

**U.S. Nuclear Regulatory Commission  
Chief FOIA Officer Report  
January 1, 2014–January 1, 2015**

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**Section I: Steps Taken To Apply the Presumption of Openness**

The guiding principle underlying the [President's Freedom of Information Act] FOIA memorandum and the Attorney General'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.

**FOIA Training:**

- 1. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice?**

Yes. U.S. Nuclear Regulatory Commission (NRC) FOIA staff and agency personnel who have FOIA responsibilities attended FOIA training sessions and conferences during the reporting period.

The NRC FOIA staff conducted an agencywide FOIA training in June 2014 on FOIA and best practices for communicating with requesters. The training included guest speakers from the U.S. Department of Justice (DOJ) and the Office of Government Information Services (OGIS).

The NRC FOIA staff attended the American Society of Access Professionals (ASAP) 7<sup>th</sup> Annual Training Conference held in Arlington, VA, May 12–14, 2014.

The NRC FOIA staff provided training to program office personnel who have FOIA responsibilities. Topics covered included an overview of FOIA, employee responsibilities, and the application of FOIA exemptions.

- 2. 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 percent

- 3. In the 2014 Chief FOIA Officer Report Guidelines, OIP [Office of Information Policy] asked agencies to provide a plan for ensuring that core, substantive FOIA training is offered to all agency FOIA professionals at least once each year. Please provide the status of your agency's implementation of this plan.**

During the reporting year, the NRC FOIA staff, in partnership with the NRC's Office of the Chief Human Capital Officer (OCHCO), developed a FOIA training plan and competency model for Government Information Specialists. The training plan has not yet been implemented as the agency is awaiting OCHCO approval; therefore, the NRC cannot evaluate successes or challenges in implementation. At this time, the agency does not anticipate any problems implementing the training plan.

**Outreach:**

- 4. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA?**

The NRC held a FOIA public meeting on October 7, 2014. The meeting was attended by the public and representatives of special interest groups, including Greenpeace and the Union of Concerned Scientists. The NRC addressed three concerns of the requester community: (1) document markings, (2) redaction consistency, and (3) FOIA response time. The NRC FOIA staff also engaged in written and telephone follow-up with several members of the public to respond to questions raised during the meeting.

The NRC FOIA staff participated in the Office of Information Policy (OIP) Best Practices Workshop on June 18, 2014, where participants discussed proactive disclosures and how agencies can make information posted online more useful to interested parties.

The NRC invited staff of the Office of Government Information Services (OGIS) to provide dispute resolution skills training to the FOIA team. The training session covered alternative dispute resolution techniques, working with OGIS to resolve disputes, active listening and good communication, and strategies for working with difficult people.

The NRC FOIA analysts regularly contacted requesters by e-mail or telephone to discuss or provide updates on their FOIA requests.

**Discretionary Releases:**

- 5. Does your agency have a distinct process or system in place to review records for discretionary release?**

Yes.

The NRC has codified in its FOIA regulations a distinct process for reviewing documents for discretionary release (Title 10 of the *Code of Federal Regulations* (10 CFR) 9.25(f), "Disclosure Review"). The office director of each responsible office is required to make initial determinations on records responsive to a FOIA request and may authorize the discretionary release of records which, although exempt from release, will not be contrary to the public interest or affect the rights of any person.

If there is a FOIA request for information, a foreseeable harm statement is required if a program office recommends the withholding of information under FOIA exemptions (b)(2) or (b)(5).

**6. During the reporting period, did your agency make any discretionary releases of information?**

Yes.

**7. What exemption(s) would have covered the material released as a matter of discretion?**

The NRC released material that could have been withheld under exemptions (b)(2) or (b)(5).

**8. Provide a narrative description, as well as some specific examples, of the types of information that your agency released as a matter of discretion during the reporting year.**

The types of information that the NRC released as a matter of discretion included pre-decisional documents, drafts, and internal personnel related information.

**9. During the reporting timeframe, if your agency was not able to make any discretionary releases of information, please explain why.**

N/A

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

Yes. The FOIA program committed to conduct annual FOIA training for all NRC employees. The trainings will be made available via iLearn for all staff. Additionally, the FOIA staff will conduct specialized training sessions to individual program offices based on the types of records likely to be found in those offices.

The NRC will encourage employees in need of FOIA training to use the Office of Information Policy (OIP) suite of FOIA e-Learning training modules specifically designed for all levels of the Federal workforce, including the senior executive, FOIA professionals, and the everyday Federal employee whose records are subject to FOIA. The training modules will be a valuable resource for all NRC employees in need of FOIA training.

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

As the Attorney General emphasized in his FOIA guidelines, “[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests.” It is essential that agencies effectively manage their FOIA program.

Please answer the following questions to describe the steps your agency has taken to ensure that your 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.

### **Processing Procedures:**

- 1. For Fiscal Year (FY) 2014, 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 FY 2014 Annual FOIA Report.**

One day.

- 2. If your agency’s average number of days to adjudicate requests for expedited processing was above 10 calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within 10 calendar days or less.**

N/A

### **Requester Services:**

- 3. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration? See OIP Guidance, “Notifying Requesters of the Mediation Services Offered by OGIS.” (July 9, 2010)**

Yes.

- 4. When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester? For example, does your agency explain the amount of fees attributable to search, review, and duplication?**

Yes. The NRC provides requesters with an hourly and categorical breakdown of all fees applicable to their request.

**5. If estimated fees estimates are particularly high, does your agency provide an explanation for the estimate to the requester?**

Yes. If the fees are particularly high, requesters are provided with a detailed explanation of the fee estimate and given an opportunity to reformulate their request to reduce or eliminate the estimated fee.

**Other Initiatives:**

**6. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc., please describe them here.**

The Office of Inspector General conducted a FOIA audit to determine whether the agency's FOIA process is efficient and complies with FOIA regulations. The report concluded that the agency meets the timeliness requirements for simple FOIA requests and adheres to the vast majority of FOIA regulations; however, opportunities exist to improve program efficiency by fully utilizing technology and enhancing training requirements of FOIA personnel. In response to the audit, the FOIA office is leading an initiative to conduct more training sessions for NRC staff and leverage existing technology to process responsive records.

The NRC uses a software tool to filter out duplicate and non-responsive duplicate documents and e-mails.

The FOIA staff created a "FOIA Quick and Easy Guide for Record Holders." This small postcard-sized reference guide offers step-by-step instructions to staff on how to conduct a search for records in response to a FOIA request. The NRC's "FOIA Quick and Easy Guide for Record Holders" was highlighted in OGIS's FOIA Ombudsman blog as a best practice.

The FOIA staff created a "FOIA Quick and Easy Guide for Special Agents," which is a postcard-sized reference guide specifically designed to assist Special Agents in responding to a FOIA request.

FOIA staff completed an overhaul of the FOIA File Room in order to follow National Archives and Records Administration's (NARA's) Records Retention schedule for FOIA case records and to digitize case files that no longer needed to be maintained in paper format. The staff purged 630 FOIA paper case files that were past their records retention schedule. In addition, 600 paper FOIA case/appeal files closed from FY 2008 to FY 2012 have been scanned to DVDs, and staff purged the paper files.

FOIA staff attended the Annual FOIAXpress Users Conference, held in Washington DC, on August 21, 2014. This conference provided NRC staff with training on how to use FOIAXpress more efficiently.

### **Section III: Steps Taken to Increase Proactive Disclosures**

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

Posting Material:

- 1. Does your agency have a distinct process or system in place to identify records for proactive disclosure? If so, please describe your agency's process or system.**

The NRC has a long-standing policy of conducting its regulatory responsibilities in an open and transparent manner and proactively makes records publicly available without waiting for a FOIA request. NRC Management Directive 3.4, "Release of Information to the Public," provides policy guidance on proactive disclosures of agency information of interest to the public when no request for information has been made under the FOIA.

The NRC routinely posts previously released responses to FOIA requests to its Public Reading Room through the Agencywide Documents Access and Management System (ADAMS).

- 2. Does your process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.**

Yes. Top Management has restated its support for MD 3.4 recently after this issue was raised at a public meeting. Currently, other policies are being reviewed for any impediments to application of the existing Management Directive.

In meetings and discussions with representatives of program offices, the FOIA staff advocates for the proactive disclosure of program office records we believe are of interest to the public.

- 3. Describe your agency's process or system for identifying "frequently requested" records that should be posted online.**

The agency's FOIA processing system links similar or duplicate requests and identifies frequently requested records.

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

A vast array of documents is posted on NRC Web sites. Some of these topics include:

- responses to FOIA requests: <http://www.nrc.gov/reading-rm.html>

- performance budget:  
<http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1100/>
- key guidance documents:  
<http://www.nrc.gov/reading-rm/doc-collections/reg-guides/>
- regulatory programs:  
<http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1649/>
- Summary report (draft), "A Preliminary Numerical Study of the Hazard from Local Landslide Tsunami Scenarios at the Diablo Canyon Site in Central California."  
(Dr. Robert Sewell's Report)  
<http://www.nrc.gov/site-help/search.cfm?q=ML14293A559&s=>

**Other Initiatives:**

**5. If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.**

The NRC plans to conduct an annual review of FOIA responses to determine if frequently released nonpublic documents can be posted online in the agency's Public Reading Room (ADAMS).

**Section IV: Steps Taken to Greater Utilize Technology**

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the Internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

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. Can a member of the public track the status of his or her request or appeal electronically?**

No

**2. If yes, how is this tracking feature provided to the public?**

N/A

**3. If your agency does provide online tracking, please describe the information that is provided to the requester through this feature.**

N/A

- 4. If your agency does provide online tracking of requesters, does this feature also provide an estimated date of completion?**

N/A

- 5. If your agency does not provide online tracking of request or appeals, is your agency taking steps to establish this capability? If not, please explain why?**

The NRC is evaluating options to establish this capability.

**Making Material Posted Online More Useful:**

- 1. 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. The NRC has an ADAMS user group for interested members of the public who use the online FOIA reading room or the Public Document Room (PDR) on a routine basis. In addition to learning about new releases and upgrades of the ADAMS software, the User Group serves as a forum for users to share with NRC staff their experiences, suggestions, and comments on making ADAMS or the PDR more accessible and easier to use.

The agency has a single, unified public site, available at <http://www.nrc.gov>, for public users to perform full-text search of all NRC public records, web pages and files. A search can be conducted by a specific topic. The site also has an advanced search feature of all NRC public records with full access to metadata attributes.

The NRC's existing public site is compatible with mobile devices, although the agency is working to release a version of the site with enhanced mobile capabilities in FY 2015.

The NRC has an automated public site survey that provides continuous feedback from end users. The agency received 2,287 responses in FY 2014. The NRC monitors this feedback on a daily basis and makes corrections and improvements based on the responses received. It also received over 460 inquiries through the public site Web master contact page in FY 2014 and made numerous corrections and improvements based on the responses received through this page.

The NRC offers access to 26 datasets in open formats at <http://www.nrc.gov/data/> and continues to add to this list.

- 2. If yes, please provide examples of such improvements.**

A member of the public asked if the NRC logo on the ADAMS search page could be made into a hyperlink to the NRC home page. In response to this request, the NRC user services staff has submitted a request to the ADAMS developers for this change. The ADAMS developers are researching whether this change can be made. If or when the change is made, it will be posted on the ADAMS Frequently Asked Questions page.



The search feature on the NRC's Web site uses Google to search the content of ADAMS and is also available in Web-based ADAMS. The advanced search feature in Web-based ADAMS provides the option to narrow searches by including document properties in the search.

**3. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?**

Yes.

**4. If so, please briefly explain what those challenges are.**

With records that pre-date digitization, and are in paper or microfiche format, posting to online public ADAMS online library requires digitization and individual review prior to posting.

**Other Initiatives:**

**5. Did your agency successfully post all four quarterly reports for Fiscal Year 2014?**

Yes. All quarterly reports were posted and made available to the public in a timely manner.

**6. 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 2015.**

N/A

**7. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible? See OIP Guidance, "The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications." (Nov. 22, 2013) If yes, what are the different types of electronic means that are utilized by your agency to communicate with requesters?**

NRC FOIA professionals use e-mail routinely to communicate and respond to inquiries from requesters. FOIA requesters, who provide e-mail addresses, receive notices, fee estimates, acknowledgment letters and all communications pertaining to their request via e-mail.

**8. If your agency does not communicate electronically with requesters as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such limitations?**

N/A

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

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section 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 10 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 2014 Annual FOIA Report and, when applicable, your agency's 2013 Annual FOIA Report.

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 so, for your agency overall in Fiscal Year 2014, was the average number of days to process simple requests 20 working days or fewer?**

Yes.

**3. Please provide the percentage of requests processed by your agency in Fiscal Year 2014 that were placed in your simple track.**

35 percent

**4. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests 20 working days or fewer?**

N/A

**BACKLOGGED REQUESTS**

**5. If your agency had a backlog of requests at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?**

Yes. NRC management identified backlog reduction as a top priority for FY 2014. At the end of FY 2014, the agency had reduced its FY 2013 backlog by 70 percent. The backlog decreased because of enhanced internal controls, additional staff, the expertise of re-hired annuitants, and training for NRC FOIA staff; which enhanced processing skills.

6. 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 2014. If your agency did not receive any requests in Fiscal Year 2014 and/or has no request backlog, please answer with "N/A."

4.3 percent

#### **BACKLOGGED APPEALS**

7. If your agency had a backlog of appeals at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?

Yes. At the end of FY 2014, the agency reduced its FY 2013 backlog by 75 percent.

8. 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 2014. If your agency did not receive any appeals in Fiscal Year 2014 and/or has no appeal backlog, please answer with "N/A."

5.5 percent

#### **TEN OLDEST REQUESTS**

9. In Fiscal Year 2014, did your agency close the 10 oldest requests that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

Yes. The NRC closed all of its 10 oldest requests.

10. 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 2013 Annual FOIA Report. If you had less than 10 total oldest requests to close, please indicate that.

N/A

11. Of the requests your agency was able to close from your 10 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?

N/A

#### **TEN OLDEST APPEALS**

12. In Fiscal Year 2014, did your agency close the 10 oldest appeals that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

Yes.

- 13. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2013 Annual FOIA Report. If you had less than 10 total oldest appeals to close, please indicate that.**

N/A

#### **TEN OLDEST CONSULTATIONS**

- 14. In Fiscal Year 2014, did your agency close the 10 oldest consultations that were reported pending in your Fiscal Year 2013 Annual FOIA Report?**

Yes.

- 15. 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 2013 Annual FOIA Report. If you had less than 10 total oldest consultations to close, please indicate that.**

N/A

#### **Additional Information on Ten Oldest Requests, Appeals, and Consultations and Plans:**

- 16. Briefly explain any obstacles your agency faced in closing its 10 oldest requests, appeals, and consultations from Fiscal Year 2013.**

N/A

- 17. If your agency was unable to close any of its 10 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

- 18. If your agency did not close its 10 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 2015.**

N/A

**Use of the FOIA's Law Enforcement Exclusions**

**19. Did your agency invoke a statutory exclusion 5 U.S.C § 552(c)(1), (2), (3), during Fiscal Year 2014?**

N/A