

2022 Chief FOIA Officer Report of the Federal Communications Commission

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The Federal Communications Commission (FCC or Commission) is an independent regulatory agency. It was established by the Communications Act of 1934 and is charged with regulating interstate and international communications by radio, wire, satellite, and cable. It is directed by five Commissioners nominated by the President and confirmed by the United States Senate. The President designates one of the Commissioners as Chair, who acts as the chief executive officer of the agency. The FCC is organized by function into seven operating Bureaus and eleven Staff Offices. Implementation of the Freedom of Information Act (FOIA) is the responsibility of all FCC components, as FOIA requests are processed by the Bureau or Office that is the custodian of the records sought. The Commission's General Counsel is the FCC's Chief FOIA Officer. As specified in the *Guidelines for 2022 Chief FOIA Officer Reports*, the general reporting period for this Chief FOIA Officer (CFO) Report is March 2021 to March 2022. The FCC conducted a review of its administration of the FOIA and analyzed the data from its FOIA Annual Report from Fiscal Year 2021 (October 1, 2020, to September 30, 2021), supplemented by data gathered for the period through March 2022. The FCC's performance demonstrates its commitment to openness and proactive disclosure and its ongoing efforts at self-assessment and improvement of its FOIA program. Highlights of this review and analysis are:

- The agency was able to conduct its FOIA program in an effective and timely manner under pandemic-related telework policies in effect during the entire reporting period.
- Consistent with the FOIA Improvement Act of 2016 and Department of Justice (DOJ) guidance, the FCC granted (in full or in part) 311 FOIA requests, or 57.9% of 537 requests processed, in FY 2021, a slight increase from 55.6% in FY 2020 and 54% in FY 2019.
- The agency's average response time for simple track initial FOIA requests decreased to 12.19 days in FY 2021. Moreover, this is the fifth year in a row that the agency reported meeting the DOJ's 20-day benchmark.
- The number of pending appeals at the end of FY 2021 decreased to 8.
- The average response time for expedited processing requests was 7.83 days in FY 2021, decreasing from 8.7 days in FY 2020 and remaining under the 10-day benchmark for the sixth year in a row.
- In FY 2021, the FCC again reported a very low number of year-end backlogged FOIA requests: 21 of 537 processed.
- The agency pro-actively posted on its website nearly 3.5 million records in FY 2021.

Section 1: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying DOJ's [FOIA Guidelines](#) is the presumption of openness.

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

A. FOIA Leadership

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at the Assistant Secretary or equivalent level. *See* 5 U.S.C. § 552(j)(1) (2018). Is your agency's Chief FOIA Officer at this level?

Yes.

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

P. Michele Ellison, Acting General Counsel, FCC, is the agency's Chief FOIA Officer.

B. FOIA Training

3. The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. *See* 5 U.S.C. § 552(a)(j)(2)(F). Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.

During the reporting period, the Commission has undertaken a variety of tangible efforts to ensure appropriate FOIA training for relevant staff. First, the FOIA Service Center, housed in the FCC's Office of the Managing Director, routinely shared information about DOJ FOIA Training sessions with the agency's FOIA professionals and other staff with FOIA responsibilities. Several staff with substantial FOIA responsibilities attended one or more of these FOIA sessions. Second, FCC Office of General Counsel (OGC) staff followed up with outreach to each of the agency's component Bureaus and Offices, seeking input for additional FOIA training that the FOIA Service Center and OGC could provide. On March 25, 2021, OGC provided the FCC's Office of Economics and Analysis (OEA) – the agency's newest component Office – with specialized FOIA training. The FCC requires all agency staff to take a Records Management training course annually, as described in more detail below.

Tailored FOIA training for the agency's remaining Bureaus and Offices will be conducted on request. In addition, the FOIA Service Center maintains an ongoing training program, providing individual FOIA training to any staff on request. The agency is also currently updating its FOIA Intranet page, which makes available to all staff a number of FOIA training materials on demand. Significant revisions to these materials were provided directly to all staff with FOIA responsibilities.

4. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend substantive FOIA training during the reporting period such as that provided by the Department of Justice?

Yes. As explained in more detail in the response to Question 5 below, the agency's FOIA professionals and other staff attended training offered by the DOJ's Office of Information Policy (OIP) and the FCC.

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

- DOJ FOIA Training:

Virtual Best Practices FOIA Administration During the Pandemic - March 30, 2021

Virtual Continuing FOIA Education - April 13, 2021

Virtual Introduction to the Freedom of Information Act - May 11, 2021

Virtual Privacy Considerations Mini-Session - May 13, 2021

Virtual Processing from Start to Finish Workshop - May 18, 2021

Virtual Exemption 4 and Exemption 5 Workshop - June 3, 2021

Virtual Exemption 1 and Exemption 7 Workshop - June 10, 2021

Virtual Continuing FOIA Education - July 15, 2021

Virtual Procedural Requirement and Fees Workshop - July 21, 2021

Virtual Annual/Quarterly FOIA Report Training - October 5, 2021

Virtual Chief FOIA Officer Report Training - October 19, 2021

Virtual Introduction to the Freedom of Information Act - November 9, 2021

Virtual Freedom of Information Act Litigation Seminar - November 10, 2021

Virtual Procedural Requirements and Fees Training - December 7, 2021

Virtual Exemption 1 and Exemption 7 Training - January 11, 2022

Virtual Exemption 4 and Exemption 5 Training - January 18, 2022

Virtual Privacy Considerations Training - January 20, 2022

Virtual Advanced Freedom of Information Act Training - February 2, 2022

- On March 25, 2021, OGC provided the FCC's OEA staff with specialized FOIA training, targeted to its unique posture as the agency's newest component Office. The training session covered FOIA exemptions and other FOIA issues applicable to records in OEA's custody that are typically requested.

- The FCC requires all agency staff to take a Records Management training course annually. The National Archives and Records Administration (NARA) also requires mandatory annual records management training for all agency personnel including federal employees, contractors, volunteers, and others that create, receive, access, or use Federal records on behalf of the agency. The course is offered by video on demand through the agency's Intranet.

- FOIA training materials are widely available to all staff, including staff with FOIA responsibilities, on demand through the agency's Intranet. Among these are a FOIA Overview; detailed information from the joint DOJ - FCC training held onsite several years ago;

FOIAonline resources including the FOIAonline User Training Manual, FOIAonline coordinator list and best practices, FOIAonline walkthrough training offered by the Environmental Protection Agency in 2018 available on YouTube; as well as a detailed FOIA “Things to Remember” worksheet for issuing initial responses.

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

We believe that 100% of the FCC’s FOIA professionals and staff with FOIA responsibilities attended at least one FOIA training session during the reporting period.¹

7. 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.

Not applicable.

8. Did the personnel at your agency who have FOIA responsibilities attend training in federal records management during this reporting period?

As indicated above, the FCC requires all agency staff (including those with FOIA responsibilities) to take a Records Management training course annually. The course is offered by video on demand through the agency’s Intranet, which helps ensure greater accessibility and widespread attendance.

C. Outreach

9. Did your FOIA professionals engage in any outreach or dialogue, outside of the standard request process, with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency’s FOIA administration.

Yes. The FOIA Service Center will engage in dialogue with any member of the requester community prior to filing in FOIAonline, to help the requester more reasonably describe and clarify the request. This pre-filing consultation helps improve the efficient routing of FOIA requests once filed. Some frequent requesters contact the FOIA Service Center regularly prior to filing, to discuss the type of information at issue and where it may likely be found, so that the information sought is reasonably described and the appropriate custodian Bureau or Office is identified in the filed request, thus reducing processing delays. Additionally, the FOIA Service

¹ The agency reported 13.96 total full-time FOIA staff in the FY 2021 Annual FOIA Report. We believe that all individuals with substantial FOIA responsibilities attended the mandatory Records Management training course. As indicated above, in addition, several staff with substantial FOIA responsibilities attended the remaining FOIA sessions listed in response to Question 5.

Center engages in post-filing consultations in many cases where a request in FOIAonline does not meet the requirements of a properly filed FOIA request.

D. Other Initiatives

10. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe:

- how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff; and
- if senior leaders at your agency received a briefing on your agency's FOIA resources, obligations and expectations during the FOIA process?

The agency has ongoing efforts in both these areas. The agency's internal FOIA webpage and public FOIA webpage provide detailed information for employees who are not FOIA professionals, but may need to provide records in response to a FOIA request or who are otherwise involved in the FOIA process. For instance, the FCC's internal FOIA webpage provides contact information for staff FOIA experts in the agency's FOIA Service Center, OGC, and component Bureaus and Offices, as well as the FOIA training and materials described above that are available to all staff. As indicated above, the agency's OGC offers specialized FOIA training sessions to the Bureaus and Offices.

OGC engages with agency senior leadership on a regular basis regarding FOIA responsibilities, including backlogs and other pending FOIA issues. In addition, the FOIA Service Center issued weekly reports to agency staff with FOIA responsibilities, and monthly reports to senior staff in the Bureaus and Offices, showing the status of their pending FOIAs throughout the reporting period.

11. Optional -- 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 agency's OGC continues to execute the initiatives begun in previous reporting periods. Specifically, following the FOIA Improvement Act of 2016, the Chief FOIA Officer directed management in the FCC's Bureaus and Offices to devote resources to determining where release is appropriate for records that otherwise would be protected, consistent with the standard set forth under the Act. Relatedly, agency FOIA staff also review exempt documents to determine whether partial disclosures may be made.

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 2021, 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 2021 Annual FOIA Report.

7.83 calendar days.

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2021 Annual FOIA Report, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Not applicable.

3. The FOIA Improvement Act of 2016 required all agencies to update their FOIA regulations within 180 days. In 2016, OIP issued Guidance for Agency FOIA Regulations and the accompanying Template for Agency FOIA Regulations to assist agencies in updating their regulations in accordance with the statute. Has your agency updated its FOIA regulations in accordance with the FOIA Improvement Act of 2016? If not, what is your agency's plan to update your regulations?

Yes. On December 15, 2016, the agency issued an order updating its FOIA regulations consistent with the FOIA Improvement Act of 2016, available at:

<https://www.fcc.gov/document/foia-improvement-act-implementation-order>.

4. Standard Operating Procedures (SOPs) generally document your agency's internal processes for administering the FOIA beyond your FOIA regulations and FOIA Reference Guide. As noted in OIP's [guidance](#), having SOPs can improve the consistency and quality of an agency's FOIA process. SOPs can also serve as a significant resource for incoming FOIA professionals and a way to preserve much of the agency's institutional knowledge on administering the FOIA from how to handle requests from start-to-finish, to identifying and making proactive disclosures, to maintaining a FOIA website. Does your agency have up-to-date internal SOPs for your FOIA administration?

Yes. Although not formally denominated "Standard Operating Procedures," the FCC has standardized its processes for handling FOIA requests and appeals to ensure quality control and increase efficiency. As previously reported, the FCC used FOIAonline to administer its FOIA requests and appeals beginning in FY 2016. Requesters can use FOIAonline to file a request or an appeal electronically and to obtain status information, and receive automated notifications and electronic correspondence. The agency maintains a "How To File A FOIA Request" public webpage setting forth FOIA filing procedures, fees, and how to obtain status information.

For staff with FOIA responsibilities, the FCC has adopted a formal IFOIA Directive and an FCC FOIA Guide (available on the FCC Intranet) implementing standard internal procedures in receiving, processing, and reporting on FOIA requests and appeals. Other FCC Directives regarding, *e.g.*, management of non-public information, Privacy Act requests, and records management, address related FOIA issues. FOIA response templates (available to staff through the Intranet) provide standard guidance on boilerplate language that may be used in a FOIA initial decision, covering FOIA exemptions, fee classification, fee calculation, appeals, and other FOIA issues. Finally, OGC reviews all draft initial FOIA responses by the Bureaus and Offices to ensure consistency and quality of FOIA decisions agencywide.

These processes outlined here, although not formally termed SOPs, are regularly updated to reflect new developments in the agency's policies and procedures for administering the FOIA. The new and revised FOIA Overview PowerPoint presentation and FOIA response templates were posted on the agency's Intranet during the reporting period, and the FOIA Directive and FCC FOIA Guide were issued in 2018.

5. If not, please provide a timeline for when your agency plans to develop or update its SOPs.

Not applicable.

6. Has your agency established alternative means of access to first-party requested records outside of the FOIA process?

Yes.

7. If yes, please provide examples. If no, please explain if such opportunities exist at your agency and whether there are any challenges in establishing alternative means of access.

First-party requests for records may be made under the Privacy Act or the FOIA. For example, a party may request under either statute, records of consumer complaints that they filed with the FCC regarding their phone or Internet service. In either case, the request is processed in FOIAonline.

8. Did your agency conduct a self-assessment of its FOIA administration during the reporting period? If so, please describe the self-assessment methods used, such as analyzing Annual Report or raw data, using active workflows and track management, reviewing and updating processing procedures, etc. In addition, please specifically highlight any data analysis methods or technologies used to assess your agency's FOIA program.

Yes. During the 2022 reporting period, the agency self-assessed its FOIA program on an informal, ongoing basis using techniques in the DOJ's Self-Assessment Toolkit (Toolkit) and, in particular, it has identified areas needing improvement and implemented next steps. More specifically, the FOIA Service Center issued regular internal FOIA status reports to senior agency officials and staff with FOIA responsibilities summarizing any pending and backlogged initial FOIA requests and requests for expedited processing, and provided follow-up guidance on individual cases where needed to reduce processing times and backlogs (Toolkit Module 2). The

FOIA Service Center implemented a new intake process for nearly 100 FOIA requests sent in hard copy during the reporting period, under which such requests are placed in a BOX directory for further processing and assignment. The new process avoids intake processing delays during pandemic-related telework (Toolkit Module 1). The FOIA Service Center also provided individualized FOIAonline training to any staff with FOIA responsibilities upon request and implemented measures to ensure that all agency staff attended mandatory annual Records Management training (Toolkit Module 10). As reported previously, the FCC conducted a formal self-assessment of its FOIA program utilizing the Toolkit during the reporting periods immediately following its 2017 release.

9. 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 2021 (please provide a total number or an estimate of the number).

We estimate 48 occasions on which requesters initiated a request for assistance from the FOIA Public Liaison. These typically seek the status of a pending FOIA request or seek help utilizing databases and other information provided on the FCC's website. Such requests were promptly addressed, either directly or routed to the appropriate Bureau or Office staff with follow-up when the request is resolved. This figure does not include multiple exchanges with the requester that may have followed, or the multiple requests by the FOIA Public Liaison to other agency Bureaus and Offices, to resolve the initial assistance request.

10. Has your agency reviewed its FOIA-related staffing capabilities to identify resources needed to respond to current and anticipated FOIA demands?

Yes. The agency reviews its staffing capabilities on an ongoing basis to meet its program objectives, including FOIA. FOIA responsibilities are assigned to full-time FOIA staff, as well as to other staff, on an as-needed basis to meet variations in the FOIA workload.

11. Optional -- Please describe:

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

Weekly and monthly reporting on FOIA processing is an important best practice successfully implemented by the agency. The FOIA Service Center actively tracks individual FOIA requests and issues weekly informational reports to agency FOIA professionals showing FOIAs that are backlogged, FOIAs and Expedited Processing requests due, and FOIAs on hold, thus facilitating timely staff action and improving agency performance. The FOIA Service Center also circulated to senior staff in the Bureaus and Offices monthly reports showing the status of their pending FOIAs, ensuring appropriate oversight within those organizational units. Factors, such as the quantity or the complexity of the records requested, challenge the agency's FOIA processing efficiency.

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. Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures.

As an agency receiving fewer than 1,000 FOIA requests per year, the Commission informally identifies records that are required to be proactively disclosed and posts material proactively beyond the requirements of the statute. The Commission has adopted a three-pronged strategy on proactive disclosures. First, in accordance with the requirements of the FOIA Improvement Act of 2016, the agency posts in its electronic FOIA reading room records that have been requested three or more times. Second, and more broadly, the electronic FOIA reading room lists records disclosed in response to a FOIA request that the agency determines have become, or are likely to become, the subject of subsequent requests for substantially the same records. In addition, it is the FCC's policy to post on its website any information that is of general interest to the public so long as there are no national security, law enforcement, legal, or privacy issues that prohibit its publication. The inventory of website content disclosed pursuant to this policy is available online at <https://www.fcc.gov/general/website-inventory-priorities-and-schedules>.

2. Provide examples of any material that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D). Please include links to these materials as well.

Freedom of Information Act (FOIA) Electronic Reading Room – The Commission maintains a webpage, among other things, listing records disclosed in response to FOIA requests that the agency determines have become, or are likely to become, the subject of subsequent requests for substantially the same records, available at: <https://www.fcc.gov/general/freedom-information-act-electronicreading-room>.

Current Policy Initiatives and Proceedings – The Commission established new webpages devoted to a number of policy initiatives and proceedings, including federal broadband support and auctions of broadcast spectrum. Each page is a one-stop source of information, providing links to FCC releases, news, and other resources, regarding the Commission's efforts. Examples of some of these may be accessed at: Form 477 Broadband Deployment Data - June 2020 (version 1), <https://www.fcc.gov/form-477-broadband-deployment-data-june-2020-version-1>; Form 477 Broadband Deployment Data - June 2020 (version 2), <https://www.fcc.gov/form-477-broadband-deployment-data-june-2020-version-2>; 2020 Census Blocks by State, <https://www.fcc.gov/general/2020-census-blocks-state>; Broadband Data Collection, <https://www.fcc.gov/BroadbandData>; Auction 111: LPTV and TV Translator,

<https://www.fcc.gov/auction/111>; Auction 112: Full Power Television, <https://www.fcc.gov/auction/112>; List of Equipment and Services Covered By Section 2 of The Secure Networks Act, <https://www.fcc.gov/supplychain/coveredlist>.

Consumer Guidance – The Commission launched new webpages providing consumer guidance and resources on a number of topics: Information & Resources: China Telecom (Americas) Can No Longer Provide Mobile Service in the US, <https://www.fcc.gov/consumers/guides/information-and-resources-china-telecom-americas-can-no-longer-provide-mobile>; Plan Ahead for Phase Out of 3G Cellular Networks and Service, <https://www.fcc.gov/consumers/guides/plan-ahead-phase-out-3g-cellular-networks-and-service>; FCC Data Spotlight: Top Five Unwanted Call Complaints, <https://www.fcc.gov/fcc-data-spotlight-top-five-unwanted-call-complaints>; Ten-Digit Dialing, <https://www.fcc.gov/consumers/guides/ten-digit-dialing>; Request for Dispute Assistance for Access to Communications, <https://www.fcc.gov/consumers/guides/request-dispute-assistance-access-communications>; Robocall Mitigation Database, <https://www.fcc.gov/robocall-mitigation-database>; Vulnerability Disclosure Policy, <https://www.fcc.gov/vulnerability-disclosure-policy>.

Pandemic Related Programs – The Commission launched several new webpages providing consumer guidance on the benefits and rollout of the Emergency Broadband Benefits Program: Emergency Connectivity Fund, <https://www.fcc.gov/emergency-connectivity-fund>; Emergency Connectivity Fund FAQs, <https://www.fcc.gov/emergency-connectivity-fund-faqs>; Emergency Connectivity Fund Social Media Images, <https://www.fcc.gov/emergency-connectivity-fund-social-media-images>; Emergency Broadband Benefit, <https://www.fcc.gov/broadbandbenefit>; Consumer FAQ for Emergency Broadband Benefit, <https://www.fcc.gov/consumer-faq-emergency-broadband-benefit>; Emergency Broadband Benefit Media Resources, <https://www.fcc.gov/emergency-broadband-benefit-media-resources>; Emergency Broadband Benefit Outreach Toolkit, <https://www.fcc.gov/emergency-broadband-benefit-outreach-toolkit>; Emergency Broadband Benefit Program, <https://www.fcc.gov/emergency-broadband-benefit-program>; Emergency Broadband Benefit Providers, <https://www.fcc.gov/emergency-broadband-benefit-providers>; Emergency Broadband Benefit Social Media Images, <https://www.fcc.gov/emergency-broadband-benefit-social-media-images>; Homework Gap and Connectivity Divide, <https://www.fcc.gov/about-fcc/fcc-initiatives/homework-gap-and-connectivity-divide>; IGA Spotlight: Preparing for Emergency Broadband Benefit Roll Out, <https://www.fcc.gov/iga-spotlight-preparing-emergency-broadband-benefit-roll-out>.

Public Safety Guidance – The Commission launched new webpages providing communications-related public safety guidance covering multilingual emergency alerting, E911, and weather events: Multilingual Alerting for the Emergency Alert System and Wireless Emergency Alerts, https://www.fcc.gov/MultilingualAlerting_EAS-WEA, PSAP Tip Sheet March 2021; PSAP Tip Sheet March 2021, <https://www.fcc.gov/psap-tip-sheet-march-2021>; Hurricanes Ida and Nicholas, <https://www.fcc.gov/Ida>; Tropical Storm Henri, <https://www.fcc.gov/henri>; Wildfire Communications Advisory, <https://www.fcc.gov/wildfire-communications-advisory>; and Past Response Efforts, <https://www.fcc.gov/past-response-efforts>.

Social Media – The Commission participates in several social media platforms to interface with the public on a daily basis. FCC accounts on platforms including Facebook, Twitter, and YouTube regularly update and provide the public with FCC news and releases:

<https://www.fcc.gov/consumers/social-media>, <https://www.fcc.gov/news-events/social-media>.

3. Does your agency disseminate common types of material outside of FOIA, including in online databases where the public may access them? If yes, please provide examples and, if applicable, statutory authority.

In addition to resources mentioned above, the Commission makes publicly available online more than 40 specialized, searchable databases, at a single webpage: <https://www.fcc.gov/licensing-databases/search-fcc-databases>. These include:

- Electronic Comment Filing System - official records in the FCC's docketed proceedings;
- Universal Licensing System - wireless licensing and research;
- Antenna Structure Registration - tower registration and research;
- EDOCS - copies of all FCC released documents; and
- KIDVID - children's educational television reporting, FCC Form 2100, under the Children's Television Act of 1990.

4. 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.

5. If yes, please provide examples of such improvements. In particular, please describe steps your agency is taking to post information in open, machine-readable, and machine-actionable formats, to the extent feasible. If not posting in open formats, please explain why and note any challenges.

The FCC's policy on open data is showcased in a webpage providing further links, including: 1) FCC Open Data, enabling public innovation by publishing data underlying FCC regulatory proceedings and activities with a focus on improving quality, openness, accessibility and utility, including a link to several FCC datasets that can be downloaded; 2) FCC Developers Page, promoting the innovative application of FCC data by connecting developers with the tools they need to unlock government data, including a link to several FCC developer application programming interfaces; 3) FCC Digital Strategy, the agency's participating in federal cross-agency initiatives to increase data usability and consumption; 4) FCC Data and Information Officers, a roster of FCC staff members dedicated to providing data and information; and 5) FCC blog posts on open government. The webpage may be accessed at <https://www.fcc.gov/general/open-government-fcc>.

6. Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.

Yes. Proactive disclosures at the FCC involve a wide range of staff across its various component Bureaus and Offices. These staff routinely identify records for proactive disclosure consistent with standard FCC procedures and post material proactively beyond the requirements of the statute.

Optional -- Please describe:

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

One best practice to highlight is the agency's efforts to increasing public awareness of available information that the agency proactively discloses. The FCC participates in numerous social media and e-mail subscription services through which, among other things, it publicizes proactive disclosures for public awareness. These include Facebook, Twitter, Instagram, YouTube, and many others. For instance, the FCC maintains over fifty-five RSS feeds, by which users can receive automatic updates covering the FCC Blog, actions by individual bureaus and offices, and numerous types of FCC documents and databases. Users can also receive this information by email subscription.

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 reviewed its FOIA-related technological capabilities to identify resources needed to respond to current and anticipated FOIA demands?

Yes. The agency reviews its FOIA-related technological capabilities on an ongoing basis to meet its program objectives, including FOIA. To that end, throughout the reporting period, agency FOIA and IT staff have engaged in substantive discussions regarding current and prospective technological capabilities as applied to FOIA obligations.

2. Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program.

During the reporting period, the agency completed a major upgrade of its virtual desktop infrastructure, "VDI in the Cloud," for all users, including staff with FOIA responsibilities. Concomitant with the VDI upgrade, agency staff also received an updated version of Microsoft

Outlook which enhanced staff's ability to conduct email records searches and further integrates with a recently-implemented records management program, as approved by NARA. The agency upgraded FOIAonline to accept, automatically and electronically, FOIA requests that were originally filed in FOIA.gov. As indicated above, the FOIA Service Center implemented a new intake procedure for nearly 100 FOIA requests sent in hard copy during the reporting period, under which such requests are placed in a secure Box file-sharing directory for further processing and assignment. The new procedure avoids intake processing delays during mandatory telework. The FCC provided training on the use of Microsoft Teams and other virtual meeting technologies to support all of its programs, including FOIA, during pandemic-related telework.

Also, as previously reported, as required under the FOIA Improvement Act of 2016, in May 2019, the agency submitted to the DOJ its plan to meet the National FOIA Portal's interoperability requirement using FOIAonline, with an anticipated implementation in FY 2022. The FOIA Improvement Act of 2016 requires creation of a central, online request portal that allows a member of the public to submit a request for records under the FOIA to any Federal agency from a single website. FOIA staff in the Office of General Counsel established a dedicated employee mailbox for submitting inquiries regarding the FOIA using email. The Commission has used FOIAonline exclusively to administer its FOIA program beginning in FY 2016. FOIAonline was substantially upgraded in 2018. In addition, the agency's FOIA professionals are able to convert documents, emails, and other conventional digital materials to a pdf format automatically using Adobe Acrobat Pro software. This software provides a full range of FOIA processing tools, including redaction marking and application, FOIA exemption labeling, and deduplication using character searches. The software also enables documents to be provided in digital form to requesters without the need to scan or provide paper copies. For very large volume productions, the Commission has made use of file hosting services to provide records to requesters, rather than sending such records over multiple e-mails or on physical media.

3. OIP issued [guidance](#) in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources, and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?

Yes. The agency's FOIA website addresses the elements noted in the OIP 2017 guidance. As previously reported, there is a clear link to the agency's FOIA webpage, <https://www.fcc.gov/foia>, appended at the bottom of all FCC webpages. Additionally, the FOIA webpage can also be accessed directly from the OGC page on the FCC's website. The FOIA webpage includes, as recommended in the OIP guidance, links to: (i) the electronic reading room containing, among other things, links to proactive disclosures; (ii) instructions to the public on how to make a request or to contact the agency about an existing request; and (iii) links to the Commission's Annual FOIA Reports and Chief FOIA Officer Reports, among other reports. The Commission's FOIA webpage also includes summary graphs of the annual and quarterly FOIA reports that previously could only be viewed using links to the FOIA.gov website, the agency's FOIA reference guide and regulations, FOIA text, and the Department of Justice FOIA guide.

4. Did all four of your agency's quarterly reports for Fiscal Year 2021 appear on your agency's website and on FOIA.gov?

No. In accordance with the DOJ's October 4, 2021 updated guidance for quarterly FOIA reporting, all four of the agency's quarterly reports for Fiscal Year 2021 appear on FOIA.gov, and are no longer required to be posted on the agency's website.

5. 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 2022.

Not applicable.

6. 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 2020 Annual FOIA Report and, if available, for your agency's Fiscal Year 2021 Annual FOIA Report.

For the agency's FY 2020 and FY 2021 Annual FOIA Reports, please see:

<https://www.fcc.gov/reports-research/reports/annual-foia-reports/freedom-information-act-annual-report-fy-2020> and <https://www.fcc.gov/reports-research/reports/annual-foia-reports/freedom-information-act-annual-report-fy-2021>.

7. Optional -- Please describe:

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

One best practice used by the FCC is that the FOIA Service Center meets on a monthly basis with other government users of FOIAonline to share knowledge and strategies for effective use of the program. In addition, for very large volume productions, the Commission has made use of file hosting services to provide records to requesters, rather than sending such records over multiple e-mails or on physical media.

One major challenge is that searches for emails and other records are typically conducted by individual custodians, because centralized searches are not currently possible. In addition, the use of these technologies requires additional specialized training, which can be challenging for staff for whom FOIA processing is only a small part of their work portfolio. Nevertheless, the use of these technologies enabled the agency to maintain timely FOIA processing under pandemic-related telework during the reporting period.

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 FY 2020 and 2021 Annual FOIA Reports.

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 agency's multi-track system consists of simple, complex, and expedited tracks.

2. If your agency uses a separate track for simple requests, according to Annual FOIA Report section VII.A, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2021?

Yes. 12.19 working days.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2021 that were placed in your simple track. Please use the following calculation based on the data from your Annual FOIA Report: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) x 100.

70.2% of requests processed by the FCC in FY 2021 were placed in the simple track, or 377 of 537 total requests processed.

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?

Not applicable.

B. Backlogs

When answering these questions, please refer to you Fiscal Year 2021 Annual FOIA Report, Sections XII.D-E, which compare the numbers of requests and appeals received, processed, and backlogged between Fiscal Years 2020 and 2021.

BACKLOGGED REQUESTS

5. If your agency had a backlog of requests at the close of Fiscal Year 2021, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?

No. The agency reported a backlog of 21 requests at the close of FY 2021; it also reported 21 backlogged requests at the end of FY 2020.

6. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2021 than it did during Fiscal Year 2020?

No. The agency processed 579 requests during FY 2020 and 537 requests during FY 2021.

7. If your agency's request backlog increased during Fiscal Year 2021, 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.
- Impact of COVID-19 and workplace and safety precautions
- Any other reasons – please briefly describe or provide examples when possible.

Not applicable. As indicated above, the agency's backlog of 21 at the end of FY 2021 was the same as at the end of FY 2020.

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 2021. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. This number can be greater than 100%. If your agency has no request backlog, please answer with "N/A."

The request backlog represents a small fraction of total requests -- 3.93%, or 21 of 534 incoming initial FOIA requests.

BACKLOGGED APPEALS

9. If your agency had a backlog of appeals at the close of Fiscal Year 2021, according to Section XII.E.2 of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?

Yes. The number of backlogged appeals decreased from 10 at the end of FY 2020 to 7 at the end of FY 2021.

10. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2021 than it did during Fiscal Year 2020?

Not applicable.

11. If your agency's appeal backlog increased during Fiscal Year 2021, 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.
- Impact of COVID-19 and workplace and safety precautions.
- Any other reasons – please briefly describe or provide examples when possible.

Not applicable.

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 2021. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received from Section VI.A) x 100. This number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2021 and/or has no appeal backlog, please answer with "N/A."

46.67%, or 7 of 15 total appeals received during FY 2021, were backlogged. The appeals that are backlogged generally involve complex issues, reflecting the agency's successful efforts during FY 2021 to informally resolve more routine issues with FOIA requesters rather than utilize the written appeal decision process.

C. Backlog Reduction Plans

13. In the 2021 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1,000 requests in Fiscal Year 2020 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 2021?

Not applicable.

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2021, please explain your agency's plan to reduce this backlog during Fiscal Year 2022. In particular, please also detail how your agency developed and plans to execute your backlog reduction plans.

Not applicable.

D. Status of Oldest Requests, Appeals, and Consultations

Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2020 and Fiscal Year 2021 when completing this section of your Chief FOIA Officer Report.

OLDEST REQUESTS

15. In Fiscal Year 2021, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2020 Annual FOIA Report?

No. Five of the ten oldest requests that were reported pending in the FY 2020 Annual FOIA Report remained pending at the end of FY 2021.

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 2020 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

The agency closed during FY 2021 five of the ten oldest requests that were listed as pending in its FY 2020 Annual FOIA Report.

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

As indicated in Section I, the FOIA Service Center issues weekly reports to staff with FOIA responsibilities, and monthly reports to Bureau and Office management, showing the status of pending FOIAs. FOIA staff in the Office of the Managing Director and the Office of the General Counsel regularly follow up with FOIA staff throughout the agency to help resolve pending matters. Most initial FOIA requests are processed well within the 20-day FOIA deadline.

TEN OLDEST APPEALS

18. In Fiscal Year 2021, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2020 Annual FOIA Report?

No. Four of the ten oldest appeals that were reported pending in the FY 2020 Annual FOIA Report remained pending at the end of FY 2021.

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 VI.C.(5) of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

The agency closed during FY 2021 six of the ten oldest appeals that were listed as pending in its FY 2020 Annual FOIA Report.

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 Commission delegated authority to its Chief FOIA Officer and General Counsel to address appeals where it is most efficient for such appeals to be handled without review by the full Commission. This authority has been used to address multiple appeals more quickly than a decision from the full Commission. Similarly, OGC has been given authority to attempt to resolve appeals informally with the consent of the requester.

TEN OLDEST CONSULTATIONS

21. In Fiscal Year 2021, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2020 Annual FOIA Report?

Not applicable. The agency reported no pending consultations at the end of FY 2020.

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 2020 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

Not applicable.

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 2020.

The ten oldest requests and appeals from FY 2020 generally involve complex issues or voluminous records. In addition, in contrast to agencies that may resolve appeals at the staff level, appeals of FCC decisions on initial FOIA requests, unless resolved informally or dismissed for procedural reasons, are voted by the full Commission pursuant to the Communications Act. Notwithstanding these circumstances, as noted above, during FY 2021, the Commission was able to close five of its ten oldest requests and six of its ten oldest appeals, that were reported pending in its FY 2020 Annual FOIA Report.

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.

Not applicable.

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 2022.

The Commission will continue to work on the five oldest pending requests, and four oldest pending appeals which present particularly complex issues, and expects to close them during FY 2022. As indicated above, there were no consultations pending at the end of FY 2021.

F. Success Stories

Out of all the activities undertaken by your agency since March 2021 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, but should not be something that you have reported in a prior year. As noted above, these agency [success stories](#) will be highlighted during Sunshine Week by OIP. 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.

See highlights on page 1.

Updated September 30, 2021