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March 5, 2020

To: 2018-2020 FOIA Advisory Committee

From: Time/Volume Subcommittee of the 2018-2020 FOIA Advisory Committee

Re: Time/Volume Subcommittee Recommendations to the FOIA Advisory Committee

Recommendation 1: That the Archivist request that agencies conduct a comprehensive review of their technological and staffing capabilities and requirements within two years to identify the resources needed to respond to their current FOIA needs and the anticipated FOIA demands of the future. Further recommend that the Archivist request that agencies apply the results of their comprehensive reviews to create agency-specific strategic plans that address expected increases in the number of FOIA requests received, as well as high-volume e-discovery style document reviews.

Goal: To ensure that agencies are able to reduce or eliminate their current FOIA backlogs, while keeping up with expected increases in the volume of FOIA requests to decrease the likelihood of developing backlogs in the future.

Rationale: The Time/Volume Subcommittee, in conjunction with the Vision Subcommittee, surveyed agency FOIA personnel as well as the requester community to identify areas of concern. When requesters were asked to identify areas agencies could improve, 17.5% referenced improving efficiency. Agency FOIA professionals were even more specific. When asked about the greatest impediment to processing FOIA request in a timely manner, over 50% referenced resources in their responses. Another 5% referenced technology. In response to a question about their greatest frustrations with FOIA processing, nearly 24% of respondents referenced resources, and another 11% referenced technology.

Similarly, discussions with committee members who are Federal employees identified those areas as sources of frustration and areas for improvement. The survey questions were focused on the current challenges and frustrations faced by agency FOIA offices, and while it is imperative that agencies take steps to identify and address their current needs or shortfalls, if agency efforts only focus on current problems, agencies will not be prepared to handle increases in FOIA requests or in FOIA litigation.

A data-driven comprehensive review would gather information on the number of FOIA requests received and processed over previous years, track increases between each of the reviewed years (with particular attention paid to any increases identified as a result of predictable or periodic events like Presidential elections), and identify the average number of FOIA requests or pages the agency's FOIA analysts are able to process. Using that information, the agency should be able to predict with some accuracy the rate the volume of FOIA requests is likely to increase in

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years to come, along with the number of FOIA analysts required to those requests in each of those years.

With regard to technological requirements, agencies will need to first determine what types of records are maintained within their current systems, whether any new systems are anticipated and the types of records those systems are likely to contain, and then identify what they will need to be able to process those records when they are requested under the FOIA. For example, if an agency uses a system that creates or stores audio or video files, that agency's FOIA office should have the tools to redact and release those files as appropriate. An agency would also need to look into how it conducts its searches, whether that search mechanism is likely to change in the near future, and anticipate how technology can be used to assist with searching and processing records.

For example, e-discovery tools are helpful when attempting to review large volumes of records, and machine learning can assist with applying standardized redactions to commonly requested forms, exempt personally identifiable information, or to fields within spreadsheets. Agencies should evaluate whether their systems, records, and trends would benefit from the use of these technologies.

Recommendation 2: That OIP collect information, as part of each agency's Chief FOIA Officer (CFO) Report, regarding the Standard Operating Procedure (SOP) for the processing of FOIA requests and the FOIA webpage.

Goal: To ensure that agencies are creating up-to-date streamlined processes in the handling of FOIA cases in order provide records to the requesters and decrease agencies' FOIA backlogs and that agencies are providing clear information to requesters regarding the FOIA process.

Rationale: The Time Volume Subcommittee and the Vision Subcommittee conducted a survey of FOIA agency personnel and the requester community to identify FOIA challenges. In the survey, the requesters were asked "What are your biggest questions about the FOIA process?" The top three responses were:

- 31% identified the process,
- 27% identified accountability and transparency, and
- 15% identified the timeline.

Similarly, the FOIA agency personnel were asked to identify their perception of the areas of confusion among requesters. The top three responses were:

- 36% identified knowledge of the process,
- 22% identified overly broad requests, and
- 14% identified scope of the requests.

Additionally, in the FOIA agency personnel's survey, they were asked if they had a "magic wand to fix FOIA" what would they do. Their top four responses were the following:

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20% fix internal processes,
17% allow more time process cases,
17% more automation, and
17% more funding.

The fact that 20% of FOIA agency personnel stated that fixing internal processes was their magic wand wish indicates that a review of an agency's FOIA process and an effort to document and standardize procedures is something desired by agencies. Standardizing internal processes and creating guidance in the form of an SOP would benefit agencies, by streamlining processes and potentially reducing backlogs. The requester community also would benefit by better understanding the agency process and receiving their records in less time.

This survey result suggests that agencies should conduct self-assessments and draft FOIA process procedures. When drafting an SOP, an agency should thoroughly review each step in the FOIA process. During this review, the agency can identify suitable approaches, ensure compliance with their FOIA regulations, obtain feedback from staff, and implement best practices. In addition to creating a standard FOIA process, the SOP will be a useful tool in training of new employees.

To assist in developing and standardizing the SOP, agencies should consult the *2017 Department of Justice (DOJ) Office of Information Policy (OIP) FOIA Self-Assessment Toolkit*. The Toolkit was designed to provide "a resource for agencies to use when assessing their administration of the FOIA." With the toolkit, OIP intended agencies to "conduct self-assessments to review and improve their FOIA program." The Toolkit contains thirteen modules ranging from intake to FOIA reporting. The Toolkit is very useful to the agencies when they are creating and/or updating their SOP.

Module 13 of the Toolkit emphasizes the important of sharing information on an agency's website: "Agency FOIA websites serve two important functions in the FOIA process: (1) FOIA websites provide valuable information to the public about the Agency, including the type of records maintained, FOIA contact information, instructions for making a FOIA request, and a copy of the Agency's FOIA regulations; and (2) FOIA websites contain proactively disclosed records."

2017 DOJ OIP issued guidance entitled *Agency FOIA Websites 2.0*, further illustrating the importance of informative and user friendly FOIA homepage. This guidance encourages agencies to update their FOIA homepages and cover the areas of proactive disclosure, instructions for submitting a FOIA request, and the administration of FOIA.

After an agency creates an SOP, it should review it every two years and update it based on new law, best practices, and technology.

Providing clear information about the FOIA process to the requester community is one of the key components to alleviating conflicts and confusion among FOIA requesters. The best means for agencies to convey information about the FOIA process information is to post information such as an SOP on their FOIA homepage. The SOP will provide clarity and specific details to the requester community about an agency's FOIA process.

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Recommendation 3:

Agencies should implement the following mandatory and specialized FOIA training requirements for employees and contractors to increase transparency and efficiency in FOIA responses and reduce FOIA backlogs and processing times:

- Annual mandatory FOIA training for employees and contractors whose position descriptions include responsibility for FOIA processing and all first line supervisors.
 - Annual mandatory training for FOIA professionals should include statute specific information including: the application of FOIA exemptions; proactive disclosure; fees and fee waivers; and the presumption of openness.
 - Agencies should strongly encourage, as demonstrated by support from agency heads, annual training for all agency employees and contractors.
- Make available in-depth onboarding or refresher training for FOIA professionals:
 - In-depth onboarding training should include in-depth coverage of statute specific information covered in the annual mandatory training and agency specific procedural training to include: FOIA policies and procedures; FOIA workflow; technology and tools used to implement FOIA; and an overview of statutory amendments and/or significant changes to FOIA case law. Agency may utilize DOJ/OIP training to supplement agency specific information.
- Encourage program or subject specific FOIA training for subject-matter experts and technology professional.
- Encourage program or subject matter specific training for FOIA professionals to increase an understanding of program information, workflows, and business practices.

Congress should provide financial support for agency FOIA training requirements and initiatives by providing a line item appropriation for agency FOIA training costs.

Goal: Agencies should implement mandatory and recommended FOIA training requirements for employees and contractors, supported by line item appropriations, to increase transparency and efficiency in FOIA responses and reduce FOIA backlogs and processing times.

Rationale: *Existing Mandatory FOIA Training Requirements.* There is no legally enforceable mandatory FOIA training requirement with which agencies must comply. The Chief FOIA Officer for each agency is required to “offer training to agency staff regarding their responsibilities under [the FOIA].” *See* 5 U.S.C. § 552(b)(2)(F). While the FOIA itself provides no clear statement that FOIA training is mandatory, or standards for such training, the Department of Justice, Office of Information Policy issued a Memorandum to Agency General Counsels and Chief FOIA Offices of Executive Departments and Agencies on Freedom of Information Act Training on October 28, 2015. The Memorandum encouraged agencies utilize OIP’s training resources “to ensure that all of your employees have a proper understanding of the

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FOIA and the important role they play in implementing this law.” See OIP October 28, 2015 Memorandum.

On March 19, 2009, the Attorney General issued a Memorandum for Heads of Executive Departments and Agencies on the Freedom of Information (FOIA) Act, which directed all Agency Chief FOIA Officers to “review all aspects of their agencies’ FOIA administration... and report to the Department of Justice each year on the steps that have been taken to improve FOIA operations and facilitate information disclosure at their agencies.” See Attorney General’s March 19, 2009 Memorandum at 3. OIP’s 2015 Guidance for Further Improvement Based on 2015 Chief FOIA Officer Report Review and Assessment, stated that “[i]t is critical to any successful FOIA administration that the professionals responsible for implementing the law have adequate training resources available to them.” See OIP 2015 Guidance. Additionally, OIP requested that all agencies implement annual FOIA training for FOIA professionals. OIP guidance on the Chief FOIA Officer Reports for 2020 highlights this request by including specific questions relating to FOIA training at agencies. Agencies must report:

3. *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?*
4. *If yes, please provide a brief description of the type of training attended or conducted and the topics covered.*
5. *Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.*
6. *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.*

See Content of 2020 Chief FOIA Officer Reports

Survey Results. The FOIA Advisory Committee conducted a survey of FOIA professionals and requester communities. [Do we have summary of survey methodology already written?]. The results of these surveys support the inclusion of this recommendation. Specifically, the relevant survey results include:

- FOIA Professional Community Survey:
 - Results:

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- 46.73% of responding agency staff reported that they do not receive adequate FOIA training
- 13.08% do not receive any training
- 14.02% thought their training needed more subject matter
- 9.35% needed more detail
- 10.28% needed refresher training
- 4.67% more on policy
- 5.6% national training
- 3.74% training ineffective
- Commentary:
 - Key commentary on training included:
 - “I think there are great training opportunities once you are a FOIA professional as career development and for continuous training but entry level training is near non-existent. Individuals watch a video and are encouraged to ask their too busy supervisors for help. The result is that most analyst have long waiting curves and very divergent methods of doing what should be routine and standardized activities.”
 - “More training needed on how to conduct an adequate search and in negotiating with requesters”
 - “need a yearly national training with all FOIA Officers. New FOIA Officers need an assigned mentor to walk them though issues instead of sending e-mails to the field.”
 - “I feel I do not receive adequate training overall. Not enough FOIA training is available, and my agency has limited training dollars. My training is lacking in Exemptions 1 and 7, day-to-day techniques in managing a well-run FOIA program, conflict management/mediation, and substantive litigation training on how to write a defensible declaration (hands-on, not a lecture style like what's offered by OIP).”
 - “Most importantly have metrics which support appropriate staffing in field and assure mandatory, annual, in-person FOIA training for all officers. Probably would consider pluses and minuses of making sure legal support and access for more complex issues is guaranteed for all field officers.”
- FOIA Requester Community Survey:
 - Results:
 - 13.51% of responding FOIA requesters indicated their biggest questions about FOIA are related to staffing and training.

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- 22.5% of responding FOIA requesters think agencies could improve their FOIA process through training and capacity.
- Commentary:
 - “Why agencies allow untrained, uninformed staff make decisions on search and redaction that are predictably ill-informed thus likely to generate appeals and litigation”
 - “Hire more folks. Train more folks. Give requesters more clarity on where their request is within the process. It’d be great if we had real-time access to most FOIA notes on our requests, since I frequently file for those anyway”
 - “Have more resources. For some, the problem is that agency officials view disclosure as antithetical to an agency's interests so the FOIA office's mission is to limit public access. That requires a change in leadership and attitudes towards the role of transparency.”
 - “Order mandatory training for FOIA officers and agency FOIA attorneys with a focus on reducing delays, unwarranted redactions and other common problems faced by requesters. Someone from OIP (and maybe someone from this advisory panel representing requesters) would be good candidates.

Recommendation 4: That agencies identify common categories of documents requested frequently under the FOIA and/or Privacy Act by or on behalf of individuals seeking records about themselves, and establish alternative processes for providing access to these documents to requesters in a more efficient manner than the FOIA.

Goal: This recommendation aims to ensure that the FOIA is primarily used to serve its original legislative intent of enhancing the transparency of government operations, while also meeting the needs of “first-person FOIA” requesters – individuals seeking information from the government about themselves.

Rationale: The Freedom of Information Act was originally intended as a measure to increase transparency of government operations by releasing information to the public, ultimately as a means of improving the public’s ability to govern.¹ The legislative intent is clear from the signing statement delivered by President Lyndon B. Johnson, in which he noted: “a democracy works best when the people have all the information that the security of the nation will permit.”² In recent years, the number of annual FOIA requests in the United States has ballooned to over

¹ Fred H. Cate, D. Annette Fields, James K. McBain “The Right to Privacy and the Public's Right to Know: The ‘Central Purpose’ of the Freedom of Information Act”, *Administrative Law Review* 46:41 (1994), 42.

² National Security Archive, “Statement by the President”, no date, available at <https://nsarchive2.gwu.edu/NSAEBB/NSAEBB194/Document%2031.pdf>

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800,000, as has the cost of accommodating these requests – more than \$545 million in FY 2018.³ In many cases, government agencies tout these figures as signs of success in ensuring transparency in government, as well as indications of the high price of doing so.⁴

In fact, many government agencies have come to rely on the Freedom of Information Act and the administrative procedures specified within to address other needs for access to information by the public beyond the worthy goals of transparency and accountability originally envisaged by the Congress. There are numerous legitimate reasons why citizens (and non-citizens) require access to government information and records other than to hold the government accountable. Many FOIA requests do not in fact respond to a public need for transparency in government, but rather are requests by “individuals seeking records about themselves: for example, their own medical files, immigration records, or investigation files” – often known as “first-person” FOIA requests.⁵ The high number of FOIA requests therefore may say little about government transparency, and much more about the way in which government agencies interact with the public.

In our view, this overreliance on the FOIA has a number of negative effects. First, it distorts the public’s understanding of the true impact of the FOIA and the real state of government transparency. Not only does it artificially inflate the number of requests made in the public interest, but it can also result in misleading statistics regarding the expediency of responses to FOIA requests.

Second, the FOIA provides a set of specific administrative deadlines that may be adequate for ensuring transparency of government operations, but that are inadequate for other cases. For instance, the FOIA requires a response from government agencies within 20 business days, but does not require that records be turned over within this time frame. This standard may be insufficient for individuals who need these records for legal or medical reasons.

Third, in some cases, requiring the use of FOIA for first-person requests leads to a duplication of work processes.⁶ In the case of immigration files, even when information is consolidated from multiple government agencies in the hands of one agency, requesters must sometimes file requests with each agency individually.⁷ Moreover, because FOIA requests are often not met within an adequate response time, attorneys often file requests with multiple agencies to see which one responds the fastest.⁸ All of this leads to delays and extra work that is inefficient and costly.

³ Amelia Brust, “2018 sees record number of FOIA requests, information seekers change”, Federal News Network, Jun. 7, 2019, available at <https://federalnewsnetwork.com/open-datatransparency/2019/06/2018-sees-record-number-of-foia-requests-information-seekers-change/>;

⁴ The White House, Office of the Press Secretary, “Fact Sheet: New Steps Toward Ensuring Openness and Transparency in Government”, Jun. 30, 2016, available at <https://obamawhitehouse.archives.gov/the-press-office/2016/06/30/fact-sheet-new-steps-toward-ensuring-openness-and-transparency>.

⁵ Margaret B. Kwoka, “First-Person FOIA”, *Yale Law Journal* 127:8 (2018), 2204

⁶ Kwoka, “First Person FOIA”, 2249-51.

⁷ Kwoka, “First Person FOIA”, 2250.

⁸ Kwoka, “First Person FOIA”, 2250.

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There are a number of ways in which access to information can be provided in a more efficient way than through FOIA. These include the following:

1. Facilitating proactive administrative discovery in agency proceedings (such as immigration proceedings) that often require a FOIA request;
2. Eliminating “request and return” scenarios that require petitioners to file a FOIA request for records that are in an agency’s possession to demonstrate that they are eligible for a government benefit;
3. Making select records available to the public in online databases, such as the Veterans Benefits Management System;
4. Establishing other processes for requesting particular documents outside of the FOIA, as the FBI has done with its requests for criminal background checks.⁹

To meet the goals of this recommendation, agencies would do the following:

- Survey commonly requested categories of documents to see which count as “first-person” FOIA requests.
- Establish a set of procedures outside of the FOIA for requesters to access these types of documents.
- Ensure that these procedures guarantee access to the same amount of documentation, or more documentation, than is possible under the FOIA, and within a quicker time frame.

Recommendation No. 5:

- A. Recommend that the Archivist address agencies’ need to provide for the dissemination of information outside of the FOIA and ensure that the programs that provide such information dissemination are robust.
- B. Consistent with the National Archives and Records Administration’s M-19-21 Memorandum which directs agencies to ensure that all Federal records are created, retained and managed in electronic formats, with appropriate metadata, by December 31, 2022, recommend that that Archivist address agencies’ need to provide these records electronically, developing online databases where members of the public may access commonly requested types of documents that go to the heart of the agency’s mission, and providing secure online databases where that information contains personally identifiable information or other sensitive information.

Goal:

To allow members of the public seeking records that, by agency-specific statutes, should already be disseminated outside of the FOIA, to readily obtain those records online so that they do not resort, in the alternative, to submitting FOIA requests for these records.

Rationale:

- A. *FOIA, Inc.*, 65 Duke Law Journal 1361, 1362 (2016), Margaret B. Kwoka (“By meeting information needs in a more efficient manner that is available equally to all, affirmative disclosure will enable federal agencies to reclaim public records from the private market

⁹ On these four, see Kwoka, “First Person FOIA”, 2255-2268.

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and free up resources to better serve FOIA requests that advance its democratic purpose.”).

- B. At least two federal agencies, the U.S. Copyright Office, and the U.S. Consumer Product Safety Commission, are already providing this type of public disclosure:
- a. 17 U.S.C. § 707 requires the U.S. Copyright Office (Copyright Office) to maintain a public catalog of all copyright registrations, arguably the most sought after records that the Copyright Office maintains. The Copyright Office fulfills this statutory requirement by providing the records in an online database, <https://cocatalog.loc.gov/cgi-bin/Pwebrecon.cgi?DB=local&PAGE=First>. As a result, the Copyright Office receives very few FOIA requests for records. In FY18 they received 44; in FY17, 43.
 - b. At the U.S. Consumer Product Safety Commission (Consumer Product Safety Commission), a 2008 amendment to the statute, 15 U.S.C. § 2055a, requires the agency to maintain a public database on the safety of consumer products “that is [] publicly available; [] searchable; and [] accessible through the Internet website of the Commission.” 15 U.S.C. § 2055a(a)(1). This database, [Saferproducts.gov](https://www.saferproducts.gov), allows members of the public to, *inter alia*, search consumer complaints on specific products, and review recall notices. The agency also provides national injury data online via its NEISS database, <https://www.cpsc.gov/Research--Statistics/NEISS-Injury-Data>. 15 U.S.C. § 2054. Accordingly, the number of FOIA requests at the agency is relatively low for an agency that “protects the public against unreasonable risks of injury associated with consumer products.” 15 U.S.C. § 2051(b). In FY18 they received 554 FOIA; in FY17, 664.

Recommendation 6: The Archivist recommends OGIS undertake an assessment of information agencies make publicly available on their website to facilitate the FOIA filing process. After the assessment, OGIS will recommend best practices. The assessment will examine how agencies describe the process for filing a FOIA request on their websites, the viability of agencies providing expected wait times for complex and simple requests, and the best contact information for an agency representative that can answer questions prior to the filing of the FOIA request.

Goal: The publicly available information provided by agencies will shorten the timeframe in which FOIA requests are processed by lessening the time requesters and agency officials devote to defining the scope of the request after a FOIA request is filed.

Rationale: There is an overarching need for streamlining the FOIA process. The number of FOIA requests filed annually across all agencies generally increased every year during the past decade, reaching a record 863,729 requests filed in Fiscal Year 2018. Requests are expected to continue to increase in the foreseeable future.

Agency resources have largely remained stagnant during that time, leaving FOIA offices and officers feeling overburdened. In a survey of FOIA Officers conducted in conjunction with the American Society of Access Professionals (ASAP) in June 2019, more than half of all FOIA officers who responded (50.91%) said that capacity is an issue. They are stretched thin and it will only get worse as requests continue to increase.

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Despite other options for lessening the burden of FOIA that involves filing fewer requests, when requesters do file FOIAs, they process should be as efficient as possible. While many inside and outside of government look to proactive disclosure as a means of "relieving stress" on the entire system, this in and of itself, is not a cure all. It is merely one tool in our arsenal. There will always be a need to file requests.

One way to ensure that requests are processed more quickly is to facilitate the filing of more simple rather than complex requests. Simple requests take less time to process than complex requests. According to the Summary of Annual FOIA Reports for Fiscal Year 2018 published by the Office of Information Policy, the average processing time for a "simple track" request in Fiscal Year 2018 was 25.52 days; by contrast more than 70% of complex requests took more than 20 days to process with more than 33% of all complex requests needing at least 100 days to process. In addition, the average processing time for simple requests has decreased in each of the past three Fiscal Years.

In addition to providing requesters with tools they need to file simple requests when possible, efforts must be made to ensure that all requests can be processed as swiftly and smoothly as possible. That is not happening now. Almost a quarter of the FOIA officers surveyed in June 2019 (21.50%) said that overly broad requests are common among requesters. In addition, 36.45% of those responding to the survey cited requesters' lack of knowledge of the FOIA process as a contributing factor.

The good news is that FOIA requesters appear to share these concerns and are willing to take steps to expedite the FOIA process. A common theme among a similar survey of FOIA requesters conducted in the summer of 2019 indicated a willingness by requesters to modify their requests if given better tools to do so. A desire for increased interaction with agencies was a common theme, with 27.50% saying they desire increased communication with agencies and 11.25% saying improved transparency is key.

Communication does not need to take the form of direct interaction with FOIA offices. Indeed, while there may be need for and benefits derived from direct interaction with FOIA offices, surveys indicated that simply providing useful tools to requesters would produce results. Requesters are willing to do research, with 95% of those surveyed saying they do some research prior to filing a request. They are willing to take steps to alleviate time-consuming communication with the agency after filing the request and to avoid lengthening the process through appeals and litigation. Most telling is that almost half of those surveyed (49%) are receptive to narrowing a request.

In other words, providing clear instruction as to how the public can simplify their requests is likely to bear fruit.

While some agencies provide basic information on their websites, it is irregular, inconsistent, and often out of date. Though similar recommendations have been made in the past, the 2019 surveys indicate that much work is still to be done to meet agency and requester expectations for improving the FOIA process.

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Though many agencies provide a basic overview of the filing process, agencies should consistently provide a straightforward and detailed step-by-step process for filing a FOIA request on their website. The information should include the requirements for a FOIA request, including a clear explanation of what constitutes a “record”; the response a requester should expect from an agency; the administrative appeal process; and links to relevant statutory and regulatory provisions governing the FOIA process.

The information provided on agency websites also should clearly define “simple” and “complex” requests so when possible, requesters can properly file a simple request to obtain the records they seek. Agencies also should describe requests that would be considered overly burdensome by the agency or not sufficiently specific and provide other tips for narrowing requests. In addition, agencies should include information, where possible, about where certain records are stored. This is particularly important for large agencies where requesters may not understand in which component agencies records are stored.

Providing clear and concise information on the agency website will inform and expedite the FOIA process by lessening time-consuming correspondence between the requesters and agencies regarding the administrative steps involved in filing FOIAs and the need to narrow or further clarify the request.

Agencies also should provide estimated processing times for simple and complex requests so requesters understand the time it will take to process their requests. Though average processing times are provided in agencies’ FOIA Annual Reports, a better understanding of “real time” timeframes¹⁰ for processing responses will help expedite the process by lessening the time agencies spend responding to requesters inquiring about the status of their requests. Realistic processing timeframes also will help manage requester expectations and improve agency accountability regarding processing delays.

Finally, agencies should provide contact information for an agency representative who will be available to requesters preparing their FOIA requests for submission. Though agencies provide general contact information for FOIA officers in initial responses to requesters, there often is no contact person available to requesters who are crafting a FOIA request.

A person who can interact in a meaningful way with a requester prior to the submission of a FOIA request also will help avoid time-consuming correspondence between agencies and requesters that occurs after a request is submitted. The FOIA Committee recommended in 2018 that agencies adopt the best practice of proactively contacting requesters and working with requesters early on, when necessary, to clarify requests. This supplemental recommendation emphasizes the importance of assistance even earlier in the process to further delays in the FOIA adjudication process.

¹⁰ See e.g., U.S. Citizenship and Immigration Services, “Check Status of Request,” <https://first.uscis.gov/#/check-status> (providing average processing times for different “tracks” of FOIAs including simple, complex and those for noncitizens in removal proceedings).