



United States International Trade Commission

2015 CHIEF FOIA OFFICER REPORT



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Introduction

The United States International Trade Commission (USITC or Commission) was established in 1916. It is an independent, quasi-judicial federal agency whose mission is consistent with its statutory mandate, to make determinations in proceedings involving imports claimed to injure a domestic injury or violate U.S. intellectual property rights; provide independent tariff, trade and competitiveness-related analysis and information; and maintain the U.S. tariff schedule.

The Commission has identified two mission-related strategic goals. First, the agency will produce sound, objective, and timely determinations in investigative proceedings. Second, the Commission will produce objective, high-quality and responsive tariff, trade, and competitiveness-related analysis and information. These goals reflect the interests of its principal customers: the President, the USTR, and Congress, and thereby also serve U.S. industry, workers, and the general public. In order to deliver greater impact through increasing effectiveness and efficiency, the Commission also has established a management goal to achieve agency-wide efficiency and effectiveness to advance the agency's mission.

The USITC's Freedom of Information Act (FOIA) program is administered by the Chief FOIA Officer with the assistance of the FOIA Liaison. As a small agency, the USITC maintains staff commensurate with the agency's needs to effectively implement its FOIA program.

Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's FOIA Memorandum and the Attorney General'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 FOIA training or conference during the reporting period such as that provided by the Department of Justice?

Answer: During calendar year 2014, FOIA staff attended the Department of Justice's (DOJ) training session on new guidelines and FOIA reporting (October) regarding requirements pursuant to the Open Government Act. In addition, the FOIA Liaison and Chief FOIA Officer attended FOIA training at other sites, i.e., the American Society of Access Professionals (ASAP) and the USDA.

2. 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 agency FOIA professionals received substantive FOIA training this period.

3. In the 2014 Chief FOIA Officer Report Guidelines, OIP asked agencies to provide a plan for ensuring that core, substantive FOIA training is offered to all agency FOIA professionals at least once each year.

Please provide the status of your agency's implementation of this plan.

Answer: The USITC has successfully implemented its training plan from last year. Due to the low volume of FOIA requests received annually, the agency has only two FOIA professionals. Our continued plan to ensure that FOIA professionals have the appropriate training is to utilize outside sources. FOIA professionals will attend training provided by the DOJ and other related training offered by the ASAP.

DISCRETIONARY RELEASES:

4. Does your agency have a distinct process or system in place to review records for discretionary release?

Answer: The USITC reviews exempt information for discretionary release and consideration is given with each FOIA request. Often due to the nature of the records (either falls into the agency's statutory requirements or foreseeable harm to the agency) they were withheld.

5. During the reporting period, did your agency make any discretionary releases of information?

Answer: No.

6. What exemption(s) would have covered the material released as a matter of discretion? For a discussion of the exemptions that allow for discretionary releases, please see OIP's guidance on implementing the President's and Attorney General's FOIA Memoranda.

Answer: N/A

7. Provide a narrative description, as well as some specific examples, of the types of information that your agency released as a matter of discretion during the reporting year.

Answer: N/A

8. If your agency was not able to make any discretionary releases of information, please explain why.

Answer: The only information that was withheld during this time period was subject to FOIA exemptions, and either disclosure was prohibited or it was reasonably foreseen that disclosure would harm an interest protected by an exemption.

OTHER INITIATIVES:

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

Answer: Near the end of FY 2014 the agency released its public interface for section 337 investigative data (337Info repository) on its website. This initiative helped further the agency's goals to ensure the presumption of openness.

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

As the Attorney General emphasized in his FOIA Guidelines, “[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 your management of your FOIA program is effective and efficient. You should also include any additional information that describes your agency’s efforts in this area.

PROCESSING PROCEDURES:

1. For Fiscal Year 2014, 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 2014 Annual FOIA Report.

Answer: The average number of days to adjudicate requests was two calendar 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

REQUESTER SERVICES:

3. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration?

Answer: The agency had three administrative appeals in 2014 and we included information in our response letters concerning mediation services offered by OGIS.

4. When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester? For example, does your agency explain the amount of fees attributable to search, review, and duplication?

Answer: A breakdown of fees is not provided for each individual category of search, review, and duplication. The agency notes in its responses that questions may be addressed to our FOIA staff. However, in future fee responses we will consider breaking out fees in each responsive category to give a more accurate breakdown where fees are assessed.

If estimated fee estimates are particularly high, does your agency provide an explanation for the estimate to the requester?

Answer: N/A

OTHER INITIATIVES:

5. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc., please describe them here.

Answer: Agency FOIA staff meets at least quarterly to review the current year FOIA files. We review our FOIA checklist to ensure that the all appropriate documents are contained within each file, as well as recorded accurately, and check to make sure that all internal procedures have been followed.

Section III: Steps Taken to Increase Proactive Disclosures

Both the President and Attorney General 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.

POSTED MATERIAL:

1. Does your agency have a distinct process or system in place to identify records for proactive disclosure?

Answer: The USITC has an informal but extensive practice for identifying records for proactive disclosure. Staff working in each function area reviews their applicable section(s) of the agency's website to determine what information is available and what information is needed to address the interests of the public. Notably, the Commission maintains the Electronic Document Information System (EDIS). EDIS is a repository for documents filed in import injury investigations, intellectual property-based import investigations, and other proceedings before the Commission. Any member of the public may register for access to this system without charge. EDIS contains public documents of interest to the general public and lessens the need to formally request such documents through FOIA.

If so, please describe your agency's process or system.

Answer: The USITC website contains links to the resources noted below.

- (1) Federal Register notices (since March 2014, published over 300 notices in the Federal Register and posted over 426 notices on the agency website),
- (2) Publications (since March 2014, made over 190 additional publications available online),
- (3) Statistical data regarding investigations before the Commission (for example, last fiscal year the Commission instituted 36 section 337 investigations),
- (4) Electronic Document Information System (EDIS) (since March 2014, posted over 20,000 documents),
- (5) Press releases (over 130 press releases issued and posted during the 2014 calendar year), and
- (6) The Harmonized Tariff System (HTS) (received approximately 4.1 million requests for tariff information annually, which represents about 81% of the 5.04 million visits to the USITC website annually).

2. Does your process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.

Answer: Yes. Relevant program and operational offices work together to input and update the data the Commission makes available to the public.

3. Describe your agency's process or system for identifying "frequently requested" records that should be posted online.

Answer: The Commission process for identifying "frequently requested" records is to analyze the records to see if records have been requested at least three times. Once those requests are identified and categorized, the relevant records are posted on the agency's FOIA webpage.

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

Below is an example of the material. This data may be found at http://www.usitc.gov/press_room/337_stats.htm.

Section 337 Statistical Information

Current statistics:

Number of Investigations (based on new complaints) instituted so far in:

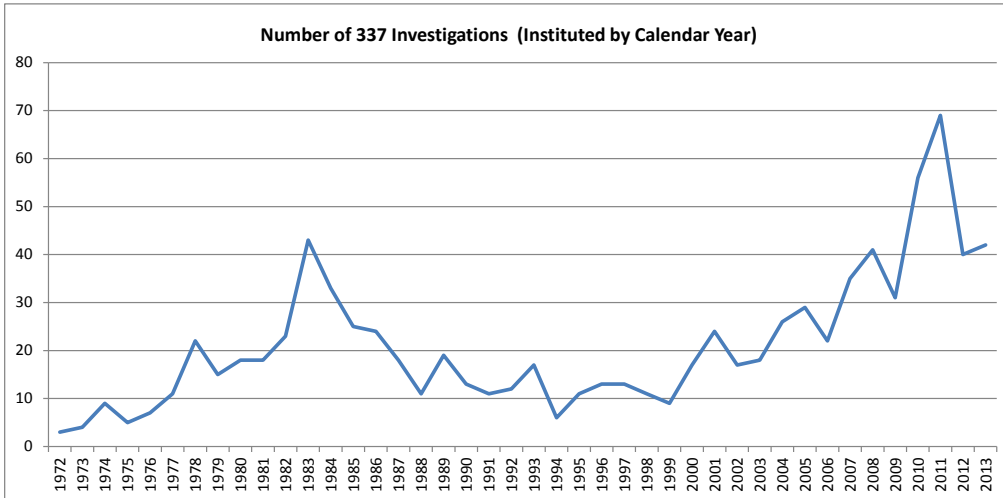
- **Fiscal Year 2015:** (10/1/2014 - present): 6 (as of 11/17/2014)
- **Calendar Year 2014:** (1/1/2014 - present): 34 (as of 11/17/2014)
- **Fiscal Year 2014:** (10/1/2013 - 9/30/2014): 36 (as of 9/30/2014)
- **Calendar Year 2013:** (1/1/2013 - 12/31/2013): 42 (as of 12/31/2013)
- **Fiscal Year 2013:** (10/1/2012 - 9/30/2013): 39 (as of 9/30/2013)

[*Click here for a list of currently pending Section 337 matters.*](#)

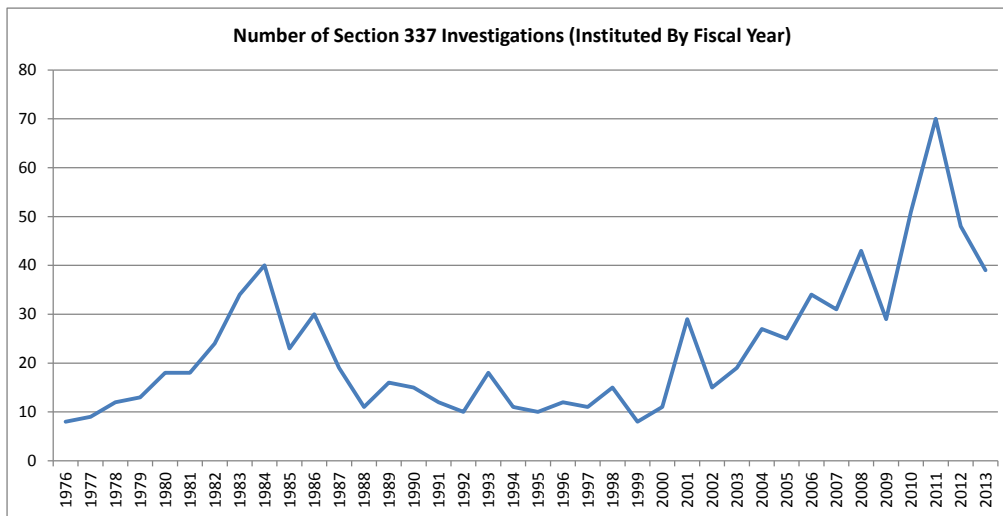
[*Click here to access information on complaints filed, but not yet instituted.*](#)

Historical statistics (Click each link below to view a PDF of raw data):

[Number of Investigations Instituted by Calendar Year](#)



[Number of Investigations Instituted by Fiscal Year](#)



OTHER INITIATIVES:

5. If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.

Answer: Near the end of FY 2014 the agency released its public interface for section 337 investigative data (337Info repository) on its website. This initiative helped further the agency's goals to ensure the presumption of openness.

Section IV: Steps Taken to Greater Utilize Technology

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." 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 describes your agency's efforts in this area.

MAKING MATERIAL POSTED ONLINE MORE USEFUL:

1. 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.

2. If yes, please provide examples of such improvements. If your agency is already posting material in its most useful format, please describe these efforts.

The Commission utilizes an online survey tool to solicit feedback regarding the agency website. During FY 2014, the agency released a survey specifically tailored to obtain feedback regarding EDIS. Also, in the new 337Info repository, users may provide comments and concerns to the Commission via e-mail.

3. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?

Answer: No.

4. If so, please briefly explain what those challenges are.

N/A

OTHER INITIATIVES:

5. Did your agency successfully post all four quarterly reports for Fiscal Year 2014?

Answer: Yes, all of the reports for each quarter were submitted to our agency's web team for transmittal to the DOJ to post to their website location. In addition, all reports were submitted timely in accordance with DOJ's deadline.

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 2015.

Answer: N/A

7. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible? If yes, what are the different types of electronic means utilized by your agency to communicate with requesters?

Answer: Yes, when requesters provide their e-mail information we provide a receipt via e-mail indicating receipt of their request. We also use e-mail as an opportunity to communicate with requesters during the course of processing the FOIA request and to respond to any general concerns or feedback relating to the request.

8. If your agency does not communicate electronically with requests as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such limitations?

Answer: N/A

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

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section 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 *2014 Annual FOIA Report* and, when applicable, your agency's *2013 Annual FOIA Report*.

SIMPLE TRACK REQUESTS

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, the Commission uses separate tracking for simple requests.

2. If so, for your agency overall in Fiscal Year 2014, was the average number of days to process simple requests twenty days or fewer?

Answer: In FY 2014, the average number of days to process simple requests was twelve (12) days.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2014 that were placed in your simple track.

Answer: 100% of the requests processed were placed in the simple track.

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 Years 2013 and Fiscal Year 2014 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 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal year 2013? If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please indicate if any of the following were contributing factors: (1) an increase in the number of incoming requests (2) a loss of staff and; (3) an increase in the complexity of the requests received.

Answer: There was no backlog of requests in FY 2013 or 2014.

6. 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 2014. If your agency did not receive any requests in Fiscal Year 2014 and/or has no request backlog, please answer with "N/A".

Answer: N/A

BACKLOGGED APPEALS

7. If your agency had a backlog of appeals at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013? If not, explain why and describe the causes that contributed to your agency not being able to reduce the backlog. When doing so, please also indicate if any of the following were contributing factors: (1) an increase in the number of incoming appeals (2) a loss of staff and (3) an increase in the complexity of the appeals received.

Answer: There was not a backlog of appeals at the close of FY 2013 and 2014.

8. 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 2014. If your agency did not receive any appeals in Fiscal Year 2014 and/or has no appeal backlog, please answer with "N/A".

Answer: The agency processed and completed three appeals in FY 2014. There was no backlog.

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 2013 and Fiscal Year 2014 when completing this section of your Chief FOIA Officer Report.

TEN OLDEST REQUESTS

9. In Fiscal Year 2014, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2013 Annual Report?

Answer: Yes. There was one request pending at the end of FY 2013 and completed in FY 2014.

10. If no, please provide the number of these request your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

Answer: N/A

11. 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

12. In Fiscal Year 2014, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

Answer: The Commission received no appeals during FY 2013.

13. 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 2013 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

Answer: N/A

TEN OLDEST CONSULTATIONS:

14. In Fiscal Year 2014, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

Answer: In FY 2014, we processed and closed one consultation which was pending at the end of FY 2013.

15. 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 2013 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:

16. Briefly explain any obstacles your agency faced in closing its ten oldest request, appeals, and consultations from Fiscal Year 2013.

Answer: There were no foreseeable obstacles faced in closing our ten oldest requests, appeals, and consultations.

17. 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

18. 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 2015.

Answer: N/A

USE OF THE FOIA’S LAW ENFORCEMENT EXCLUSIONS

19. Did your agency invoke a statutory exclusion, 5 U.S.C. 552(1), (2), (3), during Fiscal Year 2014? If so, please provide the total number of times the exclusions were invoked.

Answer: During FY 2014 our agency did not invoke any statutory exclusion.

SPOTLIGHT ON SUCCESS

Out of all the activities undertaken by your agency since March 2014 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, these agency success stories will be highlighted during Sunshine Week by OIP. 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.

In FY 2014, the agency implemented its new public interface for section 337 investigative data (337Info repository) on its website. This repository reflects a significant investment by the Commission to provide more detailed data relating to section 337 investigations. Section 337 investigations conducted by the Commission most often involve claims regarding intellectual property rights, including allegations of patent infringement and trademark infringement by imported goods. The primary remedy available in section 337 investigations is an exclusion order that directs U.S. Customs and Border Protection to stop infringing imports from entering the United States. In addition, the Commission may issue cease and desist orders against named importers and other persons engaged in unfair acts that violate section 337.

337Info repository may be accessed by the public on the agency website; it is free and does not require a user account. 337Info contains investigative data from FY 2009 to the present. It provides a list of recent complaints filed, and comprehensive investigative data including: complainant/respondent(s) information (i.e. country of origin); unfair act(s) at issue (i.e. list of specific patent numbers alleged); procedural history information (i.e. evidentiary hearing dates, target date, etc.); appeal information; and the assigned administrative law judge. Users may utilize the search engine to obtain a wealth of detailed information regarding 337 investigations. This endeavor allows the agency to proactively provide the public critical and very much sought after information regarding these investigations.



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