



**DEPARTMENT OF AGRICULTURE
CHIEF FREEDOM OF INFORMATION ACT
OFFICER REPORT
March 2023**

We provide leadership on food, agriculture, natural resources, rural development, nutrition, and related issues based on public policy, the best available science, and effective management.

We have a vision to provide economic opportunity through innovation, helping rural America to thrive; to promote agriculture production that better nourishes Americans while also helping feed others throughout the world; and to preserve our Nation's natural resources through conservation, restored forests, improved watersheds, and healthy private working lands.



Photo Courtesy of Steve Ausmus, USDA/ARS

Table of Contents

Table of Contents	2
Executive Summary.....	3
Section I:.....	6
Section II:	7
Section III:.....	12
Section IV:.....	15
Section V:	16

EXECUTIVE SUMMARY

The United States Department of Agriculture (Department) was founded by President Abraham Lincoln in 1862 and was quickly coined “The People’s Department.” At the time, more than half of all American either lived or worked on farms, compared with the two percent today. Despite this decrease, the Department is still fulfilling Lincoln’s vision of touching the lives of every American through its mission to provide leadership on food, agriculture, natural resources, and related issues based on sound public policy, the best available science, and efficient management.

To successfully accomplish its mission, the Department operates more than 300 programs through an extensive network of Federal, State, and local cooperators. These programs affect every American, every day, by providing a safe and stable food supply, nutrition assistance, renewable energy, rural economic development, care for forest and conservation lands, and global opportunities for farm and forest products. These programs also hold the answers to pressing global issues like the need for renewable energy, increasing crop yields to combat hunger, protecting the food supply, and optimizing internal trade.

The Department’s success is dependent on several core values. Among them is transparency. Central to the Department’s effort to increase transparency is its Freedom of Information Act (FOIA) program. The Department’s General Counsel, Janie Simms Hipp provides program oversight for the Department’s FOIA offices at the agency and mission area. These offices all collaborate throughout the year to process the tens of thousands of records requests received at the Department.

The Department’s FOIA program is led by the General Counsel’s, Office of Information Affairs (OIA). The OIA provides day-to-day coordination and ensures statutory compliance with the FOIA. The OIA also processes FOIA requests, consultations, and appeals on behalf of all USDA staff offices with the exception of the Office of the Inspector General (OIG). The OIA also handles the FOIA functions for the Research, Education and Economics (REE) and the Trade and Foreign Agricultural Affairs (TFAA) mission areas. The Farm Production and Conservation Service, Food Nutrition and Conservation Services, Food Safety, Rural Development, and the Marketing and Regulatory Programs mission areas all continue to process independently but do coordinate with the OIA to ensure standardization in the areas of processing, training, and management.

In Fiscal Year 2022, the Department received a total of 17,069 FOIA requests. Approximately 77.7% of these incoming FOIA requests were directed to the USDA’s Farm Production and Conservation (FPAC) mission area. The Natural Resources and Environment (NRE) mission area received about 10%, the Marketing and Regulatory Programs mission area about 7.4%, the Office of Information about 3.5%, and Rural Development about 2.2%. The remaining agencies all collectively received 3.9% of the incoming requests. As for processing, the Department closed 17,166 initial requests and realized an approximate 4.3% reduction in its overall backlog for initial requests.



The following report provides a comprehensive review of the steps taken throughout the Department of Agriculture to improve its FOIA administration since publication of the last Chief FOIA Officer Report in March 2022.

This report encompasses the efforts of the following mission areas and staff offices:

Mission Areas:

Farm Production and Conservation (FPAC)¹

Farm Service Agency (FSA)
Natural Resources Conservation Service (NRCS)
Risk Management Agency (RMA)

Food and Nutrition & Consumer Services (FNCS)

Food and Nutrition Service (FNS)

Food Safety

Food Safety and Inspection Service (FSIS)

Marketing Regulatory Programs

Agricultural Marketing Service (AMS)²
Animal & Plant Health Inspection Service (APHIS)

Natural Resources and Environment (NRE)

Forest Service (FS)

Research, Education and Economics (REE)

Agricultural Research Service (ARS)
Economic Research Service (ERS)
National Agricultural Statistics Service (NASS)
National Institute of Food and Agriculture (NIFA)

Rural Development (RD)

Rural Business Service
Rural Utilities Service
Rural Housing Service

Trade and Foreign Agricultural Affairs (TFAA)³

¹ On May 11, 2017, USDA announced the standing up of a newly named Farm Production and Conservation (FPAC) mission area to have a customer focus and meet USDA constituents in the field.

² On September 7, 2017, USDA announced the realignment of a number of offices within the USDA. The Grain Inspection, Packers, and Stockyards Administration (GIPSA) and several program areas from the Farm Service Agency (FSA) joined the Agricultural Marketing Service (AMS) to help us better meet the needs of farmers, ranchers, and producers, while providing improved customer service and maximize efficiency.

³ In keeping with Congress' directive in the 2014 Farm Bill and to advance agricultural trade, the Department created an Under Secretary for Trade and Foreign Agricultural Affairs (TFAA). While reviewing options for improving coordination on trade and international activities, USDA determined that the Codex Alimentarius program (U.S. Codex Office), currently housed in the Food Safety and Inspection Service (FSIS), will be moved to the newly created TFAA mission area. The U.S. Codex Office is an interagency partnership which engages stakeholders in the



*Foreign Agricultural Service
Codex Alimentarius Commission*

Staff Offices:

Departmental Administration (DA)

*Office of Advocacy and Outreach (OAO)
Office of the Chief Information Officer (OCIO)
Office of the Executive Secretariat (OES)
Office of Homeland Security & Emergency Coordination (OHSEC)
Office of Human Resource Management (OHRM)
Office of Operations (OO)
Office of Procurement & Property Management (OPPM)
Office of Small & Disadvantaged Business Utilization (OSDBU)
Office of Budget & Program Analysis (OBPA)*

Office for the Assistant Secretary of Civil Rights (OASCR)

Office of Hearing and Appeals

*National Appeals Division (NAD)
Office of the Administrative Law Judge (OALJ)
Office of the Judicial Officer (OJO)*

Office of the Chief Financial Officer (OCFO)

National Finance Center (NFC)

Office of the General Counsel (OGC)

*Office of Ethics (OE)
Office of Information Affairs (OIA)*

Office of Inspector General (OIG)

Office of the Secretary (OSEC)

development of international governmental and non-governmental food standards. The focus of the Codex Office aligns better with the mission of TFAA.

Section I: FOIA Leadership and Applying the Presumption of Openness

Leadership Support for FOIA:

- 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. See 5 U.S.C. § 552(j)(1)(2018). Is your agency's Chief FOIA Officer at this level?**

Yes. USDA's Chief FOIA Officer (CFO) is a senior official at least at the Assistant Secretary or equivalent level in accordance with 5 U.S.C. §552(j)(1).

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

USDA's General Counsel, Janie Simms Hipp, was designated as the Department's CFO. Ms. Simms Hipp is a senior official and directly reports to the Secretary of Agriculture.

- 3. What steps has your agency taken to incorporate FOIA into its core mission? For example, has your agency incorporated FOIA milestones into its strategic plan.**

USDA has not yet incorporated FOIA in its overall strategic plan.

Presumption of Openness:

- 4. The Attorney General's 2022 FOIA Guidelines provides that "agencies should confirm in response letters to FOIA requesters that they have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions. Does your agency provide such confirmation in its response letters?"**

Yes. USDA components do confirm in response letters that they have considered the foreseeable harm standard.

- 5. In some circumstances, agencies may respond to a requester that it can neither confirm nor deny the existence of requested records if acknowledging the existence of records would harm an interest protected by a FOIA exemption. This is commonly referred to as a Glomar response. In addition to tracking the asserted exemption, does your agency specifically track whether a request involved a Glomar response? If your agency does not track the use of Glomar responses, what would your agency need to do to track in the future?**

While not a frequent occurrence, USDA does on occasion invoke Glomar with FOIA Exemptions 6 and/or 7(c). These *Glomar* responses are not currently tracked in USDA's enterprise wide FOIA tracking system, and so any statistical data would have to be done manually by reviewing a component's initial and final response letters. USDA is currently exploring if and how to track these types of responses with its vendor.

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

- 1. 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.**

All performance plans in the CFO's Office of Information Affairs (OIA) have a FOIA training provision requiring each government information specialists to participate in a minimum of two substantive training courses during the fiscal year. The CFO also requires onboarding attorneys and legal professionals in the Office of General Counsel to participate in a substantive legal primer on FOIA, that includes instruction on procedural requirements, how to perform a reasonable search, and exemption application for the Department's commonly invoked exemptions.

The OIA also continues to recommend the inclusion of a substantive FOIA training provision in performance and individualized development plans for Government Information Specialists (GIS) to the Department's senior leaders and community of FOIA Officers. To assist GIS with the training provision, the OIA circulates training opportunities offered by the Department of Justice, Office of Information Policy (DOJ-OIP), the American Society of Access Professionals (ASAP), and the National Archives and Records Administration (NARA).

- 2. 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. USDA's FOIA professionals continued to participate in substantive FOIA training and conferences during the reporting period. These training sessions were hosted by the OIA, the DOJ-OIP, ASAP and the NARA.

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

OIA: The OIA continued to build on its public facing Departmental FOIA page. In response to Associate Attorney General Vanita Gupta's recently issued memorandum to agency General Counsels emphasizing the importance of FOIA training, the OIA coordinated with the Department of Justice, Office of Information Policy to upload its three eLearning modules to the OIA's FOIA resource repository.

DOJ-OIP: USDA's FOIA professionals also attended the following training programs provided by the DOJ-OIP:

- Virtual FOIA Summit
- Virtual Advanced FOIA Training
- Virtual FOIA Processing from Start to Finish

- Virtual Privacy Considerations Training
- Virtual FOIA Litigation Seminar
- Virtual Procedural Requirements and Fees Workshop
- Virtual Exemptions 4 and 5 Instruction
- Virtual Exemptions 1 and 7 Instruction

Other External Training Courses and Conferences: USDA’s FOIA professionals also participated in the following external training courses and conferences:

- ASAP: 23rd Annual Conference
- ASAP: Privacy Act and FOIA Workshop
- NARA: Annual Open Meeting of the Federal FOIA Ombudsman

Many USDA components also continued to provide substantive FOIA training for its GISs. For example, the Farm Production and Conservation (FPAC) works primarily through a network of FOIA POCs established in each state. The central FOIA hub for FPAC routinely provides one-on-one training for many of its state FOIA coordinators that includes among other items, FOIA best practices, and items specific to the FPAC FOIA community, like application of its Exemption 3 confidentiality statues. Similarly, our Rural Development (RD) FOIA team continues to hold office hours for its network of GISs to ask procedural FOIA questions.

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

Approximately 94% of USDA’s FOIA professionals participated in either one or more substantive FOIA training courses.

5. 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.

Not applicable. More than 80% of USDA’s FOIA professionals participated in substantive FOIA training courses.

6. 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.

The OIA continues to provide virtual and in-person FOIA training to all new onboarding political appointees. This day one, one-hour FOIA training provides an overview of USDA’s

FOIA program, the importance of conducting timely searches and promptly returning records, the importance of senior leadership support in USDA’s administration of FOIA, and overall best practices. To assist with these FOIA fundamentals, the OIA created and posted in its FOIA resources library a FOIA one-pager guide and DOJ-OIP’s short online tutorials for all federal employees and senior agency officials. The OIA also routinely participates in USDA’s subcabinet and other appointee meetings to provide a short FOIA moment, that emphasizes one or two FOIA best practices.

The OIA also routinely provides virtual training to all new onboarding attorney advisors and legal professionals in the Office of General Counsel (OGC). This training emphasizes the role of OGC in the FOIA process, specifically, legal sufficiency reviews for USDA FOIA administrative appeals and requirements for FOIA litigation.

In August 2022, the RD FOIA Office conducted a two-hour Mission Area-wide FOIA Training. The training was attended by approximately 800 employees and executive leadership across the RD Agencies, State Offices, and component offices. The training included a step-by-step demonstration of conducting a comprehensive search, a demonstration of how to document a search, and an overview of the business submitter process for loan/grant borrowers of RD programs. The training has resulted in immediate improvements to RD’s administration of FOIA, most notably the timeliness for the return of responsive records and the documenting of search efforts in those instances where no responsive records are found. The training can be accessed on [YouTube](#).

USDA’s Forest Service (FS) FOIA Office provided multiple formal and informal training seminars throughout the reporting period for its non-FOIA agency colleagues in its Intermountain Region, Procurement and Property Services Office, Lands and Realty Management Office, Human Resources Management Strategic Operations Office, and Fire and Aviation Management/Operations Risk Management Office.

And finally, USDA’s Food and Nutrition Service (FNS) FOIA Office offered many of its non-FOIA colleagues FOIA instruction. There was a total of four virtual training sessions for the FNS FOIA liaisons from all of its program offices, recurring virtual training sessions for onboarding FNS employees, annual virtual training instruction for FNS’s leadership team, and general virtual instruction on FOIA best practices to FNS’ Mountain Plains, Southeast, and Midwest Regional Offices.

Outreach:

- 7. 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.**

Yes. The Food Safety and Inspection Service (FSIS) FOIA Office facilitated a conference call on September 19, 2022, with the North American Meat Institute (NAMI), a trade association that

submits regular FOIA requests and is also a submitter, as defined in Executive Order (E.O.) 12600. We provided an overview of the FOIA process including how to submit requests for FOIA Logs and the steps required under E.O. 12600. FSIS also engaged in frequent and on-going dialogue with one of its frequent requesters, Olsson Frank Weeda Law, to discuss E.O. 12600 and FSIS' FOIA policies and procedures and attended multiple webinars with representatives from various trade groups and academia (e.g., NAMI, National Chicken Council, National Turkey Federation, University of Rutgers), to discuss the steps FSIS is taking to ensure data integrity and adherence to FOIA regulations.

8. As part of the standard request process, do your FOIA professionals proactively contact requesters concerning complex or voluminous requests in an effort to clarify or narrow the scope of the request so requesters can receive responses more quickly.

Yes. USDA's FOIA components frequently reach out to requesters for clarification regarding complex requests to see if we can effectively narrow the scope so that we can get the records of greatest interest to the requester in a timely manner. The substance of the communication varies based on the request and whether it is unmanageable as written or just requires clarification to avoid a voluminous number of records. In many cases we advise requesters after consulting with our subject-matter experts so that we can provide specific suggestions for narrowing a complex request.

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 Fiscal Year 2022.

USDA estimates that it received less than 35 requests for service by our FOIA Public Liaisons.

Other Initiatives:

10. Has your agency evaluated the allocation of agency personnel resources needed to respond to current and anticipated FOIA demands? If so, please describe what changes your agency has or will implement.

Yes. USDA's FOIA components routinely evaluate the allocation of agency personnel resources needed to respond to both current and anticipated FOIA demands. As an example, the OIA as a new stand-alone, recently prepared for consideration by the General Counsel, the Office of Budget and Program Analysis (OBPA), and the Office of the Chief Financial Officer (OCFO) a proposed budget to support the services it provides to all USDA staff offices in addition to the Research, Education and Economics (REE) and Trade and Foreign Agricultural Affairs (TFAA) mission areas. Currently, the OIA is funded entirely by Interagency Agreements with the offices and mission areas it supports. If received, a direct appropriation will better equip the OIA to process its requests and provide the requisite support for USDA's FOIA community as it will be able to hire more GISs.

APHIS continues to devote significant contract resources to the processing of Animal Care records requests as those requests generally account for 50% of APHIS's FOIA queue annually.

The APHIS contract team closed 279 requests and reviewed +100k pages of records. APHIS will use this same contract team in FY23 and intends to increase funding to ensure increased processing for this same queue.

The FS' Washington Office (FS-WO) reported receiving authorization to fill all existing GIS vacancies. To date, eight of the nine positions have been filled and the last position is on track to be filed prior to the close of fiscal year 2023. This same office was also authorized to utilize the OIA's Blanket Purchase Agreement for FOIA contract support to bring onboard two senior FOIA contract analysts. The FS-WO is also exploring other non-traditional opportunities for support in fiscal year 2023. These opportunities include the Agricultural Conservation Experienced Services (ACES), a cost effective and efficient program that allows the FS to acquire skilled personnel aged 55 and older with "ready to apply knowledge" and "shared" FOIA positions funded by program area(s) with the heaviest caseload. The FS Regional FOIA Service Centers have also been evaluating their respective program structures. Many of these Service Centers are creating additional FOIA positions, updating position descriptions, and evaluating the GS grades for current staff.

11. How does your agency use data or processing metrics to ensure efficient management of your FOIA workload? For example, case management reports, staff processing statistics, etc. In addition, please specifically highlight any data analysis methods or technologies used.

All of our FOIA components use data or processing metrics to ensure efficient management. For example, the Animal & Plant Health Inspection Service (APHIS) provides quarterly search reports to the APHIS mission programs to document and reconcile outstanding record searches. APHIS computes monthly reports detailing the number of cases received, closed, and backlogged, the number of pages reviewed and delivered to show backlog and pending reduction goals. APHIS also uses these same metrics to support appraisals for its GIS.

The FPAC designed and implemented a variety of FOIA Trackers. These benefit FPAC leadership across FPAC, and the Department, as well as the FOIA Team, by tracking all facets of the requests that we received. FPAC has trackers designed for specific programs (e.g. (IRA), initiatives (e.g., Climate Smart), and other "Sensitive" subjects. These FPAC trackers are delivered both weekly and daily to staff, agency leadership, and the FOIA Team. These FPAC trackers allow them to survey their timelines (days left to respond, days overdue, etc.), number of closed requests, number of new requests, and processing status.

The RD FOIA Office utilizes two automation tools for data analysis. RD created a PowerApp to manage case assignments and workloads. Customized reports are also generated frequently from USDA's enterprise wide FOIA tracking system. Both systems are leveraged by RD to produce reports that are cross-referenced to determine trends and fluctuations, and to make the appropriate case assignments.

The Agricultural Marketing Service (AMS) and the Food Safety Inspection Service (FSIS) both currently use USDA's enterprise wide FOIA tracking system to run several reports to help us keep track of case processing. These components, use the tracking system to run reporting for

weekly case closures, monthly pending / outstanding search requests, number of open cases per fiscal year, and the number of final actions to include interims and final responses / releases.

Section III: Proactive Disclosure

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

Steps continue to vary from component to component, but generally program offices will notify and seek the input of public affairs and communications staff about records involving significant policy decisions that they believe should be proactively disclosed to the public.

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.

	Examples
AMS	Our hemp program within the Specialty Crops division posted a public search tool for checking hemp licensees.
ARS	ARS is leading a team of over 40 scientists to identify and formulate a plan to address the most significant challenges to the world’s water resources and agricultural production by the year 2050. Water Vision 2050 takes aim at the greatest threats to water availability and sustainable agriculture, including climate change and the increasing global population, and puts forward recommendations for critical research and water management actions.
APHIS	USDA APHIS FOIA Reading Room USDA APHIS FOIA Logs USDA APHIS Frequently Requested Records - Freedom of Information Act
FAS	Reports on Topics of Interest Attaché and Foreign Market Reports Export Sales Reports International Agricultural Trade Reports
FNS	FY 22 FOIA Logs FOIA Topics of Interest
FSA	FSA Payment Files Information (usda.gov)

<p>FSIS</p>	<p>Monthly FOIA Logs</p> <p>The Meat, Poultry and Egg Product Inspection Directory is a listing of establishments that produce meat, poultry, and/or egg products regulated by FSIS. The Establishment Demographics Data includes additional establishments information about FSIS regulated establishments, including size, species slaughtered and aggregate categorical production information.</p> <p>The Quarterly Enforcement Reports summarize the enforcement actions FSIS has taken to ensure that products that reach consumers are safe, wholesome, and properly labeled.</p> <p>The Humane Handling Enforcement site contains the official enforcement actions FSIS has taken against establishments that have been found in violation of the Humane Methods of Slaughter Act.</p> <p>FSIS maintains volume of imported meat, poultry and egg products presented for reinspection by FSIS at port of entry. This is reported by country in pounds and percentage of the total on the Import Refusals site.</p> <p>USDA’s FSIS inspects meat, poultry, and egg products to verify whether the food produced is safe, wholesome, and properly labeled. Verification activities serve to protect the public from foodborne hazards. A key FSIS inspection verification activity is the sampling of product for microbiological contaminants or chemical residues. The Laboratory Sampling Data site contains data and data documentation for sampling programs that assess the presence of microbiological contaminants in various commodities.</p> <p>The Eligible Foreign Establishments site lists the countries that are eligible to export meat, poultry, or egg products to the United States.</p> <p>Quarterly Sampling Reports on Salmonella and Campylobacter</p>
<p>FS</p>	<p>Newly Posted Publications Publications SRS (usda.gov) Sound Research Publications SRS (usda.gov) SRS in the News News and Events SRS (usda.gov) Research Plots SRS (usda.gov) CompassLive – Southern Research Station (usda.gov) Science Shorts – CompassLive (usda.gov) Webinars Products SRS (usda.gov) Videos Products SRS (usda.gov) Tools and Data Products SRS (usda.gov)</p>
<p>NASS</p>	<p>Enhanced Visualizations and Interactive Data on Milk Production</p>

RD	2021 Financials Waterworks and Sewer Board of the City of Uniontown_Redacted 2022 Budget Waterworks and Sewer Board of the City of Uniontown Rural Development Grant Awards Rural Development Resources Rural Development Newsroom
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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. USDA is taking steps to make the posted information more useful to the public.

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

FSIS reported inclusion of data dictionaries with its proactively posted data sets. These data dictionaries help the public understand how to use, filter, and in some cases calculate the data for specific results.

The Risk Management Agency (RMA) advised that it provides summaries of business tools, the cause of loss data files, and the RMA information reporting system to accompany its data sets posted proactively. RMA has also created varying aggregate tools that allows the public to generate reports such as production/yield-related information reports.

RD has posted frequently requested information in its Reading Room pertaining to loans and grants under the agency’s business, housing, and utility programs. This information is posted in unlocked Excel spreadsheets to allow easy access of downloading into requesters’ information systems.

The FS’ Southern Research Station continues to make its website more responsive and accessible to meet the requirements of Section 508 of the Rehabilitation Act of 1973, as amended and the Plain Writing Act of 2010. Some of its publications can be uploaded for use with a speech text reader. Select webinars are also available to stream on Vimeo and YouTube.

5. Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office, such as IT or data personnel? If so, describe this interaction.

Yes. Online postings requiring coordination between our program offices, USDA’s IT service provider and Section 508 coordinators, the Office of the Chief Information Officer, and also the Office of Communications.

IV: Steps Taken to Greater Utilize Technology

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

Yes. USDA has reviewed its FOIA-related technological capabilities to identify resources needed to respond to current and anticipated FOIA demands.

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

To comply with Federal recordkeeping requirements, the OIA has procured a comprehensive cloud based electronic records management system solution to support the [M-23-07](#) mandate. The USDA ERMS will serve as the Department's document and digital information asset management repository and records management system. This solution will sit over all existing systems and software, allowing USDA to seamlessly conduct business in the systems we are already using, while capturing the records we create as we work towards the USDA mission.

The solution will enable us to capture records from the Microsoft environment, Shared Drives, and other digital systems and repositories and automatically classify them with lawful records schedules. USDA's FOIA community will also be able to locate and lawfully dispose of our electronic records and timely and adequately respond to records requests including FOIA requests.

Over a five-year period, the solution will be rolled out to USDA agencies and mission areas, starting with the Departmental Administration and Staff Offices in FY 2023. Each agency will work with their Agency Records Officer to ensure their Records Management networks are in place and ready for the transition.

3. Does your agency currently use any technology to automate record processing? If so, please describe and, if possible, estimate how much time and financial resources are saved since implementing the technology.

USDA does not currently use any technology to automate record processing.

4. 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.

The OIA fully revamped the Department's main FOIA landing [page](#) in accordance with DOJ-OIP's 2017 guidance in Fiscal Year 2021. The new site is much more user-friendly and contains requirements for submitting a request, FOIA contact information, access to reading rooms, online submission portal, reports, and other FOIA resources. The landing page was recently recognized by The Center for Plain English in its [2022 Report Card](#) as "exemplary."

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

Yes. All four quarterly reports for Fiscal Year 2021 appear on USDA’s website and FOIA.gov.

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 2022.

Not applicable. All four quarterly reports were posted.

7. 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 and if available, your agency’s Fiscal Year 2021 Annual FOIA Report.

Please see <https://www.usda.gov/ogc/office-information-affairs/foia-division>.

8. In February 2019, DOJ and OMB issued joint Guidance establishing interoperability standards to receive requests from the National FOIA Portal on FOIA.gov. Are all components of your agency in compliance with the guidance?

All USDA components are interoperable.

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

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

Yes. USDA has established alternative means of access to first-party requested records outside of the FOIA process.

2. If yes, please provide examples.

FS manages a process outside of FOIA in which internal unsuccessful job applicants may request certain records directly from its Human Resources Management (HRM) in accordance with USDA’s Master Agreement and Merit Promotion and Internal Placement (DR 4030-335-002). These records allow these employees feedback to prepare them for future vacancy announcements.

In FSIS, a substantial volume of the agency’s records resides in a web-based Public Health Information System (PHIS) that collects information generated from its inspection, compliance verification, notification, and monitoring activities regarding the slaughter, processing, import and export of meat, and poultry products. FSIS grants access to the information contained in PHIS to the respective regulated establishments, such as importers and exporters of food products.

RD has established an alternative means of access for mortgage-related information, for example, payment history, loan payoff, and foreclosures, for first party requesters. These requesters are now referred to RD's Customer Service Center (CSC). The CSC services mortgages for borrowers under the Single-Family Housing Direct Loan Program.

3. For Fiscal Year 2022, what was the average number of days your agency reported for adjudicating requests for expedited processing?

USDA's average number of days to adjudicate requests for expedited processing is 29.91 days.

4. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days on your agency's Fiscal Year 2022 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.

The OIA will continue to provide notice to those GIS with requests that are either close to or going beyond the statutory timeframe for adjudication with the aim of seeing a reduction in 2023.

5. Does your agency utilize a separate track for simple requests.

Yes. USDA utilizes a separate track for simple requests.

6. If your agency uses a separate track for simple requests, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2022?

No. USDA's average number of days to process simple requests was 23.86 working days.

7. If not, did the simple track average processing time decrease compared to the previous Fiscal Year?

No. The Fiscal Year 2021 average was 20.47 working days.

8. Please provide the percentage of requests processed by your agency in Fiscal Year 2022 that were placed in the simple track.

The percentage of requests processed by USDA in Fiscal Year 2022 that were placed in the simple track is 90.2%.

9. 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. USDA tracks its simple requests separately.

10. If your agency had a backlog of requests at the close of the Fiscal Year 2022, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2021?

Yes. USDA’s backlog decreased by 4.32% in Fiscal Year 2022.

	Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report
USDA OVERALL	2,081	1,991

11. If not, did your agency process more requests during Fiscal Year 2022 than it did during Fiscal Year 2021?

Not applicable. USDA’s backlog decreased in Fiscal Year 2022.

12. If your agency’s request backlog increased during Fiscal Year 2022, please explain why, and describe the causes that contributed to your agency not being able to reduce its backlog.

Not applicable. USDA’s backlog decreased in Fiscal Year 2022.

13. 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 2022.

The percentage of requests that make up the backlog out of the total number of requests received by USDA is 11.66.

14. If your agency had a backlog of appeals at the close of Fiscal Year 2022, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2021?

Yes. USDA’s backlogged appeals decreased by 15.88%.

	Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report
USDA OVERALL	170	143

15. If not, did your agency process more appeals during Fiscal Year 2022 than it did during Fiscal Year 2021?

Not applicable. USDA decreased its backlogged appeals.

16. If your agency's appeal backlog increased during Fiscal Year 2022, please explain why, and describe the causes that contributed to your agency not being able to reduce its backlog.

Not applicable. USDA decreased its backlogged appeals.

17. 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 2022.

The percentage of appeals that make up the backlog out of the total number of appeals received by USDA in Fiscal Year 2022 is 109.16%.

18. In the 2022 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2021 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 2022?

Below are concrete practices many USDA components are currently employing to meet their individual FY 2022 backlog goals for initial requests as well as USDA's overall goal of closing its 10 oldest initial requests, consultations, and appeals and overall reduction rate of 2-5% for the initial request backlog.

Quarterly Goals

Instead of a yearly backlog goal, USDA's components are setting quarterly backlog goals in line with the recommendation from the Government Accountability Office's (GAO) January 26, 2022, audit number GAO-22-105040. Now, each USDA component is held accountable for their backlog numbers on a quarterly basis, with the fourth quarter goal essentially replacing the more traditional yearly one. By setting incremental and realistic numbers to strive towards, as opposed to one major goal to complete by end of the year, the backlog has become more manageable, both for the components and each individual analyst. Each successfully met quarterly goal encourages analysts to continue meeting each goal thereafter.

Improvements to Request Management

Many USDA components have also made improvements to their request management process by doing two things: 1) grouping requests by type and 2) assigning analysts to specific portfolios and/or topics. As an example, this FY, the Office of Information Affairs (OIA) assigned one to two analysts each to handle each type of request (*i.e.*, initial, appeals, litigations, consults and courtesy reviews.) In addition, most OIA analysts were also assigned to specific offices and/or

topics. Mission area portfolios (*i.e.*, REE and TFAA) were assigned one analyst each. By assigning request types, individual portfolios, and topics to specific analysts, the OIA’s FOIA process has been streamlined to be more efficient, eliminating the time needed to train each analyst in every request type, in every action office, on every topic. This management style has also built rapport with each offices’ points of contact. Prior to this, some program offices were hesitant to release records to individuals they did not consistently work with.

Routine Check-Ins: Internal and External

Many of our components now administers routine check-ins. As an example, on a monthly basis, the OIA Director (hereinafter “Director”) has been meeting with the OIA analysts. The topics of these meetings have ranged from backlog goals, yearly metrics, common issues and obstacles while processing requests, emerging case law, crafting better searches, current news that may affect processing, etc. These monthly meetings have not only helped the OIA team be more cognizant of where the division and agency are as a whole, but it has also served to keep the processing consistent from analyst to analyst.

The USDA has a decentralized FOIA Program, and the Director is the head of the program. As such, the Director has duties outside of the OIA’s FOIA Division. That being said, the Director is often the go between for senior USDA officials and the agency’s FOIA offices, often reminding senior officials of requests for records and outstanding searches. The Director also regularly met with the FOIA Officers for each FOIA Office in the USDA to ensure no issue with progress on the backlog.

Funding & Support

This year, the OIA was fortunate enough to receive additional funding for contractor support and support services. Throughout the year, the OIA has been hiring contractors to assist in certain areas, as needed, be it responsiveness reviews or processing requests. These “floating” contractors, who are not assigned specific requests, are better able to assist analysts with larger portfolios and requests, while effectively reducing the backlog.

The OIA’s Blanket Purchase Agreement for FOIA support services has also greatly assisted other USDA components, like FNS, Forest Service, and RD. FOIA contractors in these components have assisted with initial processing for complex requests and FOIA litigation. By applying all these administrative changes, USDA met its goal of closing out the ten oldest requests, consultations, and appeals and realizing an overall reduction.

19. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2022, please explain your agency’s plan to reduce this backlog during Fiscal Year 2023.

Given its success, USDA will largely implement the FY22 plan in FY23. USDA also intends to monitor quarterly, progress with timely adjudicating requests for expedited processing.

OLDEST REQUESTS

20. In Fiscal Year 2022, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2021 Annual FOIA Report?

USDA closed its ten oldest pending perfected requests.

21. 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 2021 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

Not applicable. USDA closed its ten oldest pending perfected requests.

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

The OIA met with the FOIA components throughout the Fiscal Year to assist them with developing individual plans aimed at the search, collection, and review of older requests with voluminous amounts of paper records.

TEN OLDEST APPEALS

23. In Fiscal Year 2022, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2021 Annual FOIA Report?

Yes. USDA closed its ten oldest appeals.

24. 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 2021 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

Not applicable. USDA closed its ten oldest appeals.

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

The FOIA community coordinated with USDA's General Law and Research Division to identify best practices for the submission of administrative appeals requiring legal sufficiency review under §1.9(e) of USDA's FOIA Regulations.

TEN OLDEST CONSULTATIONS

26. In Fiscal Year 2022, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2021 Annual FOIA Report?

Yes. USDA closed its ten oldest consultations.

27. 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 2021 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

Not applicable. USDA closed its ten oldest consultations.

ADDITIONAL INFORMATION REGARDING TEN OLDEST

28. If your agency did not close its ten oldest pending requests, appeals, or consultations, please explain why, and provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2023.

Not applicable. USDA closed its ten oldest pending requests, appeals, or consultations.

29. Were any requests at your agency the subject of FOIA litigation during the reporting period? If so, please describe the impact on your agency’s overall FOIA requests processing and backlog. If possible, please indicate the number and nature of requests subject to litigation, common causes leading to litigation, and any other information to illustrate the impact of litigation on your overall FOIA administration.

Yes. Some of the requests at USDA were the subject of FOIA litigation during the reporting period. Oftentimes, these FOIA suits were initiated as a result of constructive denial. These requests are generally very voluminous in scope and require multiple consultations. Many USDA components report that they fail to timely process due to increasing workloads and decreasing resources.

30. How many requests during Fiscal Year 2022 involved unusual circumstances as defined by the FOIA?

There was a total of 160 records requests in Fiscal Year 2022 that involved unusual circumstances.