FEDERAL TRADE COMMISSION
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Section 1: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying DOJ's FOIA Guidelines is the presumption of openness. Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

FOIA Training

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

   Answer: Yes.

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

   Answer: *Training Attended*: One or more FOIA professionals attended the following OIP/DOJ courses: *Advanced FOIA Seminar* (January 2017); *FOIA for Attorneys and Access Professional* (June 2017; July 2017); *FOIA Litigation Seminar* (June 2017*). Training Conducted*: Internal training for non-FOIA professionals was conducted during the new employee orientation (November 2016) and for the agency's Northwestern Regional Office (July 2017) and Financial Management Office (August 2017).

3. 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: 25%

4. 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: Since the start of FY2018 through the date of this Chief FOIA Officer report, over 80% of FOIA professionals have already attended substantive FOIA training. Details of this training attendance will be reported in next year's Chief FOIA Officer report.

Outreach

5. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA?

   Answer: Each FOIA staff member handling requests provides his or her direct telephone number to the requester in the acknowledgment, extension, and response letters. Additionally, individuals can contact the FTC's FOIA Hotline, at (202) 326-2430, with questions. The FTC also provides

the contact information for its FOIA Public Liaison on its website, available at
https://www.ftc.gov/about-ftc/foia/freedom-information-act-contacts. Through these avenues,
the FOIA Office routinely communicates with requesters and other members of the public on an
individual basis, and is available to answer questions regarding FOIA policies or procedures.

Other Initiatives

6. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their
    obligations under the FOIA.

    Answer: In July 2017, the Assistant General Counsel for Information Law conducted
    customized training for non-FOIA professionals in the Northwest Regional Office to explain
    FOIA exemptions as applied to agency documents. Additionally, in August 2017, the Assistant
    General Counsel for Information Law, in conjunction with a FOIA Attorney, conducted
    customized training for the contracting officers within the agency's Financial Management
    Office to explain FOIA exemptions as applied to agency documents. Throughout the year, the
    Assistant General Counsel for Information Law meets with agency staff as needed to discuss
    FOIA-related issues. The agency's FOIA officers are also available to answer any questions that
    arise.

7. 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 agency currently has an open government initiative and plan and is creating its
    first Application Programming Interface (API) to make agency data available in a machine-
    readable format. *See* https://www.ftc.gov/site-information/open-government. Additionally, the
    agency continues to post all of its open government data to https://www.data.gov. Finally, in
    2017, the agency began posting Do Not Call violations on a daily basis rather than on a 6-week
    basis. *See* https://www.ftc.gov/site-information/open-government/data-sets/do-not-call-data.

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

DOJ's FOIA Guidelines emphasize that "[a]pplication of the proper disclosure standard is only one
part of ensuring transparency. Open government requires not just a presumption of disclosure, but also
an effective system for responding to FOIA requests." It is essential that agencies effectively manage
their FOIA program.

Please answer the following questions to describe the steps your agency has taken to ensure that the
management of your FOIA program is effective and efficient. You should also include any additional
information that that describes your agency's efforts in this area.

1. For Fiscal Year 2017, 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 2017
    Annual FOIA Report.

    Answer: 5.5 days.

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

    Answer: N/A

3. During the reporting period, did your agency conduct a self-assessment of its FOIA program? If so, please describe the methods used, such as reviewing Annual Report data, using active workflows and track management, reviewing and updating processing procedures, etc.
    - Note: In September 2017, OIP released a FOIA Self-Assessment Toolkit as a resource for agencies conducting a self-assessment of their FOIA program. The Toolkit is available on OIP's website for all agencies to use.

    Answer: During the reporting period, a process for standardizing postings in our FOIA Library was developed and implemented to assist the requester community in locating published records quicker.

4. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2017 (please provide a total number or an estimate of the number).

    Answer: Approximately 25 times.

5. Optional Survey Question: If possible, please provide an estimate of the average number of pages that your agency processes for each request. You may provide estimates for each track.

    Answer: It is not possible to provide an estimate because not an insignificant amount of the data we provide requesters is solely electronic in an Excel format.

6. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as improving search processes, eliminating redundancy, etc., please describe them here.

    Answer: The FOIA Office holds biweekly meetings in which staff members evaluate processing procedures, identify areas that can be improved, and offer recommendations for improvement. In addition, FOIA staff frequently consults with FOIA Access Officers throughout the FTC to determine how to make the agency's search process more efficient. FOIA staff also searches the agency's electronic FOIA database for related requests. If a similar request has been filed in the past, staff asks the requester if they would like to access these records to decrease processing time.

Section III: Steps Taken to Increase Proactive Disclosures

The Department of Justice has long focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below,

you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

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

   Answer: Although statutorily we are required to post information when three or more requests seek the same set of documents, the FTC often tries to post requests and responses after we receive the second request seeking the same information. FOIA staff are trained to identify instances of related requests. When this occurs, FOIA staff instruct the agency's Web Team to post the accessible documents in the agency's FOIA reading room. Additionally, during the FOIA Office bi-weekly meetings, we discuss all requests, which helps us identify frequently requested subjects. These requests can be found here https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/frequently-requested-records.

2. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If yes, please describe these efforts.

   Answer: Yes. In partnership with our Web Team, our FOIA Reading Room, aka FOIA Library, was re-organized during FY2017 to make it more user-friendly. High interest topic areas, such as Amazon, Google, Herbalife and Lifelock, were conspicuously tagged as Hot Topics. *See* https://www.ftc.gov/about-ftc/foia/frequently-requested-records.

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

   Answer: Yes. A system for standardized naming of documents posted on-line in the FOIA Library is currently being developed.

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

   Answer: See above.

5. If there are any other steps your agency has taken to improve proactive disclosures, please describe them here. For example, has your agency engaged requesters in determining how and what to post? Has your agency used web analytics to inform your proactive disclosures?

   Answer: Yes. A system for providing a quarterly review of FOIA Library postings based on web analytics is currently being developed.

Section IV: Steps Taken to Greater Utilize Technology

A key component of FOIA administration is using technology to make information more accessible. In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

Please answer the following questions to describe how your agency is utilizing technology to improve

its FOIA administration and the public's access to information. You should also include any additional information that that describes your agency's efforts in this area.

1. Has your agency identified any best practices to leverage technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents? If yes please describe the best practices, the types of technology used and the impact on your agency's processing.

   Answer: Yes. FOIA staff have the option of using Accellion/SecureMail file transfer to provide voluminous amounts of documents in response to requests. The requester receives the document much quicker than when documents are transferred to a CD-Rom. Using Accellion/SecureMail eliminates the administrative steps associated with transferring documents to a CD-Rom and mailing the CD-Rom via USPS.

2. Did your agency successfully post all four quarterly reports for Fiscal Year 2017?

   Answer: Yes. *See* https://www.ftc.gov/policy/reports/policy-reports/ftc-quarterly-reports.

3. 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 2018.

   Answer: N/A.

4. 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 2016 Annual FOIA Report and, if available, for your agency's Fiscal Year 2017 Annual FOIA Report.

   Answer: *See* https://www.ftc.gov/policy/reports/policy-reports/foia-annual-reports (annotated as [TEXT/CSV]).

5. If there are any other steps your agency has taken to improve use of technology in FOIA, please describe them here.

   Answer: N/A.

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

The Department of Justice has emphasized the importance of improving timeliness in responding to requests. This section of your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations. For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2017 Annual FOIA Report and, when applicable, your agency's 2016 Annual FOIA Report.

Simple Track

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

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

   Answer: Yes.

2. If so, for your agency overall in Fiscal Year 2017, was the average number of days to process simple requests twenty working days or fewer?

   Answer: Yes. The FTC's average number of days to process simple requests was 5.7 days.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2017 that were placed in your simple track.

   Answer: Approximately 60%.

4. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?

   Answer: N/A.

Backlogs

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

BACKLOGGED REQUESTS

5. If your agency had a backlog of requests at the close of Fiscal Year 2017, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2016?

   Answer: Yes. The number of backlogged requests in FY2016 was 12; the number of backlogged requests in FY2017 was eight.

6. If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:
   • An increase in the number of incoming requests.
   • A loss of staff.

- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Any other reasons – please briefly describe or provide examples when possible.

Answer: N/A.

7. 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 2017.

Answer: 0.5%.

BACKLOGGED APPEALS

8. If your agency had a backlog of appeals at the close of Fiscal Year 2017, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2016?

Answer: N/A.

9. If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:
- An increase in the number of incoming appeals.
- A loss of staff.
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Any other reasons – please briefly describe or provide examples when possible.

Answer: N/A.

10. 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 2017. If your agency did not receive any appeals in Fiscal Year 2017 and/or has no appeal backlog, please answer with "N/A."

Answer: N/A.

Backlog Reduction Plans

11. In the 2017 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2016 was asked to provide a plan for achieving backlog reduction in the year ahead. Did you agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2017?

Answer: N/A.

12. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2017, what is your agency's plan to reduce this backlog during Fiscal Year 2018?

Answer: N/A.

Status of Ten Oldest Requests, Appeals, and Consultations

Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2016 and Fiscal Year 2017 when completing this section of your Chief FOIA Officer Report.

TEN OLDEST REQUESTS

13. In Fiscal Year 2017, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

    Answer: Yes.

14. 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 2016 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

    Answer: N/A.

15. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?

    Answer: N/A.

TEN OLDEST APPEALS

16. In Fiscal Year 2017, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

    Answer: Yes.

17. 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 2016 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

    Answer: N/A.

TEN OLDEST CONSULTATIONS

18. In Fiscal Year 2017, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

Answer: N/A. The agency did not have any pending consultations at the close of FY2017.

19. 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 2016 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

Answer: N/A.

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

20. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2017.

Answer: N/A.

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

Answer: N/A.

22. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2017.

Answer: N/A.

Success Stories

Out of all the activities undertaken by your agency since March 2017 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas. As noted above, OIP will highlight these agency success stories during Sunshine Week. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

Answer:
- Our FOIA Reading Room was re-organized during FY2017 to make it more user-friendly for requesters. High interest topic areas, such as Amazon, Google, Herbalife and Lifelock, were conspicuously tagged as Hot Topics. *See* https://www.ftc.gov/about-ftc/foia/frequently-requested-records.
- Funding for the acquisition of upgraded FOIA-processing software was approved during FY2017. Migration from the older softer to the newer software is on-going.