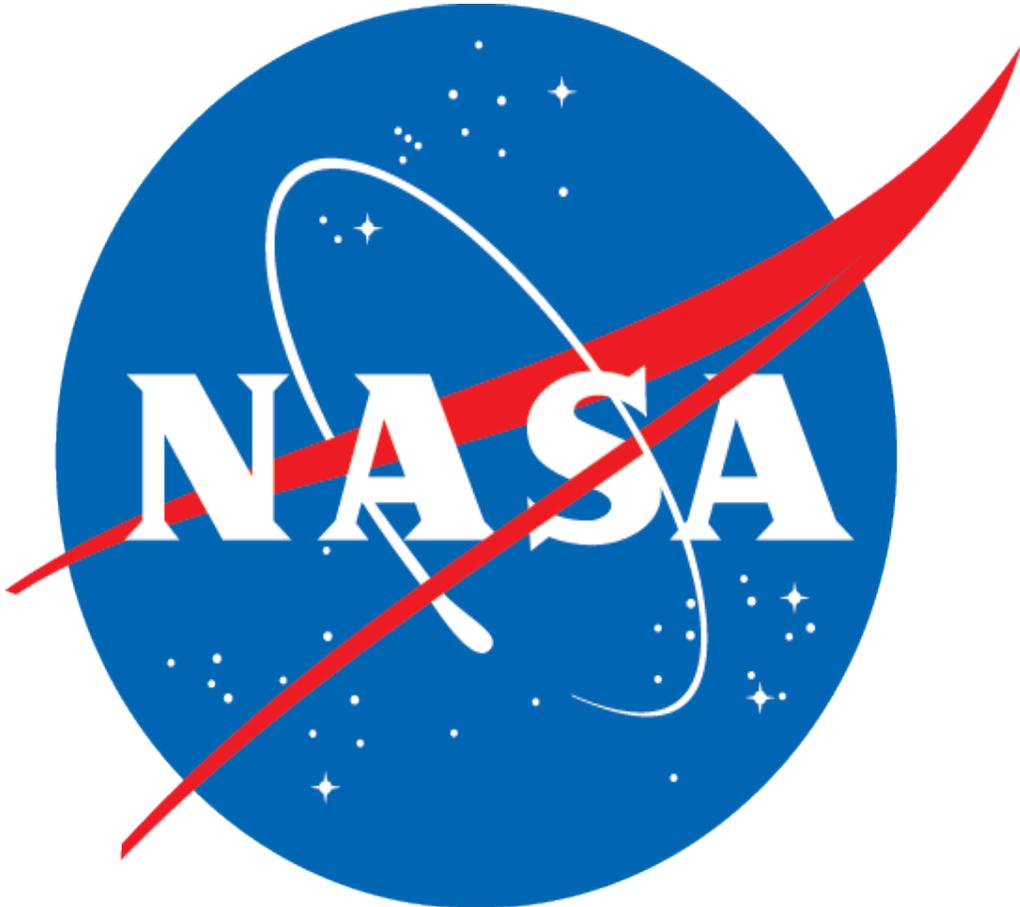


National Aeronautics and Space Administration



2019 CHIEF FOIA OFFICER REPORT

Ms. Bettina Inlan
Chief FOIA Officer
Associate Administrator
Office of Communications

High-Volume Agencies Receiving More Than 50 Requests in FY18 Content of 2019 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 least at the Assistant Secretary or equivalent level. Is your agency's Chief FOIA Officer at or above this level?

ANSWER: Yes.

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

ANSWER: Ms. Bettina Inlan, Associate Administrator for the Office of Communications

B. FOIA Training

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

ANSWER: Yes.

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

ANSWER: The staff attended either one or all of the following trainings offered by DOJ:
The Freedom of Information Act for Attorneys and Access Professionals
Advanced Freedom of Information Act Seminar

Continuing FOIA Education

In addition, the Principal Agency FOIA Officer holds monthly video conferencing (ViTS meetings) with the NASA FOIA professionals. At these meetings discussions on recent guidance issued by DOJ and/or recent case law issued by courts or remand on Administrative Appeals are discussed and ways to improve processes to comply with said guidance/court decision/administrative appeals. The NASA OGC and Principal FOIA Officer also held a training session for the staff and others about the intersection of FOIA and Privacy Act and how to processes cases of the type.

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

ANSWER: 100% of staff have attended the DOJ trainings mentioned above and/or agency's ViTS meetings NASA holds for its FOIA Staff.

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

ANSWER: All FOIA professionals have attended either DOJ trainings and/or in-house training.

C. Outreach

7. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency's FOIA administration.

ANSWER: NASA's FOIA professionals routinely engage in dialogue with requesters. The Principal FOIA Officer also attends all Chief FOIA Officer's Counsel meeting and has engaged with the requester community during these meetings to discuss NASA's experiences, best practices, and/or possible initiatives that can increase transparency. Additionally, NASA has a strong and robust Communications Office with Public Affairs Officers embedded in all NASA programs that answer all inquiries they receive from the media related to NASA programs/mission. NASA also has a Public Inquiry unit that answer questions it receives from the public via mail, email, or phone calls. The customer service NASA provides to the public in response to any inquiry is an essential part of the agency's open government activities. These services are key activities that help reduce the number of FOIA requests NASA receives.

D. Other Initiatives

8. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In 2016, the Department publicized FOIA-related performance

standards for employees that have any role in administering the FOIA, including non-FOIA professionals. Please also indicate whether your agency has considered including FOIA-related performance standards in employee work plans for employees who have any role in administering the FOIA.

ANSWER: NASA's Principal Agency FOIA officer has conducted two training sessions for NASA employees at its Headquarter Building. Additionally, the Principal Agency FOIA Officer provides monthly updates to the NASA Chief FOIA Officer and all Center Directors who have FOIA duties under their portfolio. NASA's Office of General Counsel also held a FOIA session during its annual meeting in 2018 for all of NASA attorneys. All NASA FOIA professionals have FOIA performance standards in their Performance plans.

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

ANSWER: The FOIA unit has partnered with officials responsible for maintaining and updating the public interface of NASA Technical Reports Server (NTRS) site to add any non-public reports that were/are requested under FOIA so that others interested in the same publication can gain access without submitting a FOIA request for the same report. This site is part of NASA's Scientific and Technical Information (STI) Program that was established to support the objectives of NASA's missions and research. The program acquires, processes, archives, announces, and disseminates NASA STI of critical importance to the agency and the nation. The NTRS' collection includes over a million bibliographic records and a growing number of full-text documents.

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 describes your agency's efforts in this area.

1. For Fiscal Year 2018, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A of your agency's Fiscal Year 2018 Annual FOIA Report.

ANSWER: 10.26

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

ANSWER: Provide more training to NASA FOIA professionals to adjudicate requests for Expedited processing within the ten calendar days of receiving the request.

3. During the reporting period, did your agency conduct a self-assessment of its FOIA program? If so, please describe the methods used, such as reviewing Annual Report data, using active workflows and track management, reviewing and updating processing procedures, etc.

- Note: In September 2017, OIP released a FOIA Self-Assessment Toolkit as a resource for agencies conducting a self-assessment of their FOIA program. The Toolkit is available on OIP's website for all agencies to use.

ANSWER: NASA conducts monthly assessments of its pending cases and provides a report of its 10 oldest cases to the agency's Chief FOIA Officer and other management officials. When a request is reported on several monthly reports, the Principal Agency FOIA officer takes steps to find out where the bottlenecks are and assists to get the case processed/reviewed in a more timely fashion.

Last year, the Acting Chief FOIA Officer took steps to consolidate the program where FOIA officers located at NASA Centers would report their FOIA duties to the Principal Agency FOIA Officer in Washington, D.C. This process has helped distribute the assignment of pending cases at one center that is experiencing a heavy load to other centers with lesser case load.

4. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2018 (please provide a total number or an estimate of the number).

ANSWER: NASA's Principal Agency FOIA Officer received a total of 4 requests for assistance and/or disputes in response to agency's final response. All 4 requests/disputes were responded and resolved without further issues being raised to agency's administrative appeal's unit at NASA's OGC or OGIS.

5. Please describe the best practices used to ensure that your FOIA system operates efficiently and effectively and any challenges your agency faces in this area.

ANSWER: NASA Principal Agency FOIA Officer instituted a policy to maintain and process all of its files in a digital manner. A FOIA SharePoint was created in April 2018. All case files created after April 2018 are kept electronically in the SharePoint by FY. The SharePoint is accessible by all FOIA professionals throughout NASA offices/centers that process FOIA requests, and attorneys that review FOIA cases files for legal review prior to release. The agency's administrative appeals' unit was also granted access for ease of review of agency's FOIA appeals. This process made the processing, review, and the appeals process very efficient.

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

ANSWER: The agency proactively posts requests for agency's SmartPay Card Holder's list and FOIA logs for each Fiscal Year. The list for SmartPay Card Holders can be accessed on agency's FOIA reading for its NSSC center at:

https://searchpub.nssc.nasa.gov/servlet/sm.web.Fetch/NASA_Cardholders_-_2-4-2014.pdf?rhid=1000&did=1761572&type=released.

The FOIA Logs can be accessed on agency's FOIA reading room at:

<https://www.nasa.gov/FOIA/elibrary>

Also, as explained in prior sections, any requests the FOIA unit processed for technical reports that could not be located on the NASA Technical Report Server were sent to this office to be posted on its public server side for access to other interested individuals without the need of submitting a new request.

Additionally, NASA's program offices routinely post documents related to their missions on their websites. The Office of the Inspector General also posts reviews, reports, report announcements.

2. Please describe how your agency identifies records that have been requested and released three or more times (and are therefore required to be proactively disclosed pursuant to 5 U.S.C. § 552(a)(2)(D)).

ANSWER: The FOIA professionals use the search function of our database where we summarize the description of records being sought to identify other past FOIA requests for documents that were previously requested. Additionally, the FOIA officer that processes a particular center's records would know if records were previously processed due to her/his institutional knowledge in processing the records.

3. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?

ANSWER: Yes.

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

ANSWER: NASA has one of the most robust use of social media to disseminate information of interest to the public. Our program offices regularly post documents related to mission updates, launches, etc., and this information is further publicized through tweets, program-sponsored events, interviews, etc. The Public Inquiries Office regularly revises its website to provide direct links to material of interest to the public.

5. Please describe the best practices used to improve proactive disclosures and any challenges your agency faces in this area.

ANSWER: As explained in prior sections, NASA's website and officials use of social media is a key factor in proactive disclosure of mission information. The links and information are regularly updated on NASA's website to provide the most current information of interest to the public. Public Affairs Officers also provide additional information/links if they believe something may become of interest to the public. Also, as explained in Section D (Other Initiatives), the FOIA unit submits non-public scientific publications posted on NASA's Technical Report Server (NTRS). Some of the challenges NASA FOIA unit faces is making processed records 508 complaint.

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

ANSWER: Yes. NASA's Office of Information Technology conducts searches for the FOIA unit when the request concerns Capstone officials' records/emails. One area that NASA is studying is the cost and use of de-duplication software.

2. 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?

ANSWER: Yes.

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

ANSWER: Yes

4. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2019.

ANSWER: N/A

5. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2017 Annual FOIA Report and, if available, for your agency's Fiscal Year 2018 Annual FOIA Report.

ANSWER: <https://www.nasa.gov/FOIA/annual-reports.html>

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

ANSWER: One challenge is de-duplicating emails. NASA FOIA unit is studying the use of de-duplication software(s) to learn how well the software(s) can function and costs associated with their purchase.

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

The Department of Justice has emphasized the importance of improving timeliness in responding to requests. This section of your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations.

For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2018 Annual FOIA Report and, when applicable, your agency's 2017 Annual FOIA Report.

A. Simple Track

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

1. Does your agency utilize a separate track for simple requests? If your agency uses a multi-track system beyond simple, complex, and expedited to process requests, please describe the tracks you use and how they promote efficiency.

ANSWER: Yes NASA utilizes multi-track system and has a separate track for simple requests.

2. 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 2018?

ANSWER: Yes.

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

ANSWER: 38%

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?

ANSWER: N/A

B. Backlogs

Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2016 and Fiscal Year 2017 when completing this section of your Chief FOIA Officer Report.

BACKLOGGED REQUESTS

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

ANSWER: No.

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

ANSWER: No.

7. If your agency's request backlog increased during Fiscal Year 2018, 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.
- Any other reasons – please briefly describe or provide examples when possible.

ANSWER: NASA had several staff leave (either retired or took another job) which contributed to the increase in its backlog.

8. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2018. If your agency has no request backlog, please answer with “N/A.”

ANSWER: 3 percent

BACKLOGGED APPEALS

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

ANSWER: NASA successfully processed all of its appeals in FY 2018 including those carried over from FY 2017.

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

ANSWER: N/A

11. If your agency’s appeal backlog increased during Fiscal Year 2018, 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.
- Any other reasons – please briefly describe or provide examples when possible.

ANSWER: N/A

12. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2018. If your

agency did not receive any appeals in Fiscal Year 2018 and/or has no appeal backlog, please answer with "N/A."

ANSWER: N/A

C. Backlog Reduction Plans

13. In the 2018 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2017 was asked to provide a plan for achieving backlog reduction in the year ahead. Did you agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2018?

ANSWER: The backlog of cases carried over from FY 2017 to FY 2018 was 11 cases. NASA successfully closed all of these cases in 2018.

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

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

OLDEST REQUESTS

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

ANSWER: Yes, 10/10 were closed in 2018

16. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2017 Annual FOIA Report. If you had fewer than ten total oldest requests to close, please indicate that.

ANSWER:

17. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were

closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?

ANSWER: N/A

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

ANSWER: NASA's backlog increased due to a loss of FOIA personnel; an increase in the complexity of requests, as well an increase in the number of requests associated with contracts, to include all modifications to the contracts that contain a high volume of records.

TEN OLDEST APPEALS

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

ANSWER: Yes, 7/10 oldest appeals were closed in 2018.

20. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2017 Annual FOIA Report. If you had fewer than ten total oldest appeals to close, please indicate that.

ANSWER: N/A

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

ANSWER: N/A

TEN OLDEST CONSULTATIONS

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

ANSWER: Yes, 1/1 of oldest consultation was closed in 2018.

23. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2017 Annual FOIA Report. If you had fewer than ten total oldest consultations to close, please indicate that.

ANSWER: NASA processed 7 consultations during FY 2018.

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

24. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2018.

ANSWER: NASA closed its 10 oldest cases carried over to 2018. However, at the end of FY 2018, NASA reported 27 cases in its backlog that is pending at the start of FY 2019. As explained above, NASA experienced loss of personnel last year that was remedied at the end of first quarter of FY 2019.

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

ANSWER: N/A

26. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2018.

ANSWER: N/A

F. Success Stories

Out of all the activities undertaken by your agency since March 2018 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency’s efforts. The success story can come from any one of the five key areas. As noted above, OIP will highlight these agency success stories during Sunshine Week. 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.

ANSWER: The creation of a SharePoint platform to store, process, and access FOIA case files in a digital manner provided great efficiencies in processing of our records and allowed other FOIA officers to easily assist when back up was requested or necessary by another center. NASA recognized the need to consolidate FOIA business processes in order to achieve continual success in the program. FOIA Officers are now either located in Headquarters or are matrixed to Headquarters which has made the oversight of business processes easier. FOIA points of contact are appointed at each Center within the Office of Communications when a FOIA officer leaves the center and the position is filled at Headquarters to assist FOIA Officers in obtaining documents responsive to requests from the centers.