

Chief FOIA Officer's Annual Report

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I. Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's 2009 FOIA Guidelines is the presumption of openness.

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

FOIA Training

I. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice? **Such training or events can include offerings from OIP, your own agency or another agency or organization.**

Yes. USAID's FOIA professionals attended FOIA training during the reporting period, to include training courses provided by the Department of Justice (DOJ), the American Society for Access Professionals (ASAP) FOIA conference, and FOIA professional courses offered by the U.S. Department of Agriculture (USDA).

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

One hundred percent (100%) of USAID's Government Information Specialists attended substantive training during the reporting period.

3. OIP has directed agencies to "take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year." If your response to the previous question is less than 80% of your FOIA professionals attended training, please explain your agency's plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

Discretionary Disclosures

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

USAID continues to examine responsive records where FOIA Exemption 5 may be invoked. When information is deemed deliberative, it is usually withheld under Exemption 5. In order to seek opportunities for discretionary release, FOIA professionals routinely consult with the relevant program office and General Counsel Attorneys to consider if there is any foreseeable harm in the release of information. Through this collaborative analysis, the FOIA professionals ensure that the harm is clearly articulated and not abstract or speculative. If there is no clearly articulable harm, USAID will make a discretionary record release.

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

Yes.

6. What exemption(s) would have covered the material released as a matter of discretion?

FOIA Exemption 5 would have covered material as a matter of discretion.

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

As a matter of discretion, USAID released deliberative email communications, inter- and intraagency memoranda, and draft materials. USAID also released various data in response to the Open Data Initiative.

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

Not Applicable.

Other Initiatives

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

USAID has an ongoing Open Government initiative process. An Information Governance Committee was created, which comprises executive and senior agency leadership. The Committee developed and adopted policy that encourages the proactive release of data

pursuant to the Open Data Initiative. See Section III of this report for more details on how USAID continues to increase its proactive disclosures.

II. Steps Taken to Ensure that Your Agency has an Effective System in Place for Responding to Requests

As the Attorney General emphasized in his FOIA Guidelines, "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open Government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies effectively manage their FOIA program.

Describe here the steps your agency has taken to ensure that your management of your FOIA program is effective and efficient. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

Processing Procedures

I. For Fiscal Year 2015, what was the average number of days your agency reported for adjudicating requests for expedited processing? **Please see Section VIII.A. of USAID's Fiscal Year 2015 Annual FOIA Report.**

The average number of days to adjudicate requests for expedited processing was 8.34.

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

Not applicable.

3. On July 2, 2015, OIP issued new guidance to agencies on the proper procedures to be used in the event an agency has a reason to inquire whether a requester is still interested in the processing of his or her request. Please confirm here that to the extent your agency may have had occasion to send a "still interested" inquiry, it has done so in accordance with the guidelines for doing so, including affording requesters thirty working days to respond.

USAID issued still interested inquiries in Fiscal Year 2015. In doing so, USAID afforded the requesters 30 working days to respond, in accordance with DOJ guidelines, and does so regularly.

Requester Services

4. Agency FOIA Requester Service Centers and FOIA Public Liaisons serve as the face and voice of an agency. In this capacity, they provide a very important service for requesters, informing them about how the FOIA process works and providing specific details on the handling of their individual requests. The FOIA also calls on agency FOIA Requester Service Centers and FOIA Public Liaisons to assist requesters in resolving disputes. Please explain here any steps your agency has taken to strengthen these services to better inform requesters about their requests and to prevent or resolve FOIA disputes.

Members of USAID's FOIA Team routinely answer requester inquiries to include providing detailed statuses on the FOIA processing, and status of requests. Additionally, the USAID FOIA Public Liaison engages to resolve outstanding matters with the requester and in dispute resolution.

Other Initiatives

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

USAID continually assesses its overall FOIA program to identify and implement greater efficiencies. Each Government Information Specialists' caseload is assessed throughout the year to apply focused attention to the backlog, while addressing incoming new requests. In addition, USAID is introducing tools to facilitate faster, more streamlined electronic searches and deduplication of electronic records.

III. Steps Taken to Increase Proactive Disclosures

Both the President's and Attorney General's memoranda focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

Posting Material

I. Describe your agency's process or system for identifying "frequently requested" records required to be posted online under Subsection (a)(2) of the FOIA. **For example, does USAID monitor its FOIA logs or is there some other system in place to identify these records for posting.**

The FOIA Registrar reviews all incoming FOIA requests and scans the database to identify any similar information requests. If more than two (2) similar requests are identified, the responsive documents are reviewed to consider if the information is appropriate for proactive disclosure and posting online.

2. Does your agency have a distinct process or system in place to identify other records for proactive disclosure? If so, please describe USAID's process or system.

In addition to proactive disclosure of frequently requested records, USAID routinely identifies vast data sets and proactively discloses such information pursuant to the Government's Open Data Initiative. USAID also proactively discloses information in response to current media coverage on topics such as Ebola.

3. When making proactive disclosures of records, are USAID's FOIA professionals involved in coding the records for Section 508 compliance or otherwise preparing them for posting? If so, provide an estimate of how much time is involved for each FOIA professional overall.

USAID's FOIA professionals are not involved in coding the records for Section 508 compliance.

4. Has USAID encountered challenges that make it difficult to post records it otherwise would like to post?

Currently, there are no challenges to report.

5. If so, please briefly explain those challenges.

Not applicable.

6. Provide examples of material that **USAID** has proactively disclosed during the past reporting year, including links to the posted material.

USAID is committed to the President's Open Government initiative, upholding the values of transparency, participation, and collaboration as illustrated in various postings to the following websites: Dollars to Results (https://results.usaid.gov); Foreign Assistance.gov (ForeignAssistance.gov); Development Data Library (https://www.usaid.gov/data).

Dollars to Results (https://results.usaid.gov/) is the only place where USAID systematically and publicly reports on the impact of its work by linking investment and performance information. Dollars to Results visualizes USAID's impact by linking fiscal year results to fiscal year disbursements (spending). Users can view financial data and high level information at the country, sector, or subsector level with results shown at the subsector level.

With regard to ForeignAssistance.gov, USAID was the first U.S. Government agency to post detailed financial data on it and continues to post quarterly data in accordance with U.S. Government commitments under the <u>International Aid Transparency Initiative (IATI)</u>. New data released in the IATI format included: links to the Agency's operational policy, organizational and country strategies, audits, annual reports; conditions; activity status; sector codes; total award ceiling; and other description award information.

All datasets made available to the public are accessible at the Development Data Library (www.usaid.gov/data). During fiscal year 2015, USAID posted the results of sequential public opinion surveys. Other examples include data-on-construction activities supported by USAID from 2011 to 2013 and data-on-USAID projects with anti-corruption interventions implemented worldwide between 2007 and 2013.

7. Did USAID use any means to publicize or highlight important disclosures for public awareness? If yes, please describe those efforts.

Yes, USAID publicized and highlighted important disclosures for public awareness, such as tweets on USAID's official Twitter account.

Moreover, USAID published or contributed to several blogs and announced on social media the release of new International Aid Transparency Initiative (IATI) data fields. The IATI progress was referenced in the Agency's 2015 Financial Report (https://www.usaid.gov/results-and-data/progress-data/agency-financial-report).

When USAID publishes new datasets to the Development Data Library, it issues a notification via its Agency-wide Twitter handle to raise public awareness of the posting. In addition, USAID hosted its first ever open data hackathon in 2015, bringing together computer technology and subject matter experts to use USAID data to generate new insights in support of reducing crime and violence in Latin America. Over 100 participants from approximately 50 organizations participated in the event, generating eight (8) new project leads.

Other Initiatives

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

USAID is in the process of implementing phases two (2) and three (3) of the IATI cost management plan. As a result, USAID anticipates publishing an additional eleven (11) IATI data fields on ForeignAssistance.gov.

Further, USAID has integrated language into all new and existing awards made to its implementing partner community making it a requirement to submit datasets to the Development Data Library at www.usaid.gov/data. It is USAID policy to release this data to the public, by default, unless prohibited for reasons of privacy, security, or other considerations allowable by law. USAID's Open Data Team conducts periodic briefings for Agency personnel and representatives of the partner community explaining the value of open data, emphasizing the

importance of submitting datasets to the Development Data Library and exploring suitable methods for balancing data protection with USAID's commitment to transparency.

IV. Steps Taken to Greater Utilize Technology

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that describes your agency's efforts in this area.

Making Material Posted Online More Useable

I. Beyond posting new material, is your agency taking steps to make the posted information more useable to the public, especially to the community of individuals who regularly access your agency's website? **Steps can include soliciting feedback on the content and presentation of posted material, improving search capabilities on your agency website, posting material in open formats, making information available through mobile applications, providing explanatory material, etc.**

Yes, in FY 2015, to help inform the U.S. Government's aid transparency agenda, USAID conducted three (3) aid transparency country pilot studies (https://www.usaid.gov/transparency/country-pilot-assessment) to assess the demand for and relevance of information that the U.S. Government is making available as well as the capacity of different groups to use it. USAID has started implementing some of the recommendations to help improve the transmission of foreign assistance data to ensure that the transparency efforts of the U.S. Government create development impact. As a result of the country pilot studies, for the first time, the Third U.S. National Action Plan for Open Government (https://www.whitehouse.gov/sites/default/files/microsites/ostp/final_us_open_government_natio nal_action_plan_3_0.pdf) includes a commitment to engage in selective capacity building efforts to promote foreign assistance data use.

USAID's open data policy (ADS 579 - USAID Development Data) gained significant momentum in 2015. By year end, USAID added 99 datasets to its publicly available Development Data Library (DDL) (www.usaid.gov/data) and began shepherding an additional 34 datasets through its internal clearance process. Consistent with its commitments in the Quadrennial Diplomacy and Development Review (QDDR), USAID also began to establish a new DDL platform to improve usability, streamline business processes, enhance appearance, and strengthen search functions. USAID also began holding a series of ongoing consultations with its implementing partners to inform these upgrades.

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

Specific improvements include the following:

- In fiscal year 2015, USAID updated Dollars to Results with fiscal year 2014 data for the 45 countries listed on the website.
- In June 2015, USAID approved a multi-phase International Aid Transparency Initiative (IATI) cost management plan (https://www.usaid.gov/documents/1870/usaid-iati-cost-management-plan) to improve its reporting to IATI. ForeignAssistance.gov is the vehicle by which the U.S. Government reports to IATI. In FY 2015, USAID implemented phase one of the plan which included publishing 15 new fields on FA.gov. As a result, USAID moved from the "Fair" to the "Good" category in Publish What You Fund's 2015 U.S. Aid Transparency Review, increasing by 20 points, more than any other U.S. agency.

Use of Technology to Facilitate Processing of Requests

Other Initiatives

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2015?

Yes.

4. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2016.

Not applicable.

5. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible?

Yes, USAID FOIA professionals use e-mail, as well as a web-based Public Access Link (PAL) to communicate with requesters.

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

The President's FOIA Memorandum and the Attorney General's 2009 FOIA Guidelines have emphasized the importance of improving timeliness in responding to requests. This section your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations. For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2015 Annual FOIA Report and, when applicable, your agency's 2014 Annual FOIA Report.

Simple Track

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

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

Yes.

2. If so, for your agency overall in Fiscal Year 2015, was the average number of days to process simple requests twenty working days or fewer?

No, the average number of days to process simple requests was 28.68.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2015 that were placed in your simple track.

In Fiscal Year 2015, USAID placed 12% of the Agency's processed requests in the simple track.

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

Not Applicable.

Backlogs

Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2014 and Fiscal Year 2015 when completing this section of your Chief FOIA Officer Report.

Backlogged Requests

5. If your agency had a backlog of requests at the close of Fiscal Year 2015, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2014?

No.

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

Factors contributing to the backlog include the following:

- Complexity. FOIA requests and corresponding responsive records have increased in complexity. USAID, in accordance with DOJ guidelines, maintains simple, complex and expedited tracks for requests. The majority of all requests submitted to USAID are complex. By their nature, complex requests are those which involve voluminous records, for which numerous consultations are required, or which involve sensitive records. For example, the majority of requests USAID receives seek records that contain confidential and commercial information. Thus, as required by Executive Order 12600, USAID must routinely solicit business submitter's comment on releasability of their confidential commercial information. And, as a result, USAID frequently invokes 5 U.S.C. 552(b)(4) to protect certain submitter proprietary information that could cause competitive harm if it were to be released. Overall, this process of liaising with submitters requires additional processing days for coordination, deliberation, and ultimately, redaction of confidential information.
- Volume. The "any and all records" requests require broad and extensive collaboration
 with requesters in an attempt to more specifically pinpoint agency records
 sought. FOIA staff will often communicate with the requestor to better define the
 scope, after which collaboration with the appropriate USAID office(s) often occurs. This
 often includes various offices in Washington and around the globe, as well as
 communication with internal and external stakeholders, contributing to significant
 processing time.
- World-wide Events. Requests driven by unforeseen or unplanned events that often
 times also become matters in the media (e.g., Haiti Earthquake, Tsunamis, Ebola
 outbreak, Cuban Twitter, etc.) increases public interest and the need to
 collaborate/coordinate internationally. Requesters in these circumstances often seek and
 are granted expedited treatment in processing. Focusing attention on these timesensitive requests can delay the processing of other existing requests.
- Open Data Initiative/Congressional Inquiries. The USAID FOIA team has an
 expanded role in opining on the release of data in response to the Open Data Initiative
 and processing documents in response to time-sensitive Congressional inquiries. With

regard to open data, the FOIA team plays an integral role in the established agency review process for data sets published publicly. With regard to Congressional inquiries, FOIA staff are engaged to apply expertise on transparency and records access to inform USAID's decision-making process that leads to information-sharing.

USAID will continue to assess its backlog and develop strategies to eliminate the backlog.

7. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2015. **To calculate your agency's percentage, you must divide the number of backlogged requests reported in Section XII.A. of your Fiscal Year 2015 Annual FOIA Report by the number of requests received in Fiscal Year 2015, which can be found in Section V.A. of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get the percentage.**

The percentage of requests that make up the backlog out of the total number of requests received by USAID in Fiscal Year 2015 is 91%.

Backlogged Appeals

8. If your agency had a backlog of appeals at the close of Fiscal Year 2015, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2014?

Yes, the number of backlogged appeals at the close of Fiscal Year 2015 decreased as compared with the backlog reported at the end of Fiscal Year 2014.

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

10. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2015. If your agency did not receive any appeals in Fiscal Year 2015 and/or has no appeal backlog, please answer with "N/A." **To calculate your agency's percentage, you must divide the number of backlogged appeals reported in Section XII.A. of your Fiscal Year 2015 Annual FOIA Report by the number of appeals received in Fiscal Year 2015, which can be found in Section V.A. of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get the percentage.**

The percentage of appeals that make up the backlog out of the total number of appeals received by USAID in Fiscal Year 2015 is 35%, which was reduced by 78% in comparison to Fiscal Year 2014 at 112.5%.

Status of Ten Oldest Requests, Appeals, and Consultations

Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2014 and Fiscal Year 2015 when completing this section of your Chief FOIA Officer Report.

Ten Oldest Requests

II. In Fiscal Year 2015, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

No.

12. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2014 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

USAID closed nine (9) of its ten (10) oldest requests reported to the Department of Justice.

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

Of the nine (9) closed, none were withdrawn.

Ten Oldest Appeals

14. In Fiscal Year 2015, did your agency close the ten oldest appeals that were pending as in your Fiscal Year 2014 Annual FOIA Report?

Yes.

15. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed Section VII.C.(5) of your Fiscal Year 2014 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

Not applicable.

Ten Oldest Consultations

16. In Fiscal Year 2015, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

Yes.

17. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2015 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

Not applicable.

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

18. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2015.

For one of the ten oldest requests that remained opened, USAID faced challenges inherent in the need to coordinate with another Federal agency that had substantive equity in the voluminous and complex responsive records.

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

20. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2016.

The one request to be closed has been reprocessed as referenced in Section V(3)(h) above. USAID anticipates clearance and closure of this request by summer 2016.

Use of FOIA's Law Enforcement Exclusions

1. Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2015?

No.

2. If so, please provide the total number of times exclusions were invoked.

Not applicable.

Success Story

Out of all the activities undertaken by your agency since March 2015 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas. As noted above, these agency success stories will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

- USAID significantly reduced its backlog of appeal requests in Fiscal Year 2015 to 35%. This is a 78% reduction from 112.5% of backlogged appeal requests in Fiscal Year 2014.
- USAID acquired a de-duplication solution to facilitate faster, more streamlined electronic searches and de-duplication of electronic records, such as threaded voluminous e-mail communications.
- USAID expanded its instructor-led Records Management & FOIA Access agency-wide training
 around the globe. Building on the importance of records management when searching for
 agency records in response to a FOIA request, the FOIA Access component was added to what
 is now a week-long training. The training includes a FOIA overview, how to scope a request,
 how to conduct a search for responsive records, and the importance of administrative records
 to help ensure compliance. The instructor-led course is delivered globally and is met with great
 interest and demand.