

FEDERAL TRADE COMMISSION
REPORT BY SARAH MACKEY
ASSOCIATE GENERAL COUNSEL
AND
CHIEF FOIA OFFICER

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Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's [FOIA Memorandum](#) and the Attorney General's [FOIA Guidelines](#) is the presumption of openness.

improvements that could be made. They also held meetings to discuss substantive changes to FOIA case law and lessons learned from the Agency's FOIA litigation experience.

3. Did your FOIA professionals attend any FOIA training during

Additionally, individuals can contact the FTC's FOIA Hotline, at (202) 326-2430, with questions. The FTC also provides the contact information for its FOIA PublicLiaison on its website (<http://www.ftc.gov/about-ftc/foia/foia-resources/freedom-information-act-contacts>)

Answer: Yes, the agency made numerous discretionary releases of legally exempt information. The Agency has long sought to comply with the FOIA's spirit of maximum possible disclosures and has a long-standing practice of releasing as much information to the public as possible. All reviewers are trained to conduct FOIA reviews in compliance with the provisions of the FOIA and relevant FOIA case law.

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

Answer: The agency will waive the deliberative process privilege imbedded in Exemption 5 of the FOIA when doing so will increase public understanding of the subject matter and have no chilling effect on agency proceedings.

11. Provide a narrative description, as well as some specific examples, the types of information that your agency released as a matter of discretion during the reporting year.

Answer: In some cases, the FTC released attorney notes and internal recommendations that the agency could have withheld under Exemption 5. We released this information because, following discussions with staff, we determined that release would not chill future deliberations or harm agency proceedings. For example, one request sought minutes or agendas for meetings of the Council of Counsels to Inspector General. Some records responsive to this request discussed various legal interpretations relevant to the IG's mandate, and a number of discrepancies in these interpretations. To the extent these documents reflected the analysis of individual staff members, the agency could have withheld these documents under Exemption 5 of the FOIA. However, because no evident harm would result from the release of these records, this exemption was waived.

On multiple occasions, the agency also created charts or other analytics in response to requests seeking data relating to various agency activities. While the agency is not required to create such documents in response to FOIA requests, it occasionally does so when the analytics can be generated easily.

However, the agency is statutorily prohibited from disclosing confidential business or financial information, information provided pursuant to 28 U.S.C. 1702(a)(1)(B).

converted?

Answer: 100% of eligible personnel have been converted to the new job series, GS-306.

2. If your agency has not converted all of its eligible employees yet, what is your plan to ensure that all FOIA professionals' positions descriptions are converted?

Answer: N/A.

Processing Procedures:

3. For Fiscal year 2014, what was the average number of days your agency reported for adjudicating requests for expedited processing?

Answer: On average, the agency adjudicated requests for expedited processing in 4.4 days.

4. 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.

Answer: N/A.

5. If your agency has a decentralized FOIA process, has your agency taken steps to make the routing of misdirected requests within your agency more efficient? If so, please describe those steps.

Answer: N/A.

6. If your agency is already handling the routing of misdirected requests in an efficient manner, please note that here and describe your process for these requests.

Answer: N/A.

Requester Services:

7. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration?

Answer: The FTC notifies requesters of the existence of the mediation services offered by OGIS in its response to all FOIA appeals. These letters describe the mediation process and provide requesters with information on how to pursue this option.

8. When accessing fees, does your agency provide a breakdown how FOIA fees were calculated and assessed to the FOIA requester? For example, does your agency explain the amount of fees attributable to search, review, and duplication? *See OIP Guidance, "The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications."* (Nov. 22, 2013)

Answer: Invoices issued by the agency provide requesters with a breakdown of the fees incurred by their requests on the basis of search time, review time, and duplication costs.

9. If estimated fees are particularly high, does your agency provide an explanation for the estimate to the requester?

Answer: The FTC's FOIA Officers will contact requesters when the fees associated with a request exceed what the requester has agreed to pay. FOIA staff will explain the FTC's fee schedule and provide a rough estimate of the costs associated with the request. If this estimate is particularly high, FOIA staff will work with the requester to amend their request to reduce these associated costs.

Other Initiatives:

10. If there are other steps your agency has undertaken

agency's inability to respond to the request within twenty days. To avoid such delay, the FOIA Office has begun sending these notices via email, rather than by USPS. This procedural change has eliminated much of the delay caused by the submitter notice requirement.

Steps Taken to Enhance Transparency and Proactive Disclosures

Answer:

Online tracking of FOIA requests and Appeals:

1. Can a member of the public track the status of his/her request or appeal electronically?

Answer: Yes. Requesters can track the status of his or her request on the FTC's public website. Additionally, requesters can seek status updates by sending an e-mail to FOIA@ftc.gov, or by calling the FOIA officer processing their request.

The agency does not currently have a system in place for requesters to track his or her appeal electronically.

2. If yes, how is this tracking feature provided to the public? For example, is it being done through regularly updated FOIA logs, online portals, or through another medium?

Answer: The FTC posts two FOIA logs on the Agency's public website, which are updated on a monthly basis (<http://www.ftc.gov/about-ftc/foia/foia-reading-rooms/track-your-foia-request>). These logs are created by FOIA staff based on data from the FOIA Xpress system. Unfortunately, because of security concerns, the agency is unable to connect requesters to this system directly.

3. If the agency does provide online tracking, please describe the information that is provided to the requester through this feature. For example, some online tracking features may tell the requester whether the request is "open" or "closed," while others will provide further details through the course of the processing, such as "search commenced" or "documents currently in review."

information in its electronic logs. However, FOIA professionals inform requesters of their projected delivery date when asked.

5. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability? If not, please explain why.

Answer: N/A.

Making Material Posted Online More Useful:

6. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to

credit report accuracy, and provided a link to where this report can be found on the FTC's public website.

10. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?

Answer: No.

11. If so, please briefly explain what those challenges are.

Answer: N/A.

Use of technology to facilitate processing of requests:

12. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents? If so, describe the technological improvements being made.

Answer: Yes, the FTC utilizes various electronic databases to facilitate the processing of FOIA requests. The FTC has processed all of its FOIA requests electronically since 2003, using the FOIA Xpress software. The agency frequently upgrades to new versions of this software, to ensure that it is able to process requests as quickly as possible. Agency staff is able to provide the FOIA Office with responsive records electronically, either via email or by placing the documents on the agency's share drive.

FOIA requesters most frequently request consumer complaints or data relating to these

Answer: Yes. The FTC's processing times would likely be improved if the agency were able to implement a system capable of sorting or de-duplicating documents. However, the agency has not done so because of the prohibitive costs of these programs.

Other Initiatives:

14. Did your agency successfully post all four quarterly reports for Fiscal Year 2014?

Answer: Yes, the FTC successfully posted all four quarterly reports for Fiscal Year 2014. Please note that the agency has had some technical difficulties exporting these reports to FOIA.gov, but that the FTC and DOJ are working closely to remedy this issue.

15. 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 2015.

Answer: N/A.

16. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible? *See OIP Guidance, "The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications."* (Nov. 22, 2013) If yes, what are the different types of electronic means that are utilized by your agency to communicate with requesters?

Answer: Regularly, FOIA staff emails requesters to discuss the scope of their requests or fee-related issues.

17. If your agency does not communicate electronically with requesters as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such limitations?

Answer: N/A.

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

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations. *For the figures required in this Section, please use those contained in the specified sections of your agency's 2013 Annual FOIA Report and, when applicable, your*

agency's 2012 Annual FOIA Report.

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?

Answer: Yes.

2. If so, for your agency overall, for Fiscal Year 2014, was the average number of days to process simple requests twenty working days or fewer?

Answer: Yes. The agency processed simple requests at an average of 5.2 days.

3. Please provide the percentage of request processed by your agency in Fiscal year 2014 that were placed in your simple track.

Answer: 74% of requests processed by the FTC in FY2014 were simple requests.

4. If your agency does not track simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer?

Answer: N/A.

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. 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 2012 and Fiscal Year 2013 when completing this section of your Chief FOIA Officer Report.

Backlogs:

5. If your agency had a backlog of requests at the close of Fiscal Year 2014, did that backlog decrease as compared with Fiscal Year 2013?

Answer: No. However, at the end of Fiscal Year 2013, the FTC had three backlogged

requests. At the end of Fiscal Year 2014, the FTC had seven backlogged requests. The agency continues to successfully close the vast majority of its overdue requests before the end of each Fiscal Year.

6. 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 2014.

Answer: The FTC's backlog was 0.48% of the total number of requests the agency received.

Backlogged Appeals:

7. If your agency had a backlog of appeals in Fiscal Year 2014, did that backlog decrease as compared to Fiscal Year 2013?

Answer: N/A. The FTC did not have any backlogged administrative appeals at the end of Fiscal Year 2013. The FTC had two pending appeals at the end of FY2014, but neither of these appeals were overdue. Tf12 0 F.0003 Tc-0 Tc0 Tw()Tj/TT5 1 Tf7.5 0 0 7.5 74 10oh2 0 0 12,218o7.

Answer: N/A.

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

Answer: N/A. No administrative appeals were pending at the end of Fiscal Year 2013.

15. If no, please provide the number of these appeals your agency was able to close, as well as the number of appeals your agency had in Section VI.C.(5) of your Fiscal Year 2012 Annual FOIA Report.

Answer: N/A.

Ten Oldest Consultations:

16. In Fiscal Year 2014, did your agency close the ten oldest consultations received by your agency and pending as of the end of Fiscal Year 2012?

Answer: N/A. No consultations were pending at the end of Fiscal Year 2013.

17. 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 2013 Annual FOIA Report. If you had less than ten oldest consultations to close, please indicate that.

Answer: N/A.

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

18. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals and consultations from Fiscal Year 2014.

Answer: N/A. The FTC closed its ten oldest requests from FY2013. The agency did not have any appeals or consultations pending at the end of FY 2013.

19. 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 requests initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultations was pending.

Answer: N/A.

20. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intended to close those “ten oldest” requests, appeals and consultations during Fiscal Year 2015.

Answer: N/A.

Interim Responses:

21. Does your agency have a system in place to provide interim responses to requesters when appropriate?

Answer: The FTC frequently issues rolling responses to requesters.

22. If your agency had a backlog in Fiscal Year 2014, please provide the estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though during Fiscal Year 2014 in 93 Tw(sc nTJ16s6 cs .090ppeal)-7.4(s

Answer: In April 2013, the FTC concluded its Robocall Challenge, an innovative contest seeking solutions to the widespread problem of unsolicited and illegal robocalls in the United States. In this challenge, the FTC offered a \$50,000 prize to the individual, team, or small corporation who submitted the best technical solution to the country's robocall problem. Throughout the Challenge, the FTC provided participants with data relating to all of the Do-Not-Call complaints filed with the agency.

Since then, the Agency has continued to release Do-Not-Call complaint data to the winner of the Challenge on a biweekly basis, to aid him in creating his solution. Since then, the FTC has received numerous FOIA requests from other individuals interested in the same data.

Furthermore, the FTC conducted a follow-up contest in August of 2014, highlighting the agency's ongoing desire to involve the public in its campaign to combat illegal telemarketing calls. In response to the widespread public interest in this information, the FTC has begun to publish this data on a biweekly basis on its public website, available here: <http://www.ftc.gov/about-ftc/foia/foia-reading-rooms/frequently-requested-records>.