

FEDERAL TRADE COMMISSION
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Section I: Steps Taken to Apply the Presumption of Openness

FOIA Training:

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?

Answer: Yes.

2. If so, please provide the number of conferences or trainings held, a brief description of the topics covered, and an estimate of the number of participants from your agency who were in attendance.

Answer: The Assistant General Counsel responsible for the FTC's FOIA program conducted a number of formal training sessions throughout FY2013 covering all aspects of the FOIA. First, she gave a presentation at a training session for all new attorneys and economists. In this session, the Assistant General Counsel emphasized the importance of the presumption of openness under the FOIA, and encouraged staff to contact the Office of the General Counsel should they locate a document that they feel should be proactively disclosed. Around fifty to sixty Agency staff members attended this training in 2013.

Additionally, managers in each division of the Agency have designated a FOIA Access Officer, who coordinates the search for records in that division. Each of the 48 FOIA Access Officers is trained how to properly search for records and identify record storage locations. In 2013, the Associate General Counsel organized a joint training program for each division's Access Officers and senior management. About twenty staff members from the Bureau of Competition received this training in 2013. The Associate General Counsel expects to complete this training for the Agency's other divisions in 2014.

Furthermore, each of the eleven staff members employed by the FOIA Office receive frequent in-house training on FOIA procedures and policies, including monthly meetings designed to target areas that can be improved and discuss best practices. The heads of the FTC's FOIA appeal program trained the seven attorneys responsible for processing appeals on the agency's procedures and discussed possible improvements that could be made.

3. Did your FOIA professionals attend any FOIA training during the reporting period such as that provided by the Department of Justice?

Answer: The Associate General Counsel attended and taught at the American Society of Access Professional's annual training on the FOIA and Privacy Act. All new employees responsible for processing FOIA requests attend the Office of Legal Education's 3-day FOIA training program on FOIA processing procedures and exemptions. Select FOIA staff also attended the annual FOIA Xpress Users Conference, to learn about new developments in the FOIA Xpress software, which the FTC uses to facilitate the timely completion of requests. Additionally, staff attended Department of Justice's training on fee waivers and fee schedules. Finally, FOIA staff members responsible for compiling the FOIA Annual Report and this Chief FOIA Officer Report attended the associated training hosted by the Department of Justice's Office of Information Policy.

4. Provide an estimate of the percentage of your FOIA professionals who attended substantive FOIA training during this reporting period.

Answer: One hundred percent of staff members responsible for processing FOIA requests received substantive FOIA training throughout the past year.

5. OIP has issued guidance that [every agency should make core, substantive FOIA training available to all their FOIA professionals at least once each year](#). Provide your agency's plan for ensuring that such training is offered to all agency FOIA professionals by March 2015. Your plan should anticipate an upcoming reporting requirement for your 2015 Chief FOIA Officer Reports that will ask whether all agency FOIA professionals attended substantive FOIA training in the past year.

Answer: The FTC will continue to encourage FOIA professionals to attend external trainings, by frequently monitoring the Office of Information Policy's calendar of training and outreach opportunities. Additionally, the FTC will continue to offer substantive internal training to Agency staff, and will conduct monthly FOIA staff meetings aimed at improving FOIA policies and procedures. Finally, FOIA appeal staff intends to hold annual meetings to discuss substantive changes to FOIA case law and lessons learned from any the Agency's FOIA litigation experience.

Outreach:

6. Did your FOIA professionals engage in any outreach and dialogue with the requester community or open government groups regarding your administration of the FOIA? If so, please briefly discuss that engagement.

Answer: The FOIA staff member handling each request provides their direct telephone number to the requester in the acknowledgment letter, extension letter, and response letter. Additionally, individuals can contact the FTC's FOIA Hotline, at (202) 326-2430, with questions. The FTC also provides the public with contact information for its FOIA Public Liaison on its website (<http://www.ftc.gov/about-ftc/foia/foia-resources/freedom-information-act-contacts>). Through these mechanisms, the FOIA Office routinely communicates with requesters on an individual basis, and is available to answer questions regarding FOIA policies or procedures. In the monthly FOIA staff meeting, staff members have the opportunity to discuss any issues that have arisen, and determine whether changes in procedures would prevent future problems.

Furthermore, the FTC issued proposed changes to its FOIA regulations on February 28, 2013. The agency accepted public comments on these proposed changes through March 29, 2013, and received a number of comments from the requester community regarding the FTC's proposed changes and the Agency's FOIA procedures in general. The agency then used this information to modify and finalize its proposed changes. The Commission is expected to vote on these changes in March.

Discretionary Disclosures:

In his 2009 FOIA Guidelines, the Attorney General strongly encouraged agencies to make discretionary releases of information even when the information might be technically exempt from disclosure under the FOIA. OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

7. Does your agency have a formal process in place to review records for discretionary release? If so, please briefly describe this process. If your agency is decentralized, please specify whether all components at your agency have a process in place for making discretionary releases.

Answer: The FTC makes every effort not to withhold information simply because it may do so legally. FOIA staff evaluates each document on a case-by-case basis, to determine not only if an exemption applies, but also what specific harm would result from its release. Typically, FOIA staff requires the author of the document to articulate such harm. In the absence of such a showing, FOIA staff will release the document to the requester. Whenever possible, FOIA officers will release more information than is legally required when disclosure will increase public understanding of the subject matter.

8. During the reporting period did your agency make any discretionary releases of otherwise exempt information?

Answer: The agency made numerous discretionary releases of legally exempt information.

9. What exemptions would have covered the information that was released as a matter of discretion?

Answer: The agency will waive the deliberative process privilege imbedded in Exemption 5 of the FOIA when doing so will increase public understanding of the subject matter and have no chilling effect on agency proceedings.

10. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.

Answer: In some cases, the FTC released attorney notes and internal recommendations that the agency could have withheld under Exemption 5. We released this information because, following discussions with staff, we determined that release would not chill future deliberations or harm agency proceedings. For example, one FOIA request sought documents relating to the FTC's report on mobile apps targeting children. One of the responsive documents contained an individual staff member's notes and opinions, which could have been withheld under Exemption 5 of the FOIA because they did not solely reflect the agency's final decision. However, the author of this document felt that the additional information offered in this document would improve public understanding of the FTC's actions without harming the Agency's deliberative process.

However, the agency is statutorily prohibited from disclosing confidential business or financial information, information provided pursuant to compulsory process, information filed under the Hart-Scott-Rodino Act, and consumers' personally identifying information. These strict prohibitions hinder the agency's ability to make certain discretionary releases. Furthermore, release of some records relating to ongoing, non-public investigations could harm the agency's law enforcement proceedings.

11. If your agency was not able to make any discretionary releases of information, please explain why.

Answer: N/A.

Other Initiatives:

12. Did your agency post all of the required quarterly FOIA reports for Fiscal Year 2013? If not, please explain why not and what your plan is for ensuring that such reporting is successfully accomplished for Fiscal Year 2014.

Answer: The FTC posted all of its quarterly reports on a timely basis.

13. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied. If any of these initiatives are online, please provide links in your description.

Answer: The agency posts frequently requested documents and documents relating to "hot topics" in its online FOIA reading room (<http://www.ftc.gov/about-ftc/foia/foia-resources/frequently-requested-records>). Currently, FOIA staff is responsible for identifying these topics. Following the Assistant General Counsel's training program for each individual division, Agency staff will identify additional records appropriate for proactive disclosure. In addition, the FTC places a large volume of records relating to its both its enforcement and policy

mandates on its public website, including all adjudicative decisions, rulemaking materials and comments, workshop information, speeches, and a wide range of other documents (<http://www.ftc.gov/>).

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

As the Attorney General emphasized in his FOIA Guidelines, "[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.

Describe here the steps your agency has taken to ensure that your management of your FOIA program is effective and efficient. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

Personnel:

During Sunshine Week 2012 OPM announced the creation of a new job series entitled the Government Information Series, to address the work performed by FOIA and Privacy Act professionals. Creation of this distinct job series was a key element in recognizing the professional nature of their work.

1. Has your agency converted all of its FOIA professionals to the new Government Information Specialist job series?

Answer: No.

2. If not, what proportion of personnel has been converted to the new job series?

Answer: None of our employees have been converted to the new job series.

3. If not, what is your plan to ensure that all FOIA professionals' position descriptions are converted?

Answer: The Associate General Counsel responsible for the FTC's FOIA program will continue to work with the Agency's Human Capital Management Office to revise the appropriate position descriptions to reflect the new Government Information Specialist job series.

Processing Procedures:

4. For Fiscal Year 2013 did your agency maintain an average of ten or less calendar days to adjudicate requests for expedited processing? If not, describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Answer: On average, the FTC adjudicated requests for expedited processing in 4.94 days.

5. Has your agency taken any steps to make the handling of consultations and referrals more efficient and effective, such as entering into agreements with other agencies or components on how to handle certain categories or types of records involving shared equities so as to avoid the

need for a consultation or referral altogether, or otherwise implementing procedures that speed up or eliminate the need for consultations. If so, please describe those steps.

Answer: The FTC received one consultation from another agency in Fiscal Year 2013. Because consultations are infrequent, the agency has not entered into any agreements with other agencies. Because the FTC has a centralized FOIA Office, it does not handle consultations from various components.

Requester Services:

6. Do you use e-mail or other electronic means to communicate with requesters when feasible?

Answer: The FTC frequently uses e-mail to communicate with requesters. Since 2001, individuals have been able to file requests and receive status updates by sending an e-mail to FOIA@ftc.gov or via an online request form (<https://foia.ftc.gov/ftc/foia.htm>). Additionally, FOIA officers frequently correspond with requesters via e-mail or telephone. Barring prohibitive file sizes, requesters can ask that the FTC respond to their requests via e-mail.

7. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at NARA?

Answer: In the near future, the FTC will begin providing requesters with information regarding the mediation services offered by OGIS. Specifically, the FTC's appeal response letters will notify requesters of the existence these services to resolve FOIA disputes and direct requesters to contact OGIS if they would like to pursue this option.

8. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc.

Answer: As noted above, the FOIA Office holds monthly meetings in which staff members evaluate processing procedures, identify areas that can be improved, and offer recommendations for improvement. In addition, FOIA staff frequently consults with FOIA Access Officers throughout the Commission to determine how to make the Agency's search process more efficient. FOIA staff also searches the Agency's electronic FOIA database for related requests. If a similar request has been filed in the past, staff asks the requester if they would like to access these records to decrease processing time.

Additionally, FOIA requests occasionally seek documents submitted by outside parties, for which the submitting party has requested confidential treatment. If the Agency determines that the document does not qualify for confidential treatment under the FOIA, it must provide the submitter with ten days written notice, and give the submitter an opportunity to provide additional information justifying the request for confidential treatment (15 U.S.C. § 57b-2(c)). This notice frequently causes delay and results in the Agency's inability to respond to the request within twenty days. To avoid such delay, the FOIA Office has begun sending these notices via e-mail, rather than by USPS. This procedural change has eliminated much of the delay caused by the submitter notice requirement.

Finally, while FOIA appeal staff responded to every appeal within the statutory 20-day deadline, they continued to examine ways to improve efficiency. Specifically, they amended the Commission's Rules to allow the General Counsel to delegate his authority to determine and issue FOIA appeals to a Deputy General Counsel. This change has enabled the agency to issue timely, legally sound responses using the fewest possible resources.

Section III: Steps Taken to Increase Proactive Disclosures

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Describe here the steps your agency has taken both to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures that have been made during this past reporting period (i.e., from March 2013 to March 2014). In doing so, answer the questions listed below and describe any additional steps taken by your agency to make and improve proactive disclosures of information.

Posting Material:

1. Do your FOIA professionals have a system in place to identify records for proactive disclosures?

Answer: Yes.

2. If so, describe the system that is in place.

Answer: As discussed earlier, the agency maintains a robust website through which it discloses a large volume of material. Individual divisions throughout the agency are responsible for posting records relating to the FTC's enforcement and policy-related activities on their own accord. Additionally, Agency policy directs staff to notify the FOIA Office of documents that are of significant public interest and will likely be the subject of FOIA requests, so that the FOIA Office may release these records prior to receiving a request.

3. Provide examples of material that your agency has posted this past reporting period, including links to where this material can be found online.

Answer: As explained above, documents posted on the Agency's website include court documents and adjudicative decisions (<http://www.ftc.gov/enforcement/cases-proceedings>), rulemaking materials (<http://www.ftc.gov/os/1997/04/merger.htm>), public comments (<http://www.ftc.gov/policy/public-comments>), workshop and event information (<http://www.ftc.gov/news-events/events-calendar>), speeches (<http://www.ftc.gov/news-events/speeches>), and a wide range of other documents. Additionally, the FOIA Office has posted frequently requested records, such as complaints relating to health insurance scams and documents relating to Herbalife and Google (<http://www.ftc.gov/about-ftc/foia/foia-resources/frequently-requested-records>), as well as hot topics such as the Do-Not-Call and Consumer Sentinel complaint databases (<http://www.ftc.gov/about-ftc/foia/foia-resources/hot-topics>).

Making Posted Material More Useful:

4. 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, such as soliciting feedback on the content and presentation of posted material, improving search capabilities on the site, posting material in open formats, making information available through mobile applications, providing explanatory material, etc.?

Answer: The FTC recently launched a new public website, based on feedback it received from individuals and experts in the consumer protection and competition fields. The website is now compatible with mobile phones and tablets, as the web page automatically adjusts to fit the size of

the screen. Additionally, the website organizes Commission information in a more user-friendly format, and contains improved search capabilities.

5. If so, provide examples of such improvements.

Answer: Examples of improvements made to the FTC's website include the ability to sort FTC cases, early termination notices, advocacy filings, and other documents by date, type, and topic. Additionally, consumers can browse a calendar of public events, subscribe to an e-mail list serve that provides the latest scam alerts and blog posts from FTC officials, find biographical information and select publications by FTC economists, and report fraud or other consumer problems with the new and improved Complaint Assistant.

6. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If so, was social media utilized?

Answer: The FTC disseminates new information daily, through a variety of mechanisms. The FTC's Office of Public Affairs routinely issues press releases announcing Commission activities and directing consumers to web pages containing additional information. This office also maintains Twitter, Facebook and YouTube accounts. The FTC's official twitter account is available in both English and Spanish. In addition, FTC Commissioners Julie Brill, Maureen Ohlhausen, and Joshua Wright have individual Twitter accounts, which they use to disseminate a wide array of information regarding Commission activities. Finally, various divisions throughout the Commission maintain blogs relating to specific topics of interest to consumers or businesses. For more information on the FTC's use of social media, please see <http://www.ftc.gov/news-events/social-media>.

The agency routinely uses social media to proactively announce the disclosure of information that it feels will be of particular interest to the public. For example, the FTC recently notified consumers of the draft strategic plan for 2014-2018 submitted to Congress, and provided a link to where this publication can be found on the FTC's public website. Additionally, the Commission's recent work regarding the regulation of advanced practice nurses has been widely publicized via social media.

7. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post? If so, please briefly explain what those challenges are.

Answer: No.

8. Describe any other steps taken to increase proactive disclosures at your agency.

Answer: As discussed above, the Assistant General Counsel has developed a training program for FOIA access officers and senior staff in each of the agency's divisions. This training program emphasizes the importance of proactively disclosing topics of interest to the public, and outlines the procedure for making such disclosures.

Section IV: Steps Taken to Greater Utilize Technology

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests. Over the past several years agencies have reported widespread use of technology in receiving and tracking FOIA requests and preparing agency Annual FOIA Reports. For 2014, as we have done over the past years, the questions have been further refined and now also address different, more innovative aspects of technology use.

Online tracking of FOIA requests:

1. Can a FOIA requester track the status of his/her request electronically?

Answer: . Requesters can track the status of their request on the FTC's public website. Additionally, requesters can seek status updates by sending an e-mail to FOIA@ftc.gov, or by calling the FOIA officer processing their request.

2. If yes, how is this tracking function provided to the public? For example, is it being done through regularly updated FOIA logs, online portals, or other mediums?

Answer: The FTC posts two FOIA logs on the Agency's public website, which are updated on a monthly basis (<http://www.ftc.gov/about-ftc/foia/foia-reading-rooms/track-your-foia-request>). These logs are created by FOIA staff based on data from the FOIA Xpress system. Unfortunately, because of security concerns, the agency is unable to connect requesters to this system directly.

3. Describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review." List the specific types of information that are available through your agency's tracking system.

Answer: The first log contains a list of all of the requests that remain open at the end of the month. Specifically, this log provides the request number, the requester category, the requester's organization, a description of the request, the received date, and the request status. The second log contains a list of all requests closed in the previous month. This log provides the request number, the requester category, the requester's organization, a description of the request, the received date, and the date that the request was closed. The FTC will continue to consider if additional information should be included in these logs, based on input from the requester community.

4. In particular, does your agency tracking system provide the requester with an estimated date of completion for his/her request?

Answer: The FOIA logs do not provide the estimated delivery date for each request, because this date may change throughout the FOIA process. The FTC's electronic FOIA processing system, FOIA Xpress, documents the statutory 20-day deadline for each request. However, the FTC frequently responds to requests well before this deadline, and occasionally seeks an extension of this deadline under one of the exceptional circumstances outlined by the FOIA. Because the statutory deadline does not always correspond to the expected response date, the FOIA Office chose not to include this information in its electronic logs. However, FOIA professionals inform requesters of their projected delivery date when asked.

5. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability? If not, please explain why.

Answer: N/A.

Use of technology to facilitate processing of requests:

6. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?

Answer: Yes.

7. If so, describe the technological improvements being made.

Answer: The FTC utilizes various electronic databases to facilitate the processing of FOIA requests. The FTC has processed all of its FOIA requests electronically since 2003, using the FOIA Xpress software. The Agency frequently upgrades to new versions of this software, to ensure that it is able to process requests as quickly as possible. Agency staff is able to provide the FOIA Office with responsive records electronically, either via email or by placing the documents on the Agency's share drive.

FOIA requesters most frequently request consumer complaints, or data relating to these complaints. This information is contained in the Agency's Consumer Sentinel database, and is accessible to the FOIA staff. Therefore, the FOIA office can process these requests extremely efficiently.

Additionally, the Office of the Secretary maintains a document database containing a wide array of agency records, including congressional correspondence, investigative records, internal memoranda and coding forms, and documents relating to the agency's consumer education and advocacy initiatives. The Agency also utilizes Oracle's Business Objects software to document all official matters. FOIA staff is able to search these two databases to locate responsive records or determine which offices throughout the Commission may have responsive records.

While FOIA officials have attended conferences to learn about software capable of sorting and de-duplicating records, it has not implemented these systems because of their prohibitive costs.

8. Are there additional technological tools that would be helpful to achieving further efficiencies in your agency's FOIA program?

Answer: The FTC's processing times would likely be improved if the Agency were able to implement a system capable of sorting or de-duplicating documents. However, the Agency has not done so because of the prohibitive costs of these programs.

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

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section 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 those contained in the specified sections of your agency's 2013 Annual FOIA Report and, when applicable, your agency's 2012 Annual FOIA Report.*

Simple Track Requests:

1. 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.

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

Answer: Yes.

- b. If so, for your agency overall, for Fiscal Year 2013, was the average number of days to process simple requests twenty working days or fewer?

Answer: Yes. The agency processed simple requests at an average of 7.36 days.

- c. If your agency does not track simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer?

Answer: N/A.

Backlogs and "Ten Oldest" Requests, Appeals and Consultations:

2. 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. 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 2012 and Fiscal Year 2013 when completing this section of your Chief FOIA Officer Report.

Backlogs

- a. If your agency had a backlog of requests at the close of Fiscal Year 2013, did that backlog decrease as compared with Fiscal Year 2012?

Answer: No. However, at the end of Fiscal Year 2012, the FTC has one backlogged request. At the end of Fiscal Year 2013, the FTC had three backlogged requests. The agency continues to successfully close the vast majority of its overdue requests before the end of each Fiscal Year.

- b. If your agency had a backlog of administrative appeals in Fiscal Year 2013, did that backlog decrease as compared to Fiscal Year 2012?

Answer: N/A. The FTC did not have any backlogged administrative appeals at the end of Fiscal Years 2012 or 2013.

Ten Oldest Requests

- c. In Fiscal Year 2013, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2012?

Answer: No.

- d. 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 2012 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that. For example, if you only had seven requests listed as part of your "ten oldest" in Section VII.E. and you closed two of them, you should note that you closed two out of seven "oldest" requests.

Answer: One request pending at the end of Fiscal Year 2012 remained open at the end of Fiscal Year 2013. However, the FTC issued one partial response to this request in Fiscal Year 2012, and three partial responses in Fiscal Year 2013. The Agency continues to make every effort to respond to this request as rapidly as possible given the voluminous amount of responsive records and the requester's refusal to narrow the scope of the request.

Ten Oldest Appeals

- e. In Fiscal Year 2013, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2012?

Answer: N/A. No administrative appeals were pending at the end of Fiscal Year 2012.

- f. If no, please provide the number of these appeals your agency was able to close, as well as the number of appeals your agency had in Section VI.C.(5) of your Fiscal Year 2012 Annual FOIA Report.

Answer: N/A.

Ten Oldest Consultations

- g. In Fiscal Year 2013, did your agency close the ten oldest consultations received by your agency and pending as of the end of Fiscal Year 2012?

Answer: N/A. No consultations were pending at the end of Fiscal Year 2012.

- h. If no, please provide the number of these consultations your agency did close, as well as the number of pending consultations your agency listed in Section XII.C. of your Fiscal Year 2012 Annual FOIA Report.

Answer: N/A.

Reasons for Any Backlogs:

3. If you answered "no" to any of the questions in item 2 above, describe why your agency was not able to reduce backlogs and/or close the ten oldest pending requests, appeals, and consultations. In doing so, answer the following questions then include any additional explanation:

Request and/or Appeal Backlog

- a. Was the lack of a reduction in the request and/or appeal backlog a result of an increase in the number of incoming requests or appeals?

Answer: Yes. The Agency received 32 more requests in Fiscal Year 2013 than in Fiscal Year 2012. Despite the increase in requests received, the Agency processed five more requests in Fiscal Year 2013 than it did in Fiscal Year 2012.

- b. Was the lack of a reduction in the request and/or appeal backlog caused by a loss of staff?

Answer: Yes. In Fiscal Year 2012, the FTC had 11.45 equivalent full-time FOIA staff, while in Fiscal Year 2013 it had 9.54.

- c. Was the lack of a reduction in the request and/or appeal backlog caused by an increase in the complexity of the requests received?

Answer: Yes. The FTC processed 283 complex requests in Fiscal Year 2012, and 323 complex requests in Fiscal Year 2013.

- d. What other causes, if any, contributed to the lack of a decrease in the request and/or appeal backlog?

Answer: All three of the requests pending at the end of fiscal year required the FTC to search multiple divisions throughout the agency. Additionally, the requests all required that FOIA staff compile and review a voluminous amount of responsive records. Furthermore, the FTC was unable to reduce the number of backlogged requests partially because the Agency had only one request pending at the end of Fiscal Year 2012.

"Ten oldest" Not Closed

- e. Briefly explain the obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2012.

Answer: As discussed above, the FTC had no appeals or consultations pending at the end of fiscal year 2012. The Agency had one request pending at the end of Fiscal Year 2012 that remained open at the end of Fiscal Year 2013. The FTC was unable to close this request because of the voluminous amount of responsive records and the requester's refusal to narrow the scope of their request.

- f. If your agency was unable to close any of its ten oldest requests or appeals 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.

Answer: N/A.

Plans for Closing of Ten Oldest Pending Requests, Appeals, and Consultations and Reducing Backlogs:

Given the importance of these milestones, it is critical that Chief FOIA Officers assess the causes for not achieving success and create plans to address them.

4. If your agency did not close its ten oldest pending requests, appeals, and consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2014.

Answer: As discussed above, the FTC had no appeals or consultations pending at the end of fiscal year 2012. The Agency had one request pending at the end of Fiscal Year 2012 that remains open at the time of this report. However, the agency has issued four partial responses to this request, and will continue to issue partial responses as documents become available. In addition, the Agency will continue to work with the requester in an attempt to narrow the request to decrease the necessary processing time.

Furthermore, the FOIA branch continues to train Agency staff to improve administrative efficiency and decrease processing times. The Agency and Chief FOIA Officer monitor the number of pending requests, and work with FOIA staff to close these requests in a timely manner. The Chief FOIA Officer also engages IT, senior level officials, FOIA staff, and the Office of Human Capital in discussion about improving staffing levels and technology to improve timeliness.

5. If your agency had a backlog of more than 1000 pending requests and did not reduce that backlog in Fiscal Year 2013, provide your agency's plan for achieving backlog reduction in the year ahead.

Answer: N/A.

Interim Responses:

OIP has issued **guidance** encouraging agencies to make interim releases whenever they are working on requests that involve a voluminous amount of material or require searches in multiple locations. By providing rolling releases to requesters agencies facilitate access to the requested information.

6. Does your agency have a system in place to provide interim responses to requesters when appropriate?

Answer: The FTC frequently issues rolling responses to requesters.

7. If your agency had a backlog in Fiscal Year 2013, please provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.

Answer: The FTC issued a rolling response for two out of the three requests that were backlogged at the end of Fiscal Year 2013. The agency would have issued rolling responses for the third backlogged request, but the requester specifically stated that he wanted to receive all of the documents at once.

Use of FOIA's Law Enforcement "Exclusions"

In order to increase transparency regarding the use of the FOIA's statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to "treat the records as not subject to the requirements of [the FOIA]," 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

1. Did your agency invoke a statutory exclusion during Fiscal Year 2013?

Answer: No.

2. If so, what was the total number of times exclusions were invoked?

Answer: N/A.

Spotlight on Success

Out of all the activities undertaken by your agency since March 2013 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas. As noted above, these agency **success stories** will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of a key achievement. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

Answer: In April 2013, the FTC concluded its Robocall Challenge, an innovative contest seeking solutions to the widespread problem of unsolicited and illegal robocalls in the United States. In this challenge, the FTC offered a \$50,000 prize to the individual, team, or small corporation who submitted the best technical solution to the country's robocall problem. Throughout the Challenge, the FTC provided participants with data relating to all of the Do-Not-Call complaints filed with the agency.

Since April, the Agency has continued to release Do-Not-Call complaint data to the winner of the Challenge on a biweekly basis, to aid him in creating his solution. Because the FOIA Office expected to receive requests so frequently, it collaborated with the BCP Division of Planning and Information (DPI), the division that maintains the FTC's complaint database. Together, the two offices established a system in which DPI would generate the requested information automatically every two weeks. The office would load the files containing this data into a folder on the Agency's share drive, which FOIA staff could then access. This system has eliminated much of the processing time that would have otherwise been required, and enabled the FOIA Office to respond rapidly to each of these frequent requests.