



Federal Trade Commission Chief FOIA Officer Report

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**Federal Trade Commission 2022
Chief FOIA Officer Report**

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Federal Trade Commission
2022 Chief FOIA Officer Report
Elizabeth Tucci, Deputy General Counsel for Legal Counsel and Chief FOIA Officer

[Introduction](#)

The Federal Trade Commission (FTC) is an independent law enforcement agency established in 1914. The FTC's dual mission is to promote competition and protect consumers in broad sectors of the economy. The FTC's work is performed by the Bureaus of Consumer Protection, Competition, and Economics. That work is aided by eight regional offices and several program offices.

The FTC administers its FOIA program through its Office of General Counsel. The FOIA program employs five attorneys and five government information specialists, with occasional support of contractors and other staff, and processes all record requests made to the agency. As Chief FOIA Officer, I am proud to report that in Fiscal Year 2022, the agency processed 1,579 requests – and increase of almost 200 from the prior fiscal year, as well as 49 administrative appeals, up from 39 the prior year. The FOIA program successfully managed these record increases while providing training to senior leaders, implementing new processes to accommodate a rising caseload, and transitioning from mandatory telework to a hybrid environment.

[Section I: FOIA LEADERSHIP AND APPLYING THE PRESUMPTION OF OPENNESS](#)

The guiding principle underlying DOJ's [FOIA Guidelines](#) is the presumption of openness.

Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

A. Leadership Support for FOIA

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at least at the Assistant Secretary or equivalent level. See 5 U.S.C. § 552(j)(1) (2018). Is your agency's Chief FOIA Officer at or above this level?

Answer: Yes. According to the Government Accountability Office (GAO), the FTC Chief FOIA Officer should be at the assistant secretary level or equivalent. (GAO-18-365, June 25, 2018.) The assistant secretary level is comparable to senior executive positions at levels III, IV, and V. The FTC designated a Deputy General Counsel, a senior executive position, as the agency's Chief FOIA Officer.

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

Answer: Elizabeth Tucci, Deputy General Counsel for Legal Counsel.

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

Answer: The FOIA request process intersects with every FTC Bureau and Office and is an integral part of the fabric of the agency's workplace environment. The FTC's Office of the General Counsel (OGC) and its FOIA office continually engage in ongoing conversations with agency staff on FOIA matters to inform non-FOIA professionals of their obligations under the FOIA Act. FOIA staff routinely advise FTC Bureaus and Offices of their responsibilities under FOIA and closely works with custodians in those bureaus and offices whose records are the subject of FOIA requests, appeals, or litigation. Additionally, the Assistant General Counsel in OGC who oversees the FOIA Program provides a FOIA briefing at FTC University, a new employee training seminar that emphasizes FTC employees' crucial role in the FOIA process. During fiscal year 2022, the agency continued to see an uptick in FOIA litigation which simultaneously increased actual FOIA litigation costs. Acknowledging the immense toll that these court proceedings can impose on agency resources, the FTC's Annual Performance Report for Fiscal Year 2022, and Annual Performance Plan for Fiscal Year 2023 and 2024 will incorporate a FOIA matrix to measure the percentage of increase in FOIA litigation costs.

B. Presumption of Openness

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

Answer: Yes.

2. In some circumstances, agencies may respond to a requester that it can neither confirm nor deny the existence of requested records if acknowledging the existence of records would harm an interested protected by a FOIA exemption. This is commonly referred to as a *Glomar* response. With respect to these responses, please answer the below questions:
 - a. In addition to tracking the asserted exemption, does your agency specifically track whether a request involved a *Glomar* response?
 - b. If yes, please provide:
 - i. the number of times your agency issued a full or partial *Glomar* response (separate full and partial if possible);
 - ii. the number of times a *Glomar* response was issued by exemption (e.g., Exemption 7(C) – 20 times, Exemption 1 – 5 times).
 - c. If your agency does not track the use of *Glomar* responses, what would your agency need to do to track in the future? If possible, please describe the resources and time involved.

Answer: During FY 22 we did not track the use of the *Glomar* response. However, to track *Glomar* in the future, we have designated a disposition in FOIAXpress that will allow us to track in FY 23.

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

Answer: N/A.

SECTION II: STEPS TAKEN TO ENSURE THAT YOUR AGENCY HAS AN EFFECTIVE SYSTEM IN PLACE FOR RESPONDING TO REQUESTS

A. FOIA Training

1. The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. See 5 U.S.C. § 552(a)(j)(2)(F). Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.

Answer: The FOIA team has biweekly meetings to assess the need for training. The lead attorney updates the FOIA manuals and guidance periodically to ensure the team follows proper guidelines. Additionally, FOIA training offered by OIP is placed on the team's Calendar for awareness.

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

Answer: Yes, FOIA professionals and personnel both attended and conducted FOIA training during this reporting period.

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

Answer: The FOIA professionals attended several trainings over the course of the fiscal year including the below:

November 2021- FOIA Litigation Seminar
May 2022- Fee and Procedures
July 2022 – OIP Virtual Privacy Considerations
July 2022 – FTC Foreseeable Harm
July 2022 - OIP Virtual FOIA Continuing Education

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

Answer: 80%.

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

Answer: N/A.

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

Answer: The members of the FOIA team conduct individual virtual trainings for incoming office liaisons across the agency as needed. These virtual training courses provided liaisons with the knowledge and support they needed to conduct proper searches for files and understand the overall FOIA process. In addition, this year, the FOIA team conducted targeted training of agency senior managers and other non-FOIA staff who facilitate record searches in their individual agency division or offices.

B. Outreach

1. Did your FOIA professionals engage in any outreach or dialogue, outside of the standard request process, with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency’s FOIA administration.

Answer: The Chief FOIA Officer consulted with colleagues at a partner agency regarding its treatment of documents used by both agencies in light of the 2022 AG FOIA Openness Memo. This consultation aided the FOIA team in resolving disclosure requests. In addition, the FOIA Public Liaison worked with multiple requesters on complex or recurring issues. As a result, the FOIA team improved its practices, including applying appropriate exemptions on calendar entries more consistently and updating its practices for processing requests for Consumer Sentinel records. In addition, the FOIA team engaged with the requesters through the FTC’s FOIA Hotline (at 202-326-2430) and the agency’s FOIA email inbox (FOIA@FTC.GOV). In addition, the FTC also provides contact information for its Chief FOIA Officer and FOIA Public Liaison online (at <https://www.ftc.gov/about-ftc/foia/freedom-information-act-contacts>), and the Public Liaison works to resolve questions . The FOIA Office routinely communicates with requesters and other members of the public

on an individual basis and is available to answer questions regarding FOIA policies or procedures.

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

Answer: Yes. Each FOIA staff member handling requests provides his or her direct telephone number to the requester in the acknowledgment, extension, and response letters. Additionally, it is very common for the FOIA staff to call or email requesters directly to clarify or suggest narrowing the scope. For example, a FOIA staff member reached out to a requester to clarify search terms for a request for consumer complaints. The FOIA professional noted that the request sought complaints regarding Ticketmaster and LiveNation containing the terms “scalping,” “scalper,” “scalp,” “resale,” “reseller,” or “secondary market.” The requester sought clarification on the requests seeking complaints containing the terms “verified resale” and “official platinum,” asking whether the requester sought those terms used in relation to Ticketmaster and LiveNation or a search with just those terms in relation to ticket resale. The requester responded, “Thank you for following up. I would love those two terms specifically pertaining to ticket resale, if possible – not just TicketMaster and LiveNation.” This is just one example of the FOIA team communication with requesters to ensure a proper search.

3. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency’s FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency’s FOIA Public Liaison during Fiscal Year 2022 (please provide a total number or an estimate of the number).

Answer: 150.

C. Other Initiatives

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

Answer: This fiscal year, the FTC experienced peak levels of requests, some of which were particularly complicated. For the second year in a row, FOIA requests rose significantly to a record 1,615 requests – up 17 percent, or more than 200 requests from the prior year. Steadily, an increase in overdue requests materialized as a consequence of normal attrition of FOIA staff and FOIA requests reaching extraordinarily high counts and eliciting greater complexities. In response to the rising demand and resulting overdue backlog, the FTC first implemented measures to streamline the lengthy records-gathering component of the process by conducting additional training of agency senior managers and other non-FOIA staff who facilitate record searches in their individual agency division or office. This effort has helped

to alleviate some of the internal bottlenecks that typically clog FOIA staff's complex request dockets.

Second, FTC senior management proposed new approaches to combat attrition, including adding personnel on a term basis to assist with simple FOIA requests and the rigors of FOIA litigation document reviews and revising FOIA staff's position descriptions to better correspond with their additional responsibilities. In doing so, the agency should be able to handle the projected FOIA demand and increase FOIA professional retention.

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

Answer: The FOIA team lead uses the FOIAXpress reporting tool weekly to monitor the status of all requests. This weekly report displays all request information, including the remaining days to process. The FOIA Lead then uses that report to assign the team incoming FOIA request to ensure a balanced workload for all FOIA staff. Additionally, the team has a biweekly meeting where the reporting tool is used to highlight trends, recognize productivity, and discuss any overdue or challenging requests.

3. If there are any other initiatives undertaken by your agency to ensure fair and effective FOIA administration, please describe them here.

Answer: Pursuant to the principles set forth in OMB's 2009 Open Government Directive and the U.S. Chief Information Office's 2016 Open Plan Guidance, the FTC created its [Open Government Plan](#). In keeping with that plan, the FTC continues to take steps to improve its transparency and enable customers and website visitors to locate information more easily. For instance, the FTC has made available online: [business guidance](#), [economic reports](#), [speeches](#), consumer [robocall complaints](#), [FOIA responses](#), and a wide range of other information and datasets that would otherwise require a FOIA request to access. More information is available at <https://www.ftc.gov/site-information/open-government>.

SECTION III: PROACTIVE DISCLOSURES

DOJ's FOIA Guidelines emphasize that "[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.

1. Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures.

Answer: FOIA staff are trained to identify instances of related requests, and routinely meet with management to discuss trends in requests to determine those records that might qualify for proactive disclosure under the FOIA. The number of "hot topics" (or frequently requested

records or subjects) is currently 14 and can be found on the FTC's website at <https://www.ftc.gov/legal-library/frequently-requested-foia-records>.

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

Answer: The FTC continued to update its FOIA Reading Room, posting frequently requested agency records, including the following:

- Commission Voting Policy [commission-voting-policy](#)
 - Leadership Calendars Chair Khan [leadership-calendar-chair-lina-m-khan](#)
 - Leadership Calendars Commissioner Bedoya [leadership-calendar-commissioner-alvaro-bedoya](#)
 - Leadership Calendars Commissioner Wilson [leadership-calendar-commissioner-christine-s-wilson](#)
 - Leadership Calendars Commissioner Philips [leadership-calendar-commissioner-noah-joshua-phillips](#)
 - Leadership Calendars Commissioner Slaughter [leadership-calendar-commissioner-rebecca-kelly-slaughter](#)
 - Leadership Calendars Commissioner Chopra [leadership-calendar-former-commissioner-rohit-chopra](#)
3. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?

Answer: Yes.

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

Answer: The FTC has for years provided information in various file formats to make it more accessible and useful to the public. The agency continues to identify datasets that can be made available via an Application Programming Interface (API) or in machine-readable format, which allows data users and developers to query, gather, and manipulate the FTC's data. Providing data in this format facilitates broad dissemination of its content to the public, and it corresponds with the FTC's Open Government Plan and Strategic Plan. More information on the FTC API is available at <https://www.ftc.gov/developer>.

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

Answer: Yes, the FOIA office regularly collaborates with the agency's web team to post frequently requested FOIA record(s) on the agency's reading room.

6. Optional — Please describe the best practices used to improve proactive disclosures and any challenges your agency faces in this area.

Answer: N/A.

SECTION IV: STEPS TAKEN TO GREATER UTILIZE TECHNOLOGY

1. Has your agency reviewed its FOIA-related technological capabilities to identify resources needed to respond to current and anticipated FOIA demands?

Answer: Yes.

2. Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program.

Answer: During FY2022, the FOIA office integrated Relativity, an eDiscovery software that offers case assessment, review, production, analytics, etc. This tool offers the FOIA team the capability to manage large volumes of data and identify key issues during litigation.

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

Answer: No the agency does not use any tech to automate record processing.

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

Answer: Yes.

5. Did all four of your agency's [quarterly reports](#) for Fiscal Year 2022 appear on FOIA.gov?

Answer: Yes.

6. If your agency did not successfully post all quarterly reports on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2023.

Answer: N/A.

7. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2021 Annual FOIA Report and, if available, for your agency's Fiscal Year 2022 Annual FOIA Report.

Answer: The raw statistical data for FY 2022 is included in the FTC's 2022 FOIA Annual Report, which is posted :

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

Answer: Yes.

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

Answer: N/A.

Section V: STEPS TAKEN TO REMOVE BARRIERS TO ACCESS, IMPROVE TIMELINESS IN RESPONDING TO REQUESTS, AND REDUCE

A. Remove Barriers to Access

1. Has your agency established alternative means of access to first-party requested records outside of the FOIA process?

Answer: Although the FTC has explored alternative means of providing consumers with copies of their complaints, we have yet to identify a secure and efficient solution.

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

Answer: N/A.

B. Timeliness

1. For Fiscal Year 2022, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2022 Annual FOIA Report.

Answer: 5.4.

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2022 Annual FOIA Report, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Answer: N/A.

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

Answer: Yes, the FTC uses a multi-track processing system, which places simple requests on a different processing track than more complex requests and those granted expedited processing. It does not utilize tracks beyond simple, complex, and expedited.

4. If your agency uses a separate track for simple requests, according to Annual FOIA Report section VII.A, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2022?

Answer: Yes.

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

Answer: N/A.

6. Please provide the percentage of requests processed by your agency in Fiscal Year 2022 that were placed in your simple track. Please use the following calculation based on the data from your Annual FOIA Report: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) x 100.

Answer: 58%.

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

Answer: N/A.

C. Backlogs

BACKLOGGED REQUESTS

1. If your agency had a backlog of requests at the close of Fiscal Year 2022, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2021?

Answer: No.

2. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2022 than it did during Fiscal Year 2021?

Answer: Yes. We processed 204 more requests in Fiscal Year 2022 than Fiscal Year 2021.

3. If your agency's request backlog increased during Fiscal Year 2022, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:
 - An increase in the number of incoming requests
 - A loss of staff
 - An increase in the complexity of the requests received (if possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase)
 - Impact of COVID-19 and workplace and safety precautions
 - Any other reasons – please briefly describe or provide examples when possible

Answer: The FTC saw an increase in FOIA requests, rising from 1,385 in Fiscal year 2021 to 1,619 in Fiscal Year 2022. Appeals also rose, increasing from 35 in Fiscal Year 2021 to 49 in Fiscal Year 2022.

4. 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 2022. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. This number can be greater than 100%. If your agency has no request backlog, please answer with "N/A."

Answer: 1.4%.

BACKLOGGED APPEALS

5. If your agency had a backlog of appeals at the close of Fiscal Year 2022, according to Section XII.E.2 of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2021?

Answer: N/A. The FTC had no backlogged appeals at the close of either fiscal year.

6. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2022 than it did during Fiscal Year 2021?

Answer: N/A.

7. If your agency's appeal backlog increased during Fiscal Year 2022, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:
 - An increase in the number of incoming appeals

- A loss of staff
- An increase in the complexity of the requests received (if possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase)
- Impact of COVID-19 and workplace and safety precautions
- Any other reasons – please briefly describe or provide examples when possible.

Answer: N/A.

8. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2022. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received from Section VI.A) x 100. This number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2022 and/or has no appeal backlog, please answer with “N/A.”

Answer: N/A.

D. Backlog Reduction Plans

1. In the 2022 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2021 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your agency implement a backlog reduction plan last year? If so, describe your agency’s efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2022?

Answer: N/A.

2. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2022, please explain your agency’s plan to reduce this backlog during Fiscal Year 2023.

Answer: N/A.

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

TEN OLDEST REQUESTS

1. In Fiscal Year 2022, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2021 Annual FOIA Report?

Answer: The FTC closed 10 of 10 oldest pending requests from FY21.

2. 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 2021 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

Answer: N/A.

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

Answer: N/A.

TEN OLDEST APPEALS

4. In Fiscal Year 2022, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2021 Annual FOIA Report?

Answer: The FTC closed 4 of 4 oldest pending appeals from FY21.

5. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2021 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

Answer: N/A.

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

Answer: N/A.

TEN OLDEST CONSULTATIONS

7. In Fiscal Year 2022, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2021 Annual FOIA Report?

Answer: N/A. The FTC did not have any pending consultations at the end of the fiscal year.

8. 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 2021 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

Answer: N/A.

ADDITIONAL INFORMATION REGARDING TEN OLDEST

9. If your agency did not close its ten oldest pending requests, appeals, or consultations, please explain why and provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2023.

Answer: N/A.

F. Additional Information about FOIA Processing

1. Were any requests at your agency the subject of FOIA litigation during the reporting period? If so, please describe the impact on your agency's overall FOIA request processing and backlog. If possible, please indicate the number and nature of requests subject to litigation, common causes leading to litigation, and any other information to illustrate the impact of litigation on your overall FOIA administration.

Answer: There were 4 FOIA request that were subject to litigation this Fiscal year. These litigations compounded the challenges for FOIA staff who were already managing a sharp increase in complex requests. The combined effect heavily burdened FOIA staff, increasing both request processing time and the backlog. The common causes that have contributed to litigation include delays in obtaining responsive records from custodians and increasing demands on FOIA staff, both of which led to untimely responses; dissatisfaction with FOIA appeal determinations; and questions regarding the search efforts used by the FOIA team.

2. How many requests during Fiscal Year 2022 involved unusual circumstances as defined by the FOIA?

Answer: 183.