

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Chief FOIA Officer Report



Office of Support Operations

March 11, 2022

High-Volume Agencies Receiving More Than 50 Requests in FY20

Content of 2022 Chief FOIA Officer Reports

Section 1: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying DOJ's [FOIA Guidelines](#) is the presumption of openness.

Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

A. FOIA Leadership

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at the Assistant Secretary or equivalent level. *See* 5 U.S.C. § 552(j)(1) (2018). Is your agency's Chief FOIA Officer at this level?

Yes.

2. Please provide the name and title of your agency's Chief FOIA Officer.

Olivier Girod, Director, Office of Support Operations

B. FOIA Training

3. The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. *See* 5 U.S.C. § 552(a)(j)(2)(F). Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.

The FOIA Office organizes in-house training each year on emerging issues and refresher topics. Topics covered during the reporting period included fee waivers, complex track requests, and FOIA Exemption 5. In addition, full-time FOIA staff are encouraged to attend outside training, such as that offered by the Department of Justice and the American Society of Access Professionals.

4. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend substantive FOIA training during the reporting period such as that provided by the Department of Justice?

Yes.

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

Within the reporting period, SEC FOIA professionals attended training/events that included the following:

- Chief FOIA Officers Council Meeting held on April 29, 2021;
- In-house training focusing on protecting whistleblower information;
- DOJ OIP – Virtual Continuing FOIA Education
- DOJ OIP – Virtual Freedom of Information Act Litigation Seminar
- OFS Annual FOIA Training (February and December 2021)
- OIP’s Virtual Best Practices Technology Workshop
- OIP’s Virtual Workshop and Q&A Session on FOIA.gov Interoperability
- OIP’s Virtual Continuing FOIA Education – New Judicial FOIA Decisions (Litigation Seminar)
- OIP’s Virtual Privacy Considerations Workshop
- 26th Annual AINS User Conference
- Electronic Discovery Symposium for Government Agencies
- FOIA Advisory Committee (FACA) Meeting

6. Please provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

100% of the SEC’s full-time FOIA staff attended substantive FOIA training.

7. OIP has **directed agencies** to “take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year.” If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency’s plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

N/A

8. Did the personnel at your agency who have FOIA responsibilities attend training in federal records management during this reporting period?

Yes. All SEC staff are required to complete a one-hour records management course each year.

C. Outreach

9. Did your FOIA professionals engage in any outreach or dialogue, outside of the standard request process, with the requester community or open government groups regarding your administration of the

FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency's FOIA administration.

Throughout the reporting period, the Office of FOIA Services (OFS) staff regularly engaged the SEC FOIA requester community in order to better understand their requests and to assist in timely processing. Due to the challenges presented by COVID-19, OFS's outreach efforts and interactions with its requester community have increased. These interactions with requesters provided insight into their priorities so that responses could be tailored to best suit their needs. OFS staff responded to a public inquiry regarding definitions and information concerning SEC FOIA disposition codes for request closures which led to further analysis and refinement of our FOIA nomenclature. Further, staff participated in a meeting hosted by OGIS to respond to survey questions assessing agency inclusion of FOIA in their annual Agency Performance Plans. This survey was the result of a recommendation from the 2018-2020 term of the FOIA Advisory Committee.

D. Other Initiatives

10. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe:

- how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff; and
- if senior leaders at your agency received a briefing on your agency's FOIA resources, obligations and expectations during the FOIA process?

SEC FOIA liaisons within the components of the SEC are required to annually review the SEC's "FOIA and Privacy Act Request Processing Guidance for Liaisons." This guidance is posted to the SEC's intranet and describes the basic processes and procedures for FOIA liaisons and other SEC staff so that they might better assist the FOIA office in processing requests. Revisions are periodically made to the guidance to address changing law and OIP guidance.

During the reporting period, OFS collaborated with the Office of the Whistleblower and the Office of the General Counsel to develop whistleblower training which was presented virtually to all OFS staff and SEC FOIA Liaisons in April. The training is meant to be a reminder to staff how to: (1) better identify records containing whistleblower-identifying information, and (2) mitigate the inherent risks associated with transmitting and processing such records in response to FOIA requests.

At the request of the Denver Regional Office (DRO), OFS provided FOIA training to DRO ENF staff in December. The training session included a brief FOIA overview and discussion of the various FOIA responsibilities shared by all SEC employees and contract personnel. The training agenda was tailored to address the specific issues that DRO Division of Enforcement staff encounter on a regular basis when

working on FOIA matters. The new Fort Worth Regional Office (FWRO) FOIA liaison also attended the training.

The SEC's intranet also provides links to the "DOJ Executive Briefing on the Freedom of Information Act" (<https://www.justice.gov/opa/video/department-justice-executive-briefing-freedom-information-act-foia>) and the DOJ OIP training page (<https://www.justice.gov/oip/training>).

SEC staff are encouraged to contact OFS staff for any FOIA related issues or questions.

The SEC's Chief FOIA Officer and Chief Operating Officer are regularly briefed on the SEC's resources, and expectations related to FOIA processing.

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

In recognition of "Sunshine Week" in March 2021, the Office of the Chair issued a notice to all SEC staff which highlighted the need for transparency and the importance of open government as a core democratic ideal.

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

DOJ's [FOIA Guidelines](#) emphasize that "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies effectively manage their FOIA program.

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

1. For Fiscal Year 2021, 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 2021 Annual FOIA Report.

The average number of days for adjudicating requests for expedited processing was 2.94.

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2021 Annual FOIA Report, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

N/A

3. The FOIA Improvement Act of 2016 required all agencies to update their FOIA regulations within 180 days. In 2016, OIP issued Guidance for Agency FOIA Regulations and the accompanying Template for Agency FOIA Regulations to assist agencies in updating their regulations in accordance with the statute. Has your agency updated its FOIA regulations in accordance with the FOIA Improvement Act of 2016? If not, what is your agency's plan to update your regulations?

Yes. In June 2018 the SEC amended its FOIA regulations to conform to the FOIA Improvement Act.

4. Standard Operating Procedures (SOPs) generally document your agency's internal processes for administering the FOIA beyond your FOIA regulations and FOIA Reference Guide. As noted in OIP's [guidance](#), having SOPs can improve the consistency and quality of an agency's FOIA process. SOPs can also serve as a significant resource for incoming FOIA professionals and a way to preserve much of the agency's institutional knowledge on administering the FOIA from how to handle requests from start-to-finish, to identifying and making proactive disclosures, to maintaining a FOIA website. Does your agency have up-to-date internal SOPs for your FOIA administration?

Yes. The SEC maintains and regularly updates processing guidance for SEC FOIA liaisons within all program offices. This guidance is located on the SEC's internal FOIA webpage and is accessible to all SEC staff. Further, OFS maintains numerous policy memoranda related to various FOIA processing issues. The memoranda act as guidance for OFS staff. As necessary, new policy memoranda are implemented, obsolete memoranda are removed and existing memoranda are amended.

5. If not, please provide a timeline for when your agency plans to develop or update its SOPs.

N/A

6. Has your agency established alternative means of access to first-party requested records outside of the FOIA process?

Yes.

7. If yes, please provide examples. If no, please explain if such opportunities exist at your agency and whether there are any challenges in establishing alternative means of access.

The SEC's website allows for submission of first party requests. First party requests received by the SEC are assigned tracking numbers indicating that processing will be initiated under the Privacy Act. To the extent that the records are not exempt under the Privacy Act, access will be granted to a first party request. First party requests are processed under both the FOIA and the Privacy Act to provide maximum access to records.

8. Did your agency conduct a self-assessment of its FOIA administration during the reporting period? If so, please describe the self-assessment methods used, such as analyzing Annual Report or raw data, using active workflows and track management, reviewing and updating processing procedures, etc. In addition, please specifically highlight any data analysis methods or technologies used to assess your agency's FOIA program.

The SEC relies upon quality control metrics that are constantly monitored and assessed. These metrics allow for more timely responses to requests for expedition and fee waivers, monitoring the backlog, managing staff workflows, more efficient complex track processing, and making adjustments in resource allocation and staff utilization to increase and manage production. OFS generates monthly reports that include statistical analyses, which provide the ability to compare and contrast with prior reporting. The OFS management team continuously examines the FOIA process at the SEC to improve efficiency and to ensure compliance.

9. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2021 (please provide a total number or an estimate of the number).

Although OFS does not track this information, it is estimated that contact with SEC FOIA Public Liaisons occurred on ten (10) or fewer occasions. OFS includes an addendum page to response letters which notifies requesters of OGIS's dispute resolution services and the services provided by agency FOIA Public Liaisons. Additionally, SEC FOIA Professionals comprise the SEC's FOIA Requester Service Center and routinely receive inquiries for assistance from requesters regarding their requests or the FOIA in general.

10. Has your agency reviewed its FOIA-related staffing capabilities to identify resources needed to respond to current and anticipated FOIA demands?

Yes. OFS continually assesses resource allocation and staff utilization based on FOIA demand, making adjustments as necessary. The OFS management team is aware that monitoring and addressing FOIA staffing levels is of paramount importance to maintaining efficiency and ensuring compliance. In addition to full time staff, OFS utilizes contractor staff to meet FOIA demands.

11. Optional -- Please describe:

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

Section III: Steps Taken to Increase Proactive Disclosures

The Department of Justice has long focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

1. Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures.

Opinions, pleadings and orders are all posted to the SEC's website from 1995 through the present. The website is updated by the relevant program office for each action the SEC takes. Similarly, administrative staff manuals, statements of policy and interpretations adopted by the SEC are also posted and intermittently updated by the appropriate program offices. OFS tracks instances where records have been requested 3 or more times so that they can be posted accordingly.

2. Provide examples of any material that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D). Please include links to these materials as well.

During the reporting period the SEC proactively posted records to OFS's Frequently Requested Documents webpage at <https://www.sec.gov/foia-frequently-requested-documents>. Records requested three or more times can also be found here. The following are examples of records proactively posted on the OFS website:

- [Information About Registered Municipal Advisors](#)
- [Fails-to-Deliver Data](#)
- [Elizabeth Holmes Transcript \(PDF\)](#)
- [Jeffrey Epstein Transcript and Exhibits \(PDF\)](#)
- [Form ADV Data](#)

The SEC also posts specialized data in forms most helpful to the individuals who regularly access its website. This data includes records on the SEC's Division of Economic and Risk Analysis webpage at <https://www.sec.gov/dera/data>, which offers investors access to aggregated data from filings for research and analysis. The SEC's Division of Investment Management's Analytics Office makes similar records available at <https://www.sec.gov/investment/analytics-office>.

3. Does your agency disseminate common types of material outside of FOIA, including in online databases where the public may access them? If yes, please provide examples and, if applicable, statutory authority.

Yes. The SEC maintains the Electronic Data Gathering, Analysis, and Retrieval system (EDGAR), which is the primary system for companies and others submitting documents under the Securities Act of 1933, the

Securities Exchange Act of 1934, the Trust Indenture Act of 1939, and the Investment Company Act of 1940. EDGAR allows the public to evaluate corporate financial information and operations by providing access to the filings companies make with the SEC. Additional materials posted outside of the FOIA can be located at <https://www.sec.gov/open>. A sample of the records posted there follows:

- [Money Market Fund Information](#)
- [Closed-End Fund Information](#)
- [Investment Company Series and Class Information](#)

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?

Yes.

5. If yes, please provide examples of such improvements. In particular, please describe steps your agency is taking to post information in open, machine-readable, and machine-actionable formats, to the extent feasible. If not posting in open formats, please explain why and note any challenges.

The public may subscribe to RSS feeds at <https://www.sec.gov/about/secrss.shtml> to be apprised of the most recent materials posted to the SEC website. The SEC has also implemented the delivery of JSON-formatted data to external customers and to web pages on SEC.gov, through the new data.sec.gov website. The SEC also has a separate web page where high value data sets are available. <https://www.sec.gov/data>. Descriptions of the most recently published data sets can be found on the SEC's main web page. Individuals may sign up to receive SEC email updates as well. The SEC also has a form available on its website for the public to provide feedback and suggestions.

In promoting proactive disclosures, the SEC's FOIA webpage includes a "What's New" section that lists the five most recent postings to the FOIA page. Additionally, FOIA logs are posted quarterly. Many divisions and offices within the SEC make records available on their specific page of the SEC's website.

The Office of Structured Disclosure (OSD), within the Division of Economic and Risk Analysis, supports the SEC's efforts to make data accessible and easy to use. OSD works closely with other SEC Divisions and Offices to design data structuring approaches for required disclosures, and supports the SEC's data collections and data usage by designing taxonomies, validation rules, data quality assessments, and tools for conducting data analyses. OSD also works with investors, regulated entities, and the public to support the submission and use of structured data.

In addition, policy teams across Divisions have been taking steps to structure existing unstructured collections of data, with the aim of incorporating open, machine-readable, and machine-actionable formats. For example, the SEC recently proposed to add a structuring requirement for existing fund proxy voting disclosures and money market fund event disclosures, which are currently filed in unstructured

ASCII or HTML. Policy teams are also taking steps to ensure new collections of data are structured as well. For example, the SEC recently proposed to require security-based swap position reporting in FIXML, and to require share repurchase and insider trading plan disclosure in Inline XBRL.

6. Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.

Yes. For proactive disclosures made by OFS there is typically coordination with the Office of the Secretary for purposes of posting. Additionally, where OFS is recommending proactive disclosure of certain records, there is collaboration with the program office that maintains the records. Depending on the nature of the records, the program office's webpage may host the information – or the records may be posted to the OFS webpage.

Optional -- Please describe:

- Best practices used to improve proactive disclosures
- Any challenges your agency faces in this area

Section IV: Steps Taken to Greater Utilize Technology

A key component of FOIA administration is using technology to make information more accessible. In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that that describes your agency's efforts in this area.

1. Has your agency reviewed its FOIA-related technological capabilities to identify resources needed to respond to current and anticipated FOIA demands?

OFS utilizes FOIAXpress, an electronic document management and tracking system. This system is updated intermittently to account for anticipated FOIA issues and demands – and to simply make processing more efficient. OFS is presently evaluating an improvement for searching, sorting and identifying responsive content in large volumes of emails, attachments, and files. This technology will integrate directly with the current system and enable OFS staff to quickly filter, de-duplicate, rank, and sort documents then export the results for redaction and processing.

2. Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program.

Upgrades are consistently implemented to the SEC's FOIA processing system, FOIAXpress. During the reporting period upgrades included: a feature to address the FOIA National Portal mandate, set forth in Executive Memorandum, M-19-10, Guidance for Achieving Interoperability with the National Freedom of Information Act (FOIA) Portal on FOIA.gov; leveraging Login.gov to comply with Executive Memorandum, M-21-04 Modernizing Access to and Consent for Disclosure of Records Subject to the Privacy Act; an update to annual report functioning to address new DOJ requirements, additional features and metrics to enhance workflow and reporting.

3. OIP issued **guidance** in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources, and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?

Yes.

4. Did all four of your agency's quarterly reports for Fiscal Year 2021 appear on your agency's website and on FOIA.gov?

No. The SEC's FY21 Q1 – Q4 reports were successfully posted to the SEC website at <https://www.sec.gov/foia/foia-reports.shtml#quarterly>. The SEC's FY21 Q1 – Q4 reports were created and submitted on FOIA.gov, but due to technical issues the FY21 Q4 data did not appear.

5. 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 2022.

Due to a technical error, the SEC's Q4 report was unavailable to FOIA.gov. Upon posting quarterly reports in the future, the SEC will verify subsequent availability on FOIA.gov.

6. 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 2020 Annual FOIA Report and, if available, for your agency's Fiscal Year 2021 Annual FOIA Report.

The raw data report link for FY2021 will be posted after DOJ approves the SEC's FY2021 Annual FOIA Report. Raw statistical data used to compile the SEC's Fiscal Year 2020 Annual FOIA Report can be found at [FY2020 SEC FOIA Annual Report Raw Data](#).

7. Optional -- Please describe:

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

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 FY 2020 and 2021 Annual FOIA Reports.

A. Simple Track

Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

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

Yes.

2. If your agency uses a separate track for simple requests, according to Annual FOIA Report section VII.A, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2021?

Simple track requests were processed in an average of 16.23 days.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2021 that were placed in your simple track. Please use the following calculation based on the data from your Annual FOIA Report: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) x 100.

99.8% of the requests processed by the SEC in Fiscal Year 2021 were placed in the simple track.

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

N/A

B. Backlogs

When answering these questions, please refer to your Fiscal Year 2021 Annual FOIA Report, Sections XII.D-E, which compare the numbers of requests and appeals received, processed, and backlogged between Fiscal Years 2020 and 2021.

BACKLOGGED REQUESTS

5. If your agency had a backlog of requests at the close of Fiscal Year 2021, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?

No. The SEC's backlog increased from FY2020 to FY 2021.

6. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2021 than it did during Fiscal Year 2020?

No. OFS processed fewer requests in FY2021 than in FY2020.

7. If your agency's request backlog increased during Fiscal Year 2021, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

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

OFS experienced a slight increase in its FOIA backlog during FY2021 due to several contributing factors including a loss of staff, an increase in the complexity of requests received, COVID-19, and an increase in litigation. During 2021, OFS lost both junior and senior full-time FOIA staff and although we are currently in the process of backfilling these positions, they remain vacant. OFS is receiving more requests involving complex searches, and voluminous records which require increased coordination within the SEC. These requests are generating a high volume of email records that require additional time to conduct the searches, review the records, coordinate within the SEC, and prepare the records for disclosure. Production has been further impacted by the limitations in locating and processing physical records due to office closures from COVID-19. We have also experienced an increase in FOIA litigation during FY2021.

In an effort to mitigate the impacts of these factors, which have contributed to the increase in our backlog, OFS is currently conducting an analysis to identify statistical, technological, and human capital solutions which can be incorporated into our processes and workflows to increase production.

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 2021. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. This number can be greater than 100%. If your agency has no request backlog, please answer with "N/A."

The percentage of requests that made up the backlog out of the total number of requests received by the SEC in FY2021 was 2.8%.

BACKLOGGED APPEALS

9. If your agency had a backlog of appeals at the close of Fiscal Year 2021, according to Section XII.E.2 of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?

No.

10. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2021 than it did during Fiscal Year 2020?

Yes.

11. If your agency's appeal backlog increased during Fiscal Year 2021, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

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

The SEC's appeal backlog consisted of only a single request, which was highly complicated and complex.

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 2021. Please use the following

calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received from Section VI.A) x 100. This number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2021 and/or has no appeal backlog, please answer with "N/A."

The percentage of appeals that make up the backlog is .1%.

C. Backlog Reduction Plans

13. In the 2021 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2020 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2021?

N/A

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2021, please explain your agency's plan to reduce this backlog during Fiscal Year 2022. In particular, please also detail how your agency developed and plans to execute your backlog reduction plans.

N/A

D. Status of Oldest Requests, Appeals, and Consultations

Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2020 and Fiscal Year 2021 when completing this section of your Chief FOIA Officer Report.

OLDEST REQUESTS

15. In Fiscal Year 2021, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2020 Annual FOIA Report?

No.

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 2020 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

OFS closed 9 of the 10 oldest requests from FY 2020.

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

In order to reduce the overall age of pending requests, OFS follows best practices that include emphasizing consistent and meaningful communication with requesters, conducting regular training of FOIA and non-FOIA staff, and attempting to maintain a high degree of employee satisfaction.

TEN OLDEST APPEALS

18. In Fiscal Year 2021, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2020 Annual FOIA Report?

Yes.

19. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VI.C.(5) of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

N/A

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

The SEC's Office of the General Counsel (OGC) processes all FOIA appeals. Adjudicating appeals can present complex issues that require further consultation with staff in other divisions and offices and review of voluminous documents. To reduce the overall age of pending appeals, OGC observes the best practices emphasized by OFS, which are articulated in Section V.D., Question 17.

TEN OLDEST CONSULTATIONS

21. In Fiscal Year 2021, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2020 Annual FOIA Report?

Yes.

22. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

N/A

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

23. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2020.

The SEC closed nine (9) of its ten oldest pending perfected requests in Fiscal Year 2021. Time lost because of the COVID-19 pandemic, staff attrition, and an increase in the complexity of the requests received prevented OFS from closing its ten oldest requests. Since the beginning of Fiscal Year 2022, the SEC has closed one (1) more of the ten oldest pending requests. This is reflected in the SEC's FY22 Q1 Quarterly FOIA Report.

24. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

N/A

25. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2022.

The SEC plans to adhere to its best practices as described in response to Section V.D., Question 17.

F. Success Stories

Out of all the activities undertaken by your agency since March 2021 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, but should not be something that you have reported in a prior year. 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 key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

Despite the continuing COVID-19 pandemic, the SEC rose to the many challenges presented in adapting to the new environmental norm through agile and progressive methods.

- As an agency leader in FOIA administration, the SEC continued to rely upon the ability of FOIA personnel to work full-time telework schedules.
- Workflow processes continue to be virtual with measures implemented to ensure any requests and/or correspondence submitted to the SEC through standard mail services are timely and efficiently processed.

Notwithstanding the many challenges presented this past year from the COVID-19 pandemic, which required fundamental changes to traditional worksites, utilization of new technologies, and adaptation of workflow methodologies, the SEC continued to maintain a high processing rate and a standard of excellence in FOIA administration. OFS was recognized for its excellence when it received the DOJ 2021 Sunshine Week FOIA Team Award: Award for Exceptional Service by a FOIA Professional or Team of FOIA Professionals.