

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.

Buddy Eller, Vice President, Communications, Tennessee Valley Authority (TVA).

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?

TVA's mission is to serve the people of the Tennessee Valley, and its business model is based on partnerships with the region's citizens, communities, and local power companies. Public input, public participation, and the sharing of public information are foundational to TVA's development and implementation of strategic plans and policy decisions. TVA is committed to transparency with the public in all that we do. This includes public participation in integrated resource planning, public meetings of the TVA Board of Directors, listening sessions with the public, two federally chartered advisory councils, working groups and task forces with stakeholder members, community and neighborhood meetings in local communities, public participation through processes under the National Environmental Policy Act, and financial reporting and filings with the U.S. Securities and Exchange Commission, in addition to compliance with the Freedom of Information Act.

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 nor deny the existence of requested records if acknowledging the existence of records would harm an interested 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? **Yes.**
- 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); **None.**
 - ii. the number of times a *Glomar* response was issued by exemption (e.g., Exemption 7(C) – 20 times, Exemption 1 – 5 times). **None.**
- c. If your agency does not track the use of *Glomar* responses, what would your agency need to do to track in the future? If possible, please describe the resources and time involved. **N/A.**

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. **All records responsive to FOIA requests are carefully reviewed to ensure that as much information as possible is disclosed. In particular, internal agency information subject to exemption 5 is withheld only if a foreseeable harm exists.**

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 "urge[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.

TVA's FOIA professionals participate in training offered by OIP and organizations such as American Society of Access Professionals each year. Individual and small group training and legal counsel is provided by the FOIA Officer and TVA's primary FOIA attorneys to non-FOIA agency personnel as needed.

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 or conducted and the topics covered.

American Society of Access Professionals Virtual Training Conference and training offered by OIP throughout the year. Topics covered in training include procedural matters, FOIA exemptions, privacy considerations, data management, and updates and discussion on current FOIA litigation and issues of interest to FOIA professionals and the requester community. TVA subscribes to Access Reports newsletter, among other things, to stay current on emerging FOIA and Privacy Act issues.

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. **90 percent.**

5. 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. **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?

In addition to legal advice and counsel provided on an as-needed basis, TVA's Office of the General Counsel recently hosted a virtual training conference for its legal and FOIA staff on FOIA and Controlled Unclassified Information.

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.

TVA has multiple methods of outreach to stakeholders and the communities we serve. There is a specific staff that works with stakeholders, some of whom make FOIA requests, to proactively provide information and listen to feedback on TVA actions and issues of interest. This staff has been helpful in engaging in dialogue with non-governmental organizations, who sometimes file FOIA requests, to help explain TVA's determinations on their requests and to provide explanatory information on TVA actions.

Recently, TVA established a regional external relations and communications model in a new approach to building stronger partnerships with the people of the Tennessee Valley. The regional model is based on TVA's long-term vision to build on relationships with local power companies, directly served customers, state and local government officials, and community groups in order to play a more active role in local communities.

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? Yes. Please describe any such outreach or dialogue, and, if applicable, any specific examples.

For requests that are expected to take longer than 20 business days to process, TVA notifies the requester and provides an opportunity to discuss ways their request could be modified or reformulated in order to be processed more quickly.

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). **Three (3) times (estimated).**

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. **N/A.**

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.

The FOIA Officer distributes a report weekly to the Chief FOIA Officer, TVA's primary FOIA attorney, and other TVA staff. This report provides a copy of the new requests received and a summary of the requests that were completed. TVA's primary measure is response time which is analyzed through its automated tracking system reporting.

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

SECTION III: 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.

The FOIA Officer regularly reviews TVA's FOIA Reading Room and posts updates and new information as it becomes available.

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.

TVA did not have any material that was requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D).

Information that was proactively disclosed include, but are not limited, to the following:

[TVA Fiscal Year 2022 Annual Report](#)

[TVA Board of Directors Meetings Information](#)

[TVA's Diversity and Inclusion Report](#)

[TVA Carbon Report](#)

[TVA Strategic Intent and Guiding Principles](#)

[TVA's New Nuclear Program](#)

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?

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.

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.

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

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 this interaction.

The TVA FOIA Office works with the various business units within TVA to identify and prepare any FOIA-related proactive disclosures. TVA's Communications organization, of which the FOIA Office is a part, assists TVA organizations in reviewing and posting information on the TVA website (www.tva.com).

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

SECTION IV: STEPS TAKE 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?

TVA invested in a commercial off-the-shelf FOIA tracking and case management system in Fiscal Year 2020 replacing an outdated system. The system includes a Public Access Link for submitting requests from TVA's website that are routed directly to the automated system and established interoperability with the National FOIA Portal, along with other improvements in request processing and records management.

2. Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program. **We are continuing incremental improvements to FOIA administration using the system capabilities described above.**

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. **N/A.**

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.tva.com/information/freedom-of-information/freedom-of-information-act-reports>

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.

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

The Attorney General's **FOIA Guidelines** instruct agencies "to remove barriers to requesting and accessing government records and to reduce FOIA processing 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?

Some first-party requests may be made directly to agency record holders.

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

TVA has established processes for Privacy Act requests as detailed in 18 CFR Part 1301 and processes through which individuals may request information related to them, such as employment or personnel records.

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. **10.29 days.**

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.

The majority of requests for expedited processing were responded to within 10 calendar days or less. For the remaining five requests, TVA notified the requesters that additional information was needed in order for TVA to make a definite determination with regard to expedited processing. No further information was received and the requests were processed within the multi-track processing system. In one case, an interim response was provided with records that had been released in response to a prior FOIA request.

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. The average number of days to process simple requests was 13.03 days.**

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. **59.7 percent.**

9. 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? **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 that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2021? **No.**

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

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: **N/A.**

- 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

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. **8 percent.** 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."

BACKLOGGED APPEALS

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

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? **N/A.**

16. If your agency's 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. **N/A.** When doing so, please also indicate if any of the following were contributing factors: **N/A.**

- An increase in the number of incoming appeals
- A loss of staff
- An increase in the complexity of the requests received (if possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase)
- Impact of COVID-19 and workplace and safety precautions
- Any other reasons – please briefly describe or provide examples when possible

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

D. Backlog Reduction Plans

18. In the 2022 guidelines for 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? **N/A.**

19. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2022, please explain your agency's plan to reduce this backlog during 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 total 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. **N/A.**

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 of your Fiscal Year 2021 Annual FOIA Report? **N/A.**

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 VII.C.(5) of your Fiscal Year 2021 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that. **N/A.**

25. 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

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

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 total oldest consultations 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. **N/A.**

F. Additional Information about FOIA Processing

29. Were any requests at your agency the subject of FOIA litigation during the reporting period? **Yes.** 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.

The number of requests subject to litigation during the reporting period were less than 10, all of which arose out of a variety of topics and for various reasons. TVA has a staff of attorneys separate from the FOIA Office that handle litigation so there is little impact on current request processing. TVA will consider the incorporation of any relevant

information that may result from FOIA litigation into its current FOIA policies and practices.

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). **88 requests involved unusual circumstances.**