

High-Volume Agencies Receiving More Than 50 Requests in FY18

Content of 2020 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. 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. **Justin Maierhofer, Vice President, External Affairs.**

B. 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.**
4. 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 online resources available from the Department of Justice; membership in professional organizations such as ASAP; subscriptions to newsletters such as Access Reports; and through social media and news sites that cover FOIA issues, among other things.

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. **100%**

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. **N/A.**

C. 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? 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 to them. This staff has been helpful in engaging in dialogue with environmental groups who file FOIA requests to help explain TVA’s determinations on their requests and to provide explanatory information on TVA actions. TVA also has established several stakeholder advisory groups and community action groups in addition to other public meetings.

D. Other Initiatives

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

FOIA training and counsel is provided to agency personnel by the FOIA Officer and TVA’s primary advisory attorney year-round, as needed. 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.

An article on FOIA was published in TVA’s daily internal newsletter during Sunshine Week in March 2019 to remind all employees and contractors of TVA’s commitment to openness and transparency in its operations and activities.

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 that describes your agency's efforts in this area.

1. For Fiscal Year 2019, 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 2019 Annual FOIA Report.

One (1) day.

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. **N/A.**

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.

- 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.

In 2018, TVA conducted a self-assessment of its FOIA program 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. 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 2019 (please provide a total number or an estimate of the number). **One (1).**

5. Optional -- Please describe:

- Best practices used to ensure that your FOIA system operates efficiently and effectively
- Any challenges your agency faces in this area

TVA recently completed a Request For Proposal and has awarded a contract to an experienced third-party vendor to provide a standardized comprehensive FOIA tracking and case management database system to replace its in-house system that has been in use for many years.

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.

The FOIA Officer closely monitors information requested under FOIA to identify records that meet the requirement for online posting. In FY 2019, we did not identify any records requested under FOIA and released three or more times.

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

[SEC Financial Filings](#)

[Environmental Reviews](#)

[TVA Rates](#)

[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 a few years ago to make it more useful and continues to refine areas that need improvement.

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

Streamlined content, new search engine, mobile-first approach and improved feedback mechanisms for users.

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.

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. 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.

TVA recently completed a Request For Proposal and has awarded a contract to an experienced third-party vendor to provide a standardized comprehensive FOIA tracking and case management database system to replace its in-house system that has been in use for many years. The system will include a public access link on the TVA website for users to file requests and receive status updates and responses.

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 2019? **Yes.**

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 2020. **N/A.**

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.

[Annual Reports open format](#)

6. Optional -- Please describe:

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

TVA has recently implemented a new, efficient records and document management system using an industry-leading product. The Enterprise Content Management (ECM) system is a new technology solution that ensures all documents remain available, secure and retrievable reducing the risk of system failure and impact to daily operations.

The ECM system, described above, allows for efficient information searches, integrates with key TVA systems, manages retention requirements and facilitates documentation processes necessary to TVA's business and to comply with laws and regulations. Full implementation of ECM has increased work productivity and collaboration across the agency.

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 2019 Annual FOIA Report and, when applicable, your agency's 2018 Annual FOIA Report.

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, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2019? **Yes.**
3. Please provide the percentage of requests processed by your agency in Fiscal Year 2019 that were placed in your simple track. **61%.**
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? **N/A.**

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 2018 and Fiscal Year 2019 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 2019, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018? **Yes.**
6. If not, did your agency process more requests during Fiscal Year 2019 than it did during Fiscal Year 2018? **N/A.**
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 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's backlog decreased in Fiscal Year 2019 as compared to Fiscal Year 2018.

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. If your agency has no request backlog, please answer with "N/A."

The percentage of requests that make up the backlog out of the total number of requests received in Fiscal Year 2019 is 3.8%.

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? **N/A.**

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

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 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 2019. If your agency did not receive any appeals in Fiscal Year 2019 and/or has no appeal backlog, please answer with "N/A."

N/A. TVA had no backlog of appeals in Fiscal Year 2019.

C. Backlog Reduction Plans

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

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? **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 2018 and Fiscal Year 2019 when completing this section of your Chief FOIA Officer Report.

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? **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 2018 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. **TVA received 15% fewer requests in Fiscal Year 2019 as compared to Fiscal Year 2018 and fewer complex requests which allowed us to reduce the backlog.**

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? **TVA had no appeals pending at the end of Fiscal Year 2018.**

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 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. **TVA has been able to process all appeals within the 20-business day time frame.**

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? **TVA had no consultations pending at the end of Fiscal Year 2018.**

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 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 2020. **N/A.**

F. Success Stories

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, 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.

The purchase and implementation of the new automated tracking and case management system will allow us to make several improvements in FOIA administration by streamlining report creation and improve tracking of requests. The system will also have an electronic document management system, can create system-generated response letters and provides a public access link on the TVA website where the public can make requests, check statuses and receive responses. Importantly, the system will allow TVA to meet all FOIA requirements, federal accessibility requirements and will have interoperability with the National FOIA Portal.

Updated August 2, 2019