



SOCIAL SECURITY ADMINISTRATION

2023 CHIEF FOIA OFFICER REPORT

2023 Chief FOIA Officer Report

Social Security Administration

SECTION I: FOIA LEADERSHIP AND APPLYING THE PRESUMPTION OF OPENESS

The guiding principle underlying the Attorney General’s FOIA Guidelines is the presumption of openness. The Guidelines also highlight the importance of agency leadership in ensuring effective FOIA administration. Please answer the following questions about FOIA leadership at your agency and describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.

A. Leadership Support for FOIA

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

Yes

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

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General Counsel
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3. What Steps has your agency taken to incorporate FOIA into its core mission? For example, has your agency incorporated FOIA milestones into its strategic plan?

None

B. Presumption of Openness

4. The Attorney General’s 2022 FOIA Guidelines provides that “agencies should confirm in response letters to FOIA requesters that they have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.” Does your agency provide such confirmation in its response letters?

Yes

5. In some circumstances, agencies may respond to a requester that it can neither confirm or deny the existence of requested records if acknowledging the existence of records would harm an interest protected by a FOIA exemption. This is commonly referred to as a *Glomar* response. With respect to these responses, please answer the below questions:

- a. In addition to tracking the asserted exemption, does your agency specifically track whether a request involved a *Glomar* response?

No

- b. If yes, please provide:
 - i. The number of times your agency issued a full or partial *Glomar* response (separate full and partial if possible)
 - ii. The number of times a *Glomar* response was issued by exemption (e.g., Exemption 7(C) – 20 times, Exemption 1 – 5 times)

N/A

- c. If your agency does not track the use of *Glomar* responses, what would your agency need to track in the future? If possible, please describe the resources and time involved.

A FOIA Processing solution that contains a customization to allow for tracking for the *Glomar* responses.

6. 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.

We have updated our FOIA website to make instructions clear and provided FOIA information in multiple places on the agency’s SSA.gov website encouraging requesters to review publicly available records.

SECTION II: ENSURING FAIR AND EFFECTIVE FOIA ADMINISTRATION

The Attorney General’s FOIA Guidelines provide that “[e]nsuring fair and effective FOIA administration requires . . . proper training, and a full understanding of FOIA obligations by the entire agency workforce.” The Guidelines reinforce longstanding guidance to “work with FOIA requesters in a spirit of cooperation.” The Attorney General also “urges[s] agency Chief FOIA Officers to undertake comprehensive review of all aspects of their agency’s FOIA administration” as part of ensuring fair and effective FOIA administration.

A. FOIA Training

1. 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.

Under the direction of SSA's Chief FOIA Officer, the FOIA team offered numerous trainings to agency personnel throughout Fiscal Year 2022. Internal trainings include the following:

- **Presentations to agency components concerning the FOIA regulations and FOIA exemptions;**
- **Presentations to agency personnel (including the agency's FOIA coordinators) concerning proper disclosure of agency records;**
- **Examinations and review of new case law;**
- **Trainings related to communications with the FOIA requesters; and**
- **Trainings related to timely dispositions of Fee Waiver and Expedited Processing requests.**

2. 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

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

- **Monthly FOIA Staff Meetings – Our monthly meetings include, but not limited to FOIA appeals, exemptions, recent Federal court cases, partial disclosures, FOIA fees and fee waivers, requirements for perfected requests under the FOIA, communications with the requester, and Office of Government Information Services (OGIS) inquiries.**
- **Bi-monthly FOIA/Privacy Act (PA) coordinator meetings – Discussions included the interface between the FOIA and the PA, FOIA fees, and fee waivers. We also discussed cases that may be of public interest or may become common.**
- **The Federal Privacy Council's Privacy Bootcamp– Included sessions on The Privacy Act (PA), the PA exemptions, FOIA/PA interplay, best practices, and updates from the courts.**
- **Training provided by SSA's Office of General Law (OGL) – Discussions on 7114(b)(4) and interplay of FOIA/PA, section 1106 of the Social Security Act, and FOIA search and scope.**

4. 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.

100% of our FOIA professionals attended substantive training during this reporting period.

5. OIP has directed agencies to “take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout 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

6. 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?

- **Bi-monthly FOIA/Privacy Act (PA) coordinator meetings – Discussions included the interface between the FOIA and the PA, FOIA fees, and fee waivers. We also discussed cases that may be of public interest or may become common. In one meeting we conducted an outreach training for non-FOIA professionals to assist their understanding of their role in FOIA processing and its importance.**
- **Provided additional guidance to the non-FOIA professionals, i.e, component FOIA coordinators during Sunshine Week.**

B. Outreach

7. 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, one of SSA’s staff members was on the FOIA Advisory Committee (FAC) during FY2022, which consists of both cabinet level and non-cabinet level agency representatives along with representatives from the requester community. This committee discusses issues relating to the FOIA from both requester and agency perspectives and makes recommendations to improve FOIA for both.

8. As part of the standard request process, do your FOIA professionals proactively contact requesters concerning complex or voluminous requests in an effort to clarify or narrow the scope of the request so requesters can receive responses more quickly? Please describe any such outreach or dialogue, and if applicable, any specific examples.

Yes, SSA FOIA professionals regularly reach out via email or phone to requesters to clarify and narrow complex or voluminous requests. One example is requests for employee emails – we contact the requesters to verify the employees requested, the time frame, and any keywords they would like searched.

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 Fiscal Year 2022 (please provide a total number or an estimate of the number).

In Fiscal Year 2022, SSA received about 6,418 emails to our FOIA Public Liaison mailbox and about 1,155 calls to our FOIA Public Liaison voicemail line.

C. Other Initiatives

10. Has your agency evaluated the allocation of agency personnel resources needed to respond to current and anticipated FOIA demands? If so, please describe what changes your agency has or will implement.

Yes – In Fiscal Year 2022, we used full time detailees and the agency’s Skills Connect program, which provides highly motivated part-time detailees from other agency components to assist with the processing of simple FOIA requests and projects remotely.

11. How does your agency use data or processing metrics to ensure efficient management of your FOIA workload? For example, case management reports, staff processing statistics, etc. In addition, please specifically highlight any data analysis methods or technologies used.

We use case management reports from FOIAonline and Excel spreadsheets to monitor the number and complexity of cases assigned to each analyst.

12. Optional – If there are any other initiatives undertaken by your agency to ensure fair and effective FOIA administration, please describe them here.

SSA is in the process of updating our FOIA regulations which will provide clarity on the fair and effective FOIA administration.

SECTION III: STEPS TAKEN TO INCREASE PROACTIVE DISCLOSURES

The Attorney General’s FOIA Guidelines emphasize that “proactive disclosure of information is ... fundamental to the faithful application of the FOIA.” The Guidelines direct agencies to post “records online quickly and systematically in advance of any public request” and reiterate that agencies should post records “in the most useful, searchable, and open formats possible.”

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

We have some documents that are automatically updated and posted at certain times of the year. We also manually search FOIAonline for released documents that are of public interest and should be included in the electronic Reading Room. In addition, FOIA professionals recommend documents that are good candidates for proactive disclosure.

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.

The FOIA staff released 27 documents that are available in SSA's electronic FOIA Reading Room, under the Proactive Disclosures page located at <https://www.ssa.gov/foia/readingroom.html>. These releases included hearing statistics, data on disability applications, training materials, representative payee information, records management self-assessments, and Consultative Examiner oversight reports.

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

4. 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.

We simplified document titles so it is clear what documents are easily searchable once posted. We began an ongoing project in 2017 to update our FOIA website to make it more organized and user friendly. We also reviewed the documents to verify if they were Section 508 compliant. Most of our documents are posted as searchable pdfs or excel spreadsheets.

5. Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office, such as IT or data personnel? If so, describe the interaction.

Agency staff outside the FOIA office provide us with updated documents at certain intervals to post the most current information for the Proactive Disclosures page. From the electronic Reading Room, the public may also select links to pages maintained by other agency components, such as the public POMS and information that has been released on [Data.gov](https://www.data.gov).

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

As stated above, due to the FOIAonline limitations in no longer having a functional Released Records Report, we manually identify documents that are of public interest by performing individual searches and add those documents to the Reading Room. A best practice is having our FOIA analysts recommend documents that are good candidates for proactive disclosure.

SECTION IV: STEPS TAKEN TO GREATER UTILIZE TECHNOLOGY

A key component of FOIA administration is using technology to make information available to the public and to gain efficiency in FOIA processing. The Attorney General's FOIA Guidelines emphasize the importance of making FOIA websites easily navigable and complying with the FOIA.gov interoperability requirements. Please answer the following questions to describe how your agency is using technology to improve its FOIA administration and the public's access to information.

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

In light of the EPA's November 2022 announcement that they are sunsetting the FOIAonline program at the end of Fiscal Year 2023, we are in the process of selecting a new FOIA processing software solution to respond to current and anticipated FOIA demands. Therefore, we are weighing the options that provide us the resources we need in a processing program. The new solution will be in place before the FOIAonline sunset date.

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

SSA did not begin using any new types of technology during this reporting period to support the FOIA program.

3. Does your agency currently use any technology to automate record processing? For example, does your agency use machine learning, predictive coding, technology assisted review or similar tools to conduct searches or make redactions? If so, please describe and, if possible, estimate how much time and financial resources are saved since implementing the technology.

SSA uses the eDiscovery tool Veritas to complete keyword searches of documents, particularly employee emails, to identify responsive records. We do not have metrics of time or financial savings due to the use of Veritas.

4. 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

5. Did all four of your agency's quarterly reports for Fiscal Year 2022 appear on FOIA.gov?

Yes

6. If your agency did not successfully post all quarterly reports on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2023.

N/A

7. 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 2021 Annual FOIA Report and, if available, for your agency's Fiscal Year 2022 Annual FOIA Report.

<https://www.ssa.gov/foia/annualreports.html>

8. In February 2019, DOJ and OMB issued joint Guidance establishing interoperability standards to receive requests from the National FOIA Portal on FOIA.gov. Are all components of your agency in compliance with the guidance?

Yes

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

Best Practices

We have worked with our Information Technology staff to improve the quality of keyword searches in Veritas in response to requests for email communications. Using Genband and softphone allows us to contact the requesters from an US Government phone number while teleworking. We have also leveraged the functionality in FOIAonline to communicate with the requesters within the portal. Collectively these items allow us to process cases more efficiently.

Challenges

We are in the process of selecting new FOIA processing software due to the sunset of FOIAonline at the end of Fiscal Year 2023. We will need to learn the new solution and train FOIA analysts and FOIA coordinators before FOIAonline is decommissioned.

SECTION V: STEPS TAKEN TO REMOVE BARRIERS TO ACCESS, IMPROVE TIMELINESS IN RESPONDING TO REQUESTS, AND REDUCE BACKLOG

The Attorney General’s FOIA Guidelines instruct agencies “to remove barriers to requesting and accessing government records and to reduce FOIA backlogs.” Please answer the following questions to describe how your agency is removing barriers to access, improving timeliness in responding to requests, and reducing FOIA backlogs.

A. Remove Barriers to Access

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

Yes

2. If yes, please provide examples. If no, please indicate why not. Please also indicate if you do not know.

- **If an individual is requesting information from their own claim file, they can visit their local Social Security office to receive the records.**
- **Many records are available to first-party requesters via a *my* Social Security account.**

B. Timeliness

3. For Fiscal Year 2022, 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 2022 Annual FOIA Report.

In Fiscal Year 2022, SSA averaged four days to adjudicate requests for expedited processing.

4. 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 2022 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.

N/A

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

Yes

6. 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 2022?

Yes, in Fiscal Year 2022 SSA averaged eight days to adjudicate simple requests.

7. If not, did the simple track average processing time decrease compared to the previous Fiscal Year?

N/A

8. Please provide the percentage of requests processed by your agency in Fiscal Year 2022 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.

95.84%

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

N/A

C. Backlogs

BACKLOGGED REQUESTS

10. If your agency had a backlog of requests at the close of Fiscal Year 2022, according to Annual FOIA Report Section XII.D.2, did the backlog decrease as compared with the backlog reported at the end of Fiscal Year 2021?

No

11. If not, according to Annual Report Section XII.D.1, did your agency process more requests during Fiscal Year 2022 than it did in Fiscal Year 2021?

No

12. If your agency's request backlog increased during Fiscal Year 2022, 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.

We experienced a few of the factors above in Fiscal Year 2022. We lost full time staff members and detailees. In addition, the complexity of the received requests has increased. There have been a number of requests for employee email records over multiple years, large amounts of policies, and training requests. Although we contacted the requesters of these large requests to attempt to limit the scope, many of them were not interested in doing so. In addition, the degradation of the FOIAonline program has caused additional limitations in our processing and responses.

13. 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 2022. 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.”

0.78%

BACKLOGGED APPEALS

14. If your agency had a backlog of appeals at the end of Fiscal Year 2022, according to Section XII.E.2 of the Annual FOIA Report, did the backlog decrease as compared with the backlog reported at the end of Fiscal year 2021?

No

15. If not, according to Section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2022 than it did during Fiscal year 2021?

Yes

16. If you appeal backlog increased during Fiscal Year 2022, 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.

We received 236 more appeals in Fiscal Year 2022 than in Fiscal Year 2021. Many of these were due to the United States Postal Service delays in delivering (or never delivering) the mail containing our FOIA responses. Therefore we had to create appeals in FOIAonline so we could release the records securely in an electronic manner; we lost both full-time staff members and detailees; and the case complexity has been increasing as stated in the answer to question 12. In addition, the degradation of the FOIAonline program has caused additional limitations in our processing and responses.

17. 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 2022. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received in Section VI.A) x 100. This number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2022 and/or has no appeal backlog, please answer with “N/A.”

4.67%

D. Backlog Reduction Plans

18. In the 2022 guidelines for the Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2021 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 2022.

No, SSA did not have a backlog of more than 1000 requests in Fiscal Year 2021.

19. If your agency had a backlog of more than 1000 requests in Fiscal Year 2022, please explain your agency’s plan to reduce this backlog in Fiscal Year 2023.

N/A

E. Reducing the Age of Requests, Appeals, and Consultations

TEN OLDEST REQUESTS

20. In Fiscal Year 2022, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E of your Fiscal Year 2021 Annual FOIA Report?

Yes

21. 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 2021 Annual FOIA Report. If you had less than ten oldest requests to close, please indicate that.

N/A

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

The FOIA Division Director meets with each analyst bi-weekly to discuss their cases and to overcome any challenges to move these cases along which assists in closing our aged requests.

TEN OLDEST APPEALS

23. In Fiscal Year 2022, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 for your Fiscal Year 2021 Annual FOIA Report?

No

24. 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 XII.C of your Fiscal Year 2021 Annual FOIA Report. If you had less than ten oldest appeals to close, please indicate that.

Nine of the ten oldest appeals from Fiscal Year 2021 were closed in Fiscal Year 2022.

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

The FOIA Division Director meets with each analyst bi-weekly to discuss their cases and to overcome any challenges to move these cases along which assists in closing our aged appeals.

TEN OLDEST CONSULTATIONS

26. In Fiscal Year 2022, did your agency close the ten oldest consultations that were reported in Section XII.C of your Fiscal Year 2021 Annual FOIA Report?

N/A - We had no open consultations at the end of Fiscal Year 2021.

27. 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 2021 Annual FOIA Report. If you had less than ten oldest appeals to close, please indicate that.

N/A

ADDITIONAL INFORMATION REGARDING TEN OLDEST

28. If your agency did not close its ten oldest pending requests, appeals, or consultations, please explain why and provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2023.

The final appeal that was not closed in Fiscal Year 2022, has already been closed in Fiscal Year 2023.

F. Additional Information about FOIA Processing

29. Were any requests at your agency the subject of FOIA litigation during the reporting period? If so, please describe the impact on your agency’s overall FOIA request processing and backlog. If possible, please indicate the number and nature of requests subject to litigation, common causes leading to litigation, and any other information to illustrate the impact of litigation on your overall FOIA administration.

SSA had 3 FOIA Lawsuits filed against us in Fiscal Year (FY) 2022; of these, 2 were resolved and 1 is still active. We also had 6 pending FOIA cases that had been filed prior to FY 2022, but not decided or otherwise still pending for a portion of FY 2022. One of these cases is now in appeal. The common litigation cause was failure to produce requested records. As reported in the Annual FOIA report, the costs of litigation in FY2022 were \$21,575.49.

30. How many requests during Fiscal Year 2022 involved unusual circumstances as defined by the FOIA? (This information is available in your agency’s FY22 raw data).

449 requests during Fiscal Year 2022 involved unusual circumstances as defined by the FOIA.