, we utilize the system daily to ensure it is operating efficiently for our use. Also, in the event we have an issue, we contact the FOIA Online help desk for advice and assistance. We created an excel working tool that compliments FOIA Online to help manage status and metrics. We compare these results to FOIA Online to enhance accurate counts.

The Census FOIA office encountered several challenges with FOIA Online this reporting period. Metrics and status on cases at times were inaccurate. Also, creating accurate reports was a challenge. Department of Commerce FOIA office assisted the operating units through these challenges.

### 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 records that have been requested and released three or more times in accordance with 5 U.S.C. section 552(a)(2)(D). Please including links to these materials.

The Census FOIA office is deeply entrenched with requests on the 2020 Census. We have received numerous requests for all sorts of information regarding this operation. The FOIA office has taken the initiative to release on our site thousands of records regarding the Citizenship question as well as links to most reports and information regarding the 2020 Census operations.

<https://www.census.gov/about/policies/foia.html#>

2. 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?

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

A link to our FOIA public facing website is posted on the Census Bureau main page:

<https://www.census.gov/>

4. Please describe:

- Best practices used to improve proactive disclosures
- Any challenges your agency faces in this area

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

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

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

1. Is your agency leveraging or exploring any new technology to facilitate efficiency in its FOIA administration that you have not previously reported? If so, please describe the type of technology.

The Census FOIA office is finalizing development on an automated tool that will capture metrics and assist with minimizing operation time for tracking FOIA requests. We are in the beginning stages of utilizing this tool. We hope to use this tool as our primary reporting tool.

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, the FOIA office recently reviews the FOIA website to ensure that current information is relevant to what the public is requesting.

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2019?

No, we are in the process of updating this section of our site.

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 2020.

The Census FOIA Office is in the process of posting all of our quarterly reports for FY19. The Chief FOIA officer has assigned a technical analyst in the FOIA office to ensure these (as well as other reports) are posted in a timely manner.

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 2019 Annual FOIA Report and, if available, for your agency's Fiscal Year 2020 Annual FOIA Report.

The Annual FOIA report is currently loaded to the FOIA website:

[https://www.census.gov/about/policies/foia/foia\\_library/annual\\_reports.html](https://www.census.gov/about/policies/foia/foia_library/annual_reports.html)

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

We plan to use tools like WebDiscovery that allows us to customize a FOIA request list of our frequent FOIA requesters to directly let them know about new releases that may interest them.

Furthermore, we created our own tracking and metrics tool through excel to help manage FOIA cases.

6. Please describe:

- Best practices used in greater utilizing technology
- Any challenges your agency faces in this area

## **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?

Yes, we consider the types of requests fast response requests that take minimum effort for a response.

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 2019?

Yes

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2019 that were placed in your simple track.

45% of our requests were processed under the simple track.

3. 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 2018 and Fiscal Year 2019 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 2019, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018?

No, the backlog did not decrease.

6. If not, did your agency process more requests during Fiscal Year 2019 than it did during Fiscal Year 2018?

No, the FOIA Office processed around the same amount of requests than the previous year.

7. If your agency's request backlog increased during Fiscal Year 2019, 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:

The main reason for our backlog was due to the tremendous level of effort needed to process and stay on top of FOIA requests related to the 2020 Citizenship question. The Census Bureau has received over highly complex FOIA requests regarding information around a decision to have a citizenship question placed on the Census form this year. The processing time for these requests were extended because of the extreme oversight from the D.O.C. and D.O.J. legal offices prior to release.

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 2019. If your agency has no request backlog, please answer with "N/A"

## **BACKLOGGED APPEALS**

9. If your agency had a backlog of appeals at the close of Fiscal Year 2019, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018?

It remained around the same. Backlog percentage for FY19 is around 4-5% of the total number of requests processed.

10. If not, did your agency process more appeals during Fiscal Year 2019 than it did during Fiscal Year 2018?

We did not receive more, but more complex.

11. If your agency's appeal backlog increased during Fiscal Year 2019, 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.
- 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 2019. If your agency did not receive any appeals in Fiscal Year 2019 and/or has no appeal backlog, please answer with "N/A."

N/A

### *C. Backlog Reduction Plans*

13. In the 2019 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2018 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 2019?

N/A The Census does not have a backlog of 1000 cases or more.

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2019, what is your agency's plan to reduce this backlog during Fiscal Year 2020?

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 2018 and Fiscal Year 2019 when completing this section of your Chief FOIA Officer Report.

#### **TEN OLDEST REQUESTS**

15. In Fiscal Year 2019, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2018 Annual FOIA Report?

Yes, the Census Bureau closed its 10 oldest requests in FY19

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 2018 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

We had less than 10 cases to close.

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

We hired two more staff to help process requests. Also, the Chief FOIA Officer assisted the FOIA staff redact highly complex cases.

### **TEN OLDEST APPEALS**

18. In Fiscal Year 2019, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2018 Annual FOIA Report?

Yes.

19. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2018 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

Census had less than 10 oldest appeals to close.

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

N/A

### **TEN OLDEST CONSULTATIONS**

21. In Fiscal Year 2019, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2018 Annual FOIA Report?

N/A we did not have 10 oldest consultations

22. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2018 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

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

23. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2019.

N/A. We had no issues.

24. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

N/A

25. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2020.

### *F. Success Stories*

The biggest achievement by the Census FOIA Office in FY19 was the outreach and training over 250 staff and senior leaders on FOIA and the Privacy Act and the importance of transparency and open government. The FOIA staff ventured out to the regional offices and the Census Bureau Regional Census Centers to train staff all over the country. With the 2020 Census around the corner, the Census Bureau will embark on hiring over 500,000 temporary employees to conduct the Census. The Chief FOIA Officer felt it was important to visit the regions to make managers aware of how FOIA and the Privacy Act impacts employees and the public.