



## **2023 Chief FOIA Officer Report**

**Diana J. Veilleux, Chief FOIA Officer,**

**U.S. Office of Government Ethics**



## Section I: FOIA Leadership and Applying the Presumption of Openness

The guiding principle underlying DOJ's 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. Is your agency's Chief FOIA Officer at or above this level?**

OGE's Chief FOIA Officer is a senior official equivalent to this level.

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

Diana Veilleux, Chief, Legal, External Affairs and Performance Branch, Program Counsel Division.

**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?**

Yes. OGE has incorporated FOIA milestones into its strategic plan.

### *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?**

Yes. In compliance with the Attorney General's 2022 FOIA guidelines, OGE confirms in response letters to FOIA requesters that OGE has considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.

**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. With respect to these responses, please answer the below questions:**

- a. In addition to tracking the asserted exemption, does your agency specifically track whether a request involved a Glomar response?**

Yes. OGE tracks whether a request involved a Glomar response.

- b. If yes, please provide:**

- i. the number of times your agency issued a full or partial Glomar response (separate full and partial if possible);**

OGE has not issued a Glomar response during the reporting period.

- ii. the number of times a Glomar response was issued by exemption (e.g., Exemption 7(C) – 20 times, Exemption 1 – 5 times).**

N/A

- c. If your agency does not track the use of Glomar responses, what would your agency need to do to track in the future? If possible, please describe the resources and time involved.**

N/A

## **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. Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.**

OGE promptly informs FOIA team members of available FOIA training opportunities. Specifically, OGE provides its FOIA team members with direct registration links to the FOIA courses offered by DOJ’s Office of Information Policy. In addition, OGE’s FOIA personnel who require or seek more extensive training are sent to commercially available FOIA/PA training. Members of the FOIA team also provide periodic briefings to employees at staff meetings about responsibilities under the FOIA.

**2. 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?**

Yes, the personnel at OGE who have FOIA responsibilities attended FOIA training during the reporting period.

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

The personnel at OGE who have FOIA responsibilities attended various courses and seminars offered by DOJ's Office of Information Policy including the Virtual Exemption 4 and Exemption 5 Workshop, the Mid-Year FOIA Virtual Get-Together, the Virtual Continuing FOIA Education, the Virtual Processing from Start to Finish Workshop, the Virtual Procedural Requirements and Fees Workshop, the Virtual Litigation Workshop, the Virtual Exemption 1 and Exemption 7 Training, the Virtual FOIA Summit for Agency FOIA Professionals, the Chief FOIA Officers Council Meeting, the Virtual Freedom of Information Act Litigation Seminar, and the Virtual Chief FOIA Officer Report Training.

**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.**

100% of OGE staff with FOIA responsibilities attended substantive FOIA training during this reporting period.

**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.**

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?**

Through periodic email and staff meeting reminders, the OGE FOIA Team regularly informs non-FOIA professionals of their obligations under the FOIA, particularly that any documents created or maintained as part of the non-FOIA professional’s job may be

responsive to a FOIA request. FOIA Team members also provide support and respond to questions from individuals who have been requested to search for records to respond to a particular request, or anyone who otherwise has questions about the FOIA process. OGE's Chief FOIA Officer provides quarterly briefings to OGE's senior leaders on OGE's FOIA program, resources, obligations and expectations during the FOIA process.

## ***B. 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.**

Yes. OGE's FOIA team regularly reached out to requesters who had pending requests to provide status updates and to discuss/clarify the scope of a request. These contacts have led to improved relations with the requestor community. In addition, OGE used its Twitter account to show requesters and other members of the public how to access information on OGE's website, including how to navigate OGE's online FOIA resources and how to find ethics documents for senior government leaders that are available on OGE's website. These types of contacts have enabled requestors to access information that they otherwise would not have known was already publicly available.

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

Yes. OGE's FOIA professionals, based on their knowledge of the subject matter of the request, determine whether the requested records are complex or voluminous. Accordingly, OGE's FOIA professionals contact the requesters to let them know that the request is complex or voluminous and that the request cannot be processed in twenty work days. OGE's FOIA professionals ask the requesters to clarify/narrow the scope of the request for quicker processing, or agree to pay processing fees and additional time period for processing.

**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).**

OGE estimates that requesters seek assistance from its FOIA Public Liaison two to three times per month.

### *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.**

Yes. Over the past few years, OGE has evaluated the allocation of agency personnel resources needed to respond to current and anticipated FOIA demands. This resulted in OGE restructuring its FOIA Team and hiring an additional FOIA attorney.

**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.**

OGE tracks intake and processing of FOIA requests and responses, and conducts regular FOIA Team meetings to assess progress and address issues. OGE regularly conducts self-assessments of its FOIA program by reviewing processing procedures and response templates, and analyzing Annual FOIA Report data. When appropriate, OGE makes changes to increase efficiency, improve search processes, increase transparency, and otherwise improve the management of OGE's FOIA workload.

### **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.**

OGE's FOIA professionals are uniquely situated to identify and track operational documents of the agency and post the records on OGE's FOIA Library to the extent it is feasible. In addition, OGE's FOIA personnel review each request when it is first received to identify popular topics and post frequently requested records, once processed, directly to OGE's website.

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

During the past reporting year, OGE continued proactively disclosing records processed for release under the FOIA, with applicable exemptions, on its [website](#).

In addition, the following materials were proactively disclosed on OGE's website during the past reporting year:

OGE Advisories: OGE posted all [written guidance](#) to executive branch ethics officials and employees, including legal, education, and program advisories.

Ethics Program Review Reports: OGE conducts reviews of agency ethics programs and issues recommendations to improve the ethics program if deficiencies are found. To confirm that the agency has acted on OGE's recommendations, OGE also conducts a follow-up review six months from the date of the report. OGE posted all [program review reports](#) and follow-up reports on its website.

Public Financial Disclosures & Ethics Agreements:

- Public financial disclosure reports submitted by the President and Vice President may be accessed [here](#).
- Public financial disclosure reports submitted by candidates for the Office of President or Vice President may be requested [here](#).
- Public financial disclosure reports submitted by appointees or nominees to positions for which the pay is set at Levels 1 and 2 of the Executive Schedule may be accessed [here](#).
- OGE has an automated online process for providing public access to other [public financial disclosure reports](#) (OGE Forms 278, 278e, and 278-T) for Presidential appointees confirmed by the Senate (PAS).
- OGE also posted the ethics agreements of PAS employees, which describe the steps an appointee will take to avoid any actual or apparent conflicts of interest, as well as records of ethics agreement compliance, at the above links.

Certificates of Divestiture: Information on requesting copies of Certificate of Divestitures (CDs), as well as a list of recent CDs that have been issued, may be accessed [here](#).

Executive Branch Agency Ethics Pledge Waivers: Copies of the waivers granted pursuant to Executive Order 13770 are available [here](#). Copies of the waivers granted pursuant to Executive Order 13490 are available [here](#).

Certain Waivers and Authorizations issued between May 1, 2016 – April 30, 2017: On April 28, 2017, OGE issued a directive (PA-17-02) requiring agencies to submit information and records related to certain waivers and authorizations. This [page](#) provides an overview of agency responses and instructions for how to request responsive documents.

Travel Reports: Agencies are required to submit to OGE semiannual reports of payments for travel, subsistence, and related expenses received from non-federal sources in

connection with the attendance of employees at certain meetings or similar functions. OGE posted these [travel reports](#) on its website.

Annual Agency Questionnaire Responses: This [Questionnaire](#) asks agency ethics offices for information about ethics officials and the administration of agency ethics programs, as well as core elements of the ethics program that assist in the identification and resolution of potential conflicts of interest.

**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. OGE is taking steps to make posted information useful to the public and individuals who regularly access OGE's website.

**4. 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.**

OGE is engaging in public outreach to help the public better understand the material posted to OGE's website. In addition to driving traffic to substantive ethics content on its website, OGE is using its Twitter account to educate the public about the executive branch ethics program and to explain the types of records available on OGE's website. In addition, OGE's redesigned website has made the website more useful to the public and other stakeholders. When redesigning the website, OGE ensured that information is posted in machine-readable and machine actionable formats.

**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.**

N/A

#### **Section IV: Steps Take 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?**

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

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

OGE uses its FOIA Tracking and Reporting System to post records processed for release under the FOIA, with applicable exemptions, directly to its [website](#). OGE's use of the FOIA Tracking and Reporting System facilitated overall FOIA efficiency by eliminating the manual, time-consuming steps previously required to post FOIA records.

**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.**

N/A

**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?**

Yes, OGE reviewed its FOIA website during the reporting period to ensure it addresses the elements noted in the guidance.

**5. Did all four of your agency's quarterly reports for Fiscal Year 2022 appear on FOIA.gov?**

Yes, all four OGE's quarterly reports for Fiscal Year 2022 appeared on 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 2023.**

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 2021 Annual FOIA Report and, if available, for your agency's Fiscal Year 2022 Annual FOIA Report.**

The raw statistical data used to compile the Annual FOIA Reports is available [here](#). Specifically, the raw statistical data used to compile the 2021 Annual FOIA Report is available [here](#). The raw statistical data used to compile the 2022 Annual FOIA Report is available [here](#).

**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?**

Yes. OGE is in compliance with DOJ and OMB issued joint guidance establishing interoperability standards to receive requests from the National FOIA Portal on FOIA.gov.

**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?**

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

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

OGE has separate procedures under the Privacy Act for individuals seeking records about themselves, which are set forth at 5 C.F.R. Part 2602.

***B. Timeliness***

**3. For Fiscal Year 2022, 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 2022 Annual FOIA Report.**

5.2 days.

**4. 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 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.**

N/A

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

No. OGE utilizes tracks for expedited processing and non-expedited processing.

**6. 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 2022?**

N/A

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

N/A

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

N/A

**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?**

No, the average number of days to process all non-expedited requests was not twenty working days or fewer. According to section VII.A of the FY22 Annual FOIA Report, OGE's non-expedited requests had an average processing time of 32.3 days. 76 percent of requests processed by OGE in Fiscal Year 2022 were placed in the non-expedited processing track.

### ***C. Backlogs***

#### **BACKLOGGED REQUESTS**

**10. If your agency had a backlog of requests at the close of Fiscal Year 2022, 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 2021?**

Yes.

**11. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2022 than it did during Fiscal Year 2021?**

N/A

**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.**

N/A

**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. If your agency has no request backlog, please answer with "N/A."**

The percentage of requests that make up the backlog out of the total number of requests received by OGE in Fiscal Year 2022 is approximately 4.1 percent.

#### BACKLOGGED APPEALS

**14. If your agency had a backlog of appeals at the close of Fiscal Year 2022, 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 2021?**

At the close of Fiscal Year 2022, OGE had no backlogged appeals.

**15. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2022 than it did during Fiscal Year 2021?**

N/A

**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.**

N/A

**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. If your agency did not receive any appeals in Fiscal Year 2022 and/or has no appeal backlog, please answer with "N/A."**

N/A

#### *D. Backlog Reduction Plans*

**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?**

N/A

**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.**

N/A

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

**TEN 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?**

No, in Fiscal Year 2022 OGE did not close the ten oldest requests that were reported pending in OGE's Fiscal Year 2021 Annual FOIA Report.

**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.**

By the end of the fiscal year, OGE closed nine out of the ten oldest requests that were reported pending in OGE's Fiscal Year 2021 Annual FOIA Report.

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

OGE hired an additional FOIA attorney in FY21.

**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?**

OGE did not have any pending appeals at the end of Fiscal Year 2021.

**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.**

N/A

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

N/A

#### 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?**

OGE did not have any pending consultations at the end of Fiscal Year 2021.

**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.**

N/A

#### 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.**

Closing OGE’s ten oldest requests required extra time and resources because the responsive records were voluminous and raised complicated legal questions related to disclosure of financial and other private information. OGE plans to focus FOIA resources on the oldest pending FOIA requests to ensure that they are processed as soon as practicable during Fiscal year 2023.

#### ***F. Additional Information about FOIA Processing***

**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 request 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.**

No. OGE did not have any requests subject to FOIA litigation during the reporting period.

**30. How many requests during Fiscal Year 2022 involved unusual circumstances as defined by the FOIA? (This information is available in your agency's FY22 raw data).**

N/A