



**DEPARTMENT OF AGRICULTURE
CHIEF FREEDOM OF INFORMATION ACT
OFFICER REPORT
March 2020**

“We provide leadership on food, agriculture, natural resources, rural development, nutrition, and related issues based on public policy, the best available science, and effective management.”

Table of Contents

Table of Contents	2
Executive Summary.....	3
Section I:.....	6
Section II:	8
Section III:.....	9
Section IV:	12
Section V:	13

EXECUTIVE SUMMARY

The United States Department of Agriculture (Department) was founded by President Abraham Lincoln in 1862 and was quickly coined “The People’s Department.” At the time, more than half of all American either lived or worked on farms, compared with the two percent today. Despite this decrease, the Department is still fulfilling Lincoln’s vision of touching the lives of every American through its mission to provide leadership on food, agriculture, natural resources and related issues based on sound public policy, the best available science, and efficient management.

To successfully accomplish its mission, the Department operates more than 300 programs through an extensive network of Federal, State, and local cooperators. These programs affect every American, every day, by providing a safe and stable food supply, nutrition assistance, renewable energy, rural economic development, care for forest and conservation lands, and global opportunities for farm and forest products. These programs also hold the answers to pressing global issues like the need for renewable energy, increasing crop yields to combat hunger, protecting the food supply, and optimizing internal trade.

The Department’s success is dependent on several core values. Among them is transparency. Central to the Department’s effort to increase transparency is its Freedom of Information Act (FOIA) program. The Department’s General Counsel, Stephen A. Vaden provides program oversight for the Department’s FOIA offices at the agency and mission area. These offices all collaborate throughout the year to process the tens of thousands of FOIA requests received at the Department.

The Department’s FOIA program is led by the Office of the General Counsel’s (OGC) Department FOIA Office (DFO). The DFO provides day-to-day coordination and ensures statutory compliance with the FOIA. The DFO also processes FOIA requests, consultations, and appeals on behalf of all USDA staff offices, the Office of the Secretary (OSEC), and the Research, Education and Economics (REE) and the Trade and Foreign Agricultural Affairs (TFAA) mission areas.

In Fiscal Year 2019, the Department received a total of 26,458 FOIA requests. Approximately 77% of these incoming FOIA requests were directed to the USDA’s Farm Production and Conservation (FPAC) mission area. The Natural Resources and Environment (NRE) mission area received about 7.2%, the Marketing and Regulatory Programs mission area about 6.3%, and the Food and Nutrition & Consumer Services mission area about 3%. The remaining mission areas and staff offices all received either 2% or less of the incoming requests. Collectively, the Department processed about 79% of the requests that were either received or pending at the start of the Fiscal Year.



This report encompasses the efforts of the following mission areas and staff offices:

Mission Areas:

Farm Production and Conservation (FPAC)¹

Farm Service Agency (FSA)
Natural Resources Conservation Service (NRCS)
Risk Management Agency (RMA)

Food and Nutrition & Consumer Services (FNCS)

Food and Nutrition Service (FNS)

Food Safety

Food Safety and Inspection Service (FSIS)

Marketing Regulatory Programs

Agricultural Marketing Service (AMS)²
Animal & Plant Health Inspection Service (APHIS)

Natural Resources and Environment (NRE)

Forest Service (FS)

Research, Education and Economics (REE)

Agricultural Research Service (ARS)
Economic Research Service (ERS)
National Agricultural Statistics Service (NASS)
National Institute of Food and Agriculture (NIFA)

Rural Development (RD)

Rural Business Service
Rural Utilities Service
Rural Housing Service

Trade and Foreign Agricultural Affairs (TFAA)³

Foreign Agricultural Service
Codex Alimentarius Commission

¹ On May 11, 2017, Agriculture Secretary Sonny Perdue announced the standing up of a newly-named Farm Production and Conservation mission area to have a customer focus and meet USDA constituents in the field.

² On September 7, 2017, Agriculture Secretary Sonny Perdue announced the realignment of a number of offices within the USDA. The Grain Inspection, Packers, and Stockyards Administration (GIPSA) and several program areas from the Farm Service Agency (FSA) joined the Agricultural Marketing Service (AMS) to help us better meet the needs of farmers, ranchers, and producers, while providing improved customer service and maximize efficiency.

³ In keeping with Congress' directive in the 2014 Farm Bill and to advance agricultural trade, the Department created an Under Secretary for Trade and Foreign Agricultural Affairs (TFAA). While reviewing options for improving coordination on trade and international activities, USDA determined that the Codex Alimentarius program (U.S. Codex Office), currently housed in the Food Safety and Inspection Service (FSIS), will be moved to the newly created TFAA mission area. The U.S. Codex Office is an interagency partnership which engages stakeholders in the development of international governmental and non-governmental food standards. The focus of the Codex Office aligns better with the mission of TFAA.

Staff Offices:

Departmental Administration (DA)

Office of Advocacy and Outreach (OAO)
Office of the Chief Information Officer (OCIO)
Office of the Executive Secretariat (OES)
Office of Homeland Security & Emergency Coordination (OHSEC)
Office of Human Resource Management (OHRM)
Office of Operations (OO)
Office of Procurement & Property Management (OPPM)
Office of Small & Disadvantaged Business Utilization (OSDBU)
Office of Budget & Program Analysis (OBPA)

Office for the Assistant Secretary of Civil Rights (OASCR)

Office of Hearing and Appeals

National Appeals Division (NAD)
Office of the Administrative Law Judge (OALJ)
Office of the Judicial Officer (OJO)

Office of the Chief Financial Officer (OCFO)

National Finance Center (NFC)

Office of the General Counsel (OGC)

Office of Inspector General (OIG)

Office of the Secretary (OSEC)

Section I: Steps Taken to Apply the Presumption of Openness

FOIA Leadership:

1. **The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at least at the Assistant Secretary or equivalent level. Is your agency's Chief FOIA Officer at or above this level?**

Yes. USDA's Chief FOIA Officer is a senior official at least at the Assistant Secretary or equivalent level.

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

Effective October 1, 2019, USDA's General Counsel, Stephen A. Vaden, was designated as the Department's Chief FOIA Officer. Mr. Vaden is a senior official and direct report to the Secretary of Agriculture.

FOIA Training:

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

Yes. USDA's FOIA professionals continued to participate in substantive FOIA training and conferences during the reporting period. These training sessions were hosted by the Office of the General Counsel's Department FOIA Office (DFO), the Department of Justice's Office of Information Policy (DOJ-OIP), the Office of Government Information Services (OGIS), the American Society of Access Professionals (ASAP), and AINS Inc.

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

DFO: The DFO continued to promote its online training *FOIA for FOIA Professionals* in the Department's online training repository in addition to the suite of online courses offered by the DOJ-OIP.

DOJ-OIP: USDA's FOIA professionals also attended the following training programs provided by the DOJ-OIP:

- The Freedom of Information Act for Attorneys and Access Professionals
- Advanced Freedom of Information Act Seminar
- FOIA Litigation Seminar

Other External Training Courses and Conferences: USDA's FOIA professionals also participated in the following external training courses and conferences:

-
- ASAP: 12th Annual National Training Conference
 - OGIS: Dispute Resolution Skills for FOIA Professionals
 - AINS: FOIAXpress User Conference & Technology Summit 2019
 - AINS: Electronic Discovery Review User Training
- 5. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.**

Approximately 86% of USDA’s FOIA professionals participated in either one or more substantive FOIA training courses.

- 6. OIP has directed agencies to “take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year. If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency’s plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.**

Not applicable. More than 80% of our FOIA professionals participated in substantive FOIA training courses.

Outreach:

- 7. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA?**

Yes. Our FS FOIA professionals in the Southern and Eastern Regions in coordination with the OGC’s Regional Office hosted a session with an environmental nonprofit group regarding the scoping of records requests.

Other Initiatives:

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

DFO Outreach: The DFO continued to provide several one hour training sessions to its own management teams but also to component management teams with the hope that participants will share with their employees the importance of timely returning records.

Component Outreach: Several USDA components reported providing training to non-FOIA professionals. For example, the FNS FOIA professionals provided FOIA training for its Contracts Management Division, shared best practices tips for record custodians in its component newsletter, and trained FNS’ senior leaders. The FSIS’ FOIA professionals hosted training for its offices realizing an increase in the number of records requests. The FPAC

Business Center's (FPAC-BC) FOIA professionals also reported significantly raising its profile for FOIA training. All incoming FPAC-BC employees now have mandatory online FOIA training requirements. The FS' FOIA professionals in the Southern and Eastern Regions hosted nine FOIA training sessions for its record custodians. And lastly, the FS FOIA professionals in the Southwest Region conducted a training session for its colleagues emphasizing the retrieval and review of special use permits subject to records requests.

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

Processing Procedures:

- 1. For Fiscal Year 2019, what was the average number of days your agency reported for adjudicating requests for expedited processing?**

USDA's average number of days to adjudicate requests for expedited processing is 105.68 calendar days.

- 2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.**

The DFO will routinely review the data available in the Department's enterprise wide tracking system and remind those components exceeding the ten calendar day requirements to ensure prompt adjudication.

- 3. During the reporting period, did your agency conduct a self-assessment of its FOIA program? If so, please describe the methods used, such as reviewing Annual Report data, using active workflows and track management, reviewing and updating processing procedures, etc.**

Yes. The DFO continued to regularly conduct self-assessments of the Department's FOIA program by reviewing data collected in the enterprise wide FOIA tracking system, components' internal operating procedures, and feedback from frequent requesters and FOIA professionals. In response to its review, a realignment plan was created and executed on October 1, 2019. This plan realigned the existing Departmental FOIA Office under the Office of General Counsel but also all USDA staff offices with the exception of the OIG and the REE and the TFAA mission areas. *See* U.S. Department of Agriculture, Secretary's Memorandum 1076-033, September 24, 2019, available at https://www.ocio.usda.gov/sites/default/files/docs/2012/20190924_SM%201076-033_FOIA_Realignment_final.pdf.

For the FOIA functions of USDA mission areas remaining outside of the OGC's purview, lines of authority were directed to the General Counsel and Chief FOIA Officer (CFO). This realignment was motivated by the attrition of FOIA personnel and the increasing number of

overlapping equities among the staff offices and select mission areas. It is intended to ensure standardization in critical areas such as management, training, policy and records processing, all of which can greatly improve the overall FOIA requester experience. It also fulfills a statutory mandate that the CFO be coequal with Assistant Secretaries and ensures the CFO has the necessary authority to exercise an oversight role.

4. **The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency’s FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency’s FOIA Public Liaison during Fiscal Year 2019 (please provide a total number or an estimate of the number).**

Component/ Mission Area	Estimated Number of Times Requesters Sought Assistance from the Component’s FOIA Public Liaison
AMS	2
APHIS	10
ASCR	1
DFO	1
FAS	1
FNCS	9
FPAC	12-24
FSIS	12-24
FS	4
NAD	0
OBPA	0
OCFO/NFC	0
OGC	1
OIG	1
RD	5
REE	1
Approximate Total	84

Section III: Steps Taken to Increase Proactive Disclosures

Posting Material:

1. **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.

Component/ Mission Area	Examples
APHIS	<p>Monthly FOIA Logs: https://www.aphis.usda.gov/aphis/resources/foia/ct_foia_logs</p>
DFO	<p>Secretary Perdue’s Calendars and Travel: https://www.dm.usda.gov/foia/OCIORReading.htm</p> <p>Senior Political Appointees’ Renovations: https://www.dm.usda.gov/foia/OCIORReading.htm</p>
FSIS	<p>CY18 FSIS Import Data: https://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/import-and-export-program</p> <p>Annual Sampling Plan and Catalog: https://www.fsis.usda.gov/wps/portal/fsis/topics/data-collection-and-reports/fsis-data-analysis-and-reporting/data-reporting/fsis-data-analysis-and-reporting</p> <p>U.S. National Residue Program: FY 2018 Residue Sample Results (report & data): https://www.fsis.usda.gov/wps/portal/fsis/topics/data-collection-and-reports/chemistry/residue-chemistry</p> <p>Microbiological Testing Program for E. coli O157:H7 and non-O157 Shiga Toxin-Producing E. coli: Individual Positive Results for Raw Ground Beef (RGB) and RGB Components (tables on web page): https://www.fsis.usda.gov/wps/portal/fsis/topics/data-collection-and-reports/microbiology/ec</p> <p>Testing of Raw Ground Beef Component (RGBC) Samples for E. coli O157:H7 and non-O157 Shiga toxin-producing E. coli (STEC): Year-to-Date Totals (tables on web page): https://www.fsis.usda.gov/wps/wcm/connect/fsis-content/internet/main/topics/data-collection-and-reports/microbiology/ec/rgbc-o157h7-and-stec-results-ytd/rgbc-stec-results</p> <p>Testing of Raw Ground Beef Component (RGBC) Samples, Including Veal, for E. coli O157:H7 and non-O157 Shiga toxin-producing E. coli (STEC): Year-to-Date Totals Source and Serotype (tables on web page): https://www.fsis.usda.gov/wps/wcm/connect/fsis-</p>

	<p>content/internet/main/topics/data-collection-and-reports/microbiology/ec/rgbc-o157h7-and-stec-results-ytd/rgbc-stec-results-bv</p> <p>Testing of Raw Ground Beef and Raw Ground Beef Component Samples for E. coli O157:H7: Year-to-Date Totals: https://www.fsis.usda.gov/wps/wcm/connect/fsis-content/internet/main/topics/data-collection-and-reports/microbiology/ec/e-coli-o157h7-year-to-date/ecoli-o157-raw-beef-testing-data-ytd</p> <p>Quarterly Enforcement Reports: https://www.fsis.usda.gov/quarterlyenforcementreports</p> <p>Foreign Audits: https://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/importing-products/eligible-countries-products-foreign-establishments/foreign-audit-reports</p> <p>Risk Assessment Reports: https://www.fsis.usda.gov/wps/portal/fsis/topics/science/risk-assessments/risk-assessments</p> <p>Humane Handling Letters: https://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/regulatory-enforcement/humane-handling-enforcement-actions</p>
FS	<p>Southern Region/Eastern Region (Regions 8 and 9) posted Atlantic Coast Pipeline/Mountain Valley Pipeline records: https://www.fs.usda.gov/detail/gwj/landmanagement/projects/?cid=stelprd3824603</p> <p>Southwest Region (Region 3) posts NEPA-related material by Forest:</p> <ul style="list-style-type: none"> - Apache-Sitgreaves National Forest: https://www.fs.usda.gov/asnf - Coconino National Forest: https://www.fs.usda.gov/coconino/ - Coronado National Forest: https://www.fs.usda.gov/coronado/ - Kaibab National Forest: https://www.fs.usda.gov/kaibab - Prescott National Forest: https://www.fs.usda.gov/prescott/ - Tonto National Forest: https://www.fs.usda.gov/tonto - Carson National Forest: https://www.fs.usda.gov/carson/ - Cibola National Forest: https://www.fs.usda.gov/cibola - Lincoln National Forest: https://www.fs.usda.gov/lincoln - Santa Fe National Forest: https://www.fs.usda.gov//santafe/
OBPA	<p>Annual Budgets: https://www.obpa.usda.gov/index.html</p> <p>Shutdown Plans: https://www.usda.gov/shutdownplans</p>

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

Yes. USDA is taking steps to make posted information more useful to the public.

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

The APHIS' EFOIA reading room is now both searchable and sortable to ensure ease of use for the requester community.

The FSIS is modernizing its website to make it more task-oriented and user friendly. The website redesign will involve reorganizing content into consistent sets of information (regulations, guidelines, data sets, etc.) that are simpler to navigate and use taxonomy to link related material.

The FS Southern Research Station (Station) has continued to take steps to make their website more responsive and accessible to meet the requirements of Section 508 of the Rehabilitation Act of 1973, as amended and the Plain Writing Act of 2010. Select publications are now available by use of a speech text reader.

The Station's Story Maps also makes material more user friendly and promote reachability to a broader audience. The Station also records, and posts select webinars online.

Section IV: Steps Taken to Greater Utilize Technology

1. Is your agency leveraging or exploring any new technology to facilitate efficiency in its FOIA administration that you have not previously reported? If so, please describe the type of technology.

Yes. The FPAC-BC FOIA professionals are moving toward broader use of the enterprise wide tracking system for FOIA processing. Currently, the many of the FPAC-BC FOIA professionals in the state offices are utilizing a home-grown program to track incoming records requests.

The FNS FOIA professionals are hoping to improve the efficiency of its review process with the creation of its recent SharePoint site.

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

Yes. In accordance with the DOJ-OIP's 2017 guidance, a clear link to USDA's central FOIA site is available on USDA's homepage. The central FOIA site does include key information and resources such as instruction on submitting a request to include points of contact in addition to access to USDA FOIA component reading rooms and FOIA reports.

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2019?

Yes. USDA successfully posted all four of its quarterly reports.

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

Not applicable. USDA successfully posted all four of its quarterly reports.

5. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2018 Annual FOIA Report and, if available, for your agency's Fiscal Year 2019 Annual FOIA Report.

The raw statistical data for Fiscal Years 2018 and 2019 is available at <https://www.dm.usda.gov/foia/reading.htm#reports>.

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

A. Simple Track

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

Yes. USDA utilizes a separate track for simple requests.

2. If your agency uses a separate track for simple requests, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2019.

No. The average number of days to process simple requests was not below twenty working days.

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

The percentage of requests processed by USDA in Fiscal Year 2019 that were placed in the simple track is 92%

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. USDA tracks simple requests separately.

B. Backlogs

BACKLOGGED REQUESTS

5. If your agency had a backlog of requests at the close of Fiscal Year 2019, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018?

No. The overall number of backlogged requests increased by 12.17% in Fiscal Year 2019.

	Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report
USDA OVERALL	2,407	2,700

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

No. USDA processed 26.46% less requests in Fiscal Year 2019.

7. If your agency's request backlog increased during Fiscal Year 2019, please explain why and describe the causes that contributed to your agency not being able reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

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

Many USDA FOIA components reported significant increases in the complexity of incoming requests, attrition, and an increase in litigation as factors contributing to the increased backlog. Additionally, many of our professionals in the FOIA community process FOIAs as an ancillary duty and therefore must choose between competing priorities.

8. If you had a request backlog, please report the percentage of requests that make up the backlog out of the total number of requests *received* by your agency in Fiscal Year 2019.

The percentage of requests that make up the backlog is 10.2%.

BACKLOGGED APPEALS

9. If your agency had a backlog of appeals at the close of Fiscal Year 2019, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018?

No. The overall number of backlogged appeals increased by approximately 21.9 % in Fiscal Year 2019.

	Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report
USDA OVERALL	838	1,022

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

Yes. There was an 33.6% increase in the number of appeals processed.

11. If your agency’s appeal backlog increased during Fiscal Year 2019, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

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

Most of USDA’s backlog appeals continue to originate in FNCS. As such, FNCS issued a proposed rule which will tighten FNCS administrative sanction process and ultimately reduce the need for Supplemental Nutrition Assistance Program (SNAP) violators to appeal FNCS initial FOIA responses. Under the existing rule, FOIA requests can currently hold a FNCS administrative determination in abeyance while the request is processed. The new rule once finalized this year will codify FNCS procedure which seeks to separate the FOIA request from the administrative sanction process, allowing administrative determinations to be made in a timely manner.

12. If you had an appeal backlog, please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2019. If your agency did not receive any appeals in Fiscal Year 2019 and/or has no appeal backlog, please answer with “N/A.”

The percentage of appeals that make up the backlog out of the total number of appeals received by USDA in Fiscal Year 2019 is 204.81%.

C. Backlog Reduction Plans:

13. In the 2019 guidelines for the Chief FOIA Officer Reports, any agency with a backlog of over 1,000 requests in Fiscal Year 2018 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2019?

Yes. The Department did implement a backlog reduction plan. Unfortunately, due to unforeseen litigation and attrition, only a few of USDA's FOIA components were able to realize reductions this reporting period.

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2019, what is your agency's plan to reduce this backlog during Fiscal Year 2020?

USDA is committed to reducing its backlog during Fiscal Year 2020. It will continue to monitor progress on a quarterly basis in the Department's enterprise wide FOIA tracking system.

D. Status of Ten Oldest Requests, Appeals, and Consultations:

OLDEST REQUESTS

15. In Fiscal Year 2019, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2018 Annual FOIA Report?

No. USDA did not close its ten oldest requests reported pending in the Fiscal Year 2018 Annual FOIA Report.

16. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2018 Annual FOIA Report. If you had fewer than ten oldest requests to close, please indicate that.

USDA closed nine of its ten oldest requests.

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

A few of the USDA FOIA components continued to refine its procedures for its intake teams that among other items, focus on negotiating the scope of requests alongside record custodians to more efficiently conduct searches and reviews. When the scope of a request is understood by the requester, the record custodian, and the FOIA professional, all can work collaboratively to

quickly satisfy the request and, in those instances, where the records requested are voluminous, initiate a manageable production schedule.

Additionally, a few components advised that some of its older requests remain open, as they are tied to on-going litigation. Once the litigation concludes, these requests can be appropriately processed and closed in the Department's enterprise wide tracking system.

TEN OLDEST APPEALS

18. In Fiscal Year 2019, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2018 Annual FOIA Report?

No. USDA did not close its ten oldest appeals reported pending in the Fiscal Year 2018 Annual FOIA Report.

19. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2018 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

USDA closed eight of its ten oldest appeals.

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

A few of our FOIA components with the larger queue of backlogged appeals have elected to continue to employ teams of contractors to assist with the processing of existing and new incoming appeals. One of those components has also developed a SharePoint site to facilitate a faster review of appeals requiring legal sufficiency review.

TEN OLDEST CONSULTATIONS

21. In Fiscal Year 2019, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2018 Annual FOIA Report?

No. USDA did not close its ten oldest consultations.

22. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2018 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

USDA closed a total of four consultations.

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

23. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2019.

A major obstacle continues to be the lack of human resources to process the growing number of complex requests.

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. USDA was not unable to close any of its ten oldest requests because it was waiting to hear back from other agencies.

25. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2020.

USDA remains committed to closing these items. In Fiscal Year 2020, the Department intends to continue monitoring progress on a quarterly basis, providing tips on effective FOIA management, and providing substantive FOIA training to ensure closure.

F. Out of all the activities undertaken by your agency since March 2019 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency’s efforts. The success story can come from any one of the five key areas. As noted above, 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.

As of October 1, 2019, the Departmental Freedom of Information Act Office (DFO) was realigned under the Office of the General Counsel (OGC) and now operates the FOIA programs for all USDA staff offices with the exception of the Office of Inspector General (OIG) and the Research, Education and Economics and the Trade and Foreign Agricultural Affairs mission areas. *See* U.S. Department of Agriculture, Secretary’s Memorandum 1076-033, September 24, 2019, available at

https://www.ocio.usda.gov/sites/default/files/docs/2012/20190924_SM%201076-033_FOIA_Realignment_final.pdf.

For the FOIA functions of USDA mission areas remaining outside of the OGC’s purview, lines of authority will be directed to the General Counsel and Chief FOIA Officer (CFO), Stephen A. Vaden.

This realignment was motivated by the attrition of FOIA personnel and the increasing number of overlapping equities among the staff offices and select mission areas. It is intended to ensure standardization in critical areas such as management, training, policy and records processing, all of which can greatly improve the overall FOIA requester experience. It also fulfills a statutory mandate that the CFO be coequal with Assistant Secretaries and ensures the CFO has the necessary authority to exercise an oversight role.