

2025 CHIEF FOIA OFFICER REPORT
U.S. CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Section I: FOIA Leadership and Applying the 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?

Yes, the CSB’s FOIA Officer is at this level.

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

Steven Messer, Acting General Counsel.

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?

This year, the CSB onboarded an additional attorney and two contractors in the agency’s Office of General Counsel to specialize in FOIA matters. The CSB also transitioned to a new FOIA platform, FOIAXpress. In recognition of the importance of a functional records management program to having a successful FOIA program, CSB also onboarded a new Records Officer.

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, the CSB confirms in response letters to FOIA requesters that the CSB 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. If your agency tracks Glomar responses, please provide:

- the number of times your agency issued a full or partial *Glomar* response during Fiscal Year (FY) 2024 (separate full and partial if possible);
- The number of times a *Glomar* response was issued by exemption during FY 2024 (e.g., Exemption 7(C) – 20 times, Exemption 1 – 5 times).

The CSB issued one partial *Glomar* response during Fiscal Year (FY) 2024 under Exemption 6.

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.

Section II: Ensuring Fair and Effective FOIA Administration

The Attorney General's 2022 [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.

The CSB is planning to conduct agency-wide FOIA training at its upcoming All-Hands meeting this spring. In addition, 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 substantive FOIA training during the reporting period such as that provided by the Department of Justice?

Yes.

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

Two FOIA Officers attended various courses and seminars offered by DOJ's Office of Information Policy, including Chief FOIA Officers Council Meetings, Best Practices Workshop, FOIA Continuing Education, Exemption 4 and Exemption 5 Training, Virtual Litigation Workshop, and Advanced FOIA Training. In addition, two FOIA officers

attended the American Society of Access Professionals (ASAP) National Training Conference.

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.

100%

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?

The CSB is planning to conduct annual in-person training on FOIA at its upcoming All-Hands meeting this spring. In addition, senior leaders are frequently briefed on the agency’s FOIA program and resources.

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.

Yes. CSB’s FOIA professionals, based on their knowledge of the subject matter of the request, determine whether the requested records are complex or voluminous. Accordingly, CSB’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 workdays. CSB’s FOIA professionals ask the requesters to clarify/narrow the scope of the request for quicker processing or agree to additional time for processing.

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.

No, the CSB did not engage in this kind of outreach.

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 2024 (please provide a total number or an estimate of the number for the agency overall).

The CSB estimates that requesters sought assistance from its FOIA Public Liaison approximately one time.

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 last few years, the FOIA program has seen a dramatic increase in the number and complexity of requests, resulting in part from requests for full investigation files following the agency's recent elimination of its long-standing investigation backlog. The agency has also been involved in FOIA litigation involving a complex, voluminous FOIA request. Finally, the agency has been working to transition to FOIAXpress following the sunset of FOIAOnline. In order to respond to these current and anticipated FOIA demands, the CSB hired two full-time attorneys, one of whom is devoted primarily to FOIA for the foreseeable future, while the second attorney provides additional assistance as needed. Additionally, the CSB has been contracting two short-term FOIA personnel devoted to FOIA and records.

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.

The CSB completed its transition to FOIAXpress this summer. The FOIAXpress platform provides insightful graphics as to outstanding FOIA requests, the date each request was received, and the status of each request. With this tool, the CSB is able to strategically triage requests based on priority and complexity.

12. The federal [FOIA Advisory Committee](#), comprised of agency representatives and members of the public, was created to foster dialogue between agencies and the requester community, solicit public comments, and develop recommendations for improving FOIA administration. Since 2020, the FOIA Advisory Committee has issued a number of [recommendations](#). Please answer the below questions:

- Is your agency familiar with the FOIA Advisory Committee and its recommendations?

The CSB is familiar with the FOIA Advisory Committee and its recommendations.

- Has your agency implemented any of its recommendations or found them to be helpful? If so, which ones?

Yes. The CSB is endeavoring to provide regular and proactive online publication of its FOIA logs.

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

Section III: Proactive Disclosures

The Attorney General's 2022 [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.

The CSB evaluates making proactive disclosures by determining whether information will aid in the public's understanding of its investigations and whether it is a matter of public interest. For example, the CSB, when it publishes its investigation reports, determines whether to proactively disclose expert reports to aid in the public's understanding of the investigation. Additionally, the CSB regularly publicly posts (and updates) summary information about chemical incidents reports the agency has received pursuant to its Accidental Release Reporting Rule (40 CFR Part 1604).

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

Yes.

- If so, what information is contained in the logs?

The FOIA logs include the request ID, the requester name, the request description, the received date, the closed date, the final disposition, and any exemptions cited.

- Are they posted in CSV format? If not, what format are they posted in?

No, the FOIA logs are posted in PDF format.

- Please provide a link to the page where any FOIA logs are posted. If applicable, please provide component links.

www.csb.gov/disclaimers/legal-affairs-foia/

3. Provide examples of any material (with links) 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).

Accidental Release Data – <https://www.csb.gov/news/incident-report-rule-form/>

Board Orders – <https://www.csb.gov/records-details/?Type=0>

FOIA Logs since 2013 - www.csb.gov/disclaimers/legal-affairs-foia/

4. Please provide a link (or component links, if applicable) where your agency routinely posts its frequently requested records.

www.csb.gov/disclaimers/legal-affairs-foia/

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? If yes, please provide examples of such improvements, such as steps taken to post information in open and machine readable formats. If not taking steps to make posted information more useful, please explain why.

Yes. For example, the Accidental Release Data is in Excel format so that individuals may sort the data.

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

Yes. The FOIA Office regularly interacts with the CSB's Office of Investigations on FOIA requests. These interactions include calls and emails with investigators to help understand the context of various FOIA requests and the existence of responsive documents. These interactions also include conversations about the protection of confidential business information and trade secrets.

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

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 2022 [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.

2. Please briefly describe any new types of technology your agency uses to support your FOIA program.

The CSB implemented a platform called FOIAXpress to review and respond to FOIA requests. With this program, FOIA officers are able to view and respond to FOIA requests; assign priority levels to requests, and track progress on requests (*e.g.*, incomplete, in progress, complete). Additionally, the CSB has digitized its paper records and made them searchable. Furthermore, as noted above, the agency has hired additional full-time and contract attorneys who address FOIA matters and are assisting with the transition to FOIAXpress.

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.

The CSB uses Adobe to redact records. The CSB also uses SharePoint and Content Manager to search for records. FOIA Officers are currently learning how to redact records in FOIAXpress. Additionally, the CSB is using Microsoft Purview, an eDiscovery tool, for searches. At this time, it is not clear how much time and financial resources will be saved with the implementation of FOIAXpress or Microsoft Purview.

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. The CSB's FOIA website addresses the essential resources noted in the guidance. For example, the CSB's FOIA website explains how and where requestors can send their FOIA requests, provides links to quarterly and annual FOIA reports in machine-readable formats, and includes links to performance and accountability reports.]

5. Did all four of your agency's [quarterly reports](#) for Fiscal Year 2024 appear on FOIA.gov?

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 2025.

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 2023 Annual FOIA Report and, if available, for your agency's Fiscal Year 2024 Annual FOIA Report.

The link to the Fiscal Year 2023 Annual FOIA Report raw statistical data is available at: https://www.csb.gov/assets/1/6/Copy_of_Raw_Data_Export_from_FOIAExpress_10Jan2024.xlsx. The Fiscal Year 2024 Annual FOIA Report raw statistical data is not available yet.

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

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

Section V: Steps Taken to Remove Barriers to Access, Improve Timeliness in Responding to Requests, and Reduce Backlogs

The Attorney General's 2022 [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 typical FOIA or Privacy Act process?

The CSB's regulations at 40 CFR Part 1602 specifically describe what procedures to follow for a requester to access records about himself or herself.

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

Yes, please see: <https://www.ecfr.gov/current/title-40/chapter-VI/part-1602>.

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

N/A

B. Timeliness

4. For Fiscal Year 2024, 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 2024 Annual FOIA Report.

1 day.

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 2024 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

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

Yes.

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 2024?

No.

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

No.

9. Please provide the percentage of requests processed by your agency in Fiscal Year 2024 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.

2.3%

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?

N/A

C. Backlogs

Backlogged Requests

11. If your agency had a backlog of requests at the close of Fiscal Year 2024, 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 2023?

Yes, the backlog of requests at the close of Fiscal Year 2024 decreased compared with the backlog reported at the end of Fiscal Year 2023.

12. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2024 than it did during Fiscal Year 2023?

N/A – the backlog of requests at the close of Fiscal Year 2024 decreased compared with the backlog reported at the end of Fiscal Year 2023.

13. If your agency's request backlog increased during Fiscal Year 2024, 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

N/A – the backlog of requests at the close of Fiscal Year 2024 decreased compared with the backlog reported at the end of Fiscal Year 2023.

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 2024. 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."

92%

Backlogged Appeals

15. If your agency had a backlog of appeals at the close of Fiscal Year 2024, 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 2023?

N/A – the CSB did not have a backlog of appeals at the close of Fiscal Year 2024.

16. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2024 than it did during Fiscal Year 2023?

N/A – the CSB did not have a backlog of appeals at the close of Fiscal Year 2024.

17. If your agency's appeal backlog increased during Fiscal Year 2024, 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

N/A – the CSB did not have a backlog of appeals at the close of Fiscal Year 2024.

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 2024. 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 2024 and/or has no appeal backlog, please answer with "N/A."

N/A – the CSB did not have a backlog of appeals at the close of Fiscal Year 2024.

D. Backlog Reduction Plans

19. In the 2024 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2023 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 2024?

N/A – the CSB did not have a backlog of more than 1,000 requests in Fiscal Year 2023.

20. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2024, please explain your agency's plan to reduce this backlog during Fiscal Year 2025.

N/A – the CSB did not have a backlog of more than 1,000 requests in Fiscal Year 2024.

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

Ten Oldest Requests

21. In Fiscal Year 2024, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2023 Annual FOIA Report?

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 2023 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

The CSB closed 6 of its 10 oldest requests. Shortly after the close of Fiscal Year 2024, the CSB closed 2 more of its 10 oldest requests from the Fiscal Year 2023 Annual FOIA Report.

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

The agency evaluated FOIA resources and contracted for FOIA assistance. The CSB also hired a full-time FOIA attorney, plus an additional attorney who provides FOIA support as needed. The additional human resources, combined with the implementation of FOIAXpress, assisted the agency in reducing the overall age of pending requests.

Ten Oldest Appeals

24. In Fiscal Year 2024, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2023 Annual FOIA Report?

N/A – the CSB did not have any pending appeals reported on the Fiscal Year 2023 Annual FOIA Report.

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 2023 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

N/A – the CSB did not have any pending appeals reported on the Fiscal Year 2023 Annual FOIA Report.

26. 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 – the CSB did not have any pending appeals reported on the Fiscal Year 2023 Annual FOIA Report.

Ten Oldest Consultations

27. In Fiscal Year 2024, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2023 Annual FOIA Report?

N/A – the CSB did not have any pending consultations reported on the Fiscal Year 2023 Annual FOIA Report.

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 2023 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

N/A – the CSB did not have any pending consultations reported on the Fiscal Year 2023 Annual FOIA Report.

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 2025.

The CSB closed 6 of its 10 oldest requests. Shortly after the close of Fiscal Year 2024, the CSB closed 2 more of its 10 oldest requests from the Fiscal Year 2023 Annual FOIA Report. The CSB is also on track to close its oldest request during Fiscal Year 2025. The final pending request is the subject of litigation, and the agency is continuing to produce responsive records on a rolling basis.

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

There is one remaining FOIA request that is the subject of ongoing litigation. The agency is taking all reasonable steps and committing appropriate resources to resolving the matter as quickly as possible. The litigation diverts limited resources that otherwise could go toward completion of other requests