



March 2024

FREEDOM OF INFORMATION ACT

Additional Guidance
and Reliable Data
Can Help Address
Agency Backlogs

GAO Highlights

Highlights of [GAO-24-106535](#), a report to congressional requesters.

Why GAO Did This Study

FOIA requires federal agencies to provide the public with access to government information. FOIA request backlogs hinder government transparency and prevent individuals' timely access to information.

GAO was asked to review government-wide issues related to agency FOIA request backlogs. This report (1) describes factors federal agencies identified as causes of backlog increases, (2) describes methods agencies reported using to address backlogs, (3) assesses relevant government-wide guidance and resources, and (4) describes the perspectives of agency officials and nongovernmental stakeholders on proposed FOIA changes to help agencies address backlogs.

To address these objectives, GAO analyzed Chief FOIA Officer reports published between 2019 and 2023 by all agencies receiving 50 or more FOIA requests each year. GAO also conducted four focus groups with FOIA officials from major federal agencies and one with nongovernmental stakeholders from academia, media, and the FOIA requester community. GAO analyzed data from FOIA.gov, reviewed government-wide FOIA guidance and resources, and interviewed agency officials.

What GAO Recommends

GAO is making four recommendations to DOJ, including specifying the elements agencies should include in their backlog reduction plans, and taking steps to help agencies improve the reliability of data on request processing times. DOJ concurred with the recommendations.

View [GAO-24-106535](#). For more information, contact James R. McTigue, Jr. at (202) 512-6806 or mctiguej@gao.gov.

March 2024

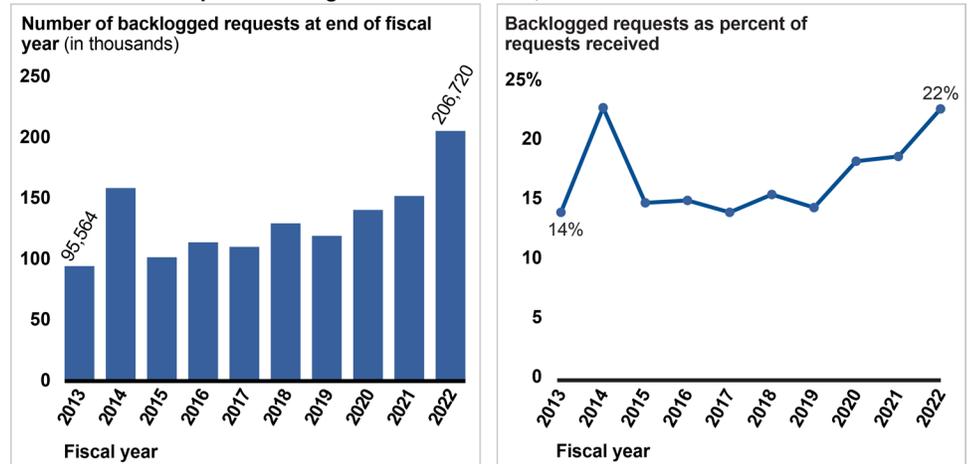
FREEDOM OF INFORMATION ACT

Additional Guidance and Reliable Data Can Help Address Agency Backlogs

What GAO Found

Federal agencies are generally required to process Freedom of Information Act (FOIA) requests within 20 working days. However, the government-wide request backlog has risen over the last decade (see figure), demonstrating that agencies face persistent challenges processing requests within required time frames.

Year-End FOIA Request Backlogs Government-wide, Fiscal Years 2013–2022



Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

In annual reports, agency Chief FOIA Officers have cited key factors contributing to increases in their backlogs. Factors include the increasing complexity of FOIA requests, staffing challenges, and increasing litigation. Agencies also reported on actions taken to address their backlogs. For example, agencies reported using data to actively monitor the status of requests and inform actions to close them.

The Department of Justice's (DOJ) Office of Information Policy (OIP) helps agencies administer FOIA, but additional guidance and other resources could better support agency efforts to address backlogs.

- OIP directs agencies with significant backlogs to create backlog reduction plans. However, OIP does not specify what agencies should include in these plans so most have not included key elements. Of the 14 agencies directed to develop 2023 plans, two included goals and none included timelines for implementing actions. By providing such guidance, OIP could ensure agencies specify goals, milestones, and metrics to track progress.
- OIP instructs agencies to calculate the average time it takes the agency overall to process requests. However, since 2013, many agencies have reported inaccurate times in one or more years. Improvements to OIP's data checks and training could help improve the accuracy of these data.

In focus groups with GAO, agency officials and nongovernmental stakeholders suggested various changes to FOIA, such as expanding the records agencies must release without a request, to help agencies address backlogs. However, there was generally little consensus on specific changes they would recommend.

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Abbreviations

CBP	U.S. Customs and Border Protection
DHS	Department of Homeland Security
DOJ	Department of Justice
EPA	Environmental Protection Agency
FDA	Food and Drug Administration
FOIA	Freedom of Information Act
FY	Fiscal Year
HHS	Department of Health and Human Services
NARA	National Archives and Records Administration
NSF	National Science Foundation
OGIS	Office of Government Information Services
OIP	Office of Information Policy
USAID	U.S. Agency for International Development
USDA	Department of Agriculture

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March 7, 2024

Congressional Requesters

The Freedom of Information Act (FOIA) requires federal agencies to provide the public with access to certain government information.¹ Each year, individuals and entities file hundreds of thousands of requests for records on numerous topics that contribute to the public’s understanding of government actions. Requests cover a range of topics such as consumer safety, the environment, and public health, as well as personal records that help individuals navigate immigration, health care, and other issues.

Agencies face persistent challenges processing requests within the time frames that FOIA requires. As a result, a government-wide backlog of FOIA requests exists and continues to grow. By fiscal year 2022 the backlog had grown to over 200,000, continuing a long-term upward trend. This growing backlog can hinder government transparency and accountability, and slow individuals’ access to information. In other cases, the backlog may affect individuals’ ability to efficiently obtain information, such as immigration records, that they need to exercise their rights or apply for vital benefits.

We have previously reported on individual agencies’ efforts to implement FOIA, including efforts to address request backlogs, and recommended that agencies take actions to help address backlogs.² You asked us to review government-wide issues related to FOIA request backlogs at federal agencies, including causes of persistent backlogs, challenges to

¹5 U.S.C. § 552(a).

²For example, GAO, *Freedom of Information Act: Selected Agencies Adapted to the COVID-19 Pandemic but Face Ongoing Challenges and Backlogs*, [GAO-22-105040](#) (Washington, D.C.: January 2022); *Freedom of Information Act: Actions Needed to Improve Agency Compliance with Proactive Disclosure Requirements*, [GAO-21-254](#) (Washington, D.C.: March 2021); *Freedom of Information Act: Update on Federal Agencies’ Use of Exemption Statutes*, [GAO-21-148](#) (Washington, D.C.: January 2021); *Freedom of Information Act: Federal Agencies’ Recent Implementation Efforts*, [GAO-20-406R](#) (Washington, D.C.: March 2020); and *Freedom of Information Act: Agencies Are Implementing Requirements, but Additional Actions Are Needed*, [GAO-18-365](#) (Washington, D.C.: June 2018).

reducing them, and potential legislative and other changes to help agencies address their backlogs.³ This report

1. describes factors that federal agencies have frequently identified as causes of increases in, and challenges to reducing, their FOIA request backlogs;
2. describes methods agencies have reported using to address their backlogs;
3. assesses relevant government-wide guidance and other resources that could help agencies address their backlogs; and
4. describes changes to FOIA that Chief Financial Officers Act agency officials and nongovernmental stakeholders suggested to help agencies address their backlogs and minimize them going forward.

To address our first and second objectives, we analyzed agency Chief FOIA Officer reports published from 2019 to 2023. These reports identified factors agencies cited as causes of increases in their backlogs and the methods agencies reported using to address them.⁴ For fiscal years 2013 to 2022 we also analyzed data on agency FOIA requests, backlogs, timeliness of request processing, litigation, and other information available through FOIA.gov, as well as Department of Justice (DOJ) data on FOIA litigation. To assess the reliability of these data we reviewed relevant DOJ documentation on steps taken to ensure the validity of data on FOIA.gov, interviewed DOJ officials, and electronically tested the data. We determined that the data were sufficiently reliable to analyze the number of requests agencies received and processed, the

³We use the terms “agencies” and “government-wide” to refer to federal agencies subject to the requirements of FOIA. The term agency is defined in FOIA to include any executive department, military department, government corporation, government-controlled corporation, or other establishment in the executive branch of the government (including the Executive Office of the President), or any independent regulatory agency. 5 U.S.C. § 55(f)(1). There were 120 agencies subject to FOIA in fiscal year 2022. Additionally, we use the term “Chief Financial Officers Act agencies” to refer to the 24 federal agencies named in the Chief Financial Officers Act of 1990. 31 U.S.C. § 901. See appendix I for more information.

⁴FOIA requires all agency Chief FOIA Officers to report to the Attorney General on the agency’s performance in implementing FOIA. 5 U.S.C. § 552(j)(2)(D). OIP guidelines for agency Chief FOIA Officer reports direct agencies receiving 50 or more FOIA requests in the prior fiscal year to submit reports, while agencies receiving fewer than 50 requests are not required to report if they believe that their annual FOIA reports provide a sufficient accounting of their efforts to effectively and efficiently administer FOIA. From fiscal years 2019 to 2023, between 65 and 72 agencies submitted Chief FOIA Officer reports each year. Some agencies subject to FOIA did not submit Chief FOIA Officer reports. See appendix I for more information.

number of backlogged requests, the number of days it took agencies to process different types of requests, and the number of annual litigation cases. We determined that data on average processing times were not sufficiently reliable to report due to inaccuracies in the data reported by some agencies.⁵

To address our third objective, we interviewed officials from DOJ and the National Archives and Records Administration (NARA) about government-wide challenges related to agency FOIA request backlogs, as well as best practices to address them. We interviewed these officials because of their roles supporting government-wide FOIA compliance. We also reviewed policies, guidance, and other resources related to request processing and backlog reduction. We identified DOJ and NARA materials with specific suggestions for actions agencies should take to address their backlogs and improve the efficiency of request processing. We assessed these materials against key practices that can help agencies address risks and challenges and more effectively manage their workforces.⁶

To further address our third and fourth objectives, we conducted a virtual focus group with nongovernmental stakeholders. To identify potential participants for this group, we conducted literature searches to identify publications, including academic papers and other reports, with potentially relevant recommendations for changing FOIA to address agency request backlogs. We selected stakeholders representing the academic, media, and requester communities based on whether they had authored relevant publications and had relevant expertise, such as work with transparency-oriented nongovernmental organizations. Focus group participants shared their perspectives on potential changes to FOIA they would suggest to help agencies more effectively manage and address their backlogs.⁷

To address all four objectives, we conducted four virtual focus groups with senior agency officials from 23 of the 24 Chief Financial Officers Act

⁵A description of the issues we found related to the accuracy of some FOIA data can be found later in this report. For more information on the steps we took to assess data reliability see appendix I.

⁶GAO, *High-Risk Series: Key Practices to Successfully Address High-Risk Areas and Remove Them from the List*, [GAO-22-105184](#) (Washington, D.C.: March 2022); and *Human Capital: Key Principles for Effective Strategic Workforce Planning*, [GAO-04-39](#) (Washington, D.C.: December 2003).

⁷See appendix I for the list of nongovernmental FOIA stakeholders who participated in the focus group.

agencies.⁸ As part of these focus groups, we collected their perspectives on (1) the factors they considered the biggest contributors to backlogs at their agencies and what challenges they presented; (2) the methods for addressing backlogs they considered the most effective; (3) how relevant government-wide guidance and resources were helpful and suggestions for improving them; and (4) potential changes to FOIA that could help agencies address their backlogs. See appendix I for more details on our scope and methodology.

We conducted this performance audit from January 2023 to March 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

The FOIA Process

Once received by an agency, a FOIA request may go through multiple phases. Initially, the agency will assign a tracking number and acknowledge the request. Next, the agency will search for and process responsive records, and will apply any redactions.

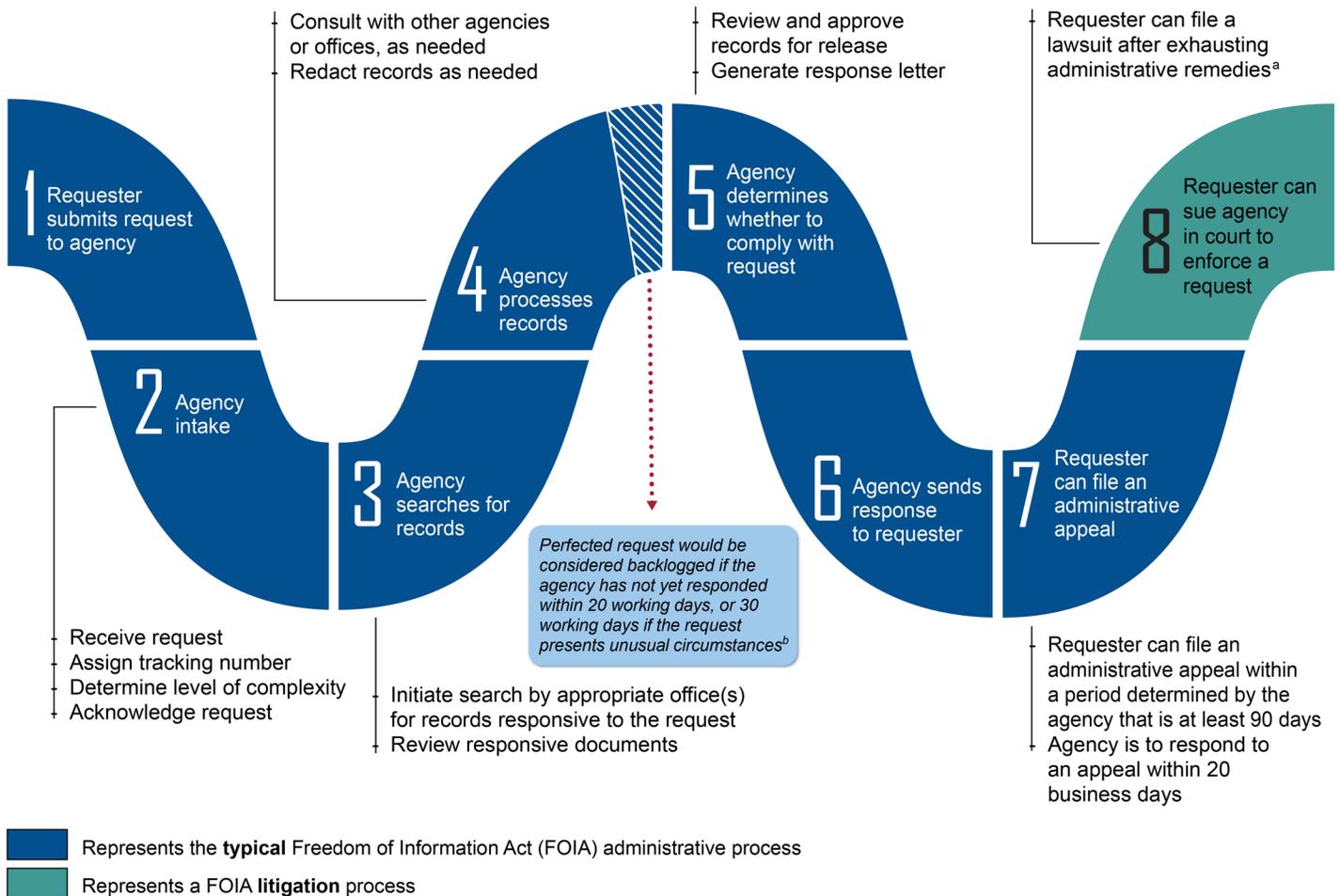
FOIA generally requires agencies to respond to a request within 20 working days. The response should include a determination of the scope of the documents the agency will produce and the exemptions they will claim with respect to any withheld information.⁹ Agencies are then required to promptly provide the responsive documents to the requester. A decision to deny a request must inform the requester of the reasons for denial and the right to appeal. If the agency determines the request presents unusual circumstances, it may extend the 20-day time limit by

⁸The remaining Chief Financial Officers Act agency provided written responses to our questions. The 24 Chief Financial Officers Act agencies are the Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Homeland Security, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, the Treasury, and Veterans Affairs, as well as the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the National Science Foundation, the Nuclear Regulatory Commission, the Office of Personnel Management, the Small Business Administration, the Social Security Administration, and the U.S. Agency for International Development. 31 U.S.C. § 901(b).

⁹5 U.S.C. § 552(a)(6)(A), (C).

up to 10 working days by written notice to the requester. If the request cannot be processed within the extended time limit, the agency must notify the requester. In its notification, the agency must offer the opportunity to limit the scope of the request so that it may be processed within that time limit. The requester and agency may also arrange for an alternative time frame for processing the request or a modified request. See figure 1 for a summary of this process.

Figure 1: Simplified Overview of the Federal Government’s Freedom of Information Act Request and Appeal Process



Source: GAO analysis of simplified FOIA process. | GAO-24-106535

^aUnder FOIA, a requester generally must exhaust all administrative remedies prior to seeking judicial review of a federal agency’s decision. Such remedies include administrative appeals filed within a period determined by the agency that is not less than 90 days. However, agency failure to comply with statutory time limits is treated as an exhaustion of administrative remedies. When an agency fails

to comply with the 20-day statutory time limit, the requester is considered to have exhausted administrative remedies and can seek judicial review. See 5 U.S.C. § 552(a)(6)(A)-(C).

^bThe requirements of FOIA, including requirements related to processing time frames, do not apply until an agency receives a “proper” or “perfected” FOIA request. A perfected FOIA request must reasonably describe the records being sought and must be made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed. See 5 U.S.C. § 552(a)(3)(A).

Different requests may have differing levels of complexity, and FOIA authorizes agencies to establish processes for processing record requests on multiple tracks based on the amount of work or time (or both) involved in processing the request.¹⁰ DOJ’s Office of Information Policy defines simple requests as those requiring relatively minimal review based on, for example, the low volume and the simplicity of the records requested. Complex requests typically seek a high volume of material or require additional steps to process, such as the need to search for records in multiple locations.¹¹

Time frames may be extended if there are unusual circumstances. FOIA defines unusual circumstances as

- the need to search for and collect records from field facilities or other establishments that are separate from the office processing the request;
- the need to search, collect, and examine a voluminous amount of separate and distinct records which are demanded in a single request; and
- the need for consultation with another agency having a substantial interest in the determination of the request or among two or more components of an agency having substantial subject-matter interest.¹²

¹⁰5 U.S.C. § 552(a)(6)(D)(i). FOIA requires agencies to establish procedures in their regulations that provide for expedited processing of requests in certain cases when the person requesting the records demonstrates a compelling need and in other cases determined by the agency. The regulations must ensure that a determination of whether to provide expedited processing is made within 10 days of the receipt of a request for expedited processing and expeditious consideration of administrative appeals of such determinations of whether to provide expedited processing. 5 U.S.C. § 552(a)(6)(E).

¹¹Factors that increase the complexity of a request include the volume of information involved, the number of offices that might have responsive documents, the extent to which the information is technical or difficult to understand, and the need to consult with third parties, such as subject matter experts, other agencies, or owners of proprietary information.

¹²5 U.S.C. § 552(a)(6)(B)(iii).

Each agency is required to publish regulations specifying the schedule of fees applicable to processing requests and establishing procedures and guidelines for waivers or reduction of fees. The three types of fees that may be assessed for FOIA requests are search, review, and duplication fees. The types of fees that may be charged to a particular requester depend on the requester's fee category—(1) commercial use; (2) educational institution requesters, noncommercial scientific institution requesters, and representatives of the news media; and (3) all requesters who do not fall within either of the preceding two categories. FOIA also restricts agencies from assessing certain fees if the agency has not met the act's time limits.¹³ Funds agencies receive for providing FOIA services are deposited into the general revenues of the United States Treasury.¹⁴

Backlogged Requests

Generally, a request is considered backlogged if it is pending beyond the statutory time frames.¹⁵ If an agency exceeds the 10-day extension of the 20-day time frame, the agency must allow the requester the opportunity to modify the request or arrange for an alternative time frame for completion of the agency's processing. However, the perfected request must still be considered backlogged once it is past the statutory response date.

The government-wide request backlog among agencies subject to FOIA has risen steadily over the last decade, demonstrating the long-term and persistent challenge of reducing backlogged requests. From fiscal years

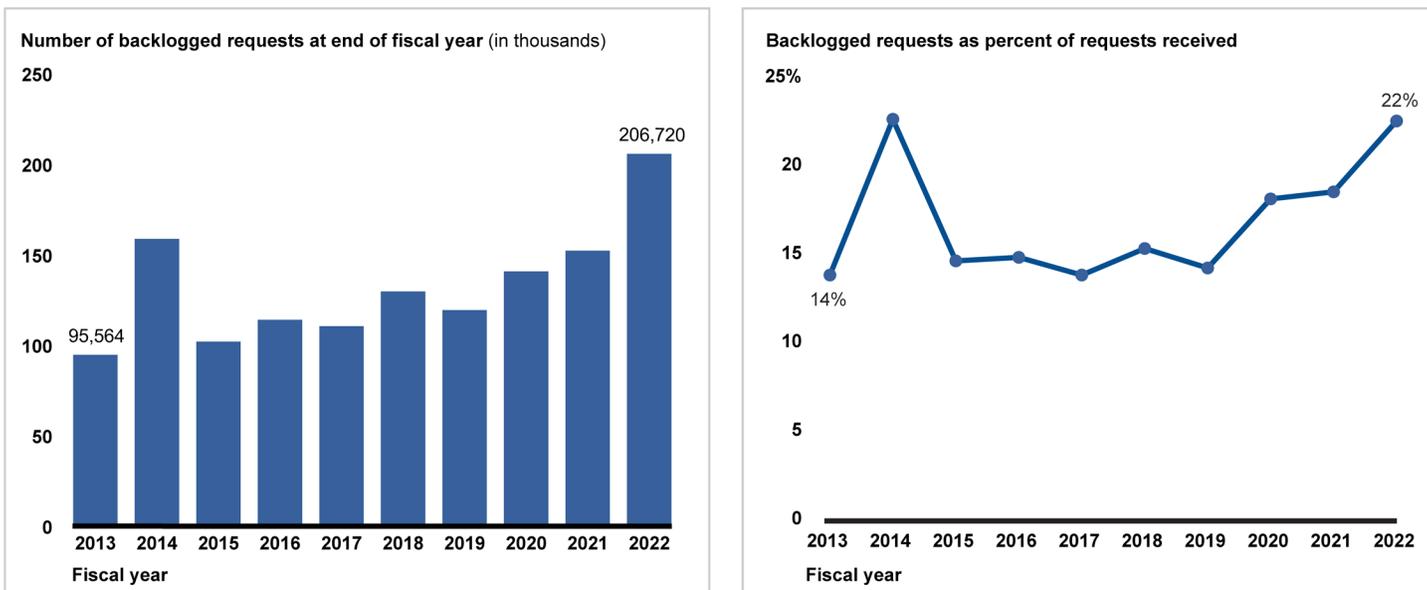
¹³An agency cannot assess search fees for "commercial-use" or "all other" requesters or duplication fees for "news media, educational institutions, and non-commercial scientific institutions" requesters if it failed to comply with statutory time limits, unless one of three exceptions applies: (1) if a court has determined that exceptional circumstances exist, an agency can assess usual fees for the length of time provided by court order; (2) if "unusual circumstances" apply and the agency provided timely written notice to the requester, the agency has 10 additional days to process the request and assess fees as usual; and (3) if the agency determines "unusual circumstances" apply and more than 5,000 pages are necessary to respond to the request, the agency may assess fees as usual if it meets certain requirements. 5 U.S.C. § 552(a)(4)(A)(viii).

¹⁴The Office of Management and Budget issued the FOIA Fee Guidelines in 1987, and subsequently updated them in 2020 to conform with statutory amendments to FOIA in the FOIA Improvement Act of 2016. Pub. L. No. 114-185, 130 Stat. 538 (2016); *The Freedom of Information Reform Act of 1986*; *Uniform Freedom of Information Act Fee Schedule and Guidelines*, 52 Fed. Reg. 10012 (Mar. 27, 1987); and *Final Revisions to Uniform Freedom of Information Act Fee Schedule and Guidelines*, 85 Fed. Reg. 81955 (Dec. 17, 2020).

¹⁵FOIA requirements, including requirements related to processing time frames, do not apply to a request until it is perfected. A perfected request is one that reasonably describes the records sought and complies with the agency's published rules regarding procedures to be followed. 5 U.S.C. §§ 552(a)(3)(A). For requests, the statutory time period is 20 working days from receipt of the perfected request, after which the request becomes backlogged.

2013 to 2022, the number of backlogged requests pending at the end of the fiscal year government-wide more than doubled (see fig. 2). Over the same period, the number of requests received government-wide increased by 32 percent.

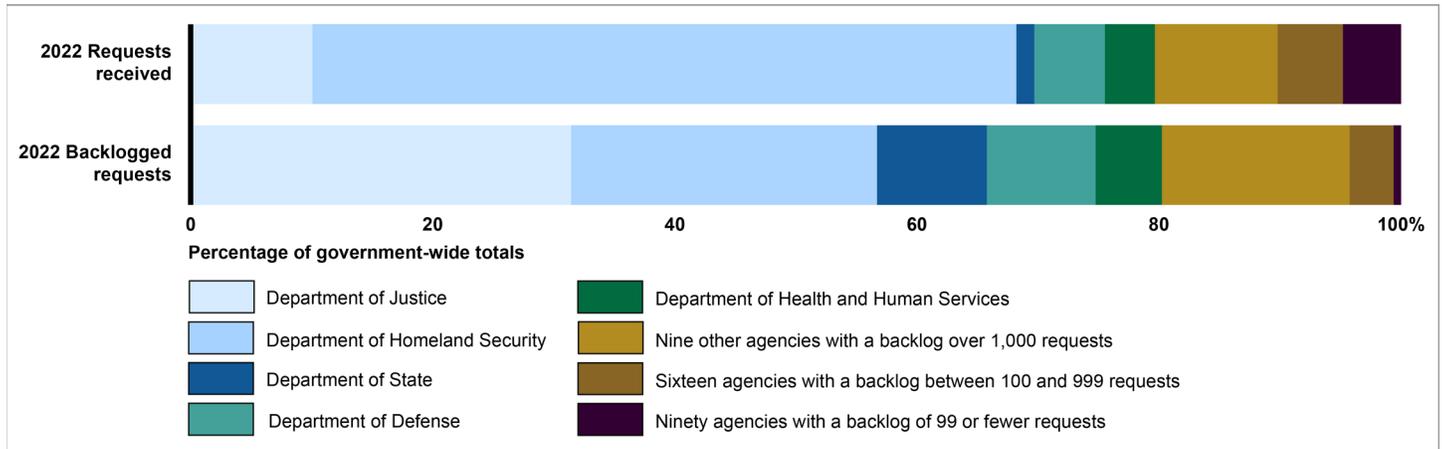
Figure 2: Year-End FOIA Request Backlogs Government-wide, Fiscal Years 2013–2022



Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

The size of FOIA request backlogs differs substantially across agencies. The Departments of Justice (DOJ), Homeland Security, Defense, State, and Health and Human Services accounted for 80 percent of all backlogged requests across the federal government at the end of fiscal year 2022, and they received just under 80 percent of all new requests during that year (see fig. 3). At the end of fiscal year 2022, nine additional agencies had over 1,000 backlogged requests that accounted for another 15 percent of the total backlog. Together, these 14 agencies accounted for 95 percent of the federal government’s backlog.

Figure 3: FOIA Requests Received and Backlogged as a Percentage of Government-wide Total, Fiscal Year 2022



Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

We have previously recommended that agencies take actions to address request backlogs. In June 2018, we made recommendations to eight agencies that they take steps to develop and document plans addressing best practices for reducing backlogged requests.¹⁶ All eight agencies implemented these recommendations. Similarly, we reported in January 2022 that selected agencies, including the Departments of Homeland Security (DHS) and Agriculture (USDA), lacked information on planned actions and milestones for backlog reduction.¹⁷ We recommended that DHS work with its components to specify goals and measures for reducing the backlog, identify planned actions, and provide specific milestones. DHS has taken steps to implement this recommendation.¹⁸ We also recommended that USDA better document planned actions and

¹⁶GAO-18-365. These agencies were DHS, DOJ, the National Archives and Records Administration, the Departments of the Interior and State, the Equal Employment Opportunity Commission, the National Transportation Safety Board, and the U.S. Agency for International Development.

¹⁷GAO-22-105040.

¹⁸In 2022, DHS’s Deputy Chief FOIA Officer instructed DHS components to begin work on backlog reduction plans and obtain appropriate metrics. In March 2023, DHS stated that U.S. Customs and Border Protection, Immigration and Customs Enforcement, the Transportation Security Administration, and U.S. Citizenship and Immigration Services had fully implemented their reduction plans. DHS also reported that it expects four additional DHS component’s reduction plans to be fully implemented by fiscal year 2024.

milestones for backlog reduction. USDA has since implemented the recommendation.

Government-wide Support for Agency FOIA Administration

Three key entities play roles in supporting government-wide FOIA operations. These entities are responsible for providing guidance and other support to agencies on FOIA administration, reviewing FOIA compliance, and promoting cross-agency coordination, among other activities.

- **Office of Information Policy (OIP).** OIP is an office within DOJ responsible for encouraging and overseeing agency compliance and developing government-wide policy guidance on all aspects of FOIA administration. OIP also provides legal counsel and training to agency personnel, along with a range of additional resources to guide agency FOIA operations. OIP also oversees agencies' mandated reporting on their compliance, collecting and reviewing the data and other information agencies are directed to report in their annual reports and Chief FOIA Officer reports. Finally, OIP manages the FOIA.gov website, which makes agencies' data and reports available, and provides information to the public about the FOIA process.
- **Office of Government Information Services (OGIS).** OGIS is an office within the National Archives and Records Administration (NARA) and serves as the federal government's FOIA ombudsman. In this role, OGIS reviews and identifies procedures and methods to improve compliance, offers mediation services to resolve disputes between FOIA requesters and agencies as a nonexclusive alternative to litigation, and educates requesters and the public about the FOIA process. For example, OGIS periodically publishes assessments of FOIA-related issues that cut across many agencies and, at the request of agencies, will conduct reviews of their compliance.
- **Chief FOIA Officers Council.** The Chief FOIA Officers Council is tasked with developing recommendations to increase compliance and efficiency.¹⁹ It is also responsible for identifying, developing, and coordinating initiatives to increase transparency and compliance. The Council is co-chaired by the Directors of OIP and OGIS, and consists

¹⁹5 U.S.C. § 552(k).

of all agency Chief FOIA Officers and the Deputy Director for Management of the Office of Management and Budget.²⁰

In 2014, NARA established the FOIA Advisory Committee to foster dialogue between federal agencies and the requester community and to develop recommendations for improving FOIA administration. The OGIS Director serves as the chair of the committee, which consists of representatives from federal agencies and nongovernmental stakeholders. OGIS also provides administrative support. The committee has established various subcommittees of members to examine specific issues and develop recommendations. For example, during the committee's 2020–2022 term it established a subcommittee that studied, and reported on, possible legislative changes to FOIA.²¹

Changes to FOIA's Request Processing Time Frames

FOIA has been amended several times since it was originally enacted in 1966 to address agencies' timeliness in responding to requests and to address backlogs.²² For example:

- Amendments to FOIA in 1974 established a 10-day time limit for agencies to respond to a request.²³ The act also allowed an agency to take an additional 10 days to process a request if the agency determined the request presented unusual circumstances and notified the requester in writing.
- The Electronic Freedom of Information Act Amendments of 1996 gave agencies 20 days to determine whether responses would be fulfilled (previously the limit was 10 days). The act also explained that exceptional circumstances do not include agency delays resulting

²⁰The Council has two committees that contribute to its work. Its Technology Committee, established in 2018, studies the use of technology in FOIA programs across agencies and identifies best practices and recommendations for implementing technology. Its Committee on Cross-Agency Collaboration and Innovation was established in 2020 and studies cross-agency funding sources and federal career paths for FOIA staff, among other activities.

²¹National Archives and Records Administration, FOIA Advisory Committee, *Legislation Subcommittee Report: FOIA Advisory Committee, 2020-2022 Term* (College Park, Md.: June 2022).

²²Pub. L. No. 89-554, 80 Stat. 378, 383 (1966), *codified as amended* at 5 U.S.C. § 552.

²³Pub. L. 93-502, 88 Stat. 1561, 1562 (1974).

from a predictable workload of requests, unless the agency demonstrates progress in reducing its backlog.²⁴

- The Openness Promotes Effectiveness in our National Government Act of 2007 restricted agencies from assessing certain fees if they do not meet statutory time limits and no unusual or exceptional circumstances apply.²⁵ It also established OGIS to review agency compliance and offer mediation services to resolve disputes between requesters and agencies. Finally, the act requires agencies to collect additional data on their FOIA processing, such as the average number of days it takes them to process requests.
- Most recently, the FOIA Improvement Act of 2016 further specified that if agencies determined there were unusual circumstances but failed to comply with the extended 30-day time limit, the agency was restricted from assessing certain fees. However, if the agency determined there were unusual circumstances and more than 5,000 pages are necessary to respond to the request, the agency may charge certain fees.²⁶

Agencies Reported Several Key Challenges Have Contributed to Increases in Request Backlogs

Based on our analysis of annual Chief FOIA Officer reports from 2019 through 2023, agencies have most frequently cited challenges related to staffing and the increasing scope and complexity of FOIA requests as factors that contributed to increases in their request backlogs or that

²⁴Pub. L. 104-231, §§ 7(c), 8(b), 110 Stat. 3048. (1996). If the agency fails to comply with applicable time limit provisions, the requester is deemed to have exhausted administrative remedies and may seek judicial review. Once in court, an agency may receive additional time to process a FOIA request if it shows it did not meet the time limit because of an “exceptional circumstance” and has exercised due diligence in processing the request. “Exceptional circumstances” are prescribed in statute. 5 U.S.C. § 552(a)(6)(C).

²⁵Pub. L. 110-175, § 6(b), 121 Stat. 2524, 2526 (2007).

²⁶The agency must also have provided timely written notice to the requester and the agency discussed with the requester (or made not less than 3 good faith attempts to do so) how the requester could effectively limit the scope of the request. Pub. L. 114-185, § 2, 130 Stat. 538 (2016).

made it difficult to close their oldest requests.²⁷ In their reports, agencies also frequently cited challenges related to coordination, litigation, and technology as contributing factors. Table 1 lists the specific factors that agencies cited most frequently in their reports from 2019 to 2023. The factors cited most frequently by agencies are listed first in each row, followed by the other related factors, in order of frequency. See appendix II for the number of agencies that reported experiencing a given factor in each year.

Table 1: Most Frequently Reported Factors Contributing to Freedom of Information Act (FOIA) Backlogs Cited in Agency Chief FOIA Officer Reports, 2019–2023

Issue	Description of factors
Request, technology, and coordination challenges	<ul style="list-style-type: none"> • Broadly scoped requests involving large volumes of responsive records. • Increasing complexity of requests received. • Time needed to coordinate with program offices or consult with other agencies on record searches and reviews. • Overall increase in the number of FOIA requests. • Requests involving classified or sensitive records requiring extensive legal reviews or redactions. • Issues with FOIA request management systems or other technology used to process FOIA requests. • Difficulty locating or retrieving records.
Staffing challenges	<ul style="list-style-type: none"> • FOIA staffing losses or turnover. • Staffing limitations, including difficulties hiring new staff or staff balancing FOIA processing with other responsibilities. • Time needed to train and educate new staff on FOIA processes and requirements.
Demands of FOIA litigation	<ul style="list-style-type: none"> • Demands of supporting FOIA-related litigation.

Source: GAO analysis of agency Chief FOIA Officer reports from 2019 to 2023. | GAO-24-106535

Note: An additional factor that agencies frequently cited in their 2021 and 2022 reports was restrictions, such as office closures, instituted during the COVID-19 pandemic that limited staff access to worksites and records. For additional information see [GAO-22-105040](#).

In focus groups that we conducted with senior agency FOIA officials from Chief Financial Officers Act agencies, we asked participants which factors

²⁷OIP’s annual guidance on the development of agency Chief FOIA Officer reports directs each agency that has experienced an increase in its request backlog over the previous year to report on the causes that contributed to the agency not being able to reduce the backlog. OIP’s guidance also directs agencies to report on contributing factors that present obstacles to closing the requests. The guidance applies to those agencies that receive more than 50 FOIA requests in a given year. Between 2019 and 2023, the number of agencies that responded to these questions in a given year ranged from 42 to 55. See Office of Information Policy, *Guidelines for 2024 Chief FOIA Officer Reports* (Washington, D.C.: Sept. 20, 2023), accessed November 15, 2023, <https://www.justice.gov/oip/2024-chief-foia-officer-report-guidelines-agencies-receiving-more-50-requests-fiscal-year-2022>.

they considered to be the biggest contributors to request backlogs. Participants noted these factors are often interrelated, and they discussed the specific ways the factors make it challenging for agencies to find, review, and process relevant records within required time frames.

Request, Technology, and Coordination Challenges

Officials in all four of our agency focus groups identified the increasing complexity of requests as one of the biggest contributors to growing agency backlogs. Agency officials in all our groups explained that they are increasingly receiving requests that consist of multiple parts and ask for records on a number of different topics. They said such requests take more time to process.

Selected Quotes on Increasing Request Complexity from Focus Groups

“I think another really important thing about the complex request problem is that, oftentimes, they are multiple requests packaged into one big request. So then you have a giant request with multiple parts that spans multiple parts of your agency, multiple records custodians, and so forth, and it generates an enormous amount of records to review, but you still just have the 20 days.”

“We’ve seen the nature of requests change from being pretty specific to very, very broad. They used to want this specific record from this specific office, but now many requests want everything on a topic. And obviously that increases complexity on many different levels, from a volume perspective, from a tasking perspective, from a research perspective where a processor has to figure out how to conduct a reasonable search for agency records. The time it takes to do these things, obviously, contributes to the backlog.”

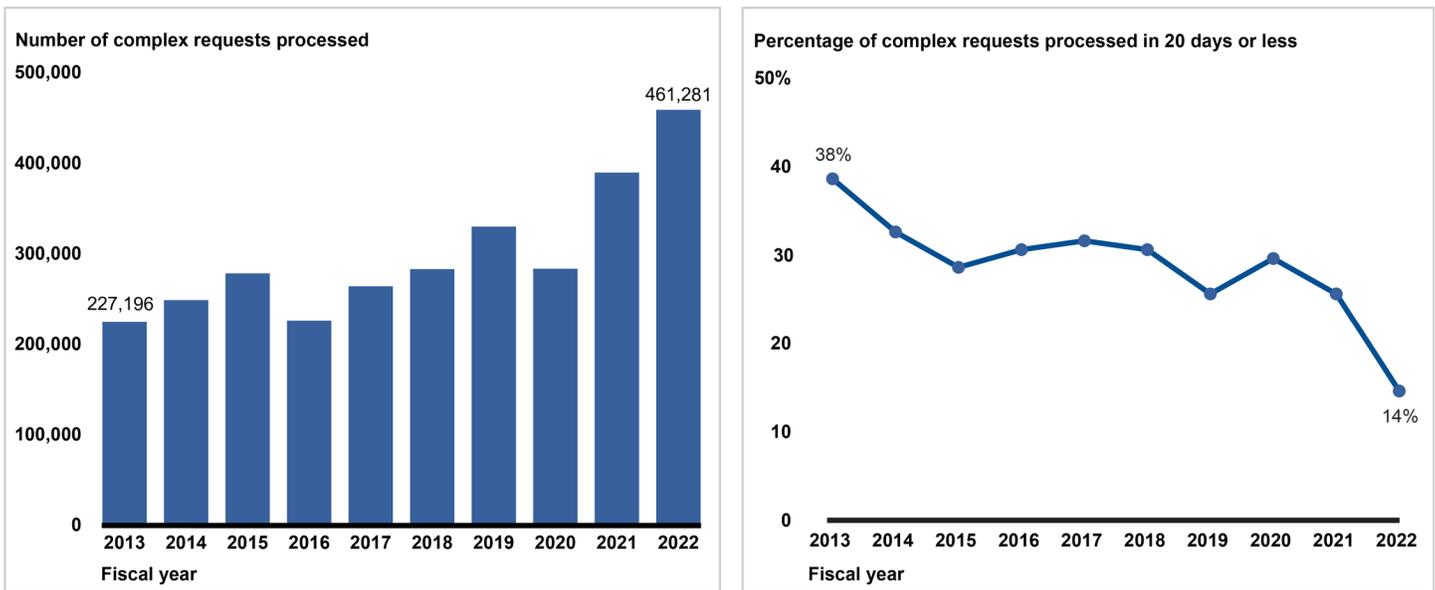
Source: GAO focus groups with senior agency Freedom of Information Act officials. | GAO-24-106535

Government-wide data corroborated the increase in the complexity of FOIA requests and the time that it takes agencies to respond to requests.²⁸ For example, the number of complex requests that agencies processed more than doubled between fiscal years 2013 and 2022, increasing from about 227,000 to over 461,000. During that time, the proportion of complex requests that agencies processed in 20 days or fewer decreased. Specifically, in fiscal year 2013, 38 percent of complex requests were processed in 20 days or fewer. In fiscal year 2022, only 14

²⁸Under FOIA, agencies can establish multiple tracks for processing based on the amount of work or time (or both) involved in processing requests. 5 U.S.C. § 552(a)(6)(D). OIP directs agencies to report their response times by three processing tracks: simple, complex, and expedited. A simple request is one that an agency places in its fastest (nonexpedited) track based on the low volume or simplicity of the records requested. A complex request is one that an agency places in a longer track based on the high volume or complexity of the records requested. An agency will process a request on an expedited basis when a requester satisfies requirements for expedited processing as set forth in statute and agency regulations. See 5 U.S.C. § 552(a)(6)(E).

percent of complex requests were processed within that time frame (see fig. 4).²⁹

Figure 4: Complex FOIA Requests Processed Government-wide, Fiscal Years 2013–2022



Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

Note: A complex request is one that an agency places in a separate track based on the high volume or complexity of the records requested.

Agency officials in all four focus groups described the challenges that complex and broadly-scoped requests present. They said agencies must often search for, collect, and review many potentially relevant records to process these requests. Requests involving internal communications, such as emails or text messages, can be especially time intensive because as electronic recordkeeping has evolved, agencies are generating and storing larger amounts of information in a variety of formats, including videos. Officials in three of the groups also said that

²⁹We previously found that during the first year of the COVID-19 pandemic agencies government-wide took less time on average to process simple and expedited requests, while taking more time to process complex requests. Some selected agencies reported processing fewer requests during the first year of the pandemic due to their efforts to protect employees' safety and provide staff with work-life balance, among other reasons. See [GAO-22-105040](#).

their agencies lack technological tools to efficiently find and review relevant records.

Selected Quotes on Record Volume and Technology Challenges from Focus Groups

“Our most complex and time-intensive responses relate to email records or internal communications of various kinds, including chat and text, which generate a large volume of records on a particular topic. So when a request asks for those sorts of internal communications, I’m calling it complex because of the type of records that it produces, and you know, essentially the challenges that we have in responding to that, both in collecting and coordinating with the different agency officers that have an equity in those messages, as well as coordinating with other agencies when they involve other federal agencies.”

“As technology has developed, we are able to store so many more records than in the past. When we search large volumes of data, we receive tons of records back that are potentially relevant. Unfortunately, we don’t have the budget to invest in sophisticated software that would help us to review the volume of records that we receive. So at the end of the day, it’s one person that’s having to review tens of thousands of records for potential responsiveness, which is a huge issue. It takes a lot of time.”

Source: GAO focus groups with senior agency Freedom of Information Act officials. | GAO-24-106535

Complex requests also can involve records from multiple offices within an agency or other agencies that have a substantial interest in the subject, according to focus group participants. In these situations, an agency’s FOIA staff must coordinate with subject matter experts from throughout their agency, and potentially other agencies, to identify, review, and process relevant records. Officials emphasized that this coordination can take significant time because subject matter experts handle FOIA requests in addition to their primary responsibilities.

Selected Quotes on Coordination from Focus Groups

“Let’s say you take, for example, a single request, and it involves multiple equity holders [i.e., officials or agencies which have an interest in information contained in a record]. You have to coordinate with each one. As their document reviews start trickling in there might be disagreements on things like whether or not a document should be covered by an exemption, so then you have to reach back out to them and there can be a lot of back and forth. And it’s not just limited to your agency. You might also be reaching out to other agencies or the White House on specific topics. So this is a part of the process and it takes a lot of time, and even though you want other agencies to review things quickly, we can’t speed up the other agency in their review, and we must obtain their review in order to finalize things like redaction determinations before we make a release. All that plays into the timelines.”

“The records that we get in response to FOIA requests that we have to process requires a lot of coordination, and there are a lot of sensitivities in that information. So we always obtain release recommendations from the subject matter experts and our operating units. And that takes time because FOIA is not their first duty. And so we have to also account for their time when they’re available to review the documents in order to proceed.”

Source: GAO focus groups with senior agency Freedom of Information Act (FOIA) officials. | GAO-24-106535

In its 2023 Chief FOIA Officer report, the U.S. Agency for International Development described how the increasing complexity of requests contributed to an increase in the agency's backlog in 2022. For instance, the agency reported that it had received an influx of requests regarding the COVID-19 pandemic, and that most of these requests were placed in the agency's complex track because of the level of coordination needed. These requests often asked for email records, and the agency explained in its report that the average email page count resulted in thousands of pages to be reviewed. To respond, the agency had to negotiate the scope with requesters, review each email page to determine its relevance, and collaborate extensively with email custodians and subject matter experts to get their disclosure recommendations.

Staffing Challenges

Agency officials in all four focus groups also identified staffing issues as among the biggest contributors to backlogs at their agencies. Specifically, officials in three of these groups said it can be challenging for FOIA offices to hire and retain trained staff with important analytical and technical skills and knowledge of agency operations, due to the sensitivity of the work and time pressures staff can face. Staff turnover affects an agency's capacity to process requests and requires the agency to dedicate time and resources to hire and train new staff on the agency's FOIA procedures.

Selected Quotes on Staffing Challenges from Focus Groups

"The big challenge is hiring the people with the right skills who can handle the complexity, who can negotiate with requesters, who can think through things like the search criteria for an electronic record search, and then who can use the advanced redaction tools for further narrowing the record collection. You want people who are able to do all of that analysis also with the eye consistently on getting the FOIA request completed and closed on time."

"FOIA can feel like a thankless job at times. Day in, day out, staff are grinding, dealing with requesters, dealing with folks within the programs who don't necessarily want to stop their mission work to help retrieve or pull records. And it can weigh on people, and I've seen that there's a lot of burnout amongst FOIA staff. And so they move on and do other things."

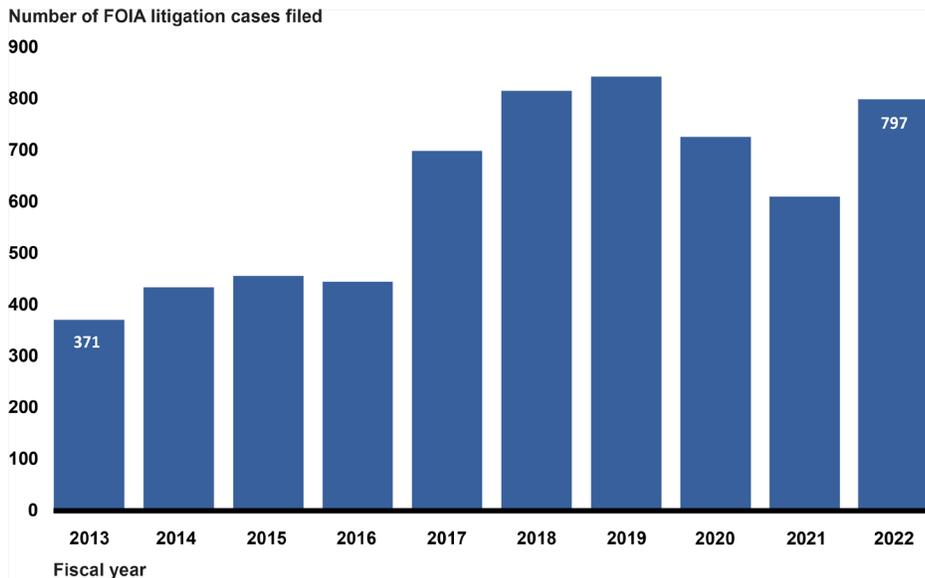
Source: GAO focus groups with senior agency Freedom of Information Act (FOIA) officials. | GAO-24-106535

In its 2023 Chief FOIA Officer report, the Department of State reported that a loss of FOIA staff contributed to an increase in the agency's backlog. State reported that it decided to relocate much of its FOIA processing operation, which resulted in most of the FOIA staff either transferring to other positions or leaving the agency. State also reported that it was recruiting to fill its vacancies, and had retained additional contract staff to provide support.

Demands of FOIA Litigation

The focus group we held with officials from agencies with the largest recent increases in their backlogs identified the demands of FOIA litigation as one of the biggest contributors to backlogs at their agencies. Under FOIA, a requester can generally sue an agency in federal court after exhausting administrative remedies.³⁰ As shown in figure 5, the number of FOIA litigation cases filed per year more than doubled from 2013 to 2022.³¹

Figure 5: FOIA Litigation Cases Filed in Federal District Courts, Fiscal Years 2013–2022



Source: GAO analysis of Department of Justice Freedom of Information Act (FOIA) Legislation and Compliance Reports. | GAO-24-106535

Officials in three focus groups explained that litigation can have a significant effect on their ability to handle nonlitigation requests and backlogs. Court ordered deadlines to produce records often require that agencies prioritize requests that are in litigation, thereby diverting staff and resources away from processing other requests. Consequently, the number of backlogged requests increases and requesters without cases in litigation are disadvantaged.

³⁰See 5 U.S.C. § 552(a)(4)(B).

³¹FOIA requires the Department of Justice to publish lists of FOIA cases filed and decided during the calendar year. 5 U.S.C. § 552(e)(6).

Selected Quotes on Effects of FOIA Litigation from Focus Groups

“Out of all our FOIA requests, FOIA litigation cases only comprise 1 percent of requests, but take the overwhelming majority of all our FOIA resources to process. Almost 90 percent of all our FOIA resources are dedicated to processing cases in FOIA litigation. A requester might think, ‘I know an agency is not going to be able to do this, but if I can move it along with litigation, maybe get a court order for production, I’m going to get pushed to the front of the queue.’ So it’s almost incentivizing certain requestors to pursue litigation. When agencies are under a court order, you have to comply, so you’re put in a bind and you have to stop everything else to do the production that is court ordered. So the overwhelming majority of our resources are dedicated just to 1 percent of requests, and the other 99 percent of FOIA requests may not get processed in a timely manner.”

“One of the opportunity costs that we face on a daily basis is that in responding to litigation that presents novel or complex legal and policy issues, agencies really have to devote their most experienced employees to responding to these complex matters. And the time that they spend in dealing with recurring litigation productions is time that they’re not able to spend helping the next person in the initial FOIA request queue, which then causes the backlog to grow further.”

Source: GAO focus groups with senior agency Freedom of Information Act (FOIA) officials. | GAO-24-106535

In its 2023 Chief FOIA Officer report, the Department of Health and Human Services (HHS) reported that an increase in the number of FOIA cases in litigation caused a severe resource shift away from routine processing of requests. The agency explained that litigation not only shifts resources from processing other requests, but the time to process each request in litigation also multiplies because of the number of iterative reviews and communications with subject matter experts and legal staff.

As of March 2023, HHS reported that the HHS Secretary’s FOIA office had 48 active cases in litigation involving some of the office’s most complex and voluminous requests. As an example, for one open case, the office reported it issued 52 interim responses and processed approximately 43,000 pages of responsive records. The office had five full-time contractors solely dedicated to processing requests in litigation. Similarly, the agency reported that the Food and Drug Administration (FDA) had an increase in its backlog that was exacerbated by litigation. For one request in litigation, a federal court ordered FDA to produce over 80,000 pages of responsive records per month, according to the agency’s Chief FOIA Officer report.

Agencies Reported Taking Actions to Address Backlogs

In annual Chief FOIA Officer reports, agencies described their efforts to better manage the FOIA workforce and its performance, improve communication and coordination, and update their procedures and technology used to process requests, according to our analysis of these

reports.³² Table 2 lists those actions agencies reported taking most frequently in their reports from 2019 to 2023. The actions cited most frequently by agencies are listed first in each row followed by the other related actions, in order of frequency. See appendix III for the number of agencies that reported employing a given method in each year.

Table 2. Actions Agencies Most Frequently Reported Taking to Address Backlogs and Close Their Oldest Freedom of Information Act (FOIA) Requests, 2019–2023

Focus of actions	Description
Monitoring FOIA performance and request status	<ul style="list-style-type: none"> • Monitored FOIA performance metrics or the status of pending requests. • Held meetings between managers and FOIA staff to discuss the status of pending requests. • Engaged senior agency leaders on efforts to close old pending requests.
Communicating with requesters	<ul style="list-style-type: none"> • Communicated with requesters about their requests. • Proactively released additional records so the public could access them without a FOIA request. • Released records to requesters on a rolling basis to provide those that were available while continuing to process those not ready for release.
Managing staff to support request closure	<ul style="list-style-type: none"> • Hired additional staff to support FOIA administration. • Realigned staff to support case closure and backlog reduction. • Provided new or continuing training for agency staff. • Used contract staff to provide additional capacity for processing FOIA requests. • Assigned staff to teams focused on backlog reduction or closing certain types of requests.
Focusing on procedures and technology	<ul style="list-style-type: none"> • Prioritized efforts to close the agency’s oldest requests. • Coordinated with program offices or other agencies to prioritize the completion of record searches and reviews. • Modified policies or procedures to increase efficiency and reduce processing times. • Updated the technology used to manage and process FOIA requests.

Source: GAO analysis of agency Chief FOIA Officer Reports from 2019 to 2023. | GAO-24-106535

In the focus groups we conducted with senior FOIA officials at Chief Financial Officers Act agencies, we asked participants which methods they considered most effective in helping their agencies address backlogged requests. For those methods the group thought were most

³²OIP’s annual guidance on the development of agency Chief FOIA Officer reports directs each agency that has implemented a backlog reduction plan in the previous year to report on its efforts to implement that plan. OIP’s guidance also directs agencies to report on steps they took to reduce the overall age of their pending requests. This guidance applies to those agencies that receive more than 50 FOIA requests in a given year. Between 2019 and 2023, the number of agencies that responded to these questions in a given year ranged from 50 to 55.

effective, we then asked participants to discuss how these methods have been helpful to their agencies.

Monitoring FOIA Performance and Request Status

In three of our four focus groups, agency officials discussed how they have used data on the timeliness of FOIA processing and the status of individual requests to manage FOIA operations and to address their backlogs.³³ First, officials in these groups described how they have used these data to inform regular meetings with staff who have responsibility for processing requests. Agencies also used the data to identify issues affecting their ability to process individual requests and actions that staff should take to address them, and to actively manage the workloads of FOIA staff and assign requests to staff able to address them more quickly.

Selected Quotes on Using FOIA Request Data from Focus Groups

“At our agency, and across our bureaus, we developed a list of the 10 oldest requests. Our agency FOIA officer meets with all of the bureau FOIA officers at monthly meetings, and on a case-by-case basis, to understand what the bottlenecks are in their respective processes, and to provide assistance, where appropriate.”

“When it comes to monitoring performance, we're starting to look at the workload of each FOIA analyst to see who may have some extra bandwidth. Say a request is ready, and the person who it may be assigned to is already busy with another one. It is on management to take a look at how we can shift around requests to get them to someone who can work on them right now, that way they're not sitting around waiting for that one particular analyst to have time to work on it. So we've been more closely monitoring workloads and flexible with how we assign things.”

Source: GAO focus groups with senior agency Freedom of Information Act (FOIA) officials. | GAO-24-106535

Second, officials in two groups described how staff had also used these data to report to agency leaders on the timeliness of an agency's FOIA processing and efforts to address backlogs. This reporting provides opportunities to get the attention and support of agency leaders for efforts to close pending requests that may require additional staff or resources.

³³OIP directs agencies to report, each quarter, the number of requests received, processed, and backlogged, along with the status of the agency's 10 oldest pending requests. Under FOIA, each year agencies must also report on these metrics and others, such as response times, FOIA personnel and costs, and fees collected. 5 U.S.C. § 552(e)(1). See appendix V for data on the number of requests received, and the size of request backlogs, for each of the 24 Chief Financial Officers Act agencies.

Selected Quote on Reporting to Agency Leaders from Focus Groups

“One of the things that the processing measures do is give leadership in each of the agency components a snapshot of what is happening at the aggregate level. They see the number of requests received within a quarter and how quickly their components responded to those FOIA requests. Then, they also see what the backlog looks like, and a color-coded scorecard we created highlights successes and failures in those areas as well. And we've found that highlighting FOIA performance for the top leaders in each of the components has reinforced the message that FOIA performance is being watched, which adds a level of urgency to their FOIA processors in terms of encouraging them to do their best to process FOIA requests in a timely way and to focus attention on aged or backlogged requests.”

Source: GAO focus groups with senior agency Freedom of Information Act (FOIA) officials. | GAO-24-106535

In its 2023 Chief FOIA Officer report, the Department of Agriculture (USDA) described how it monitored FOIA performance data to make progress on addressing its backlog. First, USDA's components set quarterly backlog goals (instead of only annual goals), which are being used to hold components accountable for their performance. The report stated that setting incremental goals, as opposed to one major goal to complete by the end of the year, made the backlog more manageable for components and individual FOIA staff.

The report also described how USDA components hold routine check-in meetings with FOIA staff to track the status of requests. For example, the Director of USDA's Office of Information Affairs—which supports the agency's FOIA programs—met with staff monthly to discuss common issues and obstacles encountered while processing requests. They also discussed key metrics and progress toward backlog goals. In addition, the report described how USDA designed and implemented tools for tracking requests. The tools allow agency leadership, the agency's FOIA team, and staff to see the processing status of individual requests (e.g., days left to respond, days overdue, etc.). According to the report, these meetings and other tools have helped FOIA staff become more aware of their, and the agency's, performance processing requests.

Communicating with Requesters

Officials in three of our four agency focus groups described how communicating with requesters has been an effective method for helping agencies address and minimize backlogged requests. Officials in these groups explained how staff can communicate with requesters to clarify the scope of requests that were initially broad and complex, or to help requesters who have a number of open requests. For instance, agencies can share information on what records are available and what agencies can provide within certain time frames to help requesters, should they choose to do so, simplify or narrow the scope of a request so the agency can process it in a timelier way. Communication can also allow requesters

to identify their highest priority requests, as well as requests they no longer are interested in that the agency can close.³⁴

Selected Quotes on Communicating with Requesters from Focus Groups

“Through communication, complex requests can become less complex. In speaking to requesters to walk them through our process and explain the amount of time that it might take to process the request as written, you can also see how soon they want the information back and what they need most. So you can then negotiate, and that has helped a lot because then a request can become much more manageable, where it won’t take as long and as many resources because now we’re focused on a specific segment of that larger request. You can then pinpoint exactly what they are looking for and give them a time frame for how quickly you can turn that around, and that’s all through communication.”

“Staff call requesters up with the medium to large, or very large, requests and discuss with them how they can make the requests less complex so they can get their records sooner, and this has resulted in millions of pages of records that staff did not have to review and process.”

“When you reach out to requesters there are certainly some who are honest and will just say they are no longer interested in a request, and that they’ve submitted requests on different things and would rather have you work on those.”

Source: GAO focus groups with senior agency Freedom of Information Act officials. | GAO-24-106535

In its 2023 Chief FOIA Officer report, the Environmental Protection Agency (EPA) reported that its FOIA staff regularly contact requesters concerning large or complex requests. The agency’s FOIA procedures encourage program offices to contact requesters to clarify the scope of their request at any point in the process. For example, EPA’s centralized request intake team in its National FOIA Office evaluates requests for complexity within the first few days after they are received. Staff then contact requesters to share recommendations on ways to clarify or narrow the requests. The FOIA office provided training in 2022 for EPA staff on best practices when contacting requesters to discuss the scope of requests and when seeking clarification. EPA also reported that several FOIA program offices use dashboards to track processing and identify when they need to contact requesters regarding estimated due dates.

³⁴OIP guidance directs agencies to ensure that inquiries to determine if a requester is still interested in a request are done in a spirit of cooperation and that requesters are not in any way disadvantaged by the practice. The guidance outlines how agencies should do this only when there are reasonable grounds to make an inquiry, limit the number of times they make such inquiries, and provide requesters with a reasonable amount of time to respond. Office of Information Policy, *Limitations on Use of “Still-Interested” Inquiries* (Washington, D.C.: July 2, 2015), accessed November 13, 2023, <https://www.justice.gov/oip/limitations-use-still-interested-inquiries>.

Managing Staff to Support Request Closure

Agency officials in three of our four focus groups also identified realigning staff and assigning teams to support backlog reduction as other effective methods for addressing backlogged requests. In particular, officials in two of the groups described how they established teams dedicated to addressing older, backlogged requests. These dedicated teams helped the agencies ensure there were staff responsible for analyzing the requests, communicating with requesters about them, and, ultimately, closing them as quickly as possible, according to officials from the agencies.

Selected Quotes on Backlog Reduction Teams from Focus Groups

“There are so many requests incoming that if you don’t devote specific attention to things like the backlog, it’s just not going to get fixed. You’re going to keep working on what’s coming in and what’s in front of you. So we had a good experience having people focus exclusively on the backlog, doing that outreach to requesters and working those requests, and that’s where we saw the most movement.”

“The backlog reduction team did an enormous amount of analysis to ensure they were very strategic in how they approached the backlog. First, they eliminated easily closed requests. Then they began doing some outreach to requesters with the oldest requests, confirming that they still wanted the materials they had requested. We had a number of requestors who, for older requests, weren’t interested in receiving them, or were willing to engage with the team to target their request. So the team was able to bring a level of sophistication to that work that staff in the FOIA processing office are generally not able to while they are also trying to keep up with incoming requests.”

Source: GAO focus groups with senior agency Freedom of Information Act (FOIA) officials. | GAO-24-106535

In its annual Chief FOIA Officer reports, the Department of the Interior reported establishing a departmental FOIA office to reduce existing backlogs and improve the processing capacity of Interior’s components. According to Interior’s 2023 Chief FOIA Officer report, this departmental office is supporting component FOIA offices by establishing standard operating procedures and providing training and technology. It has also conducted targeted assessments of these offices, and issued recommendations to improve processing procedures and staffing. The departmental FOIA office also established a team to provide direct support to components with significant backlogs. For example, the team helped the Office of the Secretary’s FOIA office reduce its backlog by dedicating staff to work on more than 1,200 specific requests the office had received before 2020. According to Interior’s 2023 report, the team had closed 775 of those requests and continued to work through the remainder.

Focusing on Procedures and Technology

Officials in two of our agency focus groups discussed how using newer technologies was an effective method for improving the efficiency of

agency FOIA processes.³⁵ Officials in these groups said that as agency records in electronic formats increase, so too has the importance of tools that allow agencies to efficiently search, review, and prepare such records for release to requesters. Some officials also noted that technology upgrades can allow agencies to ensure that component FOIA offices are using the same systems, which can streamline coordination and document reviews across an agency.

Selected Quotes on Technology Improvements from Focus Groups

“We now have the ability in our FOIA office to search our agency’s email system. Before we were using our information technology staff to provide that service, where we would request that they run searches. They would use key terms, then come back to us, and we would have to go back and forth with different search terms, until we got it right. The ability for us to do the search has enabled us to finish these in a more timely and efficient way, which we couldn’t do previously.”

“We have leveraged technology to attempt to streamline the FOIA processes and make it easier to search for and review records across components, which will help bring some uniformity and achieve some administrative efficiencies. It has also allowed us to be able to see into what’s going on in the agency components and try to work through backlogs in a collaborative way because we have a system that now allows us to do it. It offers other administrative efficiencies, like removing duplicative entries in extremely large volumes of responsive documents.”

“We used to have five different systems for processing FOIA requests at different bureaus and offices. We now have one, and that’s streamlined and automated a lot of our processes.”

Source: GAO focus groups with senior agency Freedom of Information Act (FOIA) officials. | GAO-24-106535

DHS reported in its 2023 Chief FOIA Officer report on how it had replaced several old systems with a new FOIA case management and processing system that decreased administrative burdens and improved request processing. According to the report, the new system included features that would allow users to review large sets of records, remove duplicative records, and redact sensitive information more efficiently.

The report noted that the agency’s components had also worked to leverage new technologies. For example, U.S. Customs and Border Protection’s (CBP) FOIA office partnered with CBP’s information technology office to leverage a new technology called Robotics Process Automation. According to DHS, this technology has allowed CBP to

³⁵In 2022, the Technology Committee of the Chief FOIA Officers Council, Office of Government Information Services, and Office of Information Policy hosted a FOIA technology showcase where agencies were able to learn about new and emerging technologies to help them improve FOIA case processing. Information on the technologies highlighted at that event is available at <https://www.foia.gov/chief-foia-officers-council/nexgen-foia-showcase>.

respond to FOIA requests more efficiently by helping staff quickly search for records with specific criteria, and complete simple, routine FOIA processing tasks. DHS reported that the system helped CBP close over 12,400 simple requests and saved CBP's FOIA staff 1,554 hours of work.

Additional Steps by OIP Could Help Agencies Improve Efforts to Reduce Backlogs

Support and Resources to Help Agencies Administer FOIA and Address Backlogs

The Office of Information Policy (OIP) and Office of Government Information Services (OGIS) provide support and resources—including guidance, lists of leading practices, training, assessments, and counseling—to help agencies administer their FOIA programs, improve request processing, and address backlogged requests. Examples of each are summarized below.

- **Guidance.** DOJ's *Guide to the Freedom of Information Act* provides detailed guidance to help agencies implement FOIA's procedural requirements. The guidance also provides analyses of key court decisions issued on FOIA.³⁶ In addition, OIP periodically issues other guidance on legal and procedural issues to improve FOIA processing. For example, in August 2023, OIP issued updated guidance encouraging agencies to develop and maintain standard operating procedures for their FOIA programs. This guidance outlined key practices for agencies to follow, such as involving key stakeholders in decisions about the procedures. It also emphasized the importance of documenting how each step of the process should be completed, which can help agencies eliminate inefficiencies, and ultimately reduce processing times and backlogs.³⁷
- **Leading practices.** OIP has periodically issued lists of leading practices to help agencies improve their FOIA operations and address

³⁶Department of Justice, *Guide to the Freedom of Information Act* (Washington, D.C.: last updated July 10, 2023), accessed November 26, 2023, <https://www.justice.gov/oip/doj-guide-freedom-information-act-0>.

³⁷Office of Information Policy, *OIP Guidance: Standard Operating Procedures for FOIA Offices* (Washington, D.C.: August 25, 2023), accessed January 5, 2023, <https://www.justice.gov/oip/oip-guidance-standard-operating-procedures-foia-offices>.

their backlogs.³⁸ For example, in August 2014 it issued practices for reducing backlogs and improving the timeliness of FOIA processing, suggesting agencies take steps such as routinely reviewing processing metrics. Since that time, OIP has also held workshops and shared summaries of findings from its review of agency Chief FOIA Officer reports to inform agencies about practices that could help reduce the size of their request backlogs and improve efficiency.

OGIS also periodically reviews issues that cut across multiple agencies and identifies practices to help agencies address these issues. For example, in 2020, OGIS published a list of practices to help agencies increase the public's access to information without requiring that they submit a request. Among other things, this list suggested agency FOIA offices partner with information technology staff to streamline processes for posting documents online and ensure their websites direct requesters to check libraries of already available documents before filing requests.³⁹

- **Training.** OIP conducts training sessions for agency staff on all aspects of FOIA, including request processing and procedural requirements, privacy considerations, and other topics.⁴⁰ For example, OIP offers training on proactive disclosures, which outlines the circumstances under which agencies must post documents online. The training also emphasizes the need for agencies to use technology and routinely post material that is of interest to make it more easily accessible to the public.⁴¹

OGIS also provides training to FOIA staff on dispute resolution. OGIS's dispute resolution training focuses on customer service and

³⁸See appendix IV for more detailed information on OIP's recommended practices for backlog reduction and improving the timeliness of FOIA processing.

³⁹Office of Government Information Services, *OGIS Issue Assessment: Methods Agencies Use to Prepare Documents for Posting on Agency FOIA Websites* (College Park, Md.: Dec. 16, 2020). OGIS also recommends that agency FOIA offices collaborate with agency Chief Data Officers and provide on agency websites an inventory of agency data to increase the likelihood requesters will submit more specific and narrow requests. For additional information on this topic see GAO, *Open Data: Additional Action Required for Full Public Access*, [GAO-22-104574](#) (Washington, D.C.: Dec. 16, 2021).

⁴⁰The list of trainings that OIP offers is available at <https://www.justice.gov/oip/training>.

⁴¹The term "proactive disclosure" refers to FOIA's requirement that agencies make certain records publicly available without waiting for specific requests for the information. 5 U.S.C. § 552(a)(2). In March 2021, we reported that selected agencies had not fully updated their policies and processes to reflect current proactive disclosure requirements. For more information, see [GAO-21-254](#).

improving communication between requesters and agency FOIA staff, and helps agencies understand the benefits and importance of negotiation to resolve disputes.

- **Assessments.** In March 2023, OIP released an updated FOIA *Self-Assessment Toolkit* to help agencies conduct in-depth assessments of their FOIA programs.⁴² It consists of modules designed to help agencies analyze their operations, from request intake and review to handling requester appeals. Each module includes a list of relevant guidance and practices to help agencies improve that aspect of their process. For example, OIP recommends that agencies analyze backlog data to identify trends and investigate whether backlog reduction strategies should be implemented agency-wide or in components that have pronounced backlogs.

OGIS has also reviewed agency FOIA policies and procedures and, at the request of individual agencies, has evaluated their compliance with the law. After completing its reviews, OGIS has also recommended that agencies take specific actions to improve FOIA program management, communication with requesters, or their use of technology. For example, after reviewing the Nuclear Regulatory Commission's FOIA compliance in 2020, OGIS recommended that the agency use data to develop individual performance metrics and goals for each processor (e.g., numbers of cases closed) to reduce the agency's backlog and improve timeliness.

- **Counseling and dispute resolution.** OIP also provides direct, one-on-one counseling for agencies to encourage agency FOIA compliance. Through a telephone-based counselor service, OIP attorneys provide legal advice and guidance to agency staff.

OGIS provides mediation services to resolve disputes between requesters and agencies, open lines of communication, and find mutually agreeable solutions to disputes. Requesters and agencies may ask for OGIS's assistance in resolving a dispute at any point in the FOIA process.

Officials in all four of our focus groups with Chief Financial Officers Act agencies noted that OIP's and OGIS's support—particularly guidance and trainings—helps agencies administer their FOIA programs. OIP staff emphasized that their support, especially the *Self-Assessment Toolkit*, is

⁴²Office of Information Policy, *FOIA Self-Assessment Toolkit* (Washington, D.C.: Mar. 9, 2023).

intended to help agencies improve their FOIA processes so that they can process requests more efficiently and minimize the number of backlogged requests.

Steps to Improve Agency Backlog Reduction Plans

OIP also acknowledged the need to help agencies identify actions needed to address existing backlogs. For this reason, since 2014, OIP has directed agencies with over 1,000 backlogged requests to develop plans for reducing their backlogs over the next year and to include these plans in their Chief FOIA Officer reports.

However, OIP does not specify the elements that agencies should include in their plans. As a result, the plans in agency Chief FOIA Officer reports have not contained key elements that we previously reported should be included in effective agency plans. For example, of the 14 agencies directed to publish backlog reduction plans in their 2023 Chief FOIA Officer reports, two agencies included specific goals and one also included performance measures for tracking progress. In addition, while 10 agencies outlined at least one action they would take to address their backlogs moving forward, none included timelines for the implementation of those actions.

In March 2022, we reported on actions that federal agencies have taken to address significant, persistent challenges.⁴³ We found that developing detailed action plans is critical to the success of these efforts because they help agencies articulate specific objectives and develop a roadmap for how they will achieve progress. The report specified that agency action plans should identify and analyze the root causes of problems, identify corrective actions to address them, identify resources needed to implement actions, establish goals and performance measures, and have clear timelines and milestones. It also highlighted that agencies can enhance their capacity to address challenges by identifying gaps in the skills of their workforces, and outlining how they plan to ensure such efforts are supported by sufficient staff with necessary skills. Federal standards for internal control similarly emphasize that agencies should define objectives in specific terms so that they are understood at all levels of the agency. This involves clearly defining what is to be achieved, who

⁴³[GAO-22-105184](#).

is to achieve it, how it will be achieved, and the time frames for achievement.⁴⁴

In December 2023, OIP staff said they recently initiated an effort directing certain DOJ components to develop detailed backlog reduction plans that address challenges contributing to backlogs and new actions they will take to reduce their backlogs to fiscal year 2018 levels. The plans will also address how these efforts will be sustained over time. OIP staff said that based on lessons learned from this effort, and other resources OIP has already produced to support backlog reduction efforts, they are working to develop new guidance for agencies in 2024 on how to develop and implement an effective backlog reduction plan.

This effort provides OIP with an opportunity to develop guidance outlining the specific elements that agencies should include in their plans, which could help agencies craft more effective plans for addressing their backlogs. Such guidance could help ensure agencies analyze the root causes of their backlogs, and identify the specific procedural, technological, or other improvements they will implement to address them, including any relevant actions that OIP has recommended in its other resources.⁴⁵ Additionally, the guidance could help ensure agencies are clear about the level of backlog reduction they seek to achieve and how they will assess their progress, which could help increase accountability and opportunities for effective monitoring and oversight.

Lastly, the guidance could help ensure agencies identify the specific actions they will take to ensure backlog reduction efforts are supported by sufficient staff with necessary skills. In their 2023 Chief FOIA Officer reports, 11 of the 14 agencies directed to develop backlog reduction plans also identified staffing issues as a factor contributing to their backlogs. Currently, OIP asks agencies to report on whether they have evaluated the allocation of personnel resources needed to respond to FOIA demands and describe any changes they have made or will make. Advising agencies to conduct a similar evaluation to identify the staff resources needed to support backlog reduction efforts outlined in their plans could help ensure agencies allocate the staff needed to implement such efforts.

⁴⁴GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

⁴⁵For examples of relevant practices see appendix IV.

Steps to Improve the Accuracy of Data on Request Processing Times

FOIA requires agencies to compile and report each year on a range of metrics. To help agencies meet these requirements, OIP provides guidance and training, and has created an online tool to help agencies submit their data for review before they are made publicly available.⁴⁶

One of the metrics agencies are required to submit is the average number of days it has taken the agency to respond to different types of requests (e.g., simple or complex). In its handbook for agencies on FOIA data reporting, DOJ provides instructions on how agencies should use data from their components to correctly calculate a weighted average for the agency overall. Specifically, the guidance directs agencies to use data on the number of requests that each agency component processed, and the average time it took the component to process those requests, to calculate the weighted average processing time for the agency.⁴⁷

Average processing time is an important performance metric because it indicates how long it takes an agency to process different types of FOIA requests and whether it is doing so in line with required time frames. OIP also recommends that agencies actively use these data to identify the types of requests that are taking more than 20 days to process, notable changes and trends over time, and potential ways to decrease average processing times.

Our analysis of data reported for fiscal years 2013 through 2022, however, found issues with the reliability of overall average processing times reported by some agencies. For example, over this period, 17 Chief Financial Officers Act agencies reported a processing time for the agency's simple requests that did not accurately reflect reported component-level data in one or more years, including eight agencies in 2022. In some cases, the difference between the average they reported and the average we calculated following OIP's guidance was only 1 or 2 days. In several cases, however, the difference was much larger, with a maximum difference of 49 days.

In many of these cases, we found that agencies reported an unweighted average when they should have reported a weighted average, as OIP's data reporting handbook directs. Failing to weight averages can result in

⁴⁶The act also requires the Attorney General to develop reporting and performance guidelines in connection with these reports. 5 U.S.C. § 552(e)(5).

⁴⁷Department of Justice, *Department of Justice Handbook for Agency Annual Freedom of Information Report* (Washington, D.C.: Sept. 27, 2023).

a skewed average when agency components have widely different numbers of requests. For example, our assessment found that in 2022, three Chief Financial Officers Act agencies reported unweighted average processing times for complex requests when they should have reported weighted averages. For one agency, doing so understated the number of days it took to process its complex requests by about 10 percent. For the other two agencies, reporting the unweighted average overstated the number of days it took to process their complex requests by about 40 percent.

Updates to OIP's data checks and training materials could help address these data reliability issues. First, while OIP has emphasized that agencies are ultimately responsible for the accuracy of the data they report, OIP conducts automated validation checks of some agency data to help ensure they are accurate. For example, it automatically checks that an agency's reported total number of requests processed equals the sum of processed requests for the same year, by disposition type (requests fully or partially granted, denied, withdrawn, or otherwise closed). However, OIP does not closely examine the component-level data it collects to verify the accuracy of agency-reported average processing times due to limitations with its technology and available staff resources. For instance, OIP staff explained that the online tool it provides for agencies to use when reporting their data is not currently able to automatically validate the calculation of averages, and OIP would need to examine the feasibility of adding this capability to the tool. Given this limitation, OIP staff said they only do a high-level visual check to see if the average processing times that agencies report seem to be within a reasonable range. They also acknowledged that, going forward, OIP could consider examining component-level data more closely to help verify the accuracy of agency-reported average processing times. Developing a process for closer examination of component-level data would help ensure that no agencies are reporting or using skewed or inaccurate processing time data.

Second, OIP provides annual training for agency staff on reporting requirements. OIP staff said that during this training they discuss the methods that agencies should use to accurately calculate average processing times. However, the associated training materials do not specify that agencies should calculate and report weighted averages, nor do they provide instructions or examples of how agencies should calculate the averages. Because the training materials are available online as a resource for agencies, adding this information would help

ensure information in the materials is complete and consistent with the information in DOJ’s data reporting handbook.

As we previously reported, the quality of data affects the conclusions that can be drawn from it, and ultimately, how useful it is for helping decision-makers identify problems, craft strategies to address them, and allocate resources.⁴⁸ Without reliable data on processing times developed in line with OIP’s guidance, agencies, OIP, Congress, and other stakeholders will be unable to definitively determine whether agencies are responding to requests within the required time frames. They also will not be able to determine if procedures or the allocation of resources should be adjusted to help manage backlogs and ensure requests are processed within required time frames.

Agency Officials and Stakeholders Generally Held Differing Views on FOIA Changes to Address Backlogs

During focus groups we held with senior FOIA officials at Chief Financial Officers Act agencies and nongovernmental stakeholders, participants suggested a range of potential changes to FOIA that could help agencies address their backlogs and minimize them going forward. See table 3.⁴⁹

Table 3: Potential Changes to the Freedom of Information Act (FOIA) Suggested by Agency Officials or Nongovernmental Stakeholders

Changes suggested by agency officials
Define what constitutes a request that is “overly broad” or “reasonably described”
Extend deadlines for agencies to process FOIA requests
Provide agencies flexibility in charging and using FOIA fees
Changes suggested by nongovernmental stakeholders
Ensure transparency about funding designated for FOIA operations
Narrow FOIA exemptions to speed processing without limiting public access to information
Expand the types of records that agencies must affirmatively disclose, and categories of records that should be provided without a FOIA request
Strengthen the authority of the Office of Government Information Services

Source: GAO analysis of agency official and nongovernmental stakeholder focus group responses. | GAO-24-106535

⁴⁸GAO, *Evidence-Based Policymaking: Practices to Help Manage and Assess the Results of Federal Efforts*, [GAO-23-105460](#) (Washington, D.C.: July 12, 2023).

⁴⁹For information on our methodology for selecting potential changes to FOIA suggested by focus groups, see appendix I.

Some of these proposed changes reflected recommendations that others, such as the FOIA Advisory Committee, have made previously.⁵⁰ However, we found minimal consensus between agency officials and nongovernmental stakeholders on specific changes that both groups would recommend to help agencies address and minimize their backlogs.

Define What Constitutes a Request That Is “Overly Broad” or “Reasonably Described”

Officials in three of our four agency focus groups proposed statutorily defining the terms “overly broad” or “reasonably described” request. Officials stated that their agencies have seen increases in individual requests asking for information on a broad range of topics, or from long lists of agency officials. Participants in two focus groups suggested that providing definitions in the statute could, for example, encourage requesters to submit more focused requests that reduce the amount of material agencies need to collect and review so they could respond faster.

Our nongovernmental stakeholder group expressed several concerns with this proposal. First, participants noted that it would be difficult to develop a statutory definition. They said that the burdensomeness of a search may be specific to the elements of the particular request and the definition would be difficult to apply broadly. They also expressed concern that such a definition could be used as a tool to deny legitimate requests. Lastly, they disagreed that a statutory definition is needed because court decisions have defined when requests should be considered overly broad or not reasonably described.⁵¹

Extend Deadlines for Processing FOIA Requests

All four of our agency focus groups proposed extending the statutory deadline of 20 working days for processing requests before they are

⁵⁰Since the last amendment to FOIA in 2016, OGIS, the FOIA Advisory Committee, academic researchers, and transparency-oriented nongovernment organizations have recommended changes to FOIA. Changes they have recommended include providing more resources for agency FOIA processing, expanding proactive disclosures, and strengthening FOIA oversight. See appendix I for more information on our review of relevant literature to identify these recommended changes.

⁵¹FOIA requires that requests must “reasonably describe” the records being requested. 5 U.S.C. § 552(a)(3). Previous court rulings have held that determining whether a request satisfies this requirement is the ability of agency staff to reasonably ascertain exactly which records are being requested. See e.g. *Yeager v. DEA*, 678 F.2d 315, 326 (D.C. Cir. 1982). Similarly, in a 1992 case, the U.S. Court of Appeals for the Ninth Circuit held that an agency is justified in denying or seeking clarification on FOIA requests that are so broad that the corresponding search for documents would place on inordinate burden on agency resources. *Van Strum v. EPA*, 972 F.2d 1348 (9th Cir. 1992).

considered backlogged.⁵² Proposals included, for example, increasing the number of days agencies have to respond to complex requests to more accurately reflect the time it takes agencies to process these requests. Officials in all four groups stated that current time frames were inadequate for processing complex requests, particularly those that require agencies to review and process many records, or to coordinate with multiple outside agencies. An official in one group noted that increasing the number of days for agencies to process such requests would provide them more time to negotiate with requesters about the scope of requests.

Participants in our focus group with nongovernmental stakeholders expressed concerns with this proposal. While acknowledging that time frames can be challenging for agencies in some cases, participants discussed that such a change would not address the underlying challenges that contribute to backlogs. Additionally, the group pointed out that the statutory time frame was previously extended but that such changes had not led to a sustained reduction in backlogged requests.⁵³

Provide Agencies Flexibility in Charging and Using FOIA Fees

All four focus groups with agency officials proposed modifying requirements related to FOIA fees.⁵⁴ Specific proposals included

- allowing agencies to retain fees to fund their FOIA programs,
- directing fee collections to a shared fund that would help agencies finance training,
- limiting fee waivers, and

⁵²The statutory timeline may be extended by an additional 10 working days if there are unusual circumstances. 5 U.S.C. § 552(a)(6)(A)-(B).

⁵³The Electronic Freedom of Information Act Amendment of 1996 extended the time agencies have to determine whether to comply with a request and notify the requester from 10 days to 20 days. Pub. L. No. 104-231, § 8(b), 110 Stat. 3048, 3052 (1996).

⁵⁴Agencies may charge fees to requesters requesting records under FOIA in some instances. For example, the agency can assess fees for the time it takes to search for and review records and for duplication of those records. With the exception of commercial requesters, agencies may not assess fees for the first 2 hours of search time or for the first 100 pages of duplication. 5 U.S.C. § 552(a)(4)(A)(iv)(II). Fees are regulated by the Office of Management and Budget through the Uniform Freedom of Information Act Fee Schedule and Guidelines. Agency fee schedules must conform to this schedule. FOIA requires agencies to waive fees when the requester can show that the disclosure of the information is in the public interest and is not primarily in the commercial interest of the requester. 5 U.S.C. § 552(a)(4)(A)(iii). Generally, all fees collected for processing FOIA requests are sent to the general fund of the U.S. Treasury.

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- revising FOIA to allow agencies to charge fees on requests that have become backlogged.

Officials in three of four agency focus groups specifically suggested allowing agencies to retain the fees they collect. They said this change could help reduce backlogs by providing additional resources to support FOIA administration and training. Additionally, officials in two of four focus groups argued that charging fees that cover request processing or reducing the number of fee waivers could encourage requesters to submit more targeted requests to reduce or avoid fees. Two agency officials explained that fees can be a tool for encouraging requesters to negotiate with agencies on the scope of a request.

By contrast, participants in our nongovernmental stakeholder group expressed concerns that allowing agencies to retain fees could represent a conflict of interest and incentivize agencies to charge excessive fees to discourage requesters from submitting requests. Additionally, the amount of money collected in fees is small relative to what is spent to finance government-wide FOIA operations.⁵⁵ One stakeholder noted that fee collections are not distributed across agencies in amounts proportional to agencies' request volumes, as some agencies collect more in fees than others due to the types of requests they receive (e.g., requests from commercial entities that generally do not receive fee waivers).⁵⁶

Ensure Transparency about Funding Designated for FOIA Operations

Officials in all four of our agency focus groups stated that additional resources were necessary for agencies to achieve significant reductions in their request backlogs. In addition, officials in all four focus groups explained that providing greater clarity around funding for FOIA

⁵⁵In fiscal year 2022, government-wide FOIA costs including litigation totaled \$585 million according to data agencies reported on FOIA.gov. Agencies reported collecting a total of \$2.2 million in FOIA fees, or less than 0.4 percent of total FOIA costs.

⁵⁶Chief Financial Officers Act agencies reported a range in the amounts of fees collected and in the percentage of total FOIA costs covered by fees. In fiscal year 2022, the Department of Health and Human Services collected the largest amount in fees at \$717,119, while three agencies—the U.S. Agency for International Development (USAID), the Department of State, and the National Science Foundation (NSF)—did not collect any fees. The percentage of total FOIA costs covered by the fees collected ranged from 6.9 percent at the Social Security Administration to zero percent at USAID, State, and NSF. The Chief Financial Officers Act agencies are listed at 31 U.S.C. § 901(b).

operations, such as an appropriations line item, could help bring visibility to the resources provided to support processing.⁵⁷

Several participants in the nongovernmental focus group agreed with ensuring agencies have resources to fund the personnel and technology needed to efficiently process requests. They also agreed that greater transparency around resources would be helpful. However, while there was some consensus between agency officials and nongovernmental stakeholders that additional resources were needed, their views differed in some ways. For example, some nongovernmental stakeholders also recommended that additional funding be used to incentivize efficient processing or backlog reduction, with funding mechanisms tied to outcomes like improvements in agencies' records management practices or processing times.

Narrow Exemptions to Speed Processing without Limiting Access to Information

The focus group with nongovernmental stakeholders proposed changes to FOIA's exemptions to potentially streamline processing. The act specifies nine exemptions agencies may cite to withhold information when responding to requests, which can be applied to portions of records or the entire record.⁵⁸ These proposals focused on two of FOIA's exemptions: Exemption 4, related to matters that are trade secrets and commercial or financial information obtained from a person and privileged or confidential, and Exemption 5, related to interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.⁵⁹

Some nongovernmental stakeholders discussed how a U.S. Supreme Court decision contributed to backlogs by increasing the amount of consultation required between agencies and private sector companies regarding requests involving potentially confidential commercial

⁵⁷Agencies have received line-item appropriations for FOIA operations. For example, the Further Consolidated Appropriations Act, 2020 provided funding for FOIA operations at the Department of the Interior. Pub. L. No. 116-94, div. D, tit. I, 133 Stat. 2534, 2703 (2019). Additionally, the Consolidated Appropriations Act, 2023, required the Department of State and USAID to substantially reduce their FOIA request response times. See Pub. L. No. 117-328, § 7016(c)(4), 136 Stat. 4459, 5014 (2022).

⁵⁸5 U.S.C. § 552(b).

⁵⁹5 U.S.C. § 552(b)(4)-(5). Exemption 5 has been interpreted to broadly incorporate privileges used in civil discovery. See *United States v. Weber Aircraft Corp.*, 465 U.S. 792, 800 (1984). According to DOJ, the three most frequently invoked privileges that have been held to be incorporated into Exemption 5 are the deliberative process, the attorney work-product privilege, and the attorney-client privilege. See *Department of Justice Guide to the Freedom of Information Act, Exemption 5* (Washington, D.C.: Mar. 13, 2023).

information.⁶⁰ However, one stakeholder disagreed, stating that the current standard for processing requests under this exemption is easier for agencies to apply than the previous standard.

We heard a variety of views from agency officials and nongovernmental stakeholders on potential changes to Exemption 5. Two participants in our nongovernmental stakeholder group proposed eliminating the invocation of the deliberative process privilege under this exemption. One stakeholder stated that this provision was complicated and contributed to the length of time required for agencies to process requests. However, one stakeholder in the group disagreed with this proposal and suggested that it could perhaps be limited but still kept. Office of Government Information Services (OGIS) officials also raised concerns that this proposal, by requiring agencies to release records that they can withhold under the current standard, could affect the quality of agencies' deliberations. OGIS officials also noted that use of the deliberative process privilege has already been limited by legislation.⁶¹

Expand Types of Records Agencies Must Disclose without a FOIA Request

Participants in our focus group with nongovernmental stakeholders proposed making more records publicly available without a FOIA request (also known as proactive disclosure). The group agreed that increasing the number and types of records agencies must proactively disclose could be an important means of decreasing the number of requests agencies receive, thus alleviating request volume and backlogs.⁶² The focus group participants also proposed expanding the types of records agencies are required to provide upon request outside of FOIA, such as records that pertain to the individual requesting the record (also known as

⁶⁰In *Food Marketing Institute v. Argus Leader Media*, the U.S. Supreme Court addressed when information provided to a federal agency qualifies as "confidential" under Exemption 4 of FOIA. The Court found that the term means, as it did when FOIA was enacted in 1966, private or secret. 139 S. Ct. 2356, 2363 (2019).

⁶¹The FOIA Improvement Act of 2016 amended Exemption 5 to provide that the deliberative process privilege shall not apply to records created 25 years or more before the date on which the records were requested. Pub. L. No. 114-185, § 2, 130 Stat. at 540, *codified at* 5 U.S.C. § 552(b)(5).

⁶²The 2016-2018 FOIA Advisory Committee made a number of recommendations for additional types of documents that agencies should proactively disclose. These included, for example, unclassified reports agencies provided to Congress, statements of administration policy, and the top 10 contracts, task orders, and grants, as measured by dollar value, and all contracts, task orders, and grants that are valued at more than \$100 million. National Archives and Records Administration, FOIA Advisory Committee, *Freedom of Information Act Federal Advisory Committee: 2016-2018 Final Report and Recommendations: 2016-2018 Committee Term* (College Park, Md.: April 2018).

“first-party records”). Frequently requested first-party records include immigration files, employment records, and consumer complaints.⁶³

One agency official in our four focus groups stated that expanding proactive disclosure could reduce incoming FOIA requests. Additionally, our analysis of agencies’ Chief FOIA Officer reports found that between 2019 and 2023, 10 agencies reported using proactive disclosures as a method to help reduce their backlogs. The Attorney General’s 2022 FOIA guidelines direct agencies to maximize efforts to proactively disclose more records quickly and systematically in advance of any public request, but agency officials noted that greater proactive disclosure presents tradeoffs for agencies.⁶⁴ For instance, agency officials in two of our focus groups described certain challenges, such as a lack of resources for making information posted online compliant with requirements that records be accessible to individuals with disabilities.⁶⁵ Additionally, OGIS officials noted that proactive disclosure was not always effective in reducing agencies’ backlogs. For example, some agencies receive very specific requests, or requests primarily for first-party information that they cannot release publicly.

Strengthen the Authority of OGIS

Our focus group of nongovernmental stakeholders proposed enacting recommendations previously made by the FOIA Advisory Committee to strengthen the authority of OGIS.⁶⁶ Specifically, the committee recommended giving OGIS

- the authority to make binding decisions, including to compel agencies to provide requesters with responsive records;

⁶³Some agencies already have processes for individuals to access their records outside of FOIA. For example, the Consumer Financial Protection Bureau’s Consumer Complaint Database is a collection of complaints about consumer financial products and services through which individuals may access filed complaints without using FOIA.

⁶⁴Office of the Attorney General, *Freedom of Information Act Guidelines* (Washington, D.C.: Mar. 15, 2022).

⁶⁵Section 508 of the Rehabilitation Act of 1973 requires, among other things, that materials posted to agency websites must be accessible to people with disabilities unless doing so would pose an undue burden on the agency. 29 U.S.C. § 794d(a)(1)(A).

⁶⁶National Archives and Records Administration, FOIA Advisory Committee, *Freedom of Information Act Advisory Committee: 2020-2022 Committee Term Final Report and Recommendations* (College Park, Md.: July 2022). Two members of the legislation subcommittee that developed the recommendations participated in our focus group with nongovernmental stakeholders.

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- the authority to view unredacted records involved in mediated or adjudicated disputes between agencies and requesters; and
 - a direct line-item appropriation and increase in its budget.

Our group of nongovernmental stakeholders generally agreed that giving OGIS authority to enforce the act's requirements could help reduce agency backlogs. For example, one stakeholder in this group commented that the possibility of enforcement actions for failure to meet deadlines could encourage agencies to restructure processes. The FOIA Advisory Committee pointed to states such as Pennsylvania as potential models, noting that Pennsylvania has an independent oversight office with authority to issue binding decisions in disputes.

OGIS has expressed some concern with these proposals. In written feedback to the FOIA Advisory Committee, OGIS stated that enforcement authority would create tension with its ombudsman role. OGIS wrote that its role building trust between agencies and requesters in the process could potentially conflict with an enforcement role, and that performing both roles effectively could be difficult. However, OGIS did support a separate proposal to commission a feasibility study examining potential changes to its structure and authorities. This effort is pending, as OGIS officials told us that they have not yet been able to identify funding for the study despite their efforts to identify such funding sources.

Conclusions

FOIA is a critical tool for members of the public to access information about the federal government's actions and decisions. However, the persistent and growing government-wide request backlog undermines transparency and accountability. Although OIP supports efforts to address this issue by directing certain agencies to have backlog reduction plans, it does not specify the elements to be included in those plans.

Consequently, agencies have not included key elements of effective plans, such as goals, performance measures, and time frames for implementing actions. Including such information in backlog reduction plans along with, as necessary, planned actions to allocate staff with needed skills, could help ensure that backlogs are addressed.

While OIP has encouraged agencies to use data on request processing times to help manage their programs, issues with the reliability of the data undermines their usefulness. By taking additional steps to help agencies calculate and report reliable processing time data, OIP could provide greater assurance that agencies are reporting and using accurate processing times.

Recommendations for Executive Action

We are making the following four recommendations to the Department of Justice:

The Attorney General should direct the Director of the Office of Information Policy to issue guidance advising agencies to include elements of effective action plans in their backlog reduction plans. Such elements include identifying and analyzing root causes of their backlog; identifying actions the agency will take to address those root causes; and establishing specific backlog reduction goals, performance measures, and milestones for tracking progress. (Recommendation 1)

The Attorney General should direct the Director of the Office of Information Policy to issue guidance advising agencies to identify actions in their backlog reduction plans to help ensure staff with the necessary skills are available to support reduction efforts. (Recommendation 2)

The Attorney General should direct the Director of the Office of Information Policy (OIP) to develop a process for OIP to more closely examine the data agencies report on component-level FOIA requests and average request processing times to help agencies ensure they report accurate average processing times. (Recommendation 3)

The Attorney General should direct the Director of the Office of Information Policy (OIP) to update the materials for OIP's training on annual FOIA reporting to highlight that agencies are required to report weighted average processing times for FOIA requests, and include instructions on how agencies should calculate their weighted average processing times. (Recommendation 4)

Agency Comments and Third-Party Views

We provided a draft of this report to the Department of Justice (DOJ), the National Archives and Records Administration, and the 23 other Chief Financial Officers Act agencies for review and comment. We also provided a draft of relevant portions to each of the nine participants in the focus group we held with nongovernmental stakeholders.

We received written comments from DOJ, which are reproduced in appendix VI. DOJ concurred with our recommendations and stated that it will implement them.

The U.S. Agency for International Development also provided written comments—reproduced in appendix VII—describing steps it has taken to address backlogged FOIA requests.

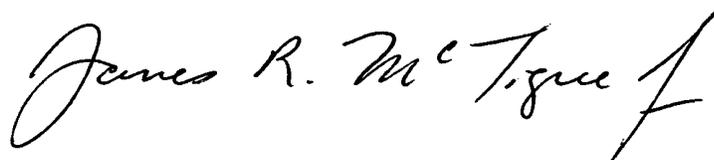
The Departments of Defense, Homeland Security, Justice, and Transportation, and the National Archives and Records Administration, provided technical comments, which we have incorporated as appropriate.

Eleven agencies informed us they had no comments: the Departments of Education, Energy, Health and Human Services, Labor, State, and Veterans Affairs; the National Aeronautics and Space Administration; Nuclear Regulatory Commission; Office of Personnel Management; Small Business Administration; and Social Security Administration. The remaining eight agencies did not provide a response.

Three participants in our focus group with nongovernmental stakeholders also provided technical comments on the report, which we incorporated as appropriate.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to the appropriate congressional committees, the Attorney General, the Archivist of the United States, the heads of each of the 23 other agencies, and other interested parties. This report will also be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staffs have any questions about this report, please contact me at (202) 512-6806 or mctiguej@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of our report. Key contributors to this report are listed in appendix VIII.



James R. McTigue, Jr.
Director, Strategic Issues

List of Requesters

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate

The Honorable Charles E. Grassley
Ranking Member
Committee on the Budget
United States Senate

The Honorable James Comer
Chairman
The Honorable Jamie Raskin
Ranking Member
Committee on Oversight and Accountability
House of Representatives

The Honorable John Cornyn
United States Senate

Appendix I: Objectives, Scope, and Methodology

This report

1. describes factors that federal agencies have frequently identified as causes of increases in, and challenges to reducing, their Freedom of Information Act (FOIA) request backlogs;
2. describes methods agencies have reported using to address their backlogs;
3. assesses relevant government-wide guidance and other resources that could help agencies address their backlogs; and
4. describes changes to FOIA that agency officials and nongovernmental stakeholders suggested to help agencies address their backlogs and minimize them going forward.

To provide context for our review we analyzed data from the annual reports that agencies subject to FOIA are required to file with the Department of Justice (DOJ), and that are available through FOIA.gov. Specifically, we analyzed changes in key measures from fiscal years 2013 to 2022 on

- the number of FOIA requests received and processed,
- the number of backlogged FOIA requests, and
- the time it takes agencies to process different types of FOIA requests.

We also analyzed government-wide data on litigation available from DOJ, and other information available through FOIA.gov. We assessed the reliability of these data by reviewing relevant documentation on steps taken by DOJ to ensure the validity of data on FOIA.gov and by interviewing DOJ officials. We electronically tested the data by identifying outliers and missing values, as well as correcting obvious inaccuracies. We determined that the data were sufficiently reliable to analyze the number of FOIA requests agencies received and processed, the number of backlogged requests, the number of days it took agencies to process different types of requests, and the number of annual FOIA cases in litigation. We determined that data on average processing times were not sufficiently reliable to report due to inaccuracies in the data reported by some agencies.

To address our first and second objectives we systematically analyzed all Chief FOIA Officer reports published from 2019 to 2023 by federal

agencies subject to FOIA that received 50 or more requests in a given year.¹ For each year, we compiled agency responses to questions on

- factors that contributed to increases in agency request backlogs or that presented obstacles that made it difficult for agencies to close their oldest pending requests; and
- methods agencies used to reduce their backlogs and close their oldest requests.

We analyzed the text of agency responses to identify the number of agencies that reported (1) experiencing specific factors contributing to their respective backlogs, and (2) employing a specific method to reduce backlogs.² To do this, two analysts worked together to develop an initial classification scheme to use for our analysis. We then iteratively tested and refined our classification scheme with two independent coders reviewing excerpts from multiple agencies across multiple years. After conducting intercoder reliability checks, we determined we could reliably apply the classification scheme.

Our final classification scheme was documented in a codebook with rules for coding excerpts into specific categories. While referencing our codebook, one analyst assessed relevant excerpts from each agency report and assigned the codes reflecting the factors and methods that were mentioned. Next, a second analyst reviewed the first analyst's decisions and, if necessary, suggested changes. If there were disagreements, the two coders met to assign a final category and documented their decision. We reported on the factors and agency actions we coded except for certain ones we categorized as "other." For example, we used this category for factors and agency actions that were

¹FOIA requires all agency Chief FOIA Officers to report to the Attorney General on the agency's performance in implementing the FOIA. 5 U.S.C. § 552(j)(2)(D). Office of Information Policy (OIP) guidelines for agency Chief FOIA Officer reports direct agencies receiving 50 or more FOIA requests in the prior fiscal year to submit reports, while agencies receiving fewer than 50 requests are not required to report if they believe that their Annual FOIA reports provide a sufficient accounting of their efforts to effectively and efficiently administer FOIA. From fiscal years 2019 to 2023, between 65 and 72 agencies submitted reports each year. Agencies' Chief FOIA Officer reports are publicly available on OIP's website at <https://www.justice.gov/oip/reports-1#s2>. Chief FOIA Officer reports from the Farm Credit Administration and U.S. Election Assistance Commission were not included in our analysis because they had not yet been published as of November 2023.

²Only agencies meeting certain conditions were directed to respond, in their Chief FOIA Officer reports, to questions on factors contributing to their backlogs and actions they employed to reduce them. From fiscal years 2019 to 2023, between 42 and 55 agencies responded to relevant questions in the reports each year.

specific to one agency. The results of this analysis are summarized in appendixes II and III.

To address all four objectives, we conducted four virtual focus groups with senior officials from Chief Financial Officers Act agencies.³ To identify participants for these focus groups, we asked each of the 24 agencies to select one senior FOIA official with knowledge of FOIA operations across the entire agency, factors that have contributed to request backlogs at their agency, and actions taken to address them. For analytical purposes, we organized these officials into four focus groups depending on the percentage change their respective agencies had in the size of their request backlogs from 2018 to 2022. We structured our groups so that agency officials with similar changes in backlogs were in the same group.

Officials from 23 of the 24 agencies participated in a focus group (see table 4). The remaining agency (Social Security Administration) provided written responses to our questions.

Table 4: Twenty-Three Federal Agencies That Participated in GAO Focus Groups on Agency Freedom of Information Act Backlogs

Department of Agriculture	Department of Transportation
Department of Commerce	Department of the Treasury
Department of Defense	Department of Veterans Affairs
Department of Education	Environmental Protection Agency
Department of Energy	General Services Administration
Department of Health and Human Services	National Aeronautics and Space Administration
Department of Homeland Security	National Science Foundation
Department of Housing and Urban Development	Nuclear Regulatory Commission
Department of the Interior	Office of Personnel Management
Department of Justice	Small Business Administration
Department of Labor	U.S. Agency for International Development
Department of State	

Source: GAO. | GAO-24-106535

³31 U.S.C. § 901(b). The Chief Financial Officers Act agencies are those agencies listed in table 4, plus the Social Security Administration.

The four focus groups ranged in size from five to seven participants. The discussions were facilitated by an experienced moderator and were conducted virtually using the Zoom video-conferencing platform. We asked the same standard set of questions to all groups. Prior to holding the focus groups, we conducted two pretests to verify that our instructions and questions were clear and that the format of the groups was appropriate to obtain the information we needed.

During the focus groups, we asked participants a mix of virtual polling questions identifying contributors to agency request backlogs and methods for addressing backlogs, as well as open-ended discussion questions. Specifically, we asked participants

1. to identify the biggest contributors to request backlogs at their agencies and to describe how each of those factors have made it challenging for their agencies to process requests in a timely way or address backlogged requests;
2. to identify and describe the methods that they thought had been most effective at helping their agencies manage or address backlogged requests;
3. to describe what they thought was and was not working well with guidance and resources provided by the Office of Information Policy (OIP) and the Office of Government Information Services (OGIS) and for their views on improvements that could help agencies address their backlogs; and
4. to suggest potential changes to FOIA that could help their agencies more effectively address their backlogs and minimize them going forward, what each change would entail, and how it would help their agencies address their backlogs.

We analyzed the transcripts of each focus group to identify common themes. One analyst developed an initial classification scheme. A second analyst then reviewed the first analyst's decisions, and the analysts iteratively tested and refined the classification scheme. The final classification scheme was documented in a codebook. If there were disagreements about how to categorize a particular comment, the two analysts discussed and came to a consensus on how the excerpt should be categorized. We generally reported those findings which were mentioned in at least three of four agency focus groups or the nongovernmental discussion group, described below.

To further address our third objective, we interviewed officials in DOJ's OIP and the National Archives and Records Administration's (NARA) OGIS. OIP officials provided information to us about best practices for addressing backlogs and processes for collecting and analyzing agency FOIA data based on their role encouraging and overseeing agency compliance with FOIA. OGIS officials shared information about causes of backlogs and methods for reducing them. They also shared information on government-wide efforts for reducing backlogs and improving request processing based on their role identifying methods to improve compliance and educating stakeholders about the FOIA process.

We also reviewed guidance documents, lists of recommended practices, and other resources OIP and OGIS provide to agencies.⁴ First, we reviewed these resources to identify those with specific suggestions for actions agencies should take to address their backlogs and improve the efficiency with which they process requests (see appendix IV). We assessed whether OIP's resources addressed key practices for successfully addressing high-risk areas, strategic workforce planning, and evidence-based policymaking.⁵

To further address our third and fourth objectives, we conducted a focus group to gather perspectives from nongovernmental FOIA stakeholders on potential changes to government-wide resources and FOIA that could help agencies more effectively address request backlogs. To identify stakeholders to participate in the group, we reviewed literature that discussed suggested changes to FOIA intended to improve request processing and reduce backlogs. We began by reviewing published reports, peer-reviewed academic papers, and other materials written by individuals who served as members of the FOIA Advisory Committee between 2016 and 2022. We focused our search on former FOIA Advisory Committee members because of the committee's formal role in

⁴We selected guidance and other resources from OIP and OGIS specifically because of their responsibilities for developing government-wide FOIA guidance (OIP), encouraging and reviewing agency compliance with FOIA (OIP and OGIS), and sharing best practices (OIP and OGIS). To identify guidance documents, lists of best practices, and other resources to review, we reviewed the OIP and OGIS websites to identify resources that highlighted practices to facilitate backlog reduction or more efficient request processing.

⁵See GAO, *Evidence-Based Policymaking: Practices to Help Manage and Assess the Results of Federal Efforts*, [GAO-23-105460](#) (Washington, D.C.: July 2023); *High-Risk Series: Key Practices to Successfully Address High-Risk Areas and Remove Them from the List*, [GAO-22-105184](#) (Washington, D.C.: March 2022); and *Human Capital: Key Principles for Effective Strategic Workforce Planning*, [GAO-04-39](#) (Washington, D.C.: December 2003).

developing consensus recommendations for improving FOIA administration.⁶ We also conducted a literature search of scholarly and peer-reviewed literature, government reports, and other publications related to FOIA backlogs published from July 2016 through May 2023 to identify any other potentially relevant materials. We used a snowball sampling approach to identify additional materials written by co-authors named in those papers and reports.

Based on the results of these searches, we identified over 40 stakeholders to consider for inclusion in our focus group. To select who we would invite to participate in the focus group, we determined whether an individual authored or co-authored an academic article, report, or testimony with potentially relevant recommendations for addressing agency FOIA backlogs or improving FOIA request processing, and had other relevant professional expertise relating to FOIA, such as work with transparency-oriented nongovernmental organizations or experience making FOIA requests. We also exercised professional judgment to ensure the group included individuals with different types of experiences and expertise from the academic, media, and requester communities to ensure balance of perspectives and experiences. We ultimately selected nine stakeholders to participate in the focus group, including four stakeholders from the requester community, three stakeholders with academia, and two stakeholders from the media. See table 5.

Table 5: Participants in Focus Group with Nongovernmental Freedom of Information Act (FOIA) Stakeholders

Allan Blutstein	Founder, FOIA Advisor
Emily J. Creighton	Legal Director, Transparency, American Immigration Council
Margaret B. Kwoka	Professor of Law, Ohio State University
Michael Morisy	Co-Founder and Chief Executive, MuckRock
Suzanne Piotrowski	Professor, School of Public Affairs and Administration, Rutgers University
Katie Townsend	Deputy Executive Director and Legal Director, Reporters Committee for Freedom of the Press
A. Jay Wagner	Associate Professor, Marquette University
Anne L. Weismann	Adjunct Professor, The George Washington University Law School

Source: GAO. | GAO-24-106535

Note: For transparency purposes, we disclose the names and affiliations of those participating in our nongovernmental stakeholder focus group, and obtained their permission to do so, to enable readers

⁶NARA established the FOIA Advisory Committee in 2014 to, among other things, develop recommendations for improving FOIA administration. The committee's work helps OGIS fulfill the directive in FOIA that OGIS identify procedures and methods for improving compliance with FOIA. 5 U.S.C. § 552(h)(2)(C). NARA renewed the committee's charter in 2016, 2018, 2020, and 2022.

to assess the appropriateness of our selection of stakeholders and the degree of balance among their viewpoints and knowledge base. We had one stakeholder who preferred that we not list their name and affiliation. We respected that decision and omitted the stakeholder's name and affiliation. We recognize that in some situations disclosing this information could dissuade individuals from participating or affect their responses. We still welcomed their participation as they provided us with testimonial evidence regarding potential statutory changes to address agency FOIA request backlogs. Information shown in the table represents what was current at the time we held the focus group with nongovernmental stakeholders.

As with the agency focus groups, the nongovernmental stakeholder focus group was facilitated by an experienced moderator. We conducted three pretests to verify that our instructions and questions were clear, and that the format of the groups was appropriate to obtain the information we needed.

We asked participants for their suggestions for potential changes to FOIA that could help agencies more effectively address FOIA request backlogs and minimize them going forward. We asked a mix of open-ended discussion and virtual polling questions. First, we asked nongovernmental stakeholders for their perspective on changes suggested in our focus groups with agency officials. Second, we asked participants to suggest other specific changes to FOIA that they felt could help agencies reduce their backlogs and minimize them going forward. Lastly, we asked participants to identify up to three potential changes they thought Congress should consider to help agencies address their request backlogs using a virtual poll.

One analyst reviewed a transcript of the focus group's discussion and incorporated findings into our existing classification schemes and assigned codes. The results of this analysis and changes to the classification schemes were documented in a codebook with rules for coding excerpts from the agency official and nongovernmental stakeholder focus group transcripts. A second analyst then reviewed the first analyst's decisions regarding the coding of the nongovernmental stakeholder transcript. If there were questions about how to categorize a particular comment, the two analysts discussed and agreed on final changes to codebooks and the coding of excerpts. We generally reported those findings which were mentioned in at least three of four agency discussion groups or the nongovernmental discussion group.

We conducted this performance audit from January 2023 to March 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for

**Appendix I: Objectives, Scope, and
Methodology**

our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Factors Agencies Identified as Contributing to Backlog Increases, 2019–2023

Each year, the Department of Justice’s Office of Information Policy directs agencies to report on the factors that contributed to increases in their Freedom of Information Act (FOIA) request backlogs, or that presented obstacles to closing their oldest requests.¹ Table 6 lists the factors that agencies cited in their Chief FOIA Officer reports published between 2019 and 2023, along with the number of agencies that reported experiencing each factor in a given year. See appendix I for additional details on our methodology.

Table 6. Frequency with Which Agencies Cited Factors Contributing to Their Freedom of Information Act (FOIA) Request Backlogs, 2019–2023

	2019	2020	2021	2022	2023
Responding agencies^a	54	49	55	47	42
Contributing factor					
Request, technology, and coordination challenges					
Broadly scoped requests involving large volumes of responsive records	33	26	32	31	20
Increasing complexity of requests received	28	17	20	18	17
Time needed to coordinate with program offices or consult with other agencies on record searches and reviews	18	21	19	17	17
Overall increase in the number of FOIA requests received	24	14	21	13	16
Requests involving classified or sensitive records requiring extensive legal reviews or redactions	12	13	14	8	6
Issues with FOIA request management systems or other technology used to process FOIA requests	7	10	6	7	5
Difficulty locating or retrieving relevant records	1	1	2	3	2
Staffing challenges					
FOIA staffing losses or turnover	26	23	23	24	22
Staffing limitations, including difficulties hiring new staff or staff balancing FOIA processing with other responsibilities	26	21	18	10	16
Time needed to train and educate new staff on FOIA processes and requirements	3	7	4	7	3
Demands of FOIA litigation					
Demands of supporting FOIA-related litigation	12	14	14	12	11

¹The reporting period for the 2023 Chief FOIA Officer reports was March 2022 to March 2023. OIP directed agencies receiving 50 or more requests the prior fiscal year to submit draft information to OIP for the 2023 Chief FOIA Officer report in January 2023 and post the report in final form by March 2023. Additionally, between the report years 2022 and 2023, OIP revised questions related to backlog reduction for agencies receiving 50 or more requests the prior year. For 2023, OIP merged questions asking agencies to explain their obstacles to closing their oldest requests and their respective plans for closing those requests in the coming year. In 2022 those questions were asked separately.

**Appendix II: Factors Agencies Identified as
Contributing to Backlog Increases, 2019–2023**

	2019	2020	2021	2022	2023
Other factors					
COVID-19 closures limited access to worksites, records, or secure networks	0	0	21	20	5
Furloughs or other issues caused by the 2018-2019 government shutdown	1	9	0	0	0

Source: GAO analysis of agency Chief FOIA Officer Reports from 2019 through 2023. | GAO-24-106535

^a“Responding agencies” reflects the number of agencies that responded to one or both of two questions in Department of Justice Office of Information Policy guidance to agencies on preparation of their Chief FOIA Officer reports. One question asked agencies whose backlogs had increased in the previous year to explain why and describe the causes that contributed to their not being able to reduce their backlogs. The other question asked agencies that were unable to close their 10 oldest pending requests to explain why they were unable to do so. In some cases, agencies that published Chief FOIA Officer reports did not have responses to these questions. For example, agencies that did not have increases in their request backlogs were not required to respond the questions on factors contributing to backlog increases. Thus, these agencies are not counted in the number of responding agencies. The number of factors cited does not equal the number of responding agencies, as agencies may have cited more than one factor as contributing to their backlogs.

Appendix III: Actions Agencies Reported Taking to Address Their Backlogs, 2019–2023

Each year, the Department of Justice’s Office of Information Policy (OIP) directs agencies to report on the actions they took to reduce their Freedom of Information Act (FOIA) request backlogs or close their oldest requests.¹ Table 7 lists the actions agencies cited in their Chief FOIA Officer reports published between 2019 and 2023, along with the number of agencies that reported taking a specific action in a given year. See appendix I for additional details on our methodology.

Table 7. Actions Agencies Reported Taking to Address Their Freedom of Information Act (FOIA) Request Backlogs, 2019–2023

	2019	2020	2021	2022	2023
Responding agencies^a	53	54	55	53	50
Focus of actions					
Monitoring FOIA performance and request status					
Monitored FOIA performance metrics or the status of pending requests	20	24	18	16	19
Held meetings between managers and FOIA staff to discuss the status of pending requests	7	12	12	10	12
Engaged senior agency leaders on efforts to close old pending requests	6	5	10	3	5
Communicating with requesters					
Communicated with requesters about their requests	17	18	18	18	18
Proactively released additional records so the public could access them without a FOIA request	2	6	6	6	5
Released records to requesters on a rolling basis to provide those that were available while continuing to process those not ready for release	5	3	6	6	5
Managing staff to support request closure					
Reassigned staff to support case closure and backlog reduction	13	15	13	12	9
Hired additional staff to support FOIA administration	8	16	11	11	18
Provided new or continuing training for agency staff	7	16	11	6	13
Used contract staff to provide additional capacity for processing FOIA requests	8	12	10	11	9
Assigned staff to teams focused on backlog reduction or closing certain types of requests	7	6	6	6	2
Focusing on procedures and technology					
Prioritized efforts to close the agency’s oldest requests	15	20	17	13	17
Coordinated with program offices or other agencies to prioritize the completion of record searches and reviews	13	17	16	9	12

¹The reporting period for the 2023 Chief FOIA Officer Reports was March 2022 to March 2023. OIP directed agencies receiving 50 or more requests the prior fiscal year to submit draft information to OIP for the 2023 Chief FOIA Officer report in January 2023 and post the report in final form by March 2023.

**Appendix III: Actions Agencies Reported
Taking to Address Their Backlogs, 2019–2023**

	2019	2020	2021	2022	2023
Modified policies or procedures to increase efficiency and reduce processing times	11	13	8	12	10
Updated the technology used to manage and process FOIA requests	8	7	13	7	10

Source: GAO analysis of agency Chief FOIA Officer reports from 2019 through 2023. | GAO-24-106535

^a“Responding agencies” refers to the number of agencies that responded to questions we reviewed in Office of Information Policy guidance to agencies on preparation of their Chief FOIA Officer reports. The first two questions we reviewed asked agencies if they implemented a backlog reduction plan in the last year and to describe its implementation, and, if the agency continues to maintain a backlog, its plan to reduce the backlog in the coming year. Next, we reviewed questions asking agencies to describe steps they had taken to reduce the overall age of their pending requests and their plans to close their 10 oldest requests in the coming year if they had not done so. In some cases, agencies that published Chief FOIA Officer reports did not have responses to these questions. For example, an agency may not have had a backlog and as a result did not take any relevant actions. Thus, those agencies are not counted in the number of responding agencies. The number of actions cited does not equal the number of responding agencies, as agencies may have reported taking more than one action to reduce their backlogs or close older requests.

Appendix IV: Department of Justice-Recommended Practices to Reduce Backlogs and Improve Request Processing

Since 2013, the Department of Justice's (DOJ) Office of Information Policy (OIP) has provided several resources that recommend practices to help agencies improve how they process Freedom of Information Act (FOIA) requests and reduce their request backlogs. Practices that OIP has recommended in multiple resources are summarized below.

1. Regularly review FOIA processes to ensure they are efficient.

Agencies should regularly (preferably annually) review their FOIA processes, and, in doing so, should

- closely examine their processes if their average processing time for simple requests is greater than 20 working days;
- ensure that intake procedures, searches for records, reviews, and the production of records are conducted as efficiently as possible;
- identify new approaches or resources that could reduce processing times and improve FOIA administration; and
- develop and maintain standard operating procedures to ensure FOIA requirements are implemented with a high level of consistency and quality.

2. Close the 10 oldest requests.

Agencies should prioritize closing their 10 oldest pending requests, and, in doing so, can

- task specific personnel with actively following up on the status of the oldest pending requests, identifying and addressing unique challenges that may hinder closing them; and
- regularly follow up on pending consultations with other agencies to ensure the agency gets information it needs to close requests involving other agencies.

3. Ensure agency staff receive substantive training.

Both FOIA and non-FOIA staff should receive relevant FOIA training each year so that they understand legal requirements, their agency's processes and policies, and their role in the process. To ensure staff receive this training agencies should

- designate an annual goal for staff to attend a specified number of training opportunities;
- leverage digital training resources, and ensure staff are aware of relevant training opportunities;

- use reviews and surveys of agency staff to identify specific areas where additional training is needed; and
- ensure that all FOIA staff are trained on, among other things, statutory requirements, requirements for conducting record searches and reviews, and how to fully utilize the capabilities of electronic tools to review records.

4. Regularly review data on backlogs and timeliness.

Agencies should regularly review relevant metrics as part of their efforts to collect and report FOIA data and should use these data to inform agency leaders, management, and staff about

- increases in requests, and resource adjustments that might be needed as a result;
- trends in request topics, which can help ensure requests are managed strategically;
- progress toward processing time or backlog reduction goals that have been established; and
- areas of success or where improvements are needed.

5. Manage requests strategically.

Agencies should manage their requests strategically and, in doing so, should

- use multiple tracks for processing requests, with agencies grouping and processing simple requests separately from complex requests;
- ensure there are systems in place to identify and respond to simple requests as soon as possible after they are received; and
- direct similar requests to the same analyst, allowing them to become an expert in processing certain types of requests.

6. Use enhanced technology to process requests.

Agency FOIA staff should leverage technology to improve their FOIA programs and, in so doing

- partner with their agency's technology specialists to examine what technology is available and could improve their FOIA programs, and determine if they can acquire those tools;

- assess the cost effectiveness and benefits of technological tools that could be used to achieve greater efficiency of FOIA processing, particularly improved document searches and reviews; and
- acquire proper FOIA case management systems to automate the request intake process and allow managers to track the progress of requests in real time.

7. Identify and post documents proactively.

Agencies should increase the number of records they make available without a FOIA request, as this can help agencies reduce the need to respond to numerous requests for the same records. To do this, agencies should

- consider ways to disclose information in a manner that best serves the public, and whether requested information should be proactively disclosed; and
- add a distinct step in their FOIA processing procedures for identifying proactive disclosures.

8. Build relationships between agency FOIA staff and program offices.

Agency FOIA staff should build relationships with staff in their agency's program offices. Such relationships can help program staff understand the importance of FOIA and improve how the agency searches for relevant records and identifies documents to be disclosed proactively. Specifically, FOIA staff should

- regularly collaborate with program office staff to build efficiencies into processes used to search for relevant agency records, and identify records appropriate for proactive disclosures; and
- document clear procedures outlining the responsibilities of program staff to search for relevant records.

9. Communicate with requesters.

Maintaining open communication with requesters is critical for providing good customer service and can include promptly acknowledging receipt of a request, explaining the FOIA process to requesters who are unfamiliar with it, and ensuring that requesters can easily contact the agency to ask questions. In addition, agencies should actively communicate with requesters to

- discuss broad or complex requests, clarifying questions the agency has while providing requesters the opportunity to modify their requests so that records can be more readily located and processed more efficiently; and
- discuss opportunities to help requesters obtain relevant records as efficiently as possible, such as through the provision of interim responses.

10. Obtain support from agency leaders.

Agency FOIA offices should work to obtain support from agency leaders and, in so doing, should

- communicate with agency leaders to make reducing FOIA backlogs and improving timeliness a priority, which increases awareness across the agency and promotes a culture of accountability; this can also make it easier for FOIA managers to obtain additional resources or personnel; and
- meet regularly with agency leaders to update them on progress toward backlog reduction goals and other metrics.

List of Relevant DOJ Resources

Department of Justice, Office of Information Policy. *FOIA Self-Assessment Toolkit*. Washington, D.C.: March 9, 2023. Available at <https://www.justice.gov/oip/foia-resources#FOIA%20Self-Assessment%20Toolkit>.

Office of the Attorney General. *Freedom of Information Act Guidelines*. Washington, D.C.: March 15, 2022. Available at <https://www.justice.gov/media/1212566/dl?inline>.

Department of Justice, Office of Information Policy. *Reducing Backlogs and Improving Timeliness*. Washington, D.C.: August 15, 2014. Available at <https://www.justice.gov/oip/reducing-backlogs-and-improving-timeliness>.

Each year OIP issues guidance for further agency improvements based on its review and assessment of agency Chief FOIA Officer reports. These are available at <https://www.justice.gov/oip/oip-guidance>.

OIP periodically hosts workshops in which best practices related to backlog reduction and improving timeliness have been discussed.

**Appendix IV: Department of Justice-
Recommended Practices to Reduce Backlogs
and Improve Request Processing**

Summaries of practices highlighted in these sessions are available at <https://www.justice.gov/oip/best-practices-workshop-series>.

Appendix V: Data on Freedom of Information Act Requests and Backlogs for Chief Financial Officers Act Agencies

The Freedom of Information Act (FOIA) requires that federal agencies report data on their FOIA processing activities. This includes, among other things, data on the number of requests the agency received and the number of requests that are backlogged at the end of a fiscal year.¹ The tables below provide information on requests received and backlogged across the 24 Chief Financial Officers Act agencies between fiscal years 2018 and 2022, along with the 5-year change in each measure.² Both the number of requests received and the size of agencies' backlogs varied significantly across agencies and over time.

Department of Agriculture

Table 8: FOIA Requests and Backlogs at the Department of Agriculture, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	36,547	26,458	22,810	20,956	17,069	-19,478
Percent change from prior year	-	-27.6	-13.8	-8.1	-18.5	-53.3
Requests backlogged at end of FY	2,407	2,700	2,546	2,081	1,991	-416
Percent change from prior year	-	12.2	-5.7	-18.3	-4.3	-17.3

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

Department of Commerce

Table 9: FOIA Requests and Backlogs at the Department of Commerce, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	2,269	2,391	2,017	2,274	1,768	-501
Percent change from prior year	-	5.4	-15.6	12.7	-22.3	-22.1
Requests backlogged at end of FY	572	721	629	773	906	334
Percent change from prior year	-	26.0	-12.8	22.9	17.2	58.4

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

¹ 5 U.S.C. § 552(e).

² The 24 Chief Financial Officers Act agencies are listed at 31 U.S.C. § 901(b).

Appendix V: Data on Freedom of Information Act Requests and Backlogs for Chief Financial Officers Act Agencies

Department of Defense

Table 10: FOIA Requests and Backlogs at the Department of Defense, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	57,032	56,524	54,023	52,805	54,004	-3,028
Percent change from prior year	-	-0.9	-4.4	-2.3	2.3	-5.3
Requests backlogged at end of FY	11,391	13,198	16,000	17,597	18,567	7,176
Percent change from prior year	-	15.9	21.2	10.0	5.5	63.0

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

Department of Education

Table 11: FOIA Requests and Backlogs at the Department of Education, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	3,041	2,448	2,384	2,151	2,372	-669
Percent change from prior year	-	-19.5	-2.6	-9.8	10.3	-22.0
Requests backlogged at end of FY	857	914	859	697	1,557	700
Percent change from prior year	-	6.7	-6.0	-18.9	123.4	81.7

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

Department of Energy

Table 12: FOIA Requests and Backlogs at the Department of Energy, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	2,073	1,855	1,453	1,492	1,722	-351
Percent change from prior year	-	-10.5	-21.7	2.7	15.4	-16.9
Requests backlogged at end of FY	498	493	554	678	774	276
Percent change from prior year	-	-1.0	12.4	22.4	14.2	55.4

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

Appendix V: Data on Freedom of Information Act Requests and Backlogs for Chief Financial Officers Act Agencies

Department of Health and Human Services

Table 13: FOIA Requests and Backlogs at the Department of Health and Human Services, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	35,445	35,358	36,825	33,158	38,462	3,017
Percent change from prior year	-	-0.2	4.1	-10.0	16.0	8.5
Requests backlogged at end of FY	6,306	7,764	8,817	9,955	11,320	5,014
Percent change from prior year	-	23.1	13.6	12.9	13.7	79.5

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

Department of Homeland Security

Table 14: FOIA Requests and Backlogs at the Department of Homeland Security, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	395,751	400,245	397,671	442,650	539,807	144,056
Percent change from prior year	-	1.1	-0.6	11.3	21.9	36.4
Requests backlogged at end of FY	53,971	31,454	36,350	25,102	52,239	-1,732
Percent change from prior year	-	-41.7	15.6	-30.9	108.1	-3.2

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

Department of Housing and Urban Development

Table 15: FOIA Requests and Backlogs at the Department of Housing and Urban Development, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	2,383	2,140	2,038	1,734	1,819	-564
Percent change from prior year	-	-10.2	-4.8	-14.9	4.9	-23.7
Requests backlogged at end of FY	860	932	1,128	808	626	-234
Percent change from prior year	-	8.4	21.0	-28.4	-22.5	-27.2

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

Appendix V: Data on Freedom of Information Act Requests and Backlogs for Chief Financial Officers Act Agencies

Department of the Interior

Table 16: FOIA Requests and Backlogs at the Department of the Interior, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	8,402	7,973	5,977	6,302	6,407	-1,995
Percent change from prior year	-	-5.1	-25.0	5.4	1.7	-23.7
Requests backlogged at end of FY	3,191	4,116	4,267	4,484	4,808	1,617
Percent change from prior year	-	29.0	3.7	5.1	7.2	50.7

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

Department of Justice

Table 17: FOIA Requests and Backlogs at the Department of Justice, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	96,875	95,119	86,729	97,490	93,370	-3,505
Percent change from prior year	-	-1.8	-8.8	12.4	-4.2	-3.6
Requests backlogged at end of FY	17,411	25,558	29,933	49,959	64,982	47,571
Percent change from prior year	-	46.8	17.1	66.9	30.1	273.2

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

Department of Labor

Table 18: FOIA Requests and Backlogs at the Department of Labor, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	14,696	16,090	15,820	13,560	14,491	-205
Percent change from prior year	-	9.5	-1.7	-14.3	6.9	-1.4
Requests backlogged at end of FY	816	991	1,714	1,216	1,426	610
Percent change from prior year	-	21.4	73.0	-29.1	17.3	74.8

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

Appendix V: Data on Freedom of Information Act Requests and Backlogs for Chief Financial Officers Act Agencies

Department of State

Table 19: FOIA Requests and Backlogs at the Department of State, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	8,448	8,589	9,019	10,683	13,864	5,416
Percent change from prior year	-	1.7	5.0	18.4	29.8	64.1
Requests backlogged at end of FY	10,400	11,106	13,798	14,941	18,765	8,365
Percent change from prior year	-	6.8	24.2	8.3	25.6	80.4

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

Department of Transportation

Table 20: FOIA Requests and Backlogs at the Department of Transportation, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	15,049	16,571	14,632	15,740	19,090	4,041
Percent change from prior year	-	10.1	-11.7	7.6	21.3	26.9
Requests backlogged at end of FY	2,634	3,578	4,272	4,811	5,362	2,728
Percent change from prior year	-	35.8	19.4	12.6	11.5	103.6

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

Department of the Treasury

Table 21: FOIA Requests and Backlogs at the Department of the Treasury, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	12,535	11,936	11,916	10,820	10,594	-1,941
Percent change from prior year	-	-4.8	-0.2	-9.2	-2.1	-15.5
Requests backlogged at end of FY	1,453	1,495	2,123	2,280	2,381	928
Percent change from prior year	-	2.9	42	7.4	4.4	63.9

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

Appendix V: Data on Freedom of Information Act Requests and Backlogs for Chief Financial Officers Act Agencies

Department of Veterans Affairs

Table 22: FOIA Requests and Backlogs at the Department of Veterans Affairs, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	24,555	21,336	19,053	27,762	22,542	-2,013
Percent change from prior year	-	-13.1	-10.7	45.7	-18.8	-8.2
Requests backlogged at end of FY	4,659	2,631	3,220	2,166	824	-3,835
Percent change from prior year	-	-43.5	22.4	-32.7	-62.0	-82.3

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

Environmental Protection Agency

Table 23: FOIA Requests and Backlogs at the Environmental Protection Agency, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	11,364	8,869	6,891	6,485	6,636	-4,728
Percent change from prior year	-	-22.0	-22.3	-5.9	2.3	-41.6
Requests backlogged at end of FY	2,761	2,272	1,783	1,500	1,537	-1,224
Percent change from prior year	-	-17.7	-21.5	-15.9	2.5	-44.3

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

General Services Administration

Table 24: FOIA Requests and Backlogs at the General Services Administration, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	1,324	1,461	1,352	1,349	1,168	-156
Percent change from prior year	-	10.3	-7.5	-0.2	-13.4	-11.8
Requests backlogged at end of FY	246	334	355	392	249	3
Percent change from prior year	-	35.8	6.3	10.4	-36.5	1.2

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

National Aeronautics and Space Administration

Table 25: FOIA Requests and Backlogs at the National Aeronautics and Space Administration, (FY) Fiscal Years 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	853	812	841	759	993	140
Percent change from prior year	-	-4.8	3.6	-9.8	30.8	16.4
Requests backlogged at end of FY	27	28	39	28	38	11
Percent change from prior year	-	3.7	39.3	-28.2	35.7	40.7

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

National Science Foundation

Table 26: FOIA Requests and Backlogs at the National Science Foundation, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	329	327	259	293	302	-27
Percent change from prior year	-	-0.6	-20.8	13.1	3.1	-8.2
Requests backlogged at end of FY	248	301	342	383	483	235
Percent change from prior year	-	21.4	13.6	12.0	26.1	94.8

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

Nuclear Regulatory Commission

Table 27: FOIA Requests and Backlogs at the Nuclear Regulatory Commission, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	643	369	289	239	207	-436
Percent change from prior year	-	-42.6	-21.7	-17.3	-13.4	-67.8
Requests backlogged at end of FY	122	66	81	86	89	-33
Percent change from prior year	-	-45.9	22.7	6.2	3.5	-27.0

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

Appendix V: Data on Freedom of Information Act Requests and Backlogs for Chief Financial Officers Act Agencies

Office of Personnel Management

Table 28: FOIA Requests and Backlogs at the Office of Personnel Management, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	10,668	10,495	8,123	640	456	-10,212
Percent change from prior year	-	-1.6	-22.6	-92.1	-28.8	-95.7
Requests backlogged at end of FY	215	229	200	190	128	-87
Percent change from prior year	-	6.5	-12.7	-5	-32.6	-40.5

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

Small Business Administration

Table 29: FOIA Requests and Backlogs at the Small Business Administration, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	1,089	895	4,529	18,127	7,844	6,755
Percent change from prior year	-	-17.8	406.0	300.2	-56.7	620.3
Requests backlogged at end of FY	45	0	366	2,144	469	424
Percent change from prior year	-	-100.0	-	485.8	-78.1	942.2

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

Social Security Administration

Table 30: FOIA Requests and Backlogs at the Social Security Administration, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	16,427	14,987	9,688	13,440	11,762	-4,665
Percent change from prior year	-	-8.8	-35.4	38.7	-12.5	-28.4
Requests backlogged at end of FY	149	88	1,710	88	92	-57
Percent change from prior year	-	-40.9	1,843.2	-94.9	4.5	-38.3

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

Appendix V: Data on Freedom of Information Act Requests and Backlogs for Chief Financial Officers Act Agencies

U.S. Agency for International Development

Table 31: FOIA Requests and Backlogs at the U.S. Agency for International Development, Fiscal Years (FY) 2018–2022

	2018	2019	2020	2021	2022	5-Year Change
Requests received in FY	280	290	427	329	326	46
Percent change from prior year	-	3.6	47.2	-23.0	-0.9	16.4
Requests backlogged at end of FY	273	238	372	396	408	135
Percent change from prior year	-	-12.8	56.3	6.5	3.0	49.5

- = Not applicable

Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-24-106535

Appendix VI: Comments from the Department of Justice



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

February 21, 2024

Mr. James R. McTigue, Jr.
Director
Strategic Issues
Government Accountability Office
Washington, D.C. 20548

Dear Mr. McTigue:

Thank you for the opportunity to review and comment on the draft Government Accountability Office (GAO) report concerning agency Freedom of Information Act (FOIA) backlogs. We appreciate GAO's work on this engagement. The Department takes very seriously its responsibility of overseeing and encouraging governmentwide compliance with the FOIA and has made extensive efforts over the years to help agencies reduce backlogs and improve timeliness.

As indicated in Appendix IV of GAO's draft report, since 2013 the Office of Information Policy (OIP) has issued several guidance documents and resources to help agencies improve how they process FOIA requests and reduce their request backlogs. For example, OIP issued guidance to agencies on the importance of timeliness and backlog reduction following its Assessment of the Chief FOIA Officer Reports in 2021, 2020, 2018, 2017, 2015, and 2010. Additionally, in 2014, OIP issued separate, standalone guidance to agencies on steps to take to reduce backlogs. We have also held several workshops focused on sharing best practices on this topic. OIP also provides agencies with a comprehensive self-assessment toolkit so agencies can conduct objective reviews of all aspects of their FOIA administration to help ensure that they have effective and efficient processes and policies in place for responding to requests.

The Department is also committed to helping agencies produce accurate Annual FOIA Reports every year that comply with the FOIA and the additional requirements established by the Department of Justice. While each agency is ultimately responsible for the accuracy of its report, OIP has developed a comprehensive Annual FOIA Report Handbook to ensure agencies have a proper understanding of all the requirements of the Report, including how metrics should be calculated. OIP also provides in-depth training covering these requirements and devotes substantial resources to reviewing all 120 agency reports each year to help agencies with the validation of their data.

OIP looks forward to building on these efforts by implementing GAO's four recommendations. As noted in GAO's Report, OIP plans to issue new guidance on the

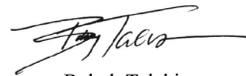
**Appendix VI: Comments from the Department
of Justice**

development of FOIA backlog reduction plans in 2024. In addition, OIP is examining what additional steps can be taken to help improve the validation of agencies' overall average processing times. Finally, OIP will add to its training material a more detailed slide on calculating overall average processing times.

As GAO's report describes, the causes of increasing backlogs as well as solutions to reducing them vary across agencies. Agencies have taken multifaceted approaches over the years to backlog reduction, such as increasing personnel, adopting new technologies, and refining workflows. Such efforts are particularly effective when there is senior leadership support of FOIA administration. OIP's implementation of GAO's recommendations will complement these ongoing efforts and help further the dedicated work of agency personnel across the government to improving timeliness and reducing backlogs.

Thank you again for your and your team's work over the past year on this engagement. If you have any questions regarding this response you or your staff may contact me at (202) 514-3642.

Sincerely,



Bobak Talebian
Director

Appendix VII: Comments from the U.S. Agency for International Development



February 16, 2024

James R. McTigue, Jr.
Director, Strategic Issues
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20226

Re: ***Freedom of Information Act: Additional Guidance and Reliable Data Can Help Address Agency Backlogs (GAO-24-106535)***

Dear Mr. McTigue:

I am pleased to provide the formal response of the U.S. Agency for International Development (USAID) to the draft report produced by the U.S. Government Accountability Office (GAO) titled, *Freedom of Information Act: Additional Guidance and Reliable Data Can Help Address Agency Backlogs (GAO-24-106535)*.

USAID's core mission is to demonstrate democratic values abroad. These values include the tenets of democratic governance, such as building open, responsive, transparent and accountable institutions and processes that serve the needs and preferences of the public. These values are emblematic of the Freedom of Information Act (FOIA), which encourages accountability through transparency. Accordingly, USAID is committed to sustaining transparency and reducing its backlog of FOIA requests. The Office of Management Services has dedicated the last several years to increasing personnel and technological resources to assist with the Agency's increase of complex FOIA requests and reduction of backlogged FOIA requests.

I am transmitting this letter from USAID for inclusion in the GAO's final report. Thank you for the opportunity to respond to the draft report, and for the courtesies extended by your staff while conducting this engagement. We appreciate the opportunity to participate in the complete and thorough evaluation of our Information Security Performance.

Sincerely,

Colleen Allen

Colleen R. Allen
Assistant Administrator
Bureau for Management

Appendix VIII: GAO Contact and Staff Acknowledgments

GAO Contact

James R. McTigue, Jr. (202) 512-6806, mctiguej@gao.gov

Staff Acknowledgments

In addition to the contact named above, Susan Murphy (Assistant Director), Adam Miles (Analyst-in-Charge), Caitlin Cusati, Robert Gebhart, Samantha Lalisian, Andrew Lobel, Krista Loose, Meredith Moles, and Robert Robinson made key contributions to this report.

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