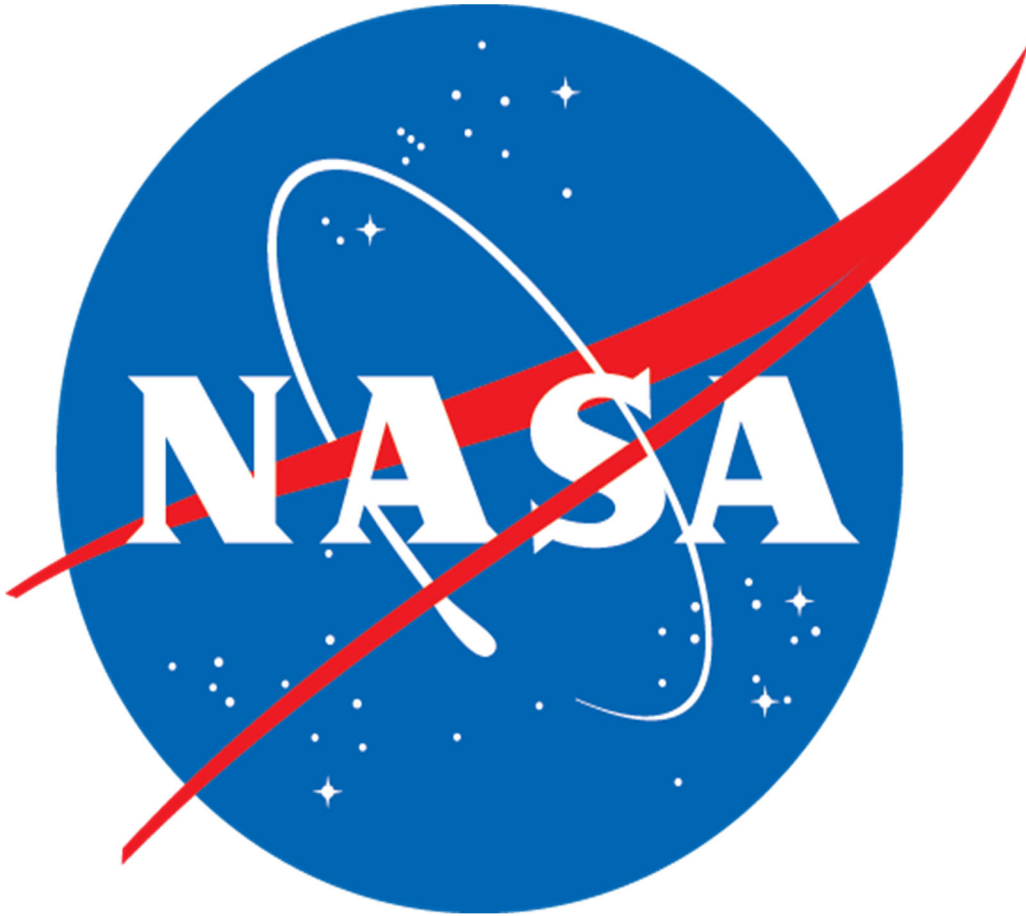


National Aeronautics and Space Administration



2024 CHIEF FOIA OFFICER REPORT

Mr. Marc Etkind
Chief FOIA Officer
Associate Administrator
Office of Communications

SECTION I: FOIA LEADERSHIP AND APPLYING PRESUMPTION OF OPENNESS

The guiding principle underlying the Attorney General’s 2022 FOIA Guidelines is the presumption of openness. The Guidelines also highlight the importance of agency leadership in ensuring effective FOIA administration. Please answer the following questions about FOIA leadership at your agency and describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.

A. 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 or above this level?

ANSWER: Yes

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

ANSWER: Marc Etkind, Associate Administrator for the Office of Communications

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?

ANSWER: The Freedom of Information Act Office is part of the National Aeronautics and Space Administration’s (NASA’s) Office of Communications (OCOMM). OCOMM handles corporate, Agency-wide communications for NASA and is accountable for managing the planning, development, and implementation of communications events, activities, and products for stakeholders, including the general public. It provides for the widest practicable and appropriate dissemination of information to news media and the general public concerning the objectives, methods, and results of NASA programs. OCOMM is responsible for planning, organizing, directing, and coordinating Agency-wide communications activities for all facets of NASA’s mission, programs, activities, and functions for the Agency’s workforce, media, and the general public. The scope of the Agency’s communications entails a broad, diverse, and integrated set of efforts, including news and media engagement, digital services and products (including Web, multimedia, and social media), non-technical publications, and exhibits, as well as speaking and public engagement activities and events.

B. 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?

ANSWER: Yes.

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 interested protected by a FOIA exemption. This is commonly referred to as a Glomar response. If your agency tracks Glomar responses, please provide:

- the number of times your agency issued a full or partial Glomar response (separate full and partial if possible);
- the number of times a Glomar response was issued by exemption (e.g., Exemption 7(C) – 20 times, Exemption 1 – 5 times).

ANSWER: Full Glomar, Exemption 6 – 1 time.

6. If your agency does not track the use of Glomar responses, are you planning to track this information in the future?

ANSWER: N/A

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

ANSWER: The National Aeronautics and Space Act mandates that NASA disseminate to the public as much information as possible concerning its missions and scientific findings. Please see answer to question number 3 above regarding OCOMM’s mission to meet this mandate.

Section II – Ensuring Fair and Effective FOIA Administration

The Attorney General’s FOIA Guidelines provide that “[e]nsuring fair and effective FOIA administration requires . . . proper training, and a full understanding of FOIA obligations by the entire agency workforce.” The Guidelines reinforce longstanding guidance to “work with FOIA requesters in a spirit of cooperation.” The Attorney General also “urge[s] agency Chief FOIA Officers to undertake comprehensive review of all aspects of their agency’s FOIA administration” as part of ensuring fair and effective FOIA administration.

A. FOIA Training

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.

ANSWER: The NASA Principal Agency FOIA Officer receives training information from the American Society of Access Professionals (ASAP) and the Department of Justice Office of Information Policy (OIP), then distributes that information to NASA FOIA staff so they can sign up to attend the offered training.

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?

ANSWER: Yes

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

ANSWER: NASA FOIA staff registered for FOIA training offered by the Department of Justice. NASA staff attended the following such training during this reporting period:

- 10/04/2023, Virtual Annual/Quarterly FOIA Report Training;
- 07/11/2023, Virtual Privacy Consideration;
- 06/21/2023, Virtual Exemption 4 & 5 Workshop;
- 06/06/2023, Virtual Exemption 1 & 7 Workshop;
- 05/17/2023, Virtual Administrative Appeals, FOIA Compliance, and Customer Service;
- 05/10/2023, Virtual Litigation Workshop;
- 05/03/2023, Virtual Procedural Requirements and Fees; and
- 04/04/2023, Virtual Introduction to the Freedom of Information Act;

In addition, the Principal Agency FOIA Officer held quarterly TEAMS meetings with NASA's FOIA professionals to discuss any new guidance issued by OIP, any recent case law or requests remanded on administrative appeal affecting the handling of NASA FOIA cases, and ways to improve NASA's FOIA processes to comply with these factors.

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

ANSWER: 100% of NASA's FOIA staff attended virtual DOJ FOIA training during this reporting period. Furthermore, 80% of staff attended the quarterly meetings in which some sort of training was held by the Principal Agency FOIA Officer as explained in the previous response.

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.

ANSWER: N/A

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?

ANSWER: The Office of General Counsel makes a presentation about FOIA at the agency's New Employee Orientation Training sessions for new employees. Additionally, on an annual basis, the Principal Agency FOIA Officer provides training sessions for NASA Program Offices. In 2023, the Principal Agency FOIA Officer provided six (6) training sessions for program offices at NASA Headquarters and NASA Centers. NASA's FOIA website also has links to resources and training videos from DOJ on FOIA.gov. The Principal Agency FOIA Officer routinely refers employees to this material. Examples of videos the FOIA office provides to its non-FOIA professionals are: [DOJ Executive Briefing on FOIA](#) (with DOJ video), and [FOIA.gov – Frequently Asked Questions](#) (with DOJ videos). Links to the DOJ resources and videos are also available on NASA's FOIA website.

B. Outreach

7. 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? Please describe any such outreach or dialogue, and, if applicable, any specific examples.

ANSWER: Yes, the FOIA specialists always reach out to requesters to discuss any aspect of the FOIA request that is voluminous or unclear and/or discuss the FOIA process to better serve the requester and provide the best quality customer service possible.

8. Outside of the standard request process or routine FOIA Liaison or FOIA Requester Service Center interactions, did your FOIA professionals engage in any outreach or dialogue, with the requester community or open government groups regarding your administration of the FOIA? For example, did you proactively contact frequent requesters, host FOIA-related conference calls with open government groups, or provide FOIA training to members of the public? 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: No. While the FOIA office does not have any outreach *outside* of the standard FOIA processes, NASA has a strong and robust OCOMM with Public Affairs Officers embedded in all NASA programs to answer all inquiries received from the media related to NASA programs and missions.

OCOMM handles corporate, Agency-wide communications for NASA and is accountable for managing the planning, development, and implementation of communications events, activities, and products for stakeholders, including the general public. The office provides for the widest

practicable and appropriate dissemination of information to news media and the general public concerning the objectives, methods, and results of NASA programs. The office is responsible for planning, organizing, directing, and coordinating Agency-wide communications activities for all facets of NASA's mission, programs, activities, and functions for the Agency's workforce, media, and the general public. The scope of the Agency's communications entails a broad, diverse, and integrated set of efforts, including news and media engagement, digital services and products (including Web, multimedia, and social media), non-technical publications, and exhibits, as well as speaking and public engagement activities and events. The office works to promote effective NASA communications by ensuring synergy and strategic focus and working collaboratively with the Office of Legislative and Intergovernmental Affairs, the Office of STEM Engagement, and other Agency organizations, as appropriate.

NASA also has a Public Inquiry unit that answers thousands of inquiries from the public via mail, email, or phone calls. The customer service that NASA's OCOMM 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.

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

ANSWER: NASA's FOIA Public Liaison received only 4 requests for assistance and/or disputes from requesters regarding their FOIA requests during this reporting period. All disputes were resolved without further issues being raised to the agency's administrative appeal unit at NASA's OGC or OGIS. We believe that the decrease in calls for assistance from NASA's FOIA Public Liaison indicates the level of customer service offered by NASA FOIA processors to ensure requesters receive timely assistance and continual status updates on their requests.

C. 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.

ANSWER: The FOIA office is currently utilizing a rotational detailee to assist with FOIA tasks. This rotational opportunity allows the FOIA office to leverage the experience of personnel from another area of the agency, and helps to balance some of the FOIA workload between FOIA personnel and the detailee. It also provides the detailee an opportunity to gain experience and deeper understanding of the FOIA and agency FOIA practices which, at the end of the rotation, he/she can apply to any FOIA tasks that may arise at his/her employing office.

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.

ANSWER: On a weekly basis, the Principle Agency FOIA Officer conducts assessments of NASA's pending cases and provides a report to the agency's Chief FOIA Officer and other management officials. This report provides a snapshot of each FOIA processor's workload and what needs to be done either by the Principal Agency FOIA Officer or management to assist with resolving complex issues that are holding up the completion of a request. It also allows the Principal Agency FOIA Officer to measure each analyst's workload and implement an assignment process that factors in request complexity, as well as each analyst's caseload and proficiency for more equitable division of the FOIA workload.

12. Optional -- If there are any other initiatives undertaken by your agency to ensure fair and effective FOIA administration, please describe them here.

ANSWER: N/A

SECTION III: PROACTIVE DISCLOSURES

The Attorney General's FOIA Guidelines emphasize that "proactive disclosure of information is . . . fundamental to the faithful application of the FOIA." The Guidelines direct agencies to post "records online quickly and systematically in advance of any public request" and reiterate that agencies should post records "in the most useful, searchable, and open formats possible."

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

ANSWER: NASA has one of the most robust communications programs that uses social media to disseminate information of interest to the public. NASA's OCOMM routinely releases information to the public, especially information that has the potential to generate significant media, public interest, or other inquiries. 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. OCOMM's Public Inquiries Office, which receives thousands of requests for information from members of the public, also regularly revises its website to provide direct links to material of interest to the public.

2. How long after identifying a record for proactive disclosure does it take your agency to post it?

ANSWER: NASA does not track this information, particularly with respect to material posted by other NASA offices. As described in response to question 1 above, documents are regularly posted to the website by NASA's Mission Directorates and its program offices, and NASA's OCOMM regularly disseminates information of interest to the public. Information is proactively published on NASA's websites and/or via social media nearly daily.

With respect to posting records processed under FOIA, although the NASA FOIA Office has the ability to post to the agency website immediately upon identification, the biggest challenge we face is the remediation of records under Section 508 of the Rehabilitation Act (29 U.S.C. 794d),

as amended in 1998. NASA uses contractors for this service, and because of the vast amount of information NASA constantly posts on its website, there is a queue for 508 remediation services before FOIA records may be posted to the web. The time it takes for a record to move through this queue depends on the workload of the contractors, and the complexity of the record undergoing 508 remediation.

3. Does your agency post logs of its FOIA requests?

- If so, what information is contained in the logs?
- Are they posted in CSV format? If not, what format are they posted in?

ANSWER: NASA posts logs of its FOIA requests at the end of each fiscal year. Each log is posted in XLSX format and contains information about every FOIA request closed during that fiscal year. Specifically, the information available in each log contains the following: request number, request type (i.e., FOIA request), the organization the requester is affiliated with (if any), a description of the request, the final disposition of the request and any exemptions cited, and the date the request was closed.

4. 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.

ANSWER: NASA has a vast amount of information posted on its many websites by its Mission Directorates and program officials. The FOIA office proactively posts the SmartPay Card Holder's list, FOIA logs, and any requests that have been requested 3 times or more.

The list for SmartPay Card Holders can be accessed by visiting the NASA Shared Services Center (NSSC) FOIA reading room at:

<https://searchpub.nssc.nasa.gov/servlet/sm.web.Fetch?rhid=1000&did=1761572&type=released>.

The FOIA Logs can be accessed by visiting the NASA Headquarters FOIA reading room at:

<https://www.nasa.gov/foia/nasa-e-libraries/headquarters-foia-library/>.

5. 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. As explained above, NASA posts a vast amount of information for the scientific community, researchers, students, media requesters, vendors, and others interested in NASA's new or historical events and published information which is continually updated.

NASA has a statutory mandate to post as much information concerning its missions and scientific findings as possible. A few examples of data that the FOIA office routinely provides the public to view without the need to submit a FOIA request are:

[NASA's Technical Reports Server \(NTRS\)](#) – NTRS is managed by NASA's Scientific and Technical Information unit (STI). This database provides access to NASA metadata records, full-text online documents, images, and videos. The types of information included in this database are conference papers, journal articles, meeting papers, patents, research reports, images, movies, and technical videos – scientific and technical information (STI) created or funded by NASA. The STI group complies with the Space Act's requirement to disseminate federally funded scientific, technical information to the widest audience practicable.

[NASA Space Act Agreements](#) – NASA has the ability to enter into special agreements, called Space Act Agreements, to further the aims of the agency.

[NASA History Office](#) – The NASA History Office publishes a quarterly newsletter, as well as an array of books (in both print and digital formats), conducts oral history interviews, provides internships and fellowships, and assists the public in finding information on aeronautical and space history.

[Johnson Space Center History Office](#) – Includes many records related to the Apollo mission era and other space flight history, images, and videos.

[NASA Office of Inspector General](#) – Full-text reports, audits, memoranda, testimony, etc.

[Management and Policy Documents](#) – Provides a list of links to scanned documents that are vital to understanding how NASA functions and its role in the federal government.

[NASA Online Directives Information System \(NODIS\)](#) – Provides full-text of NASA Policy Directives (NPDs) and NASA Procedural Directives (NPRs) by date and by name.

[NASA Image Library](#) – Consolidates imagery and videos in one searchable location. Users can download content in multiple sizes and resolutions and see the metadata associated with images, including EXIF/camera data on many images.

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

ANSWER: All of NASA's Mission Directorates continually update their public websites with new information. NASA is a leader among federal agencies in providing open data to citizens and has a robust infrastructure for internet-facing open data management. NASA has cataloged a comprehensive data inventory, available at <https://data.nasa.gov/>, which is also pushed to data.gov on set time schedules and allows the public to search datasets from NASA and other agencies. The number of NASA datasets continues to grow as the Agency implements the Evidence-Based Policymaking Act under the purview of the NASA Data Governance Council. With the goal to make NASA data as interoperable as possible, NASA deployed <https://api.nasa.gov/>, which provides machine-readable access to data, and <https://code.nasa.gov/> to offer computer code in multiple languages to assist application development. NASA's events can be viewed at <https://www.nasa.gov/> by clicking on any topics of interest using the navigation to view the latest events and information available to the public. While the examples are far too many to provide in this response, all of NASA Mission Directorates post their latest scientific

news, past projects, podcasts, grant award announcements, publications, and final reports on research results for the public or researchers at their respective websites.

7. 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.

ANSWER: Yes, see response to question 6 above.

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

ANSWER: For best practices, please see response to question 6 above. One challenge the FOIA office faces is the remediation of records under Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended in 1998. NASA uses contractors for this service. Again, because of the vast amount of information NASA posts on its various websites, in order to ready FOIA records for web posting, there is a queue time for 508 remediation services before records may be posted to the web.

SECTION IV: STEPS TAKEN TO GREATER UTILIZE TECHNOLOGY

A key component of FOIA administration is using technology to make information available to the public and to gain efficiency in FOIA processing. The Attorney General's FOIA Guidelines emphasize the importance of making FOIA websites easily navigable and complying with the FOIA.gov interoperability requirements. Please answer the following questions to describe how your agency is using technology to improve its FOIA administration and the public's access to information.

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

ANSWER: Yes. NASA uses FOIAXpress to track its FOIA workflow. We also use SharePoint to store our FOIA request files which allow all relevant personnel to collaborate on records received and processed in response to FOIA requests. In addition, NASA uses Box.com to securely share larger volumes of records with external stakeholders during the records review process, and with requesters once the review process is complete. Further, NASA uses its Office of Information Technology to conduct FOIA searches of employee and Capstone official email accounts. This has greatly helped to streamline the administration of our FOIA program. NASA also uses Adobe Acrobat Pro to redact records, and has several licenses for EverMap AutoPortfolio which is an Acrobat plug-in that enables FOIA processors to organize and identify duplicate email trails. It has helped the FOIA Office to manage and process requests for voluminous emails more efficiently.

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

ANSWER: N/A

3. Does your agency currently use any technology to automate record processing? For example, does your agency use machine learning, predictive coding, technology assisted review or similar tools to conduct searches or make redactions? If so, please describe and, if possible, estimate how much time and financial resources are saved since implementing the technology.

ANSWER: No. The NASA FOIA Office does not have any new technology to automate record processing. However, Acrobat Pro has a function that allows users to search for text (such as words, short phrases, names, telephone numbers, email addresses, etc.), and “teach” the software to redact such text within a document.

Additionally, as previously noted the FOIA office utilizes EverMap AutoPortfolio which helps to automate several functions used to manage and process large batches of emails. It helps to convert email files into pdf, keeping attachments with their parent email, and uses metadata to identify duplicate and near-duplicate email chains. The de-duplication function does not always catch all near-duplicate records; however, the software allows for batch re-naming records according to set parameters (for instance, emails can be renamed using a naming convention such as date_timestamp_subject) which allows FOIA processors to more easily identify any near-duplicate emails the software may have missed. This also helps to organize emails so they can be more easily processed.

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?

ANSWER: Yes.

5. Did all four of your agency’s [quarterly reports](#) for Fiscal Year 2023 appear on FOIA.gov?

ANSWER: Yes.

6. If your agency did not successfully post all quarterly reports on FOIA.gov, please explain why and provide your agency’s plan for ensuring that such reporting is successful in Fiscal Year 2023.

ANSWER: N/A

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 2022 Annual FOIA Report and, if available, for your agency’s Fiscal Year 2023 Annual FOIA Report.

ANSWER: NASA’s Annual FOIA Reports for Fiscal Years 2022 and 2023, including the raw data for each, can be accessed at the following website: <https://www.nasa.gov/foia/foia-reports/annual-foia-report/>.

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?

ANSWER: Yes.

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

ANSWER: N/A

SECTION V: STEPS TAKEN TO REMOVE BARRIERS TO ACCESS, IMPROVE TIMELINESS IN RESPONDING TO REQUESTS, AND REDUCE BACKLOGS

The Attorney General's [FOIA Guidelines](#) instruct agencies "to remove barriers to requesting and accessing government records and to reduce FOIA processing backlogs." Please answer the following questions to describe how your agency is removing barriers to access, improving timeliness in responding to requests, and reducing FOIA backlogs.

A. Remove Barriers to Access

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

ANSWER: No

2. If yes, please provide examples. If no, please indicate why not. Please also indicate if you do not know.

ANSWER: NASA receives a nominal number of requests from requesters seeking their own records. Therefore, for these types of requests, NASA simply reviews the records and processes them under both the FOIA and Privacy Act to provide the widest possible access.

3. Please describe any other steps your agency has taken to remove barriers to accessing government information.

ANSWER: N/A

B. Timeliness

4. For Fiscal Year 2023, 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 2023 Annual FOIA Report.

ANSWER: 9.02

5. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2023 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.

ANSWER: N/A

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

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

7. If your agency uses a separate track for simple requests, according to Annual FOIA Report section VII.A, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2023?

ANSWER: Yes. The agency overall average number of days to process simple requests was 7.61 working days in Fiscal Year 2023.

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

ANSWER: N/A

9. Please provide the percentage of requests processed by your agency in Fiscal Year 2023 that were placed in your simple track. Please use the following calculation based on the data from your Annual FOIA Report: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) x 100.

ANSWER: 41%

10. 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.

C. Backlogs

Backlogged Requests

11. If your agency had a backlog of requests at the close of Fiscal Year 2023, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2022?

ANSWER: Yes. NASA's backlog was 38 at the end of FY 2022, and 32 at the end of FY 2023.

12. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2023 than it did during Fiscal Year 2022?

ANSWER: N/A; however, NASA did process more requests during Fiscal Year 2023 than it did during Fiscal Year 2022. NASA processed 982 requests in FY 2022, and 1,003 requests in FY 2023.

13. If your agency's request backlog increased during Fiscal Year 2023, 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)
- Litigation
- Any other reasons – please briefly describe or provide examples when possible

ANSWER: N/A

14. 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 2023. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. This number can be greater than 100%. If your agency has no request backlog, please answer with "N/A."

ANSWER: 3.2%

Backlogged Appeals

15. If your agency had a backlog of appeals at the close of Fiscal Year 2023, according to Section XII.E.2 of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2022?

ANSWER: No. NASA had a backlog of 6 appeals at the end of FY 2022, and 7 at the end of FY 2023.

16. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2023 than it did during Fiscal Year 2022?

ANSWER: Yes. NASA processed 11 appeals during Fiscal Year 2022, and 14 appeals during Fiscal Year 2023.

17. If your agency's appeal backlog increased during Fiscal Year 2023, 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)
- Litigation
- Any other reasons – please briefly describe or provide examples when possible

ANSWER: The number of FOIA appeals received by NASA during Fiscal Year 2023 increased significantly as compared to Fiscal Year 2022. The 17 appeals received in Fiscal Year 2023 represent an increase of over 100% as compared to the 8 appeals received in Fiscal Year 2022.¹ These FOIA appeals are reviewed by attorney advisors within NASA's Office of the General Counsel (OGC), who advise on FOIA matters and a variety of other legal matters. During Fiscal Year 2023, in reviewing appeals, OGC noted an increase in the complexity of some of the requests and appeals. For instance, OGC reviewed multiple appeals pertaining to voluminous and highly technical records. Review of these time-intensive appeals, coupled with competing demands for attorney time and an overall increase in the number of appeals received, caused a backlog of appeals for this reporting year.

18. 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 2023. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received from Section VI.A) x 100. This number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2023 and/or has no appeal backlog, please answer with "N/A."

ANSWER: 41%

D. Backlog Reduction Plans

19. In the 2023 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2022 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

¹ NASA reported an overall total of 9 appeals during Fiscal Year 2022; however, one was for NASA's Office of the Inspector General which processes its own appeals. The 8 referenced appeals are for those reviewed by NASA's Office of the General Counsel.

your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2023?

ANSWER: NASA did not implement a backlog reduction plan last year because its backlog in Fiscal Year 2023 was less than 1,000 requests.

20. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2023, please explain your agency's plan to reduce this backlog during Fiscal Year 2024.

ANSWER: N/A

E. Reducing the Age of Requests, Appeals, and Consultations

Ten Oldest Requests

21. In Fiscal Year 2023, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2022 Annual FOIA Report?

ANSWER: No.

22. 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 2022 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

ANSWER: NASA closed 7 of the 10 FOIA requests reported as pending at the end of FY 2022.

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

ANSWER: The Principle Agency FOIA Officer works to reduce the age of pending requests by re-distributing pending cases from FOIA specialists experiencing heavy work volumes to other FOIA specialists with lesser caseloads. However, due to the receipt of several very complex FOIA requests with voluminous records, NASA faced challenges reducing the overall age of some of its pending requests.

Ten Oldest Appeals

24. In Fiscal Year 2023, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2022 Annual FOIA Report?

ANSWER: No.

25. 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.

ANSWER: NASA closed 4 of the 6 FOIA appeals reported as pending at the end of FY 2022.

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

ANSWER: As indicated in response to question 17 above in this section, NASA's OGC reviews FOIA appeals. NASA OGC has and will continue to look for ways to gain efficiencies in its FOIA appeal review process in order to provide thorough and accurate reviews in the most timely manner possible.

Ten Oldest Consultations

27. In Fiscal Year 2023, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2022 Annual FOIA Report?

ANSWER: During FY 2023 NASA closed the 1 consultation that was pending at the end of FY 2022.

28. 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 2022 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

ANSWER: N/A

Additional Information Regarding Ten Oldest

29. 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 2024.

ANSWER: One of the biggest challenges NASA faces is that the nature of its work is inherently collaborative with other agencies, state/local governments, international partners, and companies. Thus, records responsive to NASA FOIA requests frequently require extensive consultations with numerous other stakeholders. These FOIA requests are extremely time consuming and pose a great challenge to NASA, especially when voluminous records are involved. The Principle Agency FOIA officer reviews and meets with FOIA analysts about their FOIA cases to discuss strategies to improve the FOIA program, reduce the FOIA backlog, and speed up the processing of requests. This also sometimes requires additional discussions with FOIA requesters to explain the challenges faced by FOIA analysts in

processing a backlogged request. Sometimes these discussions help requesters to narrow the scope of their requests or agree to the records NASA produced for interim releases. NASA plans to continue this process to close some of its pending requests.

F. Additional Information about FOIA Processing

30. 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 request processing and backlog. If possible, please indicate:

- The number and nature of requests subject to litigation
- Common causes leading to litigation
- Any other information to illustrate the impact of litigation on your overall FOIA administration

ANSWER: No.