



2018 Chief FOIA Officer Report

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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 Training:

1. 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, OGE's FOIA professionals attended FOIA training during the reporting period.

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

OGE's FOIA professionals attended various courses and seminars offered by DOJ's Office of Information Policy (OIP) and the Graduate School USA. OGE's FOIA professionals also viewed a presentation by OIP attorneys for OGE's "Advanced Practitioner Series" webinar on the release of ethics documents under the FOIA, the Privacy Act, and the Ethics in Government Act; as well as a presentation for the Chief FOIA Officers Council.

3. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

88% (eight out of nine) of OGE's FOIA professionals attended substantive FOIA training during this reporting period.

4. 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

B. Outreach:

5. 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. OGE's FOIA Officer, along with one of OGE's IT Specialists, participated in OIP's Sunshine Week panel, where they discussed a small agency's perspective on handling FOIA and developing efficiencies in-house.

C. Other Initiatives:

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

Through email and staff meeting reminders, OGE's FOIA professionals regularly inform non-FOIA professionals of their obligations under the FOIA, particularly that any documents created or maintained as part of the non-FOIA professional's job may be responsive to a FOIA request.

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

OGE's FOIA professionals often "front load" exemption (b)(5) determinations by considering whether there is foreseeable harm before considering the applicability of exemption (b)(5). If the FOIA professional determines that there is no foreseeable harm to releasing information, the information may be released without ever resolving the question of whether exemption (b)(5) could have been applied. OGE finds that this "front loading" procedure is often more efficient than resolving the applicability of exemption (b)(5) and then considering whether there is foreseeable harm.

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 2017, 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 2017 Annual FOIA Report.

10.9 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.

In addition to the deadlines generated in OGE's FOIA Tracking and Reporting System, each FOIA professional will take extra steps to monitor their deadlines for assigned requests to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

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.

OGE regularly conducts self-assessments of its FOIA program by reviewing processing procedures and response templates and, when appropriate, making changes to increase efficiency, improve search processes, increase transparency, and otherwise improve the operation of OGE's FOIA program.

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 2017 (please provide a total number or an estimate of the number).

OGE estimates that requesters seek assistance from its FOIA Public Liaison two to three times per month.

5. Optional Survey Question: If possible, please provide an estimate of the average number of pages that your agency processes for each request. You may provide estimates for each track.

6. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as improving search processes, eliminating redundancy, etc., please describe them here.

OGE has taken steps to provide assistance to FOIA staff in developing strategies for closing older requests.

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.

During the past reporting year, OGE began proactively disclosing records processed for release under the FOIA, with applicable exemptions, on its [website](#).

In addition, the following materials were proactively disclosed on OGE's website during the past reporting year:

OGE Advisories: OGE posted all [written guidance](#) to executive branch ethics officials and employees, including legal, education, and program advisories.

Ethics Program Review Reports: OGE conducts reviews of agency ethics programs and issues recommendations to improve the ethics program if deficiencies are found. To confirm that the agency has acted on OGE's recommendations, OGE also conducts a follow-up review six months from the date of the report. OGE posted all [program review reports](#) and follow-up reports on its website.

Public Financial Disclosures & Ethics Agreements:

- Public financial disclosure reports submitted by the President and Vice President may be accessed [here](#).
- Public financial disclosure reports submitted by candidates for the Office of President or Vice President may be requested [here](#).
- Public financial disclosure reports submitted by appointees or nominees to positions for which the pay is set at Levels 1 and 2 of the Executive Schedule may be accessed [here](#).
- OGE has an automated online process for providing public access to other [public financial disclosure reports](#) (OGE Forms 278, 278e, and 278-T) for Presidential appointees confirmed by the Senate (PAS).
- OGE also posted the ethics agreements of PAS employees, which describe the steps an appointee will take to avoid any actual or apparent conflicts of interest, as well as records of ethics agreement compliance, at the above links.

Certificates of Divestiture: Information on requesting copies of Certificate of Divestitures (CDs), as well as a list of recent CDs that have been issued, may be accessed [here](#).

Executive Branch Agency Ethics Pledge Waivers: Copies of the waivers granted pursuant to Executive Order 13770 are available [here](#). Copies of the waivers granted pursuant to Executive Order 13490 are available [here](#).

Certain Waivers and Authorizations issued between May 1, 2016 – April 30, 2017: On April 28, 2017, OGE issued a directive (PA-17-02) requiring agencies to submit information and records related to certain waivers and authorizations. This [page](#) provides an overview of agency responses and instructions for how to request responsive documents.

Travel Reports: Agencies are required to submit to OGE semiannual reports of payments for travel, subsistence, and related expenses received from non-federal sources in connection with the attendance of employees at certain meetings or similar functions. OGE posted these [travel reports](#) on its website.

Annual Agency Questionnaire Responses: This [Questionnaire](#) asks agency ethics offices for information about ethics officials and the administration of agency ethics programs, as well as core elements of the ethics program that assist in the identification and resolution of potential conflicts of interest.

2. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If yes, please describe these efforts.

In the past few years, OGE has implemented a new strategy for communicating with the public through Director’s Notes posted on the homepage of OGE’s website, www.oge.gov. The Director’s Notes provide a public-friendly explanation of OGE’s role in the executive branch ethics program, ethics rules and regulations, OGE’s programs and initiatives, and current ethics issues. OGE also uses social media to broaden its reach to key external stakeholders and make the information posted more useful to these stakeholders. Specifically, OGE uses its Twitter account to direct the public to detailed information on its website and to provide an additional way to access OGE’s latest publications. OGE also uses its Twitter account to provide information regarding changes in executive branch ethics laws, regulations, and programs. In addition, OGE has expanded its use of social media by creating Google+ and YouTube pages. OGE uses these accounts to live stream ethics education offerings to ethics officials and to live-stream events such as OGE’s National Government Ethics Summit.

3. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency’s website?

Yes. OGE is engaging in public outreach to help the public better understand the material posted to OGE’s website.

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

In addition to driving traffic to substantive ethics content on its website, OGE is using its Twitter account to educate the public about the executive branch ethics program and to explain the types of records available on OGE’s website.

5. If there are any other steps your agency has taken to improve proactive disclosures, please describe them here. For example, has your agency engaged requesters in determining how and what to post? Has your agency used web analytics to inform your proactive disclosures?

OGE’s FOIA processing procedures direct FOIA professionals to identify records of interest to the public on an ongoing basis and to systematically post such records, whether or not they are responsive to a specific FOIA request.

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. Has your agency identified any best practices to leverage 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? If yes please describe the best practices, the types of technology used and the impact on your agency’s processing.

OGE leveraged its FOIA Tracking and Reporting System to post records processed for release under the FOIA, with applicable exemptions, directly to its [website](#). OGE’s use of the FOIA Tracking and Reporting System facilitated overall FOIA efficiency by eliminating the manual, time-consuming steps previously required to post FOIA records.

2. Did your agency successfully post all four quarterly reports for Fiscal Year 2017?

Yes.

3. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency’s plan for ensuring that such reporting is successful in Fiscal Year 2018.

N/A

4. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2016 Annual FOIA Report and, if available, for your agency's Fiscal Year 2017 Annual FOIA Report.

The raw statistical data used to compile the Annual FOIA Reports is available [here](#). Specifically, the raw statistical data used to compile the 2016 Annual FOIA Report is available [here](#), and the raw statistical data used to compile the 2017 Annual FOIA Report is available [here](#).

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

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

The Department of Justice has emphasized the importance of improving timeliness in responding to requests. This section of your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations.

For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2017 Annual FOIA Report and, when applicable, your agency's 2016 Annual FOIA Report.

A. Simple Track

Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

1. Does your agency utilize a separate track for simple requests?

No.

2. If so, for your agency overall in Fiscal Year 2017, was the average number of days to process simple requests twenty working days or fewer?

N/A

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2017 that were placed in your simple track.

N/A

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?

Yes, the average number of days to process all non-expedited requests was 18.4 days.

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 2016 and Fiscal Year 2017 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 2017, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2016?

No.

6. If not, 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.

In Fiscal Year 2017, OGE received an unprecedented number of FOIA requests to be processed by its small FOIA team. Compared to Fiscal Year 2016, OGE experience an approximate 450% increase in FOIA requests. Moreover, OGE experienced a significant increase in the complexity of requests received. For example, many of the complex requests contributing to the backlog increase relate to OGE's review of financial disclosure reports of nominees for Presidentially-appointed, Senate confirmed positions for potential conflicts of interest and for compliance with disclosure requirements. These records are often voluminous and raise complicated legal questions related to disclosure of financial and other private information. In addition, OGE lost two FOIA staff members during fiscal year 2017.

7. 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 2017.

Backlogged requests at the end of Fiscal Year 2017 made up 27% of the total number of requests in Fiscal Year 2017.

BACKLOGGED APPEALS

8. If your agency had a backlog of appeals at the close of Fiscal Year 2017, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2016?

At the close of Fiscal Year 2017, OGE had no backlogged appeals.

9. If not, 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.

N/A

10. 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 2017. If your agency did not receive any appeals in Fiscal Year 2017 and/or has no appeal backlog, please answer with "N/A."

N/A

C. Backlog Reduction Plans

11. In the 2017 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2016 was asked to provide a plan for achieving backlog reduction in the year ahead. Did you 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 2017?

N/A

12. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2017, what is your agency's plan to reduce this backlog during Fiscal Year 2018?

N/A

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 2016 and Fiscal Year 2017 when completing this section of your Chief FOIA Officer Report.

TEN OLDEST REQUESTS

13. In Fiscal Year 2017, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

OGE did not have any pending requests at the end of Fiscal Year 2016.

14. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2016 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

N/A

15. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?

N/A

TEN OLDEST APPEALS

16. In Fiscal Year 2017, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

OGE did not have any pending appeals at the end of Fiscal Year 2016.

17. 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 2016 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

N/A

TEN OLDEST CONSULTATIONS

18. In Fiscal Year 2017, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

OGE did not have any pending consultations at the end of Fiscal Year 2016.

19. 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 2016 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

N/A

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

20. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2016.

N/A

21. 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

22. 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 2017.

N/A

F. Success Stories

Out of all the activities undertaken by your agency since March 2017 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.

- **OGE began posting records processed for release under the FOIA after January 1, 2017, with applicable exemptions, on its [website](#). These proactive disclosures help raise the visibility of the executive branch ethics program and help ensure that ethics information is available to the public at large.**
- **OGE engaged in outreach and collaboration with the FOIA community. OGE's FOIA Officer, along with one of OGE's IT Specialists, participated in OIP's Sunshine Week panel, where they discussed a small agency's perspective on handling FOIA and developing efficiencies in-house. OGE's FOIA team has also been involved with the development of the National FOIA Portal, providing a small agency perspective to system developers.**