



**United States Department of Commerce
Chief FOIA Officer Report**

Fiscal Year 2019



U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis



Table of Contents

Section 1: Steps Taken to Apply the Presumption of Openness... 3
A. FOIA Leadership... 3
B FOIA Training... 3
C. Outreach ... 6
Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Processing Request ... 11
Section III: Steps Taken to Increase Proactive Disclosures... 15
Section IV: Steps Taken to Greater Utilize Technology ... 24
Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs... 27
A. Simple Track ... 27
B. Backlogs - Requests ... 28
C. Backlogs – Appeals... 29
D. Backlog Reduction Plans ... 30
E. Status of Ten Oldest Requests, Consultations, and Appeals ... 31
. TEN OLDEST REQUESTS ... 31
. TEN OLDEST APPEALS ... 32
. TEN OLDEST CONSULTATIONS ... 32
F. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans 33
VI. SUCCESS STORIES... 34



U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis



Section 1: Steps Taken to Apply 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 least at the Assistant Secretary or equivalent level. 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

Catrina Purvis, Chief Privacy Officer and Director of Open Government

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, Department of Commerce (DOC) FOIA Professionals attended several different types of substantive FOIA training offerings throughout Fiscal Year 2018, such as:

- **Department of Justice (DOJ) FOIA classes conducted by the DOJ’s Office of Information Programs (OIP) and hosted by DOC bureau and operating units (BOUs);**
- **Training provided by DOC and BOU FOIA offices.**

4. If yes, please provide a brief description of the type of training attended or conducted and the topics covered.



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



Specific DOJ training sessions attended by DOC FOIA Professionals included:

- The “Introduction to the Freedom of Information Act”;
- The “FOIA Litigation Seminar”;
- The “Advanced Freedom of Information Act Seminar”

Topics covered included:

- FOIA Exemptions;
- Deliberative Process Privilege;
- Privacy Act Requests;
- Fee Estimates and Fee Waivers;

Training was also conducted at both the agency and BOU levels through various forums that included topics such as:

- In-depth discussion of FOIA exemptions;
- Processing and responding to FOIA requests;
- Maintaining records electronically;
- Use of electronic redaction tools;
- Overview of agency FOIA regulations;
- FOIA best practices;
- Communicating with the public;
- Fees;
- Searches;
- Internal Communication for FOIA-related issues;
- FOIAonline updates;
- Department FOIA Regulations;
- Department FOIA Public Reference Guide;
- Handling backlogged requests;
- FOIA determination letter language;
- Time limits due to unusual circumstances;
- FOIA Improvement Act of 2016

Additionally, two FOIA training modules created by the DOJ were added to the Commerce Learning Center (the DOC’s online training portal) in FY 2017, and continue to be available and used by FOIA staff. The added training modules are: (1) FOIA for Employees; and (2) FOIA for Professionals.



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



Moreover, DOC held specialized FOIA presentations for new political appointees to introduce them to the FOIA along with DOC's FOIA processes. The training focused on the definition of a FOIA request, common types of requests received by DOC, and how to conduct record searches and provide fee estimates.

FOIA professionals and other staff from the International Trade Administration (ITA) attended in-house group and individual training sessions. Topics for the in-house group training included:

- The Department of Commerce Research Library hosted Annual FOIA Training. The Department of Justice (DOJ) presented topics such as FOIA Exemptions, Deliberative Process Privilege, Privacy Act Requests, and Litigation;**
- The DOJ, Office of Information Policy conducted training at the Census Bureau. The training covered topics included FOIA Exemptions, Fee Estimates and Fee Waivers, Litigation and DOJ Legal Structure.**

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.

An estimated average of 85% of the DOC's FOIA professionals attended substantive FOIA training during this reporting period. Percentage by BOU:

- Office of the Secretary (OS) reported 100%;**
- Bureau of Economic Analysis (BEA) reported 100%;**
- Bureau of Industry and Security (BIS) reported 100%;**
- Census Bureau (Census) reported 100%;**
- Economic Development Administration (EDA) reported 100%;**
- Economic and Statistics Administration (ESA) reported 100%;**
- International Trade Administration (ITA) reported 100%;**
- Minority Business Development Agency (MBDA) reported 100%;**
- National Institute of Standards and Technology (NIST) reported 50%;**
- National Oceanic and Atmospheric Administration (NOAA) reported 100%;**
- National Telecommunications and Information Administration (NTIA) reported 100%;**
- National Technical Information Service (NTIS) reported 30%;**
- Office of Inspector General (OIG) reported 100%; and**



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



- **United States Patent and Trademark Office (PTO) reported 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.

While overall DOC exceeded the goal of ensuring that 80% or more of its FOIA professionals attended substantive FOIA training during this reporting period, DOC seeks to ensure that 100% of its FOIA Professionals attend substantive FOIA training during the next reporting period. To this end, DOC will continue to emphasize the importance of FOIA training during quarterly DOC FOIA Council meetings and through other communications.

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, if applicable, any specific examples of how this dialogue has led to improvements in your agency’s FOIA administration.

Inspired by the success of previous programs, DOC continued its outreach by organizing the sixth annual Sunshine Week event, held March 13, 2018, between 9:00 a.m. and 12:00 noon. The event was co-hosted by the Census Bureau. The theme of the event was “As a Matter of Open Government.” The kickoff session was held at the DOC Research Library, 1401 Constitution Avenue, NW, Washington, DC 20230. On day one of the event, guest speakers spoke about Transparency: FOIA, Privacy Act, and Open Government. On day two, workshops were held on the History of FOIA and How to Make a Privacy Act Request as well as a review of previous high-profile Privacy Act cases. The event was open to federal employees, contractors and the public.

DOC continued to place an emphasis on the role of FOIA professionals to conduct outreach with the requester community. As an example, the National Oceanic and Atmospheric Administration (NOAA) scheduled a FOIA public outreach meeting, inviting members of the FOIA requester community to engage with National Oceanic and Atmospheric Administration Office of the Chief Information Officer (NOAA/CIO) leadership with the goal of identifying ways to improve NOAA’s transparency and



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



develop lessons learned. Although the outreach meeting was postponed due to the Government Shutdown, NOAA is re-scheduling the meeting for later in 2019.

D. Other Initiatives

8. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA, please indicate whether your agency has considered including FOIA-related performance standards in employee work plans for employees who have any role in administering the FOIA.

DOC and BOU FOIA offices continue to engage with non-FOIA professionals, emphasizing open communication and transparency to ensure compliance with applicable laws, regulations and obligations. For example, FOIA professionals work with non-FOIA professional from other program offices (such as DOC and BOU program staff, senior managers and Chief Information Officers) on an ongoing basis to inform them of their obligations under the FOIA. DOC and BOU FOIA Officers also stress the importance of the FOIA to non-FOIA professionals through memorandums and FOIA updates communicated to agency staff when tasking requests for fee estimates or record searches. Formal FOIA training on an as needed basis, but DOC and BOU FOIA staff are constantly available to answer questions from program staff, and always provide contact information for a FOIA professional in outgoing FOIA request assignment memos so that individuals may ask questions, as needed.

Furthermore, at the BOU level:

- **Census staff conducted FOIA training for supervisors and managers, allowing qualified individuals to satisfy mandatory yearly management credit requirements:**
 - **“Freedom of Information Act (FOIA) Requests for Title 13 Records,” a class that provided training on the FOIA laws and regulations, as they pertain to daily Census activities. Attendees were taught the agency requirements to answer FOIA requests, which may include Title 13 records. They were also taught the basic steps involved in fulfilling FOIA requests, how the Census FOIA office responds to requests that include Title 13-protected records, and the general information all employees should know about the FOIA.**



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



- **“Master the Freedom of Information Act (FOIA) Series – Part 1,” a class that provided an opportunity to familiarize attendees with various FOIA laws and regulations, as they pertain to daily Census activities. As part of the class, attendees were taught the agency requirements for answering FOIA requests, how to prepare fee estimates, how to search for and retrieve responsive records, how to respond to Privacy Act requests, the definition of proactive disclosure, the requirements for making a FOIA request, and the general information all employees should know about the FOIA.**
- **The EDA’s Chief FOIA Officer emphasizes on a regular basis the importance of FOIA to non-FOIA professionals through memorandums and FOIA updates communicated to EDA staff tasked to respond to a request. In addition, new employees are provided ad hoc training to ensure that they understand their FOIA responsibilities.**
- **ITA’s FOIA Staff makes themselves available to answer questions from program staff, and always lists a contact telephone number in its outgoing taskers so that staff tasked to respond to a request feel comfortable asking questions. ITA emphasizes open communication and transparency to ensure compliance with the applicable laws and obligations. ITA also frequently communicates FOIA program updates to ITA staff through its internal newsletter “News You Can Use.”**

Training was also conducted for the ITA, Enforcement & Compliance (E&C) business unit. The ITA FOIA team covered the FOIA process, fees, searches, use of exemptions, and internal communication for FOIA related issues.

- **The NIST FOIA staff conducts FOIA training upon request to operating units for groups and individuals. NIST Records Management presentations also include FOIA training as it relates to records retention. The FOIA staff educates the program offices as part of the tasking and fulfillment of each FOIA request. The NIST FOIA office has begun an effort to streamline and enhance the internal NIST webpage to provide better guidance on FOIA procedures.**
- **NOAA prepared templates for requester outreach and provided guidance to FOIA professionals to engage each of their requesters to answer questions regarding the impacts of the Government Shutdown on FOIA processing timelines.**



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



- **NTIA conducted training throughout the year as a part of a concerted effort to assist NTIA employees in understanding their roles and responsibilities under FOIA. NTIA also has an ad hoc office liaison group to represent each NTIA office and to assist in processing efficiency and training. This liaison group meets as needed to discuss FOIA responsibilities, discuss ongoing FOIA issues, and provide feedback to improve FOIA forms, communications and processing. NTIA also works with this group as new services and FOIA requirements are rolled out to help educate all NTIA employees regarding their FOIA obligations.**

In addition, NTIA attorneys provide information to NTIA staff regarding their FOIA obligations. NTIA developed a Q&A FOIA section on an intranet website as a resource for all employees. Once the new departmental regulations were effective, NTIA/OCC adjusted all of its forms, communications, and Q&A to comply with the new regulations.

Finally, each request for fee estimate or search includes detailed instructions regarding how to conduct a proper fee estimate and search. FOIA training materials are provided to new staff or to those employees seeking specific information regarding their FOIA obligations. NTIA/OCC attorneys regularly answer questions regarding FOIA and provide assistance when asked. NTIA also held training sessions with individual offices either by phone or face-to-face to answer questions and provide a basic understanding of employee FOIA obligations.

- **OIG continued to offer FOIA brown bag training sessions to all OIG employees. The training sessions provided an overview of the statute, informed employees of associated responsibilities, and included a question and answer segment. In addition to the structured training offered in the brown bag session, the OIG FOIA staff alerted personnel of updates as needed and maintained an open-door policy for questions related to FOIA search, production, and other issues.**
- **The PTO FOIA Office has conducted training sessions for PTO Regional Offices and has conducted Q&A panels for various groups within the Agency. Additionally, the Agency has ensured that each major business unit has a FOIA Coordinator who assists the FOIA Office in ensuring that non-FOIA professionals understand their obligations. Moreover, this year the PTO FOIA Office hosted a FOIA Coordinators meeting. Lastly, FOIA training materials are available to PTO employees on the PTO intranet.**



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



PTO requires that FOIA-related performance standards are encompassed in FOIA Coordinator performance appraisal plans.

9. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

Examples of other initiatives undertaken by DOC to ensure that the presumption of openness is being applied include:

- **The Census FOIA Office incorporated a communication strategy to ensure that all needed parties throughout Census are aware and in agreement on communication to the public on high profile FOIA cases. Previously, the Communication, Directors, and Policy Office Directorates had limited communication regarding FOIA cases other than taskers sent to them. Currently, as new high-profile cases arise, the FOIA Office communicates directly and often to these directorates so that necessary responses to the public from all communication vehicles are informative.**
- **EDA provides for joint Deputy Chief Counsel and Regional Counsel review of all items flagged for redaction or withholding under FOIA exemptions, with an emphasis on the presumption of openness.**
- **ITA regularly provides guidance to program staff on the FOIA including the presumption of openness and conducting foreseeable harm reviews.**

The ITA FOIA Team consistently works with the business units to ensure they are segregating information were possible reminding them of the presumption of openness.

The ITA FOIA Team has enhanced follow-up procedures by developing a follow-up correspondence template. The template is being used to collaborate with internal business units tasked to perform searches for FOIA requests. This enhanced procedure allows ITA to exchange timely relevant information, case statuses, and process updates from its business unit FOIA liaisons.

- **NIST promotes the deposit of scientific data arising from unclassified research and programs, funded wholly or in part by NIST, to the extent feasible and consistent with law, agency mission, resource constraints, and U.S. national, homeland, and economic security, except for Standard Reference Data, free of**



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



charge in publicly accessible databases. Subject to the same conditions and constraints listed above, NIST also intends to make freely available to the public, in publicly accessible repositories, all peer-reviewed scholarly publications arising from unclassified research and programs funded wholly or in part by NIST.

- **NOAA issued guidance to all FOIA coordinators and liaisons regarding the presumption of openness as it relates to the requirement of foreseeable harm in applying FOIA Exemption 5, and NOAA has incorporated that guidance into its regional FOIA Roundtables.**
- **NTIA continues to have a proactive openness policy with respect to agency records and informational material made available to the public through its website and social media, including blogs and press releases. For example, NTIA works diligently to post grants, contracts, other agreements, reports, key correspondence, advisory committee minutes, speeches, congressional testimony, public notices and other regulatory matters, and comments in Federal Communications Commission proceedings.**
- **OIG adheres to public posting requirements under The Inspector General Empowerment Act of 2016 for OIG products. OIG audit, evaluation, and certain other products and correspondence receive a public release review and are made publicly available on the OIG website, as appropriate, under the terms of FOIA. Available at: <https://www.oig.doc.gov/Pages/default.aspx>.**
- **PTO continues to proactively release records of interest such as government contracts (following review by submitters), notices of suit, judicial decisions of interest, and data points related to patents and trademarks. Available at: http://www.uspto.gov/ip/boards/foia_rr/index.jsp. The PTO FOIA Office always highlights the presumption of openness in its training materials and training presentations for Business Units and individual employees.**

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

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.



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



Please answer the following questions to describe the steps your agency has taken to ensure that the management of your FOIA program is effective and efficient. You should also include any additional information that describes your agency's efforts in this area.

A. Processing Procedures

1. For Fiscal Year 2018, 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 2018 Annual FOIA Report.

The average number of days for DOC to adjudicate an expedited request in FY 2018 was 10.3

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.

DOC will conduct outreach to BOU FOIA Officers to emphasize the importance of adjudicating expedited processing in fewer than 10 calendar days. The days to adjudicate requests for expedited processing will be monitored through the fiscal year to ensure that it is being reduced over time.

In addition, NOAA has already begun extracting regular reports of pending requests for expedited processing to identify any that have not been adjudicated within the 10-day timeframe.

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.

DOC used reviews of Annual Report data and quarterly metric submissions to identify trends that may point to a need to streamline and improve its processes to



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



increase the timeliness of its responses. In particular, DOC reviews the average timeframe for processing requests in the simple track, which have tended to exceed the statutory processing time limit. An analysis of such data along with discussions with DOC FOIA professionals revealed that in many cases, this is because incoming requests of higher complexity were improperly placed in the simple track.

Improvements also initially included monthly reviews of BOU ten oldest requests, as identified in the FY 2017 Annual FOIA Report, and initially, FOIA requests that have been backlogged for more than 90 days. Additional periodic meetings and assessments of DOC FOIA programs were conducted to identify areas of concern that may lead to processing delays for requests. Assessments included discussions of ways to address problem areas that may have been discovered. Another objective is to identify ways that DOC might assist a BOU with its FOIA program, if or when needed. Meetings also usually included discussions of individual cases, case load, work flow, and suggestions for process improvements.

B. Requester Services

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 2018 (please provide a total number or an estimate of the number).

Requestors sought assistance from DOC FOIA Public Liaisons approximately 21 times.

5. Please describe the best practices used to ensure that your FOIA system operates efficiently and effectively and any challenges your agency faces in this area. For example, improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents.

DOC took many steps to ensure efficient and effective operation of its FOIA system including engagement of senior management to emphasize the importance of FOIA to DOC and its BOUs. DOC also added staff, such as temporary staff on detail or contractors, to support FOIA staff in the processing of FOIA requests as well as ensuring training and improved communications with records custodians during the



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



course of processing FOIA requests as a way to resolve issues that arise when preparing fee estimates or executing a search for documents.

Examples of best practices used with DOC Bureaus include the following:

- **EDA conducts a weekly conference call with regional attorneys and headquarters FOIA professionals to discuss various topics including FOIA. This line of communication helps ensure consistency and develops best practices in the Agency's FOIA process. Additionally, EDA uploads repeat FOIA requests and responsive pages to its Reading Room.**
- **ITA launched the Tasking and Tracking (TNT) system in FY18. The TNT system allows the ITA FOIA office to task out FOIA assignments, promotes communication, and tracks the status of outstanding FOIA requests, tasks, and consultations based on the responding business units. ITA has also developed a follow-up correspondence template that is used to reach out to and communicate with the various ITA business units that have overdue requests and referrals.**
- **NIST utilizes a secure file transfer for sharing sensitive records in consultations and referrals. One challenge is that NIST does not currently have adequate software for sorting and de-duplicating records, which is done manually.**
- **NOAA has begun extracting regular reports of pending requests for expedited processing to identify any that have not been adjudicated within the 10-day timeframe.**
- **NTIA has developed and further refined the FOIA forms sent to each office and employee responding to fee estimates and searches. The forms are quick and easy for staff to complete. NTIA estimates that the use of FOIA forms has increased the response rate from staff and shortened the time needed to respond to FOIA fee estimates and searches. NTIA also developed new ways to tally responses from enterprise-wide responses to searches and to fee estimates.**
- **The OIG periodically assesses its FOIA program to find greater efficiencies, improve search processes, and eliminate redundancy.**
- **The PTO FOIA Office uses an electronic system, FOIAXpress, to manage its FOIA requests. In addition to its redaction capabilities, FOIAXpress is an effective tool for document sharing and record organization. It allows the FOIA**



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



professionals to quickly search for specific requests, requesters, and other request-related information. The PTO, Office of General Counsel has also purchased an electronic discovery management tool called Clearwell, which has advanced de-duplicating, organizing, and record searching capabilities. At this time, the USPTO FOIA Office is using Clearwell primarily for FOIA requests with voluminous responsive records.

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.

A. Posting Material

1. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material.

Examples of material DOC has proactively disclosed during the past reporting period include:

- **BEA, as a statistical agency, publishes all information legally allowable, as a general rule. As such, BEA did not have any proactive disclosures in FY 2018, nor was there a need to publicize any proactive disclosures in FY 2018: <https://www.bea.gov/>.**
- **BIS posts all finalized export violations as well as all antiboycott violations to the public website: <https://efoia.bis.doc.gov/index.php/electronic-foia/index-of-documents>.**
- **Census created a 2020 Census page as part of their FOIA Library for content related to the upcoming 2020 Decennial Census and the American Community Survey (ACS) that may be of public interest:**



U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis



https://www.census.gov/about/policies/foia/foia_library/frequently_requested_records/2020-questions-discussions.html

- EDA has proactively disclosed requests that involved grant information for various grant projects: <https://www.eda.gov/foia/disclosures/>.
- ITA has posted material including:
 - The Tariff Tool system that consolidates and distills thousands of pages of U.S. Free Trade Agreement (FTA) tariff commitments down into a simple, online database (available at <https://beta.trade.gov/fta>).
 - ACCESS is the repository for all records filed in anti-dumping and countervailing duty (AD/CVD) proceedings. ACCESS provides the capability for registered E-Filers to submit documents to the record of an AD/CVD proceeding and it allows the public to view public versions of all documents submitted (available at <https://access.trade.gov/login.aspx>; free registration).
- NOAA has posted material including:
 - Comprehensive Hurricane coverage spanning the entire National Hurricane Data Archive. This combined expansive data trove proved indispensable, and provided the public, news media, and incident responders with a massive library of proactively disclosed material to aid in Hurricane prediction, tracking, and response during the critical Hurricane season of 2018. This data library includes:
 - Tropical Cyclone Reports (<http://www.nhc.noaa.gov/data/#tcr>);
 - Tropical Cyclone Advisories (<http://www.nhc.noaa.gov/data/#advisories>);
 - Graphical Tropical Weather Outlook (<http://www.nhc.noaa.gov/data/#gtwo>);
 - Marine and Advisory Text Products (<http://www.nhc.noaa.gov/data/#text>);
 - Marine Graphical Products (<http://www.nhc.noaa.gov/data/#marine>);
 - Best Track Data (<http://www.nhc.noaa.gov/data/#hurdat>);



U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis



- Past Track Seasonal Maps
(http://www.nhc.noaa.gov/data/#tracks_all);
- Past Track Maps of U.S. Landfalling Major Hurricanes
(http://www.nhc.noaa.gov/data/#tracks_us);
- Tropical Cyclone GIS Data Format
(<http://www.nhc.noaa.gov/data/#gis>);
- Tropical Cyclone “Storm Wallet” Electronic Archive
(<http://www.nhc.noaa.gov/data/#wallet>);
- Tropical Cyclone Monthly Summary Archive
(<http://www.nhc.noaa.gov/data/#monthly>);
- Tropical Cyclone Annual Summaries from 1872-2006
(<http://www.nhc.noaa.gov/data/#annual>);
- Seasonal Outlooks
(<http://www.nhc.noaa.gov/data/#outlooks>);
- Cyclone Climatology
(<http://www.nhc.noaa.gov/data/#climo>);
- Forecast Verification
(<http://www.nhc.noaa.gov/data/#verif>);
- Aircraft Reconnaissance Archive
(<http://www.nhc.noaa.gov/data/>);
- Reports of Cyclones by Death Rate, Cost, and Intensity
(<http://www.nhc.noaa.gov/data/#extreme>); and
- Hurricane Histories
(<http://www.nhc.noaa.gov/data/#cphc>).
- Weather and Climate Data
(<http://www.ncdc.noaa.gov/>).
- Ocean Data
(<http://www.nodc.noaa.gov/>).
- Coastal Data
(<http://www.ncddc.noaa.gov/>).
- Geophysical Data
(<http://www.ngdc.noaa.gov/>).
- Fisheries Data across the:
 - Alaska
(<http://www.alaskafisheries.noaa.gov/>);
 - Greater Atlantic
(<http://www.greateratlantic.fisheries.noaa.gov/>);
 - Pacific Island
(<http://www.fpir.noaa.gov/>);



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



- Southeast and Caribbean Island
(<http://sero.nmfs.noaa.gov/>),
- and West Coast regions
(<http://www.westcoast.fisheries.noaa.gov/>)

As well as: Program-related data, scientific research, observer program data, National Marine Mammal Laboratory information, Habitat and Ecological Process data, and International Research data. Programmatic information is routinely released regarding: Sustainable Fisheries, Protected Resources, Habitat Conservation, Science and Technology and Data Portals International Affairs and Seafood Inspection, Law Enforcement, and Aquaculture.

(<http://www.nmfs.noaa.gov/>).

- Nautical Charts and the NOAA Coast Survey data
(<http://oceanservice.noaa.gov/facts/find-charts.html>),
- NOAA Tides and Currents Data from the Center for Operational Oceanographic Products and Services
(<http://oceanservice.noaa.gov/facts/find-tides-currents.html>),
- Marine Debris
(<http://oceanservice.noaa.gov/hazards/marinedebris/>)
- Infographic representations
(<http://oceanservice.noaa.gov/infographics/>)
- Story Maps
(<http://oceanservice.noaa.gov/map-stories/welcome.html>).
- National Weather Service Alerts
(<http://www.weather.gov/alerts>),
- Forecast Maps
(<http://www.weather.gov/forecastmaps>),
- Doppler Radar National Mosaic
(<http://www.weather.gov/Radar>),
- River, Lake, and Rainfall data
(<http://water.weather.gov/ahps/>),
- Air Quality
(<http://airquality.weather.gov/>),
- Satellite Images
(<http://www.weather.gov/satellite>),
- and past weather data
(<http://www.weather.gov/climate>).



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



- **Marine and Aviation Operations Accident Investigations and Lessons Learned, including Safety News, Diving Incident Reports, Environmental Spill Reports, and Marine Investigations and Lessons Learned (<https://www.oma.noaa.gov/learn/small-boat-program/media/articles/small-boat-safety-lessons-learned>).**
- **NOAA Research activities, including NOAA Research Laboratories, National Sea Grant College Programs, NOAA Office of Ocean Exploration and Research, NOAA Climate Program Office, Office of Weather and Air Quality, NOAA Unmanned Aircraft Systems, and NOAA Ocean Acidification Programs (<http://research.noaa.gov/AboutUs/WhoWeAre.aspx>).**
- **NTIA has posted material including:**
 - **Additional records regarding its State Local Implementation Grant Program (SLIGP) grants. On this page, for each grant recipient, NTIA continues to post documents, amendments, reports, and other information regarding these grants. (See: <https://www.ntia.doc.gov/slignp/slignp-awards>) Posting the SLIGP records involves a concerted effort to review each document and discuss with the recipient whether the document should be posted in its entirety or redacted for business confidential and/or personal private information.**
 - **Information regarding its efforts to implement the State Alternative Plan Program (SAPP) to help states and territories understand what a decision to opt out of the First Responder Network Authority (FirstNet) proposal would mean and what would be available if they decide to opt out of the FirstNet proposal. The SAPP page includes presentations made around the country on this subject in FY2018, Federal Register notices, and background information. (See: <https://www.ntia.doc.gov/sapp>)**
 - **Filings, reports, speeches, testimony, Federal Register notices, and correspondence. (See: <http://www.ntia.doc.gov/publications>)**
- **OIG has posted material including:**
 - **Semi-annual reports to Congress, audit, evaluation, and certain investigative reports, the OIG top management challenges report on issues facing the Department, congressional testimony, and information on current and planned activities. These materials can be found at: <http://www.oig.doc.gov/Pages/default.aspx>.**



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



- **PTO has posted material including:**
 - **Large numbers of records related to patents and trademarks, including applications, available through proactive disclosures.**
 - **Documents filed by applicants or PTO official actions with respect to these applications are typically filed electronically and are available to the public through means such as PTO websites.**
(See: http://www.uspto.gov/ip/boards/foia_rr/index.jsp)
- 2. Describe how your agency identifies records that have been requested and released three or more times (required to be proactively disclosed pursuant to 5 U.S.C. § 552 (a)(2)(D)).

Yes. DOC uses methods such as news releases and social media to highlight proactive disclosures for public awareness. For example, some BOUs use social media, traditional media, and email subscriptions, as well as post items in press releases and on blogs. Other ways that specific BOUs publicize or highlight important proactive disclosures for public awareness include the following:

- **ITA proactively publicizes important disclosures on ITA websites, trade.gov and export.gov. In collaboration with the Office of the U.S. Trade Representative, ITA publishes text and datasets for important trade agreements that impact commercial industries. ITA continues to seek opportunities to expand disclosures of this nature with a focus on transparency and openness.**
- **NOAA routinely pulls reports of all incoming requests and distributes them to the FOIA Liaisons for each affected office so they can review upcoming processing obligations and identify frequently requested records for potential proactive disclosure. These reports are distributed monthly and highlight requests that are of significant public interest, which may be requested multiple times.**
- **BIS reviews each incoming FOIA requests and periodically performs assessments of frequently requested records.**
- **Census creates a list of all active FOIA cases that is furnished to upper management on a weekly basis. An analyst reviews these lists regularly for requests for the same or similar records. If three or more requests are identified, upper management is informed, and the records are posted to the Census FOIA Public Library.**



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



- **NIST has a media policy that includes providing the news media proactive immediate access to information whenever possible, if that information is covered by FOIA. Individual program offices are responsible for routinely identifying records that are appropriate for posting.**
 - **NTIA identifies records that are likely of interest to the public, including grants, contracts, other agreements, reports, key correspondence, advisory committee minutes, speeches, congressional testimony, public notices and other regulatory matters, and comments in Federal Communications Commission proceedings, and proactively posts those records on the NTIA website. NTIA/OCC works with NTIA program offices, Office of Public Affairs, Office of Congressional Affairs, and the NTIA webmaster to ensure that records of public interest are routinely made available on NTIA's website.**
 - **OIG's FOIA staff monitors the scope of FOIA requests to help identify records that have been frequently requested and has proactively disclosed frequently requested records under FOIA in past years. These records can be found at <http://www.oig.doc.gov/Pages/FOIA-Electronic-Reading-Room.aspx>. For the reporting period, the OIG did not identify any records that were requested and released three or more times under FOIA to require posting under this provision.**
 - **PTO FOIA professionals identify frequently requested records based on their knowledge about what FOIA requests have been made, including regular reviews of FOIA logs and discussions at FOIA Office meetings concerning trends and regularly requested records.**
3. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?

Yes. DOC encourages BOUs to put processes in place to identify ways to make posted information more useful to the public, including identifying records for proactive disclosure. As an example, some BOUs work with representatives from their Office of Congressional or Public Affairs to become familiar with current hot topic issues. Some BOUs also routinely post in-depth reports, fact sheets, and briefings on policy issues and current economic events. American businesses, state and local governments, and news organizations around the world often use this



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



material, which is made available via appropriate websites and, in some cases, through email subscriptions.

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

DOC also uses the FOIAonline system to make it easier for agency FOIA professionals to both identify and post records, as well as for the public to access information that has been included with releases. FOIAonline is an electronic tracking and processing tool developed as a partnership of federal agencies, which allows anyone to submit a FOIA request, correspond with FOIA professionals processing the request, track the status of a request, and download the responsive documents once they are released to the requester.

DOC FOIA offices also discuss with other program offices what proactive disclosures might be useful and appropriate for DOC stakeholders. Such conversations are always ongoing. FOIA offices also continually welcome feedback on the content and presentation of posted material and regularly review the posted information to ensure that it is clearly presented to the public.

Examples of other improvements include:

- **The EDA FOIA Officer continues to communicate to attorneys and FOIA professionals that if any frequently requested document needs to be posted to EDA's website, the EDA FOIA Officer will review the document(s) and then forward to EDA's IT team to upload on the Agency's website. The Agency will upload the document(s) to the FOIAonline system as well for public viewing. In addition, the Agency's EDA FOIA Officer has had discussions with regional offices as to what proactive disclosures might be useful and appropriate for EDA stakeholders.**
- **Currently, ITA's public-facing FOIA specific site provides information about the bureau and information requests. ITA's public-facing webpage ties to the Commerce OPOG website where requesters can access Frequently Requested Records and view Privacy Act System of Records Notices.**
- **NOAA has aligned the FOIA Program under the Chief Data Officer (CDO), which brings the program within the division that also handles Privacy and Open Government. This alignment of the FOIA Program within CDO has brought NOAA's FOIA goals within the OCDO Strategic Framework for improving data accessibility and innovation through NOAA data sets. This**



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



has resulted in a renewed focus on developing cloud-based platforms for data sharing, common-data storage and access, and integration into the larger NOAA Data Strategy.

- NTIA regularly uses various methods to ensure that its audience is aware of its programs and work, including regular blog posts (<https://www.ntia.doc.gov/blogs>), press releases (<https://www.ntia.doc.gov/newsroom>), and social media such as Twitter (@NTIAgov). These media tools point back to information and records posted on NTIA's website.
- The USPTO has made available to the public a variety of data products concerning patents and trademark data. These include bulk data products about patents and trademarks and graphical tools that provide visual displays derived from patents data.

B. Other Initiatives

5. If there are any other steps your agency has taken to improve proactive disclosures, please describe them here. For example, has your agency engaged requesters in determining how and what to post? Has your agency used web analytics to inform your proactive disclosures?

DOC BOU FOIA Officers regularly discuss this issue with their management and program staff and encourage proactive disclosures of records, in an effort to widely disseminate information of public interest in pursuit of its openness policy. DOC also monitors trends in requests to help determine those records that should be proactively disclosed.

Furthermore, absent a strong business need or privacy concern, each FOIA disclosure by DOC is made publicly available without the need for a case-by-case determination of public interest. This has significantly decreased repeat FOIA request submissions for some BOUs, and improved requester awareness of activities by DOC FOIA professionals.

Additional examples from BOUs include:

- The Census Bureau has taken steps to create additional sections and pages on our FOIA public website that identify public disclosures more clearly and easily. By creating sections in their FOIA Library for frequently requested



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



topics like the “2020 Census,” “American Community Survey,” and other frequently related topics, this makes it easier for requesters to locate information.

- **NIST maintains more than 100 email alert topics that allow members of the public to be proactively notified when new information is available on a subject of interest to them. These lists are very popular. More than 245,000 people subscribed to these email lists as of February 2019. All news items published to the NIST website are also highlighted on our several social media platforms: Twitter, Facebook, Instagram, LinkedIn.**
- **NOAA, along with the other Bureaus within the Department of Commerce, utilizes FOIAonline as its FOIA processing platform. That has allowed for custom report extractions to improve identification of requested records amendable to proactive disclosure. Similarly, when multiple requesters seek requests that are overlapping—but not identical—NOAA has made the determination in several cases to conduct a single, overarching search that would produce all responsive records to the requester group at large, and disclose all of the records through FOIAonline so that the entire public can benefit from the largest balance of all responsive records on a subject that is of public interest.**

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.

A. Making material Posted Online More Usable

1. Is your agency leveraging technology to facilitate efficiency in conducting searches, including searches for emails? If so, please describe the type of technology used. If not, please explain why and please describe the typical search process used instead.

DOC works to identify best practices to leverage new and existing technologies to facilitate overall FOIA efficiency. For instance, many BOU FOIA offices have created and granted access to certain document sharing platforms to make it easier to share large documents. Other offices have purchased electronic discovery



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



management tools to de-duplicate and process voluminous record collections. FOIA offices have also fully embraced electronic processing of records, whenever possible, including sending correspondence via e-mail unless specifically requested otherwise by a requester. Search taskers and fee estimate taskers are sent to offices electronically, and completed forms and records are routinely returned in the same fashion, improving efficiency and conserving resources.

FOIAonline is used to share documents among FOIA staff in participating agencies, which is particularly useful for consultations and referrals. A secure file sharing application is also routinely used to transmit documents containing personally identifiable information (PII) or other sensitive information within the DOC, BOU, or with other Federal agencies.

NOAA is currently leveraging the Veritas Platform for eDiscovery processing, deduplication, and record extraction. Most recently, NOAA undertook the initiative to advance eDiscovery processing as an enterprise service, instead of a single-license-based solution in individual offices. An enterprise eDiscovery solution is expected later in 2019. Additionally, NOAA utilizes a centralized email repository search capability, with the Unified Messaging Service, to conduct searches where a single topic is being sought across large groups of email repositories or multiple staff and/or offices.

NTIA worked this year to improve the response forms for fee estimates and searches, in order to improve efficiency, cut employee time to respond, make their responses easier and clearer, and increase the employee response rate. This was a concerted effort to recode the forms, test, and seek feedback from the office liaisons. The end-product is a much improved, easy-to-use tool improving our FOIA processes.

NTIA also established an agency-wide shared drive folder with security capability to allow employees to upload responsive records. These records are only accessible by FOIA staff to protect the records, including those that may contain business confidential information or personal private information. This shared drive was necessary as NTIA began using laptop computers without optical drives, and therefore can no longer produce or use CDs.

B. Other Initiatives



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



2. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in IOP's guidance on FOIA websites?

Yes, DOC reviewed its FOIA website during the reporting period to ensure it addressed the elements noted in IOP's guidance on FOIA websites.

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2018?

Yes, all four of the DOC's quarterly reports for Fiscal Year 2018 have been posted and can be found at:

http://www.osec.doc.gov/opog/FOIA/FOIA_reports_quarterly.html

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 2019.

Not applicable.

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 2017 Annual FOIA Report and, if available, for your agency's Fiscal Year 2018 Annual FOIA Report.

The raw data for DOC's Fiscal Year 2017 and 2018 Annual Report can be found at:
http://www.osec.doc.gov/opog/FOIA/FOIA_reports_annual.html

6. Please describe the best practices used in greater utilizing technology and any challenges your agency faces in this area.

Additional examples of how DOC is improving FOIA processing through use of technology include:

- **EDA utilizes a manual Microsoft Excel FOIA log spreadsheet in addition to using the FOIAonline system as an additional tool to process and track all FOIA requests efficiently.**
- **ITA is working with contractors to develop more sophisticated data visualizations (i.e., dashboards) and analytical reporting, using Tableau software, to improve the overall FOIA program operations.**



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



- **NOAA relied on its Unified Messaging Service search capability to increase Bureau-wide searches, and extract responsive records across large groups of employees, regions, offices, and in some cases, across all of NOAA. This allowed NOAA to carry out searches in cases where searches by individuals would be impractical or would result in onerous search times.**

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 2018 Annual FOIA Report and, when applicable, your agency's 2017 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? If your agency uses a multi-track system beyond simple, complex, and expedited to process requests, please describe the tracks you use and how they promote efficiency.

Yes. DOC utilizes a separate track for simple requests.

2. If so, for your agency overall in Fiscal Year 2018, was the average number of days to process simple requests twenty working days or fewer?



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



No. The overall average number of days to process simple requests was 82.25 days for DOC.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2018 that were placed in your simple track.

The percentage of requests processed by DOC in Fiscal Year 2018 that were placed in a simple track was 51.72.

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?

Not applicable.

B. Backlogs - Requests

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 2016 and Fiscal Year 2017 when completing this section of your Chief FOIA Officer Report.

5. If your agency had a backlog of requests at the close of Fiscal Year 2018, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2017?

No, the backlog of requests for DOC at the close of Fiscal Year 2018 (572) increased as compared with the backlog reported at the end of Fiscal Year 2017 (294). DOC's backlog increased by 95% in Fiscal Year 2018 after experiencing an increase over the two previous fiscal years.

6. If not, did your agency process more request during Fiscal Year 2018 than it did during Fiscal Year 2017?

No, the number of requests processed in Fiscal Year 2017 was 2,106 and in Fiscal Year 2018 was 1,976.



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



7. If your agency's backlog increased, explain why. 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.

Contributing factors to the DOC FOIA backlog increase included: a) an increase in the number of incoming requests, b) a loss of staff, c) the government shutdown in January 2019, and d) an increase in the complexity of the requests received.

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 2018. (Calculation: (Number of backlogged requests from FY2018 divided by Number of requests received in FY 2018) x 100.

The percentage of requests that make up the backlog out of the total number of requests received by DOC in Fiscal Year 2018 is 25.2%.

C. Backlogs – Appeals

9. If your agency had a backlog of appeals at the close of Fiscal Year 2018, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2017?

No. The backlog of appeals for DOC increased from 38 at the end of Fiscal Year 2017 to 82 at the close of Fiscal Year 2018.

10. If not, did your agency process more appeals during Fiscal Year 2018 than it did during Fiscal Year 2017?

No. DOC processed 103 appeals in Fiscal Year 2017 and 66 appeals in Fiscal Year 2018.



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



11. If your agency's appeal backlog increased, explain why. 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.

The primary contributing factors to the increase in DOC's appeal backlog were the loss of staff members, an increase in the number of appeals filed that are due to constructive denial, and an extremely large increase in FOIA litigation. (The number of FOIA cases pending increased from 38 at the end of Fiscal Year 2017 to 82 at the end of Fiscal Year 2018.)

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 2018. If your agency did not receive any appeals in Fiscal Year 2018 and/or has no appeal backlog, please answer with "N/A." (Calculation: (Number of backlogged appeals from FY 2018 divided by Number of appeals received in FY 2018) x 100.

The percentage of appeals received in Fiscal Year 2018 that were backlogged by the end of Fiscal Year 2018 is 57%.

D. Backlog Reduction Plans

13. Last year, any agency with a backlog of over 1,000 requests in FY 2017 was asked to provide a backlog reduction plan. 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 2018?

In Fiscal Year 2017, DOC had a backlog of 294, so the Agency was not required to provide and implement a backlog reduction plan.

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2018, what is your agency's plan to reduce this backlog during Fiscal Year 2019?



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



Not applicable.

E. Status of Ten Oldest Requests, Consultations, and Appeals

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 2017 and Fiscal Year 2018 when completing this section of your Chief FOIA Officer Report.

. TEN OLDEST REQUESTS

15. In Fiscal Year 2018, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2017 Annual FOIA Report?

No. DOC did not close the ten oldest requests that were reported pending in its Fiscal Year 2017 Annual FOIA Report.

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 2017 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

Five of DOC’s ten oldest requests, as listed in Section VII.E of its Fiscal Year 2017 Annual FOIA Report, were closed in FY 2018.

17. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?

One of the five requests was closed because the request was withdrawn by the requester. No interim responses were provided prior to the withdrawal.

18. Beyond working on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests.



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



DOC and all BOUs analyze metrics quarterly to assess progress towards annual goals, including the backlog and the status of the ten oldest pending requests, appeals, and consultations. Areas that need improvement are discussed with BOUs and best practices are identified to facilitate closure of as many requests as possible throughout the fiscal year.

. TEN OLDEST APPEALS

19. In Fiscal Year 2018, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2017 Annual FOIA Report?

No.

20. 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 VI.C.(5) of your Fiscal Year 2018 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

DOC closed only 2 of its 10 oldest FOIA Appeals that were pending at the end of Fiscal Year 2017

21. Beyond working on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.

A “still interested” letter was sent to two of the requesters. Responses are nearing completion for 5 of the 10 oldest FOIA Appeals that were pending at the end of Fiscal Year 2017.

. TEN OLDEST CONSULTATIONS

22. In Fiscal Year 2018, did your agency close the ten oldest pending consultations that were reported pending in your Fiscal Year 2017 Annual FOIA Report?

No. DOC did not close the ten oldest consultations that were reported pending in its Fiscal Year 2017 Annual FOIA Report.



U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis



23. 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 2017 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

Four of DOC’s ten oldest requests, as listed in Section XII.C of its Fiscal Year 2017 Annual FOIA Report, were closed in FY 2018.

F. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans

24. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2017.

For requests, obstacles in closing its 10 oldest included receipt of voluminous requests that required extensive searches, or required consultations with multiple other Federal agencies.

For consultations, the main obstacle was staffing and resources. All of the oldest consultations were pending with ITA.

The oldest appeal requires referral of nearly every sentence of hundreds of pages to different agencies.

25. 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
- Date when your agency sent the consultation
- Date when you last contacted the agency where the consultation was pending.

Not applicable.

26. 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 2019.



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



For requests: To ensure appropriate priority is given to the ten oldest requests, DOC FOIA leadership will communicate directly on a monthly basis with BOU FOIA Officers to discuss their oldest backlogged requests, along with assisting with making concrete plans to close them. Additionally, the outstanding ten oldest requests will be reviewed during DOC FOIA Council meetings.

For consultations: DOC FOIA leadership will communicate directly on a monthly basis with BOU FOIA Officers to discuss their oldest backlogged consultations, along with assisting with making concrete plans to close them. Additionally, the outstanding ten oldest consultations will be reviewed during DOC FOIA Council meetings.

For appeals:

Five of the ten oldest appeals were well on their way towards completion at the end of Fiscal Year 2018. We will continue to process them until completion is attained.

VI. SUCCESS STORIES

Out of all the activities undertaken by your agency since March 2018 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 2019. 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 Department of Commerce has received approximately 50 requests, directed to the Department or specifically to the Census Bureau, related to the proposed reinstatement of the citizenship question on the 2020 Census, along with at least 8 associated litigation matters pursuant to FOIA, the Administrative Procedure Act, and the Constitution. Requesters were informed that a record was being compiled. Subsequently, the administrative record (1,332 pages) and two supplements to the administrative record (totaling 11,147 pages plus spreadsheets that, if printed out, would total 67,622 pages) were proactively published in the Department's electronic FOIA reading room, containing a comprehensive compilation of electronic records regarding the citizenship question in the



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



possession of the Secretary, his advisors, and the advisors to the Secretary's advisors. Litigants, the court, and FOIA requesters were all referred to the proactive disclosure for the complete records, and the FOIA requests were efficiently closed out.

BEA continues to improve their website to increase data availability and improve data usability for the public.

Census believes that keeping abreast of the latest FOIA educational material is critical to the success of a FOIA program. It allows for efficiency and better communication on consults, referrals, and appeals. Although the Department of Justice gives several classes a year on FOIA and the Privacy Act, Census realized that it was hard to get into these classes because of limited seating. Census reached out to the Department of Justice to host a FOIA training session at Census for Department of Commerce employees so that all DOC employees could take advantage of updated information to help everyone with their FOIA cases. The first training was held in March with 20 participants from the Department of Commerce attending. FOIA staff were able to ask questions related to their FOIA requests which helped them tremendously. The Census FOIA Office has already coordinated a second annual training for Commerce employees that will be held sometime in May 2019.

For the second consecutive year, EDA used FOIAonline metrics to create their portion of the Fiscal Year 2018 FOIA Annual Report. When technical problems with the accuracy of the FOIAonline metrics occurred, EDA's small size was leveraged to quickly identify the causes of the technical problems. After the corrections were made, the system made reporting easier and more accurate. EDA's and other agency's work to de-bug FOIAonline saved other, larger DOC bureaus the time and effort necessary to identify and fix the problems themselves. Additionally, EDA was able to close out all of its FOIA requests this year. EDA did not have any pending requests at the end of Fiscal Year 18. EDA does not have full time FOIA personnel but the teamwork and dedication that each employee contributes helps their agency FOIA program run smoothly and keeps our FOIA metrics in good stead.

ITA launched the Tasking and Tracking (TNT) system. The TNT system allows the ITA FOIA office to task out FOIA assignments, promotes communication, and track the status of outstanding FOIA requests, tasks, and consultations based on the responding business units. ITA developed a follow-up correspondence template that is used to reach out to and communicate with the various ITA business units that have overdue request and referrals. ITA developed a fully encompassing Standard Operating Procedure (SOP) that covers the FOIA program from exemptions, revisions, references, ITA responsibilities, communication, procedures/processes, fees, reporting requirements, records, etc.



**U.S. Department of Commerce
2019 Chief FOIA Officer Report
Chief FOIA Officer
Catrina D. Purvis**



In FY 18, NIST was able to close 4 of the 10 oldest FOIA requests, which were extremely voluminous.

NOAA has begun a FOIA Roundtable open discussions for FOIA Professionals, Privacy Professionals, Subject Matter Experts, IT Staff, and the General Counsel. The purpose of the roundtable is intended to allow NOAA staff across different regions, offices, and areas of expertise an opportunity to discuss lessons learned in FOIA processing, record-keeping, foreseeable harm, and exemption applicability. This has allowed each phase of the FOIA process to hand off better in the next step of processing. NOAA also ramped up its requester outreach initiatives and scheduled a public forum with members of the requester community. NOAA invited members of the news media, University educators, NGOs, and other stakeholders who had previously submitted FOIA requests to come and discuss with NOAA leadership improvement areas where NOAA can advance its obligations of transparency while protecting exempt information. Although the forum was postponed due to the Government shutdown, NOAA is rescheduling the forum for later in 2019.

Through a focused effort by NTIA, including hiring a contractor and the use of legal interns, over a period of several years, NTIA was able to eliminate its backlog during FY17. Through this considerable, consistent effort NTIA has stayed on top of its FOIA caseload and enjoys a minimal backlog to date, most of which has been closed since the end of FY18.

During the reporting period, the OIG conducted a second annual brown bag FOIA training, which was offered in-house to all OIG employees. One hour of Continuing Professional Education (CPE) credit was offered for this training. The training was designed to convey participants' responsibilities and roles as federal employees with respect to FOIA implementation, particularly with respect to the efficiency and productiveness of records searches.

PTO highlights its continued record of timeliness when responding to FOIA requests and for having minimal backlog. The FOIA Office has also made particular efforts this past year to increase its oral and written communications with requesters and with the business units within the Agency. Additionally, the FOIA Office has increased its outreach to the Business Units within PTO.