

## Section I: FOIA Leadership and Applying the Presumption of Openness

The guiding principle underlying the Attorney General’s 2022 [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.

**Mr. 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 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. If your agency tracks *Glomar* responses, please provide:

- the number of times your agency issued a full or partial *Glomar* response (separate full and partial if possible); **0.**
- the number of times a *Glomar* response was issued by exemption (e.g., Exemption 7(C) – 20 times, Exemption 1 – 5 times). **0.**

6. If your agency does not track the use of Glomar responses, are you planning to track this information in the future? **N/A.**

7. 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 2022 [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 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.

**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 information sources, 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 provides periodic training for TVA's legal and FOIA staff in individual and small group settings.**

## **B. Outreach**

7. 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.

**Any time a request is not able to be processed within the simple track, we send a letter notifying the requester of the unusual circumstances and asking for an opportunity to discuss ways their request could be processed more quickly.**

8. Outside of the standard request process or routine FOIA Liaison or FOIA Requester Service Center interactions, did your FOIA professionals engage in any outreach or dialogue, with the requester community or open government groups regarding your administration of the FOIA? For example, did you proactively contact frequent requesters, host FOIA-related conference calls with open government groups, or provide FOIA training to members of the public? 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 uses multiple methods of outreach to communicate with stakeholders and the communities we serve. A specific staff is dedicated to working 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 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 operating model as 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 strengthen our 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.**

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 2023 (please provide a total number or an estimate of the number for the agency overall). **Seven (7) 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. **We recognize the need to have sufficient resources for the FOIA program and will evaluate and assess future needs in this area.**

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 our 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 2022 [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. How long after identifying a record for proactive disclosure does it take your agency to post it? **Typically, within one week unless unusual circumstances apply.**

3. Does your agency post logs of its FOIA requests? **No.**

- If so, what information is contained in the logs? **N/A**
- Are they posted in CSV format? If not, what format are they posted in? **N/A**

4. 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 includes, but is not limited, to the following:**

<https://www.tva.com/about-tva/our-leadership/board-of-directors>

<https://www.tva.com/annual-report-fy23>

[fy-2023-annual-budget-and-performance-report-final.pdf \(azureedge.net\)](#)

[fy-2022---2026-strategic-plan5be28920-60e0-4839-b86b-608794f85519.pdf \(azureedge.net\)](#)

<https://www.tva.com/careers/diversity-inclusion/diversity-report>

<https://www.tva.com/environment/environmental-stewardship/sustainability/sustainability-report>

<https://www.tva.com/environment/environmental-stewardship/integrated-resource-plan>

[Winter Storm Elliott After Action Report](#)

<https://www.tva.com/about-tva/our-public-advisory-councils>

5. 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?

**We are committed to ensuring that the platform is accessible to all users, including those with special needs, and are continuously implementing improvements to increase accessibility. In 2023, TVA began applying User Interface / User Experience (UI/UX) design research and principles to further engage our audiences and accelerate improvements targeting their needs.**

6. 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 direct user research, user-centric design, streamlined content, improved search engine results, mobile-first responsive design, and improved feedback mechanisms for users. We achieved our goal of meeting industry benchmarks for WCAG2 (<https://www.w3.org/TR/WCAG20/>) standards to improve accessibility and are now focused on exceeding that standard.**

7. 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 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](http://www.tva.com)).**

8. 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 2022 [FOIA Guidelines](#) emphasize the importance of making FOIA websites easily navigable and complying with the [FOIA.gov](https://www.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 FOIA tracking and case management system in Fiscal Year 2020, replacing an outdated system. The new system includes a Public Access Link for submitting requests from TVA's website that are routed directly to the automated system. The new system also established interoperability with the National FOIA Portal, along with making other improvements in request processing and records management.**

2. Please briefly describe any new types of technology your agency uses 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 2023 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 2024. **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 2022 Annual FOIA Report and, if available, for your agency's Fiscal Year 2023 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?

**TVA established interoperability with the National FOIA Portal in Fiscal Year 2020 with the purchase of the commercial system described above. However, the system has been inoperable since June 2023. We are working with the vendor to develop and implement a solution.**

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 2022 [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 typical FOIA or Privacy Act 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.**

3. Please describe any other steps your agency has taken to remove barriers to accessing government information. **In its role as regulator, TVA has an established Complaint Resolution Process that serves as a dispute resolution resource to address issues or complaints between local power companies and their customers.**

#### **B. Timeliness**

4. For Fiscal Year 2023, 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 2023 Annual FOIA Report. **Seven (7) days.**

5. 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 2023 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.**

6. Does your agency utilize a separate track for simple requests? **Yes.**

7. 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 2023? **Yes.**

8. If not, did the simple track average processing time decrease compared to the previous Fiscal Year? **N/A.**

9. Please provide the percentage of requests processed by your agency in Fiscal Year 2023 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. **74.01% of requests were processed in the simple track.**

10. 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**

11. If your agency had a backlog of requests at the close of Fiscal Year 2023, 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 2022? **No.**

12. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2023 than it did during Fiscal Year 2022? **No.**

13. If your agency's request backlog increased during Fiscal Year 2023, 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)
- Litigation
- Any other reasons – please briefly describe or provide examples when possible.

**While the overall number of requests TVA received in fiscal year 2023 was less than in fiscal year 2022, the number of complex and voluminous requests has increased. Significantly more time and resources are required to process these requests, which came primarily from journalists and public interest groups who qualify for fee waivers and declined to narrow their requests so they can be processed faster.**

14. 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 2023. 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.” **17%.**

#### **Backlogged Appeals**

15. If your agency had a backlog of appeals at the close of Fiscal Year 2023, 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 2022? **No.**

16. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2023 than it did during Fiscal Year 2022? **No.**

17. If your agency’s appeal backlog increased during Fiscal Year 2023, 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)
- Litigation
- Any other reasons – please briefly describe or provide examples when possible.

**TVA does not typically have a backlog of appeals. Due to unusual circumstances, including the need to consult with third parties, there was one appeal pending at the close of fiscal year 2023 that has since been closed.**



18. 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 2023. 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 2023 and/or has no appeal backlog, please answer with "N/A." **25%**.

#### **D. Backlog Reduction Plans**

19. In the 2023 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2022 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 2023? **N/A.**

20. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2023, please explain your agency's plan to reduce this backlog during Fiscal Year 2024. **N/A.**

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

##### **Ten Oldest Requests**

21. In Fiscal Year 2023, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2022 Annual FOIA Report? **No.**

22. 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 2022 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that. **Six (6).**

23. Beyond work on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests. **Use of electronic tools in some cases to facilitate complex searches.**

##### **Ten Oldest Appeals**

24. In Fiscal Year 2023, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2022 Annual FOIA Report? **N/A.**

25. 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 2022 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that. **N/A.**

26. 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**

27. In Fiscal Year 2023, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2022 Annual FOIA Report? **N/A.**

28. 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 2022 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that. **N/A.**

#### **Additional Information Regarding Ten Oldest**

29. 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 2024. **The requests TVA was not able to close are voluminous and complex requests requiring detailed review. We expect to be able to complete these in fiscal year 2024.**

#### **F. Additional Information about FOIA Processing**

30. 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 of requests subject to litigation during the reporting period was fewer than 10, all of which stemmed from a variety of topics and for various reasons. TVA has a staff of attorneys separate from the FOIA Office that handles litigation. TVA will consider the incorporation of any relevant information that may result from FOIA litigation into its current FOIA policies and practices.**