U.S. DEPARTMENT OF STATE

CHIEF FREEDOM OF INFORMATION ACT OFFICER
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Summary

The Department of State (the Department) is responsible for formulating and executing the foreign policy of the United States and maintains records dealing with U.S. foreign relations as well as those relating to the programs and activities that support this mission. The Department's mission is global in nature as are the records that document that mission. The Department maintains its records both domestically and at hundreds of posts located around the globe. Freedom of Information Act (FOIA) requests made to the Department can vary from those that are very narrow and seek a single document to others more complex and expansive. Such requests can require the review of thousands of documents, which are frequently retrieved from multiple sources both domestically and overseas. Moreover, many of the Department's records contain sensitive national security information and are classified pursuant to executive order.

The review of records that are responsive to a FOIA request often requires the Department to coordinate with other Federal agencies and foreign governments before an appropriate release determination can be made. In an effort to respond to all requests as quickly and efficiently as possible, the Department processes FOIA requests incrementally and makes interim responses to requesters as document searches and reviews are completed rather than waiting until all responsive records are located and reviewed. To implement its statutory responsibilities under FOIA, the Department has established a centralized and comprehensive Freedom of Information Act Program, in which a single office receives and coordinates the processing of all FOIA requests made to the Department, whether that coordination be with the Department's domestic offices and bureaus, its posts overseas, other executive branch agencies, or foreign governments.[1]

The Department's global structure and the sensitive nature of its record holdings, many of which contain multiple equities affecting other agencies or governments, combine to make the Department's FOIA administrative process a complex one. The Department makes every effort to respond to FOIA requests within the statute's twenty-day response time period. During Fiscal Year 2012, the Department faced particular challenges in its processing of FOIA requests. First, the FOIA Program transitioned to a new automated FOIA case processing system. As can occur when launching any new IT system, the Department invested significant time and resources during this fiscal year in data reconciliation and validation, training, and adjusting business processes to improve the FOIA process from beginning to end. In addition, the building that houses the Department's FOIA Program has and continues to be the subject of a major structural renovation. During Fiscal Year 2012 the renovation displaced entire teams of case analysts, reviewers, and technical staff from their offices into swing space and back, creating unavoidable disruptions to the FOIA work flow.[2]

Another impact on the Department's ability to process FOIA requests within the statutory time period is the thousands of FOIA referrals received by the Department each year. The Department

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[1] The Office of Inspector General (OIG) is the only exception to this process at the Department. OIG processes FOIA requests directed to it independently and provides information and statistics on its FOIA activities for inclusion into the Department's FOIA Annual Report.

[2] The building renovation project continues through Fiscal Year 2013 and should be completed early in Fiscal Year 2014.

has reallocated resources to respond as quickly as possible but the volume of referrals coming in outpaced our ability to process them during this reporting period. Other key factors continue to affect how we allocate available resources in processing FOIA requests. The typical FOIA request received by the Department increasingly is very complex, requiring searches of multiple posts and bureaus around the world and resulting in the retrieval of large volumes of records that require declassification and related reviews of sensitive content. Competing priorities include the appropriate handling of a significant number of FOIA litigation cases and managing special projects involving large document productions to Congress or for other matters. All of these time-sensitive priorities constantly require the Department to realign resources to address current demands, which in turn can have an impact on the timeliness of responses to FOIA requests.

Nevertheless, despite a year of transitions and challenges, the Department remains focused on implementing the President's goal of increased transparency in government by ensuring and continually improving the public's access to government information. The Department always has been and remains utterly committed to achieving the fullest possible compliance with FOIA and delivering matchless customer service, with the overarching goal of building the best possible Freedom of Information Act Program in the federal government.

Section I: Steps Taken to Apply the Presumption of Openness

1. *Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period? Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice?*

    The Department of State conducted extensive FOIA training during this reporting period. In September 2012, the Department co-sponsored a multi-agency full day FOIA Conference with the Environmental Protection Agency, the Office of Government Information Services (OGIS), the Merit Systems Protection Board, and the Departments of Commerce, Homeland Security, Transportation and Treasury. The Department also launched a monthly internal training series in October 2012. Staff from the Department of Justice's Office of Information Policy (OIP) led some of these sessions, which addressed FOIA procedural issues, FOIA exemptions, correspondence, and file management. The Department's FOIA Program staff also provided training on topics such as FOIA fees, multi-tracking requests, and expediting requests. In two training sessions conducted by OGIS, FOIA case analysts and staff from the Department's FOIA Requester Service Center learned strategies for better communication with requesters and dispute resolution techniques.

    The Department maintains a network of FOIA contacts in all bureaus that function as liaisons with the central FOIA office. The FOIA contacts from other Department bureaus, as well as the Department's FOIA professionals, attended OIP's Director's Lecture Series training program and the American Society of Access Professionals' National Training Conference, Annual Symposium, and quarterly Luncheon Seminars. These training opportunities were invaluable opportunities for the Department's FOIA staff to learn more about FOIA procedures, exemptions, and customer service.

    On a quarterly basis, FOIA contacts from multiple bureaus within the Department meet to discuss the latest FOIA news, issues they face in conducting searches, and general FOIA training needs. These meetings proved essential in maintaining and improving relations between FOIA analysts and the many bureaus that are tasked throughout the Department to conduct searches to locate records responsive to FOIA requests. Comprehensive quarterly training is also provided to employees who review documents in response to FOIA requests.

    This fiscal year, the FOIA Program introduced another form of training and opened a new way to communicate with the Department's FOIA professionals by issuing an internal FOIA Newsletter. Each issue shares information about the latest activities in the FOIA world, training opportunities, and guidance on FOIA policy. The FOIA Newsletters are emailed to the Department's FOIA professionals and maintained on an internal FOIA SharePoint site for the entire Department to use as a reference tool.

Particular training emphasis in this reporting period was focused on supporting the launch of the new FOIA case processing and tracking system. As part of the system rollout, FOIA professionals received robust, multi-platform training that included hands-on sessions, briefings, reference guides, video tutorials, an informational website, "brown bag" Q&A sessions, written guides, and regular user group meetings to increase their familiarity with the new system.

In addition to internal agency training and educational initiatives and in order to continually evaluate emerging technologies for applicability within the Department, FOIA professionals participated in interagency initiatives led by the Department of Homeland Security on "FOIA Backlog Reduction - Lessons Learned," by the White House and the National Archives and Records Administration on "Smart Disclosure," and by OIP on "Processing FOIA Requests for Databases/Data Sets - Best Practices." Department FOIA personnel also attended seminars covering the new FOIA Web Portal, *FOIAonline*, and e-Discovery Tools.

In his 2009 FOIA Guidelines, the Attorney General strongly encouraged agencies to make discretionary releases of information even when the information might be technically exempt from disclosure under the FOIA. OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

2. *Did your agency make any discretionary releases of otherwise exempt information?*

Yes. The Department has long sought to comply with the FOIA's spirit of maximum possible disclosures and has a long-standing practice of releasing as much information to the public as possible. At the Department, a two-tiered review process at the initial review stage ensures quality control and, at the appeal level, is followed with an independent examination of release decisions by a formal Appeals Review Panel, ensuring that information is repeatedly scrutinized for the greatest possible degree of disclosure. The Department's reviewer cadre consists of retired Foreign Service officers who have demonstrated expertise and experience in the subject areas and geographic regions that relate to the documents that they review, further enhancing the high quality of the Department's FOIA review process.

The Department's practice is to release all material reviewed under the FOIA unless there is an identifiable harm in release. All reviewers are trained to conduct FOIA reviews in compliance with the provisions of the FOIA, relevant FOIA case law, and the requirements of applicable executive orders, particularly Executive Order 13526, which governs national security classified information. The Department routinely makes discretionary releases in response to FOIA requests, particularly under Exemptions 2 and 5.[3] The Department's use of Exemption 2 has sharply decreased since the Supreme Court's decision in *Milner v. Department of the Navy*, 131 S. Ct. 1259 (2011). In this reporting period, the Department asserted Exemption 2 only 22 times (involving cases

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[3] 5 U.S.C. §§ 552(b)(2) and (b)(5)

that were closed in this reporting period but in which earlier interim responses were made prior to the Supreme Court decision).

In short, the core value underlying the Department's FOIA document review efforts is to release as much information as possible without endangering individuals and/or U.S. government policies and activities. As a general indicator, it is useful to examine the relative number of withholdings made under Exemption 5. Further evidence of the Department's ongoing commitment to maximize discretionary releases of information is that the number of Exemption 5 withholdings decreased from 361 in Fiscal Year 2011 to 209 in Fiscal Year 2012. Given that in Fiscal Year 2012 the Department processed 15,304 cases; the number of times the Department asserted Exemption 5 is .07 percent.

3. *What exemptions would have covered the information that was released as a matter of discretion?*

Generally, the Department's discretionary releases involve material that is arguably exempt from release under Exemption 5.[4]

4. *Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.*

One example of a discretionary release by the Department involved a request from a husband whose wife absconded overseas with their daughter. His request sought access to information about his spouse and child. After conducting a "foreseeable harm" analysis, the Department made a discretionary release of deliberative material, without invading the wife's or child's privacy, to show how our consular and Department officers handled the situation. This disclosure helped shed light on how the Department made decisions related to the requester and his family.

Moreover, in several cases brought by American families who requested information about their unsuccessful attempts to adopt children in Vietnam, the Department made a concerted effort to release deliberative material in order to bring more transparency to the decision-making process of consular and Department officers. These discretionary disclosures helped the families better understand the legal and other reasons why their adoption efforts were unsuccessful.

Both cases illustrate the Department's adherence to the Attorney General's 2009 FOIA Guidelines as well as its commitment to transparency.

5. *Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.*

The Department maintains a public website, www.state.gov, that contains a rich collection of information, including speeches, reports, fact sheets, and many other information resources. During this reporting period, the Department undertook a broad

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[4] 5 U.S.C. § 552(b)(5).

initiative to redesign and update its FOIA website to improve customer usability and increase the amount of information available to the public, including documents already released under FOIA. The redesigned site, expected to be rolled out in Fiscal Year 2013, will feature a modernized look-and-feel that is easier to navigate and better informs users about the Department and its records. The redesigned site will also provide easier search access to over 70,000 documents already released under FOIA and available for public review. Finally, the site will contain an improved on-line request tool to help users submit requests for Department records directly, quickly and electronically. In addition to improving the website's usability, the Department is committed to an ambitious goal of posting online as many FOIA documents as possible and as soon as possible. We believe that posting more documents released under FOIA on a frequent basis and in a single place will further the goals of increased transparency and improved customer service to the public.

The Department also created an internal FOIA Process Improvement Group that began holding meetings on a monthly basis to discuss our business practices and examine ways to improve our overall FOIA process. This Group, which includes representatives drawn from all parts of the Department's FOIA team, has improved internal communication and provided a venue for sharing best practices. It also already has found ways to adjust our business practices to support the presumption of openness, including identifying ways to improve customer service, provide more information through discretionary releases, post more information to the public website, and process more requests in a timely manner; the Group is expected to replicate these successes in the future. The Department's FOIA Newsletter also continues to promote openness by better informing Department employees of internal and external FOIA policies and activities. These newsletters provide the Department's FOIA professionals with a better understanding of both our practices and policies and the law and their responsibilities.

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

As the Attorney General emphasized in his FOIA Guidelines, "[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."

This section should include a discussion of how your agency has addressed the key roles played by the broad spectrum of agency personnel who work with FOIA professionals in responding to requests, including, in particular, steps taken to ensure that FOIA professionals have sufficient IT support.

Describe here the steps your agency has taken to ensure that its system for responding to requests is effective and efficient. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

1. *Do FOIA professionals within your agency have sufficient IT support?*

   Yes. FOIA professionals at the Department have sufficient IT support for processing and tracking FOIA requests. Although the Department faces some technological challenges due to its structure (records are maintained worldwide) and the complexity of its records (e.g., many are classified), it remains committed to leveraging technology to the greatest extent possible to facilitate FOIA responses.

   The FOIA Program's IT Support Team is available to assist with FOIA electronic case processing system questions and concerns, and the Team is constantly identifying and developing the right skill sets to continually improve its ability to meet the needs of the users. The IT Support Staff also assists by adding new documents to the Department's FOIA website. In addition, the IT Support Team provided the Department's FOIA professionals with extensive training for the new FOIA case processing system.

   The Office of Inspector General (OIG) has an IT specialist specifically assigned to resolve any problems that may arise in its FOIA database.

2. *The FOIA professionals have IT support located within their department. Do your FOIA professionals work with your agency's Open Government Team?*

   Yes, the FOIA Program Manager, who is also the Department's FOIA Public Liaison, is part of the Department's Open Government Working Group. As such, she attends Open Government meetings, coordinates input for the Department's Open Government Plan vis-à-vis FOIA, records management, and systematic declassification programs, reports progress towards FOIA backlog reduction goals, and assists with the scoring of the Office of Management and Budget's and non-governmental organizations' (such as Open the Government.org) self-assessment surveys on agency openness. In addition, the FOIA Program Manager provides updated information and goals to the Open Government Plan to improve transparency, accountability, and openness. The FOIA Program continually updates its public website with newly released FOIA documents and the Department's Open Government website provides a link to this material.

3. *Has your agency assessed whether adequate staffing is being devoted to FOIA administration?*

   The Department continuously evaluates its FOIA program and modifies its structure and internal processes as needed to promote increased efficiency. As reported in the Department's 2012 Chief FOIA Officer Report, we made a number of past pilot projects a permanent part of our FOIA program given their demonstrated success in improving our FOIA process. These now-permanent reallocations of resources include the creation of a permanent and expanded litigation team to process FOIA requests in litigation and handle other litigation-related matters; a Rapid Response Team, which can nimbly be

deployed to handle the most pressing work and to focus on reducing the number of pending FOIA referrals; and a team dedicated solely to processing and closing the 250 oldest FOIA requests. The purpose of this restructuring was to not only address specific problem areas with targeted resources but also to alleviate burdens on the core FOIA workforce, allowing them to focus on case processing. All of these initiatives continue to provide relief to case processing branches and have proven to be cost-effective ways to ensure the proper administration of FOIA.

The Department is currently examining additional ways to restructure the flow of work within the core FOIA workforce to streamline processes. Initiatives currently under review are aimed at leveraging the technological capabilities of the new FOIA case tracking and processing system to build greater efficiencies into the administrative work flow.

4. *Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, streamlining consultations, eliminating redundancy, etc.*

In order to improve our FOIA case processing efficiencies, the Department pursued numerous important initiatives in 2012. After years of planning, developing and working with its FOIA community, the Department successfully launched the much-anticipated upgrade of its FOIA case processing and tracking system. This major system upgrade was designed to more efficiently and effectively perform a variety of case processing and tracking functions; the upgrade included the migration of over 240,000 cases (including 17,000,000 images and 8,000,000 documents). Implementation of the new case processing system required training hundreds of FOIA case analysts and reviewers. The new system provides numerous improvements to our FOIA business process, including, but not limited to: better data quality control, automated customized reports generation, enhanced query capabilities, automated letter generation, correspondence scanning and tracking, annual report statistics generation, and better case management and communication.

Furthermore, the Department launched a document capture business process reengineering initiative to find new and better ways of accomplishing the task of getting records into its system and out to the requester, with a focus on leveraging technology to improve various aspects of the FOIA case process. The Department launched this initiative to focus on meeting our goal of constant improvement to meet the ever-increasing demands on information access and transparency.

Finally, in June 2012 the Department participated in an OGIS forum on immigration records, which included representatives from the Departments of Homeland Security and Justice and members of the public. The intent of this forum was to identify the various types of immigration records that are maintained at several agencies across the Executive Branch and to provide requesters with sufficient information to ensure that requests are submitted to the proper agency in order to help to streamline the FOIA administrative

process for requesters and agencies alike. The Department maintains limited immigration-related records yet receives many requests for immigration records that are not maintained by the Department, which hinders our ability to respond as quickly as possible to requests that do seek Department records. The Department is working to develop relevant information about immigration records for posting on its FOIA website in order to fully inform the public as to what immigration records it can and cannot obtain from the Department and to direct them to other agencies, as appropriate.

Section III: Steps Taken to Increase Proactive Disclosures

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Describe here the steps your agency has taken both to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures that have been made during this past reporting period (i.e., from March 2012 to March 2013). In doing so, answer the questions listed below and 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 posted this past year.*

   The Department seeks to post timely information as quickly as possible. Many examples of the Department's proactive disclosures can be found on www.state.gov. For instance, in order to provide the public with more information about the circumstances surrounding the September 11, 2012 attack on the U.S. Special Mission in Benghazi, the Department posted a number of documents pertaining to the investigation by the Accountability Review Board (ARB), including Secretary Clinton's Letter to Congress; the ARB Report (Unclassified), Secretary Clinton's Response to the ARB Report, a briefing on the ARB Report by ARB Chairman Ambassador Tom Pickering and Vice Chairman Admiral Michael Mullen entitled, Benghazi: The Attack and the Lessons Learned (Opening Remarks Before the Senate Committee on Foreign Relations), and Benghazi Attack, Part II: The Report of the Accountability Review Board (Opening Remarks Before the House Committee on Foreign Affairs). In addition, the Department's interactive tool known as Discovering Diplomacy is a designed particularly to help children learn about the Department.

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, such as soliciting feedback on the content and presentation of the posted material, improving search capabilities on the site, creating mobile applications, providing explanatory material, etc.?*

   Yes. The Department as a whole has established a presence on social media, including Facebook, Twitter, Google +, Tumblr, Flick, and YouTube, to provide the public with additional avenues to obtain information about the activities of the Department. The

Department has also developed a mobile application to which the public can subscribe for updates.

3. *If so, provide examples of such improvements.*

   In addition to improving the search capabilities for the FOIA website and increased posting of documents to it, as discussed above, the Department welcomes requester feedback on its FOIA Program. In addition, the Department analyzes incoming requests to determine the type of documents most frequently requested and to identify ways to better assist requesters who seek such information. For example, the Department receives many requests from individuals seeking visa records. In an effort to improve customer service and decrease the number of invalid requests received, the Department is working on initiatives to add information about visa records to the Department's website so that members of the public may better understand how the Department handles requests for access to such records.

4. *Describe any other steps taken to increase proactive disclosures at your agency.*

   The Department continues to collaborate with offices, bureaus, FOIA analysts and reviewers to identify information that can be proactively disclosed. As a result, the Department posted previously released materials to the FOIA website in record numbers. Moreover, the Department continued to make proactive disclosures of information through the agency's Open Government page, which appears on the Department's main website. The Department's main public website, www.state.gov, has links to countless publicly available information resources, including speeches, fact sheets, reports, videos and more in easy to access formats. For example, the public can access Department officials' speeches by searching on the main website, www.state.gov, using the speaker's name.

Section IV: Steps Taken to Greater Utilize Technology

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests. In 2010 and 2011, agencies reported widespread use of technology in receiving and tracking FOIA requests and preparing agency Annual FOIA Reports. For 2013, as we did in 2012, the questions have been further refined and now also address different, more innovative aspects of technology use.

   Electronic receipt of FOIA requests:

1. *Can FOIA requests be made electronically to your agency?*

   Yes. Requesters can make a FOIA request electronically on the Department's public-facing web page, http://foia.state.gov, with the exception of requests to the Office of the

Inspector General. Requests directed to the OIG can be emailed directly to their FOIA coordinator on their website, http://oig.state.gov/.

2. *If your agency is decentralized, can FOIA requests be made electronically to all components of your agency?* The State Department has a centralized FOIA program, with the OIG exception just described.

Online tracking of FOIA requests:

3. *Can a FOIA requester track the status of his/her request electronically?*

   No. A requester may call the FOIA Requester Service Center or send an email to FOIAStatus@state.gov to obtain case status information. The Department provides personalized information regarding the status of the FOIA or Privacy Act request or appeal, whether the case is closed, what is needed to perfect a request, the date of the acknowledgement letter, whether the Department located any records, an estimated date of completion, and the processing stage a request has reached.

4. *If so, describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review." List the specific types of information that are available through your agency's tracking system.* Not applicable.

5. *In particular, does your agency tracking system provide the requester with an estimated date of completion for his or her request?* Not applicable.

6. *If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability?*

   Because the Department's FOIA cases reside in a classified environment, it is not possible to link the FOIA systems to a public facing portal that would allow requesters to electronically track the status of their cases. Despite this challenge, the Department continues to explore ways to facilitate the tracking of the status of requests electronically. The Department has been participating in interagency technology-related initiatives led by DOJ/OIP and those facilitated by OGIS and are continuously evaluating emerging technologies for applicability within the Department.

   Use of technology to facilitate processing of requests:

7. *Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search*

capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?

> The Department currently has duplicate document detection in its FOIA case processing system. The Department also has an electronic search system for retrieving retired records information and archived cables.

> The ongoing FOIA improvements and business process reengineering initiatives discussed above strive to improve all aspects of FOIA case processing. With the Department's newly-launched case tracking and management system and continued review on an ongoing basis of our FOIA business processes, the Department is confident that continued process improvements, better customer service, and greater transparency will result from these efforts.

8. *If so, describe the technological improvements being made.*

- Record search capabilities – The Department is currently enhancing the search capability of its corporate electronic archive to more clearly distinguish Department originated records from records originating in other agencies.

- Document sharing platforms – The Department is studying the feasibility of using the classified document sharing platform – Inteldocs – developed by the Office of the Director of National Intelligence and refined by the Department of Defense for use by the FOIA community. The Department is considering the use of this existing technology to facilitate the consultation and referral process.

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reduce Backlogs

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section 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 and appeals. For the figures required in this Section, please use those contained in the specified sections of your agency's 2012 Annual FOIA Report.

1. *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. If your agency does not utilize a separate track for processing simple requests, answer the question below using the figure provided in your report for your non-expedited requests.*

a. *Does your agency utilize a separate track for simple requests?* Yes.
b. *If so, for your agency overall, for Fiscal Year 2012, was the average number of days to process simple requests twenty working days or fewer?* No.
c. *If your agency does not track simple requests separately, was the average number of days to process non- expedited requests twenty working days or fewer?* Not applicable.

2. *Sections XII.D.(2) and XII.E.(2) of your agency's Annual FOIA Report, entitled "Comparison of Numbers of Requests/Appeals from Previous and Current Annual Report – Backlogged Requests/Appeals," show the numbers of any backlog of pending requests or pending appeals from Fiscal Year 2012 as compared to Fiscal Year 2011. You should refer to those numbers when completing this section of your Chief FOIA Officer Report. In addition, Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," and Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," from both Fiscal Years 2011 and Fiscal Year 2012 should be used for this section.*

   a. *If your agency had a backlog of requests at the close of Fiscal Year 2012, did that backlog decrease as compared with Fiscal Year 2011?* No.
   b. *If your agency had a backlog of administrative appeals in Fiscal Year 2012, did that backlog decrease as compared to Fiscal Year 2011?* No.
   c. *In Fiscal Year 2012, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2011?* Yes.
   d. *In Fiscal Year 2012, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2011?* Yes.

3. *If you answered "no" to any of the above questions, describe why that has occurred. In doing so, answer the following questions then include any additional explanation:*

   Request Backlog:

   a. *Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests?* Yes.
   b. *Was the lack of a reduction in the request backlog caused by a loss of staff?* Yes.
   c. *Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?* Yes.
   d. *What other causes, if any, contributed to the lack of a decrease in the request backlog?*

   The launch of the Department's new case processing system presented several challenges to the prompt processing of FOIA requests. For example, the complicated migration of millions of images and data on hundreds of thousands of cases to a new case processing and tracking system temporarily resulted in slower system performance. We conducted extensive validation and reconciliation of the migrated data as needed. In addition, the need to train the Department's FOIA professionals to use the new system involved significant time that in other years could have been devoted solely to processing FOIA cases. We continue to make

adjustments to the system and already increased efficiencies and productivity as the case management system becomes fully integrated into our FOIA process.

Complex cases: This fiscal year the Department noted an increase in the complexity of the requests we received. The Department deems a case as "complex" based on the amount of work and/or time needed to process it. From the moment a FOIA request is received, we assess if it is likely to involve searches in numerous bureaus, voluminous responsive records, and/or the review of classified materials. All of these factors contribute to increasing the time needed to appropriately process such requests. In an attempt to streamline the processing of these complex requests, the Department has focused on implementing procedures for expeditiously identifying the searches required and tasking them out to the appropriate parts of the Department holding the records sought in order to expedite the FOIA program's review of responsive records and thereby shorten the overall lifespan of the case.

Litigation: The Department has seen a significant increase in the number of FOIA lawsuits filed against the Department. This has required a realignment and dedication of people and resources on a priority basis in order to meet court deadlines, requiring dedicated resources that otherwise would go to the normal FOIA process.

Referrals from U.S. Citizenship and Immigration Services (USCIS): The Department once again experienced a spike in FOIA referrals from USCIS in the past fiscal year. Though the Department had employed a streamlined technique for handling referrals quickly in the prior fiscal year, it was tested once again with another surge of referrals received from USCIS in this fiscal year, in some months numbering up to 1000. The Department is working with USCIS on a memorandum of understanding that would grant to USCIS the ability to apply review guidance provided by the Department to process on its own the requests it is currently referring to the Department. We expect that agreement to be in place before the end of Fiscal Year 2013.

Administrative Appeal Backlog:

a. *Was the lack of a reduction in the backlog of administrative appeals a result of an increase in the number of incoming appeals?* No.
b. *Was the lack of a reduction in the appeal backlog caused by a loss of staff?* Yes.
c. *Was the lack of a reduction in the appeal backlog caused by an increase in the complexity of the appeals received?* No.
d. *What other causes, if any, contributed to the lack of a decrease in the appeal backlog?*

   The implementation of the new case processing system and the related data migration and validation efforts combined to slow down the processing of

appeals. The Appeals Staff and the IT Support Team are working together to explore ways to streamline the appeals process and reduce the backlog.

4. *OIP has issued guidance encouraging agencies to make interim releases whenever they are working on requests that involve a voluminous amount of material or require searches in multiple locations. By providing rolling releases to requesters agencies facilitate access to the requested information. If your agency had a backlog in Fiscal Year 2012, please provide an estimate of the number of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.*

The Department estimates that it has made interim releases directly to requesters in 280 cases in the backlog in Fiscal Year 2012. Further, the Department provided 384 separate releases within those 280 cases, as many cases had more than one interim release. The Department also sent Department documents to other agencies for review and release directly to the requester in 79 cases. The Department makes interim releases as records become available through the search process. With each released segment, the requester is given appeal rights, as is the case when the Department makes one release of responsive documents. This ensures a constant flow of material so that the requester does not have to wait until the whole request has been processed before he or she receives responsive records or to file an administrative appeal.

Use of FOIA's Law Enforcement "Exclusions"

In order to increase transparency regarding the use of the FOIA's statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to "treat the records as not subject to the requirements of [the FOIA]," 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

1. *Did your agency invoke a statutory exclusion during Fiscal Year 2012?* Yes.
2. *If so, what was the total number of times exclusions were invoked?* The Department invoked a FOIA exclusion one time during FY 2012.

Spotlight on Success

Out of all the activities undertaken by your agency since March 2012 to increase transparency and improve FOIA administration, describe here 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.

In Fiscal Year 2012, the Department made great strides in providing FOIA training to improve the way FOIA professionals communicate within the Department and with the public and provide the very best in customer service. Our FOIA training was specifically designed for four groups: FOIA professionals, FOIA contacts in bureaus and offices within the Department, all Department personnel, and the public. The training focused on two important key areas: (1)

ensuring that the Department has an effective system in place for responding to requests and (2) improving timeliness in responding to requests and reducing backlogs.

Since September 2012, the Department's FOIA professionals have received monthly live training provided by FOIA experts from OIP and OGIS. Topics included FOIA procedures, FOIA exemptions, corresponding with requesters, case management, communication skills, and tips on how to better understand and use the Department's new FOIA case tracking and processing system. The Department also worked with the U.S. Environmental Protection Agency, the U.S. Departments of Commerce and Homeland Security, and other large and small agencies to sponsor a one day FOIA Conference, which included topics such as e-discovery tools and recent FOIA decisions. In addition, the FOIA Program kept the Department's FOIA professionals informed of external FOIA training programs being offered by DOJ, such as the OIP Director's Lecture Series, OGIS's FOIA dispute resolution class, and The American Society of Access Professional's FOIA training programs. The FOIA Program shared training information with the Department's FOIA professionals through email, the new FOIA Newsletter, and a newly created internal FOIA SharePoint site. This site provides information on all types of FOIA training from "back to basics" approaches to highly specialized subjects, a calendar of upcoming training events, and a library of FOIA policy documents. This site is accessible to all Department of State personnel.

The FOIA Program also provided quarterly training for FOIA Contacts from different bureaus in the Department. At each of these training events, FOIA Contacts had an opportunity to learn about the latest changes in FOIA, the Department's efforts to ensure that FOIA requests are processed consistently, and to share their own experiences in conducting searches and reviewing documents. These meetings were helpful in bringing FOIA professionals/analysts and FOIA Contacts from the across the Department together to share information and to build rapport.

The Department has also made great strides in increasing its emphasis on excellent customer service. By providing more information about the Department on the public FOIA website, we help requesters be more knowledgeable about the Department and FOIA, and they in turn are submitting more informed and targeted FOIA requests. The Department expects that by posting more information about visa and passport requests (which often should properly be submitted instead to the Department of Homeland Security), our receipt of requests wrongly directed to us – which frustrates requesters and detracts from our ability to concentrate on requests that do seek Department records -- will decline because requesters will be better informed about where to submit FOIA requests for various kinds of immigration-related records. Moreover, we expect that the new website's search capabilities will allow members of the public to locate and retrieve already-released Department records in which they are interested and may obviate the need for them to use the FOIA.

The Department's focus on providing excellent customer service has lead to more effective communication within the Department and with the public. By providing training in better communication skills and alternative dispute resolution to the Department's FOIA professionals we have established a new way of doing business that stresses building rapport with internal and external stakeholders. We are committed to delivering excellent customer service by maintaining

open lines of communication and by providing useful information to the public to assist in streamlining the FOIA process.

The benefits of the Department's concerted efforts to improve the way in which it administers FOIA are already tangible. The Department's FOIA professionals are communicating more frequently with requesters to provide case-related information, have a better understanding of FOIA's legal and procedural requirements, and provide better customer service while improving internal processes and achieving the overarching goal of greatest transparency to the public about the workings of our government.