



United States International Trade Commission

2024 CHIEF FOIA OFFICER REPORT



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Introduction

Congress established the U.S. International Trade Commission (USITC or Commission) in 1916. It is an independent, quasi-judicial federal agency whose mission is to investigate and make determinations in proceedings involving imports claimed to injure a domestic industry or violate U.S. intellectual property rights; provide independent analysis and information on tariffs, trade, and competitiveness; and maintain the U.S. tariff schedule.

The Commission has identified two mission-related strategic goals. First, it will produce sound, objective, and timely determinations in trade remedy proceedings. Second, the Commission will produce independent, objective, and timely analysis and information on tariffs, trade, and competitiveness. These goals reflect the interests of its principal customers – the president, the U.S. Trade Representative, and Congress, and thereby also serve U.S. industry, workers, and the general public. In order to deliver greater impact, the Commission also established a management goal to efficiently and effectively advance the agency’s mission.

The USITC’s Chief Freedom of Information Act (FOIA) Officer administers the USITC’s FOIA Program with the assistance of the FOIA Public Liaison. As a small agency, the USITC maintains staff commensurate with its needs to effectively implement its FOIA program.

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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?

Answer: Yes.

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

Answer: Lisa R. Barton, Secretary to the Commission.

3. What steps has your agency taken to incorporate FOIA into its core mission? For example, has your agency incorporated FOIA milestones into its strategic plan?

Answer: The Commission’s FOIA program is reflected in the mission and function statement of the Office of the Secretary, and it an integral part of the Commission’s records management program. The Commission has taken efforts to promote transparency and accessibility of public information regarding its investigative work via the Electronic Document Information System (EDIS), the agency’s investigative record, and the Investigations Database System (IDS), which contains investigation information across all three major investigatory missions: unfair imports, import injury, and factfinding matters.

B. Presumption of Openness

4. The Attorney General’s 2022 FOIA Guidelines provide that “agencies should confirm in response letters to FOIA requesters that they have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.” Does your agency provide such confirmation in its response letters?

Answer: Yes.

5. In some circumstances, agencies may respond to a requester that it can neither confirm nor deny the existence of requested records if acknowledging the existence of records would harm an interested protected by a FOIA exemption. This is commonly referred to as a *Glomar* response. If your agency tracks Glomar responses, please provide:

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

Answer: We did not issue a Glomar response in FY 2023.

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

Answer: No.

7. 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.

Answer: FOIA training is a component of the Commission’s annual mandatory records management training.

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

Answer: Yes.

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

Answer: The USITC places a high priority on training and education. During calendar year 2023, FOIA staff attended the American Society of Access Professionals (ASAP) 16th Annual National Training Conference. In addition, FOIA staff participated in FOIA training online and the Chief FOIA Officer’s Council meetings.

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

Answer: One hundred percent of the agency FOIA professionals 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.

Answer: N/A

6. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff; and if senior leaders at your agency received a briefing on your agency's FOIA resources, obligations and expectations during the FOIA process?

Answer: The Commission requires online FOIA training as a component of the agency's mandatory records management training.

B. Outreach

7. As part of the standard request process, do your FOIA professionals proactively contact requesters concerning complex or voluminous requests in an effort to clarify or narrow the scope of the request so requesters can receive responses more quickly? Please describe any such outreach or dialogue and, if applicable, any specific examples.

Answer: Yes. The Commission FOIA professionals regularly email requesters to seek clarification and to narrow the scope of the complex or voluminous FOIA requests.

8. Outside of the standard request process or routine FOIA Liaison or FOIA Requester Service Center interactions, did your FOIA professionals engage in any outreach or dialogue, with the requester community or open government groups regarding your administration of the FOIA? For example, did you proactively contact frequent requesters, host FOIA-related conference calls with open government groups, or provide FOIA training to members of the public? Please describe any such outreach or dialogue and, if applicable, any specific examples of how this dialogue has led to improvements in your agency's FOIA administration.

Answer: No. The USITC is a small agency. We normally receive fewer than 50 FOIA requests annually. The agency FOIA professionals work diligently to respond to requester inquiries and questions.

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 2023 (please provide a total number or an estimate of the number for the agency overall).

Answer: The FOIA Public Liaison did not receive requests for assistance in FY 2023.

C. Other Initiatives

10. Has your agency evaluated the allocation of agency personnel resources needed to respond to current and anticipated FOIA demands? If so, please describe what changes your agency has or will implement.

Answer: Yes. Due to the increase in complexity and voluminous records requests, the Commission upgraded the FOIA position in FY 2022 from the GS 9/11 to a promotion potential to the GS-13 to attract and recruit more experienced FOIA professionals. In FY 2023, the Commission approved funding for FOIA contract professionals to assist with the current backlog.

11. How does your agency use data or processing metrics to ensure efficient management of your FOIA workload? For example, case management reports, staff processing statistics, etc. In addition, please specifically highlight any data analysis methods or technologies used.

Answer: The Commission does not have FOIA management software to provide case management and data management reports. The Commission recently procured FOIA-related software with the goal to utilize the case management and metrics data features.

12. 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.

Answer: The Commission 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 EDIS and IDS. Any member of the public may register for an EDIS account without charge. EDIS contains public documents of interest to the general public and lessens the need to formally request such documents through FOIA. Members of the public may access IDS information without creating an account and both systems are free to the public.

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

Answer: The Commission strives to post records for proactive disclosure as soon as possible.

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

Answer: No.

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

N/A

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

N/A

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

Answer:

(A) Federal Register notices (since March 2023, published over **1089** columns notices in the Federal Register and posted over **488** notices on the agency website):

https://www.usitc.gov/commission_notices

(B) Publications (since March 2023, made over **74** additional publications available online)

https://www.usitc.gov/commission_publications_library

(C) IDS investigation related data: <https://ids.usitc.gov/>

(D) EDIS public investigation documents (since March 2023, posted over **11,000** documents),

<https://edis.usitc.gov>

(E) Press releases (over **117** press releases issued and posted during the 2023 calendar year),

https://www.usitc.gov/news_releases, and

(F) The Harmonized Tariff Schedule (HTS) (The Harmonized Tariff Schedule of the United States (HTS) (received approximately **8.99 million** visits to the HTS Search website for tariff information in 2023):

<https://hts.usitc.gov/>

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

Answer: Yes.

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

Answer: The agency has ninety-one (91) Open Data datasets which are machine-readable and their formats. Here is the link for the [USITC's Open Data Catalogue](#) on Data.gov which lists all the current data sets and their formats.

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

Answer: Yes. The Commission offices collaborate with the Office of the Chief Information Officer (CIO) to proactively post publications, press releases, publications, notices, and investigation-related information on the Commission's website.

8. 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?

Answer: Yes.

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

Answer: The Commission procured FOIA-related software to gain efficiency in FOIA processing in Q4 of FY2023.

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

Answer: No. However, in the Q4 of 2023 the Commission procured a FOIA software platform. We hope to start transitioning to the new platform by the end of FY 2024.

4. OIP issued [guidance](#) in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?

Answer: Yes.

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

Answer: Yes.

6. If your agency did not successfully post all quarterly reports on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2024.

Answer: N/A

7. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2022 Annual FOIA Report and, if available, for your agency's Fiscal Year 2023 Annual FOIA Report.

Answer: https://www.usitc.gov/foia/usitc_foia_fy_2022_raw_data.pdf

8. In February 2019, DOJ and OMB issued joint [Guidance](#) establishing interoperability standards to receive requests from the National FOIA Portal on FOIA.gov. Are all components of your agency in compliance with the guidance?

Answer: Yes.

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

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?

Answer: Yes.

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

Answer: Members of the public may contact the Commission for general requests for records. Requests received are routed to the appropriate office(s) for a response.

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

Answer: N/A.

B. Timeless

4. For Fiscal Year 2023, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2023 Annual FOIA Report.

Answer: We did not receive requests that met the requirements of expedited processing in FY 2023.

5. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2023 Annual FOIA Report, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Answer: N/A

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

Answer: Yes.

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

Answer: No.

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

Answer: No

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

Answer: Fifty-nine percent of Commission FOIA requests received in FY 2023 were processed in the simple track.

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

Answer: N/A

C. Backlogs

Backlogged Requests

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

Answer: No.

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

Answer: No.

13. If your agency's request backlog increased during Fiscal Year 2023, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming requests
- A loss of staff
- An increase in the complexity of the requests received (if possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase)
- Litigation
- Any other reasons – please briefly describe or provide examples when possible

Answer: The Government Information Specialist (FOIA) position has been vacant since May 2023. Previously, this position was vacant from November 2019 until November 2022. Additionally, the FOIA professionals in the agency were detailed to different positions due to other agency programmatic needs. The Office of the Secretary also had several position vacancies which required staff to cover multiple position duties.

14. If you had a request backlog, please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2023. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. This number can be greater than 100%. If your agency has no request backlog, please answer with "N/A."

Answer: Fifty-three percent of the total number of requests received by the agency in FY 2023.

Backlogged Appeals

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

Answer: N/A

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

Answer: N/A

17. If your agency's appeal backlog increased during Fiscal Year 2023, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming appeals
- A loss of staff
- An increase in the complexity of the requests received (if possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase)
- Litigation
- Any other reasons – please briefly describe or provide examples when possible

Answer: N/A

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

Answer: N/A

D. Backlog Reduction Plans

19. In the 2023 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2022 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2023?

Answer: In FY 2023 the Commission allocated FOIA contractor resources to assist with the FOIA backlog.

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

Answer: N/A

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

Ten Oldest Requests

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

Answer: No.

22. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2022 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

Answer: One.

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

Answer: The agency has committed additional resources to reduce to number of requests.

Ten Oldest Appeals

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

Answer: N/A

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

Answer: N/A

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

Ten Oldest Consultations

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

Answer: N/A

28. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2022 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

Answer: The agency completed all consultations received in FY 2023.

Additional Information Regarding Ten Oldest

29. If your agency did not close its ten oldest pending requests, appeals, or consultations, please explain why and provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2024.

Answer: The agency has committed additional resources to reduce to number of pending requests.

F. Additional Information about FOIA Processing

30. Were any requests at your agency the subject of FOIA litigation during the reporting period? If so, please describe the impact on your agency’s overall FOIA request processing and backlog. If possible, please indicate:

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

Answer: No.



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