



U.S. DEPARTMENT OF STATE

CHIEF FOIA OFFICER REPORT

MARCH 2020

Summary

The Department of State 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. As such, the Department maintains its records at dozens of locations domestically and at hundreds of posts located around the globe.

The Freedom of Information Act (FOIA) requests received by the Department are often a mixture of complex subject matters regarding foreign government relations, diplomacy, terrorism, armed conflicts, and security; they can require multiple searches throughout many of the Department's approximately 270 domestic offices and overseas posts. In many of these cases, searches locate voluminous amounts of paper and electronic records, often containing highly classified or otherwise sensitive information that must be reviewed by subject matter experts within the Department, as well as other U.S. Government agencies or foreign governments. These reviews are required to determine whether the release of the information could harm U.S. national security, damage relations with foreign governments, or reveal other sensitive information.

The Department makes every effort to respond to FOIA requests within the statutory response period. To implement its statutory responsibilities under FOIA, the Department has established a centralized and comprehensive FOIA program, in which a single office, the Office of Information Programs and Services, receives and coordinates the processing of the majority of the FOIA requests made to the Department. Only two other offices, the Law Enforcement Liaison Division of the Office of Passport Services and the Office of the Inspector General, are authorized to accept FOIA requests submitted to the Department. Whether that coordination is with the Department's domestic offices and bureaus, its posts overseas, other federal agencies, or foreign governments, the process is managed by the FOIA programs in these three Department components.

During this reporting period (March 2019 to March 2020), the Department continued its efforts to build its future FOIA program and to decrease the FOIA backlog. However, the Department's ability to close cases at that same rate of previous years was not realized. In FY 2019, the Department's FOIA backlog increased for the first time in three fiscal years; in FY 2017 and FY 2018, the Department reduced its overall backlog significantly. In FY 2019, The Department lost at least a month of processing time due to the lapse of appropriations.

Technology will play a critical role in the future success of the FOIA program. In late 2019, the Department began deployment of its new FOIA case management system FOIAXpress. FOIAXpress is interoperable with the Department's eRecords archive that captures all state.gov emails and contains millions of other State Department records, as existing archives and datasets are migrated to eRecords. Additionally, the FOIA program continues to review its processes with the intention to implement new end-to-end procedures. The Department continues its "Release to One, Release to All" approach to posting documents on its FOIA website, increasing and improving FOIA training of agency staff, and compliance with court orders in FOIA litigation cases.

The Department's FOIA litigation demands continue to be considerable. Despite the progress and improvements made to the FOIA program, the Department maintained approximately 170 FOIA litigation cases, involving 280 FOIA requests, continuing its streak of unprecedented FOIA litigation demands for another year. These 280 FOIA requests account for approximately 2 percent of the Department's FOIA caseload. For most of this reporting period, court ordered document production schedules required the Office of Information Programs and Services (A/GIS/IPS), which manages FOIA litigation cases working along with and in conjunction with the Department's Office of the Legal Adviser, to allocate over 90% of its FOIA review resources to meet these court-ordered productions. Most of these reviewer resources are currently part-time employees.

In June 2019, the Department received its most demanding FOIA litigation production order in the history of the FOIA program. The June production order requires the Department to process at least 5,000 pages per month (over 16 times the regularly requested/negotiated production rates in most court cases). This production order resulted in the Department shifting human resources from the standard FOIA program to the FOIA litigation team. At the current rate of processing, the case will take up to five years to process.

With so many resources being committed to processing FOIA litigation cases, it has been challenging to respond quickly to other FOIA requests that are at risk of becoming FOIA litigation cases if not processed in a timely manner. The Department is in the process of transitioning to more full-time FOIA support to address both its FOIA and FOIA litigation demands. The Department is also in the process of creating two additional FOIA litigation branches in order to increase the capacity to process the increasing FOIA litigation demands. In order to further the core FOIA goals of transparency and accountability, the Department is committed to continue aggressive measures to address its backlog while still maintaining the highest standards of quality and to further improve its processes in the future.

In sum, the Department's FOIA program continues its efforts to improve its ability to process FOIA requests and remains committed to efforts to further improve its response to the public. We will continue with these efforts to reduce the backlog, improve response times, and make records available to the public through the FOIA website. The Department will also continue to use its online presence to promote transparency and provide information to the public. Feedback is welcome and can be provided at <https://foia.state.gov/Contact/Feedback.aspx>.

Name and Title of your Agency's Chief FOIA Officer

Carrie B. Cabelka
Assistant Secretary of Administration, Bureau of Administration
U.S. Department of State

Section I: 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 Office.

Assistant Secretary of Administration, Bureau of Administration
U.S. Department of State
Carrie B. Cabelka

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 Department's FOIA professionals and personnel both attended and conducted FOIA training during this reporting period.

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

The Department offered a variety of different training sessions in the form of in-person and conference-call briefings to hundreds of Department employees who are working on

FOIA cases. A new online mandatory training for all Department employees, “Records Management for Everyone (PK217),” includes a module regarding FOIA. Over 70,888 Department employees completed this program during the reporting period.

All Department personnel who hold a security clearance are also required to complete the online “Mandatory Training for Classifiers and Users of National Security Information (PK400)” on an annual basis. The goal of the course is to train Department of State personnel how to properly identify, classify, safeguard, and declassify national security information. Over 70,014 Department employees completed this program during the reporting period. This is particularly important due to the prevalence of foreign government information within State Department records.

New A/GIS/IPS employees, including those working on FOIA, undergo an orientation that introduces them to the organizational structure of the State Department, A/GIS/IPS, and information management and access mandates such as the FOIA, the Federal Records Act, and Executive Order 13526 on Classified National Security Information, among others.

The A/GIS/IPS Director and the Department’s FOIA Program Manager conducted briefings for A/GIS/IPS analysts and reviewers and other Department employees working on FOIA. These briefings contained reminders about annual training requirements for classified and privacy information, updates on efforts to implement records management mandates that may affect FOIA, a review of efforts to address existing FOIA processing issues, an update on efforts to increase postings to the FOIA website, and ongoing conversations about the processing priorities including expedited requests.

The A/GIS/IPS Director, the FOIA Program Manager, and attorneys in the Office of the Legal Adviser conducted briefings for A/GIS/IPS analysts and reviewers and other Department employees working on FOIA. (A/GIS/IPS employs both analysts and reviewers to process FOIA requests, the latter regularly conducting nearly all of the substantive review of documents in response to requests.) Topics of these sessions included an overview of the FOIA in general, FOIA processing requirements, including guidance on expedited requests, a review of the recent amendments to the FOIA, overview of the FOIA’s nine exemptions, best practices when redacting documents, the FOIA and Privacy Act interface, classification and declassification of national security information, and records management.

Additional training was provided on the Exemption 5 privileges, with an emphasis on the attorney work product privilege and the attorney-client privilege. The Department of Defense (DoD) and the Central Intelligence Agency (CIA) held sessions for A/GIS/IPS analysts and reviewers on identifying their agency equities, organizational structure, and the referral and consultation process.

A/GIS/IPS leadership also continued to encourage and approve funding for FOIA staff to attend off-site briefings and trainings provided by the American Society of Access Professionals (ASAP), the Department of Justice’s (DOJ) Office of Information and

Policy (OIP), and the Office of Government and Information Services (OGIS) at the National Archives and Records Administration (NARA), Washington, DC. A/GIS/IPS also held sessions for employees to share information with their colleagues who could not attend what they learned at the off-site events.

The Department continued its series of briefings on the organizational structure of the State Department including sample records from each grouping of bureaus covered in the briefings. These briefings are meant to ensure that the Department is conducting the most thorough possible searches for records sought in response to FOIA and other records requests.

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.

Approximately 85% percent of the Department's FOIA professionals attended substantive FOIA training during this reporting period.

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. During the reporting period, the Department regularly interacted with numerous requesters regarding the processing of their pending FOIA cases – providing estimated dates of completion (EDC).

The A/GIS/IPS Director and the Department's FOIA Public Liaison (FPL) attended American Society of Access Professionals events, which provide opportunities to interact with the requester community.

D. Other Initiatives

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

The Department conducted agency-wide outreach on several occasions from March 2019 to March 2020. The Department issued agency-wide guidance on the use of electronic messaging applications, to ensure that all official business conducted on electronic

messaging devices is captured and incorporated into the Department's central filing system in compliance with federal records management laws, regulations, and policies. The Department continues to require completion of online mandatory training for all Department employees, "Records Management for Everyone (PK217)," which includes a module on FOIA; as previously noted, over 70,888 Department employees have completed this course.

The FOIA Office regularly interacts with employees throughout the Department regarding FOIA issues. It also provides training regarding employee's FOIA responsibilities and about any changes to the Department's policies implementing the FOIA. Department personnel have access to individualized FOIA briefings by the FOIA Office including its FOIA Program Manager. A/GIS/IPS also maintains an internal website where Department employees can view and download guidance on the FOIA.

A/GIS/IPS continues to brief outgoing officials and remind them, in writing and in individual briefings, of their responsibilities to complete any outstanding FOIA searches before departure and to preserve their records so that they can be searched in the future. Incoming officials were also briefed on their records and classification responsibilities with additional briefings on FOIA.

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 Department continued the policy of "Release to One, Release to All" during this reporting period through a series of regular postings made to the public FOIA website (foia.state.gov) of records released in FOIA cases, excluding any Privacy Act or first person requests involving privacy information. From March 1, 2019 through February 7, 2020, over 17,000 additional records were posted to the public FOIA website, making a total of more than 225,000 records available through the Department's transparency programs via the public website.

The Department's postings include releases from its Mandatory Declassification Review requests on its FOIA website. While other MDR releases have been posted in the past, the Department posts MDR releases as part of its regular postings, often at the end of the month.

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 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.

In FY 2019, the average number of days for adjudicating requests for expedited processing was 12.13 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.

The Department has developed new internal FOIA policies and procedures for expedited requests to ensure that processing times strive to meet the statutory timeframe. The Department also started to deploy for the first time an agency-wide FOIA IT case management and redaction tool known as FOIAXpress. The Department has reviewed its intake and case processing procedures and has developed a plan to reduce the backlog of expedited FOIA requests by 30% by the end of CY 2020. Additionally, the Department is restructuring its FOIA office to best implement the new policies, procedures, and IT changes that are underway. The intent of the restructure is to balance caseloads among employees who are addressing the backlog.

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.

Yes, the Department has assessed its FOIA program on more than one occasion during this reporting period.

In May 2019, A/GIS/IPS began the three-month "FOIA Frontier" effort to transition the Department's FOIA program away from the past and its many challenges toward a new future. The FOIA Frontier initiative ambitiously sought to connect several multi-year efforts and streamline the FOIA processes. By August, the Frontier achieved several key objectives: new draft FOIA policies and training was developed for A/GIS/IPS employees; new FOIA regulations were submitted to OMB for approval; a rollout plan was finalized for a new enterprise-wide FOIA IT system that puts the entire State Department on the same FOIA processing system for the first time (the IT solution is interoperable with the eRecords archive and started its rollout in September, on

schedule); about 20 A/GIS/IPS FOIA employees participated in voluntary rotational opportunities where they could learn new aspects of the FOIA process; and new FOIA office structure proposal emerged. The Frontier also resulted in a proposal to centralize the search of eRecords and other records in A/GIS/IPS possession by trained researchers: librarians.

During the rating period, the Department continued its internal State Department FOIA Working Group comprised of employees from the centralized FOIA office, other Department offices that regularly receive FOIA cases, and all other Department offices that play a role in the Department's FOIA process. The governance body, chaired by the A/GIS/IPS Director in the bureau overseen by the Chief FOIA Officer, reviewed the results of the OIP annual reports and discussed how to address any deficiencies or areas for improvement.

The Department acquired, and implemented, a Department-wide IT system with Department-specific requirements that will enable us to better respond to requests and make necessary changes to the staffing structure of A/GIS/IPS to include how better to structure the FOIA offices within A/GIS/IPS to support an improved process.

A/GIS/IPS management conducted reviews of existing processes to identify short- and long- term solutions; the focus has been to improve the entirety of the Department's FOIA process so that responses to the public are provided in a more consistent and timely manner and more information is posted to the FOIA website. The Department has established FOIA contacts, including a senior level point of contact as well as working level FOIA liaisons, within the various Department components to ensure that FOIA processing at the Department receives the attention it deserves. These efforts have included improved communication and coordination among offices in the Department working to process FOIA requests; these efforts have been successful as seen in the reduced backlog.

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 2019 (please provide a total number or an estimate of the number).

The FOIA Public Liaison, who also serves as the Department's FOIA Program Manager, was contacted an estimated 1700 times during FY 2019 (400 by phone and 1300 by email), for an average of 142 times per month.

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.

Deploying FOIAXpress and better overall electronic records management have allowed for improvements and future improvements to the FOIA program. The Department's enterprise-wide FOIA IT solution allows all FOIA employees to more easily coordinate on cases, which is intended to result in processing efficiencies. FOIAXpress is

interoperable with the Department's eRecords archive containing hundreds of millions of records, mainly emails, and allows A/GIS/IPS to conduct searches for certain records.

To ensure that records are accessible to citizens and to promote the importance of government openness and accountability, A/GIS/IPS established the State Department FOIA Working Group. The group is composed of agency FOIA staff from various bureaus that participate in the agency FOIA process. From March 2019 to March 2020, the group met monthly to discuss FOIA policy, process, and reporting matters.

Monthly FOIA Briefings for agency staff were held. The briefings, which included a session called "Intro to FOIA and Your Responsibilities as a Department Employee," are available to Department of State employees. These briefings provide an overview of the FOIA, the FOIA Administrative Process, A/GIS/IPS FOIA responsibilities, bureau/office FOIA responsibilities, conducting searches in response to a FOIA request, identifying responsive documents, and a brief overview of the FOIA's nine exemptions.

During the rating period, the Department also made changes to its FOIA intake process, developed strategies to make searches of electronic and other records more consistent, and further developed the knowledge of the agency and its offices among FOIA employees to ensure best possible search tasking.

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.

The Department continues the "Release to one, Release to All" approach to posting FOIA documents online, which it did throughout the reporting period. With the exception of first-person requests (i.e., those involving privacy or personally identifiable information), the Department endeavors to post on its FOIA website those documents released to the public in the previous month. These releases include the posting of records released in response to FOIA and FOIA litigation cases. <https://foia.state.gov>. The adoption of this approach to posting documents online leads to the public's access to thousands of documents that would otherwise only be available to individual requesters. As noted above, over 17,000 records were posted to the public FOIA website from March 2019 through early February 2020 for a total of more than 225,000 records on the public FOIA website.

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?

Yes.

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

The Department continues to make sure that any material posted to the FOIA website is searchable by the public, not just posted online. We also work to group certain web postings to make it easier for the public to find records that we have posted online.

We continue to post documents released in non-litigation and litigation FOIA requests on the FOIA website. In some FOIA litigation cases, records are being posted, making them simultaneously available to both the plaintiff in those cases and the public. Below is a link that includes documents proactively disclosed on the website in some instances:

<https://foia.state.gov/Search/Collections.aspx>

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

The Department is using its available resources to post online as many documents as possible each month. At this point, nearly all documents released in FOIA cases from 2017 to 2019 are posted on the FOIA website, with the exception of certain Privacy Act and first-person requests, as well as a few other instances. The preponderance of information released through the Department's FOIA process is now posted online within two months of the release of that information to the public. The delay between the public release of documents and their posting on the website is based on the available resources to complete the posting process – the same resources are also needed to comply with court-ordered production postings and other IT needs in support of the Department's FOIA program. This approach exceeds the requirement to post documents/information that has been requested multiple times. It is part of a strategy to use the website to promote transparency and to avoid duplicative requests in the future.

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 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.

Yes, there have been major improvements in the Department's management of electronic records in a centralized, cloud-based eRecords archive that is interoperable with the Department's recently acquired instance of FOIAXpress. FOIAXpress allows one platform to complete all aspects of the FOIA process electronically including searching for records previously provided responsive to FOIA requests contained its document storage component. The Department is seeking ways to leverage Artificial Intelligence (AI) to improve the electronic management of records in the eRecords archive.

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 2019?

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 2020.

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 2018 Annual FOIA Report and, if available, for your agency's Fiscal Year 2019 Annual FOIA Report. DOJ/OIP request confirmation that raw data was posted on the web.

<https://foia.state.gov/Learn/Reports.aspx>

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

There have been major improvements in the Department's management of electronic records in a centralized, cloud-based eRecords archive that will be interoperable with the Department's recently acquired instance of FOIAXpress. FOIAXpress will allow one platform to complete all aspects of the FOIA process electronically including searching

for records previously provided responsive to FOIA requests contained its document storage component.

Two of the biggest challenges continue to be the vast forms of electronic records being generated and the volume of this electronic data and information. As a result, it has been useful to consider both process and technology together in responding to FOIA requests, specifically, scoping requests and search results to find information being sought by requesters and avoiding the review of non-responsive search results from these large pools of data and information.

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 2019 Annual FOIA Report and, when applicable, your agency's 2018 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. The Department identifies that a request should be categorized as a simple request and that it should be processed in the simple track. The Department's track for simple requests includes requests that the Department receives directly where the records are readily available for release. Nearly all of the Department's FOIA requests fall into the complex track.

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?

No.

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

3.3%

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 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 as of the close of FY 2019 was 11,106. The number of requests backlogged as of the close of FY 2018 was 10,400, an increase of approximately 6.8%.

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

No.

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:

- An increase in the number of incoming requests.
- A loss of staff.
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Any other reasons – please briefly describe or provide examples when possible.

The increase in the Department's backlog can be directly attributed to the dramatic increase in its FOIA litigation demands and to the large volume of electronic records

being generated and maintained by the agency. In 2014, the Department was a defendant in approximately 50 FOIA litigation cases; in 2019 the Department maintained an average of 170 FOIA litigation cases, involving approximately 280 FOIA requests. This significant rise in FOIA litigation has required the Department to shift its resources away from FOIA requests not in litigation to comply with the court-ordered production schedules. While FOIA requests subject to litigation comprise only 2% of all FOIA requests at the Department, they demand a disproportionate share—approximately 90%—of A/GIS/IPS’s current FOIA review resources. This increase in the FOIA backlog coincides with exceptionally demanding court orders in several FOIA litigation cases.

In June 2019, the Department received a court order to process 5,000 pages per month in one case (over 16 times the regularly requested/negotiated production rates in court cases). This court order is the most demanding the Department has faced in recent history and required the Department to shift more human resources from the FOIA program to the FOIA litigation team. As of October 2019, the Department was attempting to process at least 30,000 pages per month for litigation and has since increased its obligations. As in each of these situations, the Department continues to meet its litigation obligations; however, it comes at the expense of all other requesters seeking information from the government.

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.

129%

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?

Yes. The backlog of appeals at the close of FY 2019 was 223. The number of appeals backlogged at the close of FY 2018 was 348, a decrease of approximately 36%.

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

N/A

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.

N/A

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."

95%

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?

Yes, the Department has developed a multi-year plan that allows for compliance with its increasing FOIA litigation demands while making concurrent progress in reducing its FOIA backlog. Under this plan, the Department estimates that it will be able to eliminate its FOIA backlog by FY 2027.

In 2019, the Department implemented the first stages of its backlog reduction plan. It developed all new FOIA policies and procedures to improve its FOIA program. Additionally, it assessed backlog, capabilities, and needs (training, technical, resources, etc.). The Department also made changes to its FOIA intake process, developed strategies to make searches of electronic and other records more consistent, and further developed the knowledge of the agency and its components among FOIA employees to ensure best possible search taskings. The Department also acquired and began using a new FOIA case management system, FOIAXpress. This new system will play a critical role in the future success of the FOIA program. FOIAXpress is interoperable with the Department's eRecords archive that captures all state.gov emails and will contain millions of other State Department records as existing archives and datasets are migrated into eRecords.

The Department's plan provides for distinct resources for both FOIA and FOIA litigation demands and sets an annual monthly closure rate target for FOIA requests with the goal of eliminating the backlog while keeping up with new, incoming FOIA requests. The Department has been given permission to fill key FOIA vacancies that will allow for dedicated resources in each program and will mitigate against the need to shift resources from FOIA to FOIA litigation cases.

In 2019, the Department trained nearly 30 full-time 306 series Government Information Specialists to conduct FOIA reviews and hired new part-time retired annuitants and new full-time contract employees to do review work as well. The Department intends to hire additional Government Information Specialists and contract employees in 2020.

The Department intends to continue its practice of "Release to one, release to all," where records released in FOIA cases are posted to the public FOIA website. In 2020, the Department has already started closing cases based on previous releases where records were posted online.

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?

The Department will continue to implement the steps noted above including updating its FOIA processes and using FOIAXpress.

D. Status of Ten 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?

No.

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.

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

The Department's updated FOIA policies and procedures mentioned above emphasize the need to follow the First In, First Out (FIFO) processing standard. As a result, the focus of the program will be to close out requests based on FIFO which should assist with closing

out the 10 oldest cases annually. New technology and the other factors noted above should also help to facilitate these efforts.

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?

No.

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.

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

The Appeals Officer and the Appeals Review Panel continue to work on the oldest pending appeals. The Department is in the process of completing a plan to change the current appeals process in the future to ensure that appeals are reviewed, and the processing is completed, so that there are no additional delays in the responses to requesters.

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?

No.

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.

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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.

The demands of FOIA litigation and the resources required to support these court-ordered production schedules detracted from our ability to work on other, non-litigation FOIA cases, including appeals and consultations, during this rating period.

The Department is reviewing how it manages its overall FOIA process, including appeals, consultations, and referrals. New processes are being considered for requests, appeals, and consultations to provide more timely responses to requesters and other federal agencies working to close FOIA cases. One of the A/GIS/IPS FOIA teams has been specifically assigned to work on FOIA consultations, which should assist getting the 10 oldest closed moving forward.

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.

The Department closed 3 of its oldest pending requests, 7 of its oldest appeals, and 2 of its oldest consultations.

As the Department develops new FOIA processes, it will incorporate the key FOIA Annual Report and Chief FOIA Officer Report questions and reporting metrics in the appropriate FOIA offices.

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.

- **New Records and FOIA Training:** Required online mandatory training for all Department employees, Records Management for Everyone (PK217), includes a module regarding FOIA that explains what the FOIA is and each employee’s FOIA responsibilities. Over 70,888 Department employees completed this program during the reporting period.
- **New Technology:** Deployment of FOIAXpress, the Department’s new FOIA case management system. FOIAXpress is interoperable with the Department’s eRecords

archive that captures all state.gov emails and will contains millions of other State Department records as existing archives and datasets are migrated to eRecords.

- **New Classification Training**: Required online training on classification of information per Executive Order 13526 was also deployed at the Department during this reporting period. All Department personnel who hold a security clearance are also required to complete the new online Mandatory Training for Classifiers and Users of National Security Information (PK400) on annual basis. The goal of the course is to train Department of State personnel how to properly identify, classify, safeguard, and declassify national security information. Over 70,014 Department employees completed this program during the reporting period. This is particularly important due to the prevalence of foreign government information within State Department records.
- **More than 17,000 Records Posted Online**: From March 2019 through early February 2020, over 17,000 new records were posted to the public FOIA website increasing the overall number of records available to the public via this site to more than 225,000 records.