

High-Volume Agencies Receiving More Than 50 Requests in FY19

Content of 2021 Chief FOIA Officer Reports

Tennessee Valley Authority (TVA)

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. **Mr. Buddy Eller, Vice President, Communications & Public Relations.**

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. **FOIA training and counsel is provided to non-FOIA agency personnel by the FOIA Officer and TVA's primary advisory attorney year-round, as needed.**
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.**
5. If yes, please provide a brief description of the type of training attended or conducted and the topics covered. **Being located outside the Washington DC area, the TVA FOIA Officer and TVA's primary advisory attorney stay informed of news and developments in FOIA through participation in online training webinars available from the American Society of Access Professionals (ASAP) and the Department of Justice; membership in professional organizations such as ASAP and subscriptions to newsletters such as Access Reports. Other channels are social media and news sites that cover FOIA issues. Recent webinar topics have included updates on significant FOIA litigation, use of technology in processing FOIA requests, and feedback from the requester community, among others.**
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. **100%**
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.

C. Outreach

8. Did your FOIA professionals engage in any outreach or dialogue 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. **N/A.**

D. Other Initiatives

9. 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. **TVA's standard operating procedures governing communications incorporate the presumption of openness and outline the responsibilities of all agency personnel to comply with the requirements of FOIA.**

10. 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.

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 2020, 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 2020 Annual FOIA Report. **12 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 2020 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. **TVA adjudicated one request for expedited processing in FY 2020. Because the scope of the request was complex, a slight amount of additional time was needed to make the determination to grant expedited processing. TVA normally responds to requests for expedited processing within 10 calendar days.**

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 or raw data, using active workflows and track management, reviewing and updating processing procedures, etc.

Note: In September 2017, OIP released a FOIA Self-Assessment Toolkit as a resource for agencies conducting a self-assessment of their FOIA program. The Toolkit is available on OIP's website for all agencies to use.

TVA conducted a self-assessment of its FOIA program in 2018 using the FOIA Self-Assessment Tool Kit provided by OIP. We answered the questions under each module of the tool using the scoring provided. We identified some small issues and made processing changes in response.

4. Standard Operating Procedures (SOPs): Having SOPs can improve the consistency and quality of an agency's FOIA process. In addition, describing an agency's standard practices for handling FOIA requests on agency FOIA websites can help requesters better understand how their request will be handled.

a) Does your agency have SOPs that outline general processes for handling FOIA requests and appeals? **Yes.**

b) If not, does your agency have plans to create FOIA SOPs?

c) If yes, how often are they reviewed/updated to account for changes in law, best practices, and technology? **TVA's Standard Operating Procedure for FOIA is reviewed and updated every 3 years.**

d) In addition to having SOPs, does your agency post or otherwise describe your standard processes for handling requests on your website? **Yes.**

5. 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 2020 (please provide a total number or an estimate of the number). **One.**

6. Does your agency frequently receive common categories of first-party requests? **No.** If so, please describe the types of requests and if your agency has explored establishing alternative means of access to these records outside of the FOIA process?

7. The FOIA Improvement Act of 2016 required all agencies to update their FOIA regulations within 180 days. Has your agency updated its FOIA regulations in accordance with the FOIA Improvement Act of 2016? **Yes.** If not, what is your agency's plan to update your regulations?

8. Please explain how your agency worked to mitigate the impact of the COVID-19 pandemic on FOIA processing. Examples could include, but are not limited to: altering workflows, implementing new technology, providing notices and instructions or otherwise communicating directly with requesters.

TVA implemented remote telework in March 2020 to mitigate impacts of COVID-19. Notice was posted on the TVA website that requests should be sent by email whenever possible. Arrangements were made for physical mail to be received by the FOIA Office periodically. In September 2020, TVA implemented a Public Access Link on its website for submitting and tracking requests online.

9. Optional -- Please describe:

- Best practices used to ensure that your FOIA system operates efficiently and effectively

TVA recently implemented a commercial off-the-shelf FOIA tracking and case management system which includes a public access link where requests can be submitted and automatically acknowledged and routed to the tracking system for assignment. The tracking system also receives requests from the National FOIA Portal.

- Any challenges your agency faces in this area.

Section III: Steps Taken to Increase Proactive Disclosures

The Department of Justice has long focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

1. Provide examples of 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.

Examples of material that was proactively disclosed include, but are not limited to:

[SEC Financial Filings](#)

[Environmental Reviews](#)

[TVA Newsroom](#)

[Coal Ash](#)

[Get Involved Stay Involved](#)

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?

TVA completely overhauled its website in 2020 to make it more useful and continues to refine areas that need improvement. We are committed to ensuring that the platform is accessible to all special needs users, and are continuously implementing improvements to increase accessibility.

3. 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.

Improvements include streamlined content, new search engine, mobile-first approach and improved feedback mechanisms for users. Furthermore we are working towards the WCAG2 (<https://www.w3.org/TR/WCAG20/>) standard to improve accessibility.

4. Optional -- Please describe:

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

Information on TVA's actions or activities that are of wide interest is made available to the public and interested parties through multiple channels, such as the TVA website, public meetings, stakeholder advisory panels, community action groups, press releases and advisories, among other methods. Our main challenge is ensuring that an individual user can find the information they seek, due to the breadth of topics TVA communicates upon every day, requiring a well thought out structure and maximized search engine optimization.

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. Please briefly describe the types of technology your agency uses to support your FOIA program. In addition, please highlight if your agency is leveraging or exploring any new technology that you have not previously reported. If so, please describe the type of technology. **TVA implemented a new automated FOIA tracking and case management system in Fiscal Year 2020 including a Public Access Link for submitting requests that are routed directly to the automated system.**

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.**

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2020? **Quarterly reports for Fiscal Year 2020 are posted in the FOIA section of the TVA website.**

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 2021. **We are working with our agency website staff to re-establish links with FOIA.gov after changes were made to the TVA website.**

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 2019 Annual FOIA Report and, if available, for your agency's Fiscal Year 2020 Annual FOIA Report.

TVA's Fiscal Year 2019 raw data report is available at the link below. Fiscal Year 2020 data will be posted when approved by OIP.

<https://www.tva.com/information/freedom-of-information/freedom-of-information-act-annual-reports>

6. Optional -- Please describe:

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

In Fiscal Year 2020, TVA implemented a commercial off-the-shelf tracking and case management system for its FOIA program. Improvements include a public access link on the agency's website where the public can submit requests, check their status and receive responses. Other features and improvements include integration with the National FOIA Portal, accessibility compliance and automated reporting capabilities, among others.

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 2019 and 2020 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.**
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 2020? **Yes.**
3. Please provide the percentage of requests processed by your agency in Fiscal Year 2020 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. **80.3% of requests were processed in the simple track.**
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?

B. Backlogs

Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2019 and Fiscal Year 2020 when completing this section of your Chief FOIA Officer Report.

BACKLOGGED REQUESTS

5. If your agency had a backlog of requests at the close of Fiscal Year 2020, according to Annual FOIA Report Section XII.A, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2019? **No.**

6. If not, according to Annual FOIA Report Section V.A, did your agency process more requests during Fiscal Year 2020 than it did during Fiscal Year 2019? **Yes.**

7. If your agency's request backlog increased during Fiscal Year 2020, 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.

TVA received 38% more FOIA requests in Fiscal Year 2020 than in Fiscal Year 2019. A number of the complex requests required multiple submitter notices and the review of large volumes of records.

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 2020. 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. If your agency has no request backlog, please answer with "N/A." **TVA's backlog at the end of Fiscal Year 2020 was 6% of the total number of requests received.**

BACKLOGGED APPEALS

9. If your agency had a backlog of appeals at the close of Fiscal Year 2020, according to Section XII.A of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2019? **TVA had no backlog of appeals at the close of Fiscal Year 2020.**

10. If not, according to section VI.A of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2020 than it did during Fiscal Year 2019? **N/A**

11. If your agency's appeal backlog increased during Fiscal Year 2020, 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.
- Any other reasons – please briefly describe or provide examples when possible.

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 2020. 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. If your agency did not receive any appeals in Fiscal Year 2020 and/or has no appeal backlog, please answer with "N/A." **N/A.**

N/A.

C. Backlog Reduction Plans

13. In the 2020 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2019 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 2020? **N/A.**

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2020, please explain your agency's plan to reduce this backlog during Fiscal Year 2021. **N/A.**

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 2019 and Fiscal Year 2020 when completing this section of your Chief FOIA Officer Report.

OLDEST REQUESTS

15. In Fiscal Year 2020, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2019 Annual FOIA Report? **Yes.**

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 2019 Annual FOIA Report. If you had fewer than ten total oldest requests to close, please indicate that. **N/A.**

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

TEN OLDEST APPEALS

18. In Fiscal Year 2020, did your agency close the ten oldest appeals that were reported pending in Section VII.C.5. of your Fiscal Year 2019 Annual FOIA Report? **TVA did not have any appeals pending at the end of Fiscal Year 2019.**

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 2019 Annual FOIA Report. If you had fewer than ten total oldest appeals to close, please indicate that. **N/A.**

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

TEN OLDEST CONSULTATIONS

21. In Fiscal Year 2020, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2019 Annual FOIA Report? **TVA did not have any consultations pending at the end of Fiscal Year 2019.**

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 2019 Annual FOIA Report. If you had fewer than ten total oldest consultations to close, please indicate that. **N/A.**

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. **N/A.**

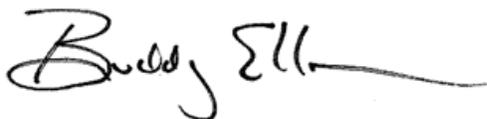
24. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending. **N/A.**

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 2021. **N/A.**

F. Success Stories

Out of all the activities undertaken by your agency since March 2020 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, OIP will highlight these agency success stories during Sunshine Week. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

TVA's investment in a commercial off-the-shelf automated system for managing its FOIA program is providing improvements in request processing and document management. Features include a public access link on the TVA FOIA webpage for requesters, automation of required reports, compliance with Section 508 accessibility requirements and integration with the National FOIA Portal among other things.



Buddy Eller
Tennessee Valley Authority
Vice President, Communications & Public Relations