Department of Energy

2014 Chief Freedom of Information Act (FOIA) Officer Report

Ingrid Kolb, Director, Office of Management

I.   **Steps Taken to Apply the Presumption of Openness**

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?

   Yes, the agency conducted training during this reporting period.

2. If so, please provide the number of conferences or trainings held, a brief description of the topics covered, and an estimate of the number of participants from your agency who were in attendance.

   The Office of Hearings and Appeals in tandem with the FOIA Office and the Office of General Council, conducted monthly trainings via conference calls for the field and Headquarters. The training sessions covered a broad area of topics such as FOIA exemptions 2 through 6, agency records vs. contractor records, fees and fee waivers, and the Office of Government Information Services (OGIS). The average number of FOIA Officers and FOIA professional attendees on these calls was 35-49. The FOIA Office also conducted periodic conference calls with field personnel to discuss FOIA issues and developments. At HQ, the FOIA office held a Spring Fling training session and discussed a number of FOIA topics including procedural requirements, communicating with requesters, application of exemptions, and searching for and reviewing documents. This was attended by approximately 20 HQ FOIA professionals. The HQ FOIA office and the Office of General Counsel also conducted individual training sessions for various HQ program offices and staff that were new to processing requests. The number of attendees and topics of the sessions varied according to the needs of the office.

   The FOIA Office at the Chicago Operations Office conducted extensive training for all personnel at their six site offices that oversee Management and Operating laboratories. The site office training involved attendance by approximately 100 individuals and the subject matter trainings involved attendance by approximately 150 individuals. The site office and subject matter training sessions were customized for the organizations being trained and focused on the types of information the site office or subject matter personnel handle routinely.

   At the Southeastern Power Administration, agency personnel with FOIA responsibilities subscribe to the GovDelivery service that transmits email updates on behalf of the Department of Justice (DOJ). The service allows personnel to

stay abreast of the latest postings from the DOJ website, which includes news from the Attorney General's Office, the Federal FOIA Post Updates Program and the Open Government and Transparency Act initiatives.

The National Nuclear Security Administration conducted training for employees in their Office of Human Capital management who process FOIA requests. The training provided an overview of FOIA, policies, agency rules, application of exemptions and examples. All employees who typically process FOIA requests attended the training and a CD version of it was made available to other agency staff.

The Bonneville Power Administration FOIA staff provided introductory FOIA training at new employee orientations.

3. Did your FOIA professionals attend any FOIA training during the reporting period such as that provided by the Department of Justice?

During this reporting year DOE FOIA professionals have attended training provided by DOJ, and the American Society of Access Professionals (ASAP). Some have also attended training provided by OGIS on FOIA Dispute Resolution.

4. Provide an estimate of the percentage of your FOIA professionals who attended substantive FOIA training during this reporting period.

Approximately 65% of FOIA professionals attended substantive FOIA training during this period.

5. OIP has issued guidance that every agency should make core, substantive FOIA training available to all their FOIA professionals at least once a year. Provide your agency's plan for ensuring that such training is offered to all agency FOIA professionals by March 2015. Your plan should anticipate an upcoming reporting requirement for your 2015 Chief FOIA Officer Reports that will ask whether all agency FOIA professionals attended substantive FOIA training in the past year.

As budgets are cut and money becomes less available, it is difficult to host major training conferences where majority of the attendees would be on travel and per diem. The Agency's plan, however, is to have the Headquarters' FOIA Office inform all FOIA professionals about the various FOIA trainings provided by USDA, DOJ, ASAP and other outlets. The Field Offices will provide quarterly reports to Headquarters regarding the professionals who attended FOIA training. In addition, DOE requires all FOIA professionals to participate in the monthly calls that are conducted to train and advise them on the FOIA.

6. Did your FOIA professionals engage in any outreach and dialogue with the requester community or open government groups regarding your administration of the FOIA? If so, please briefly discuss that engagement.

The FOIA Officers and offices routinely reach out to requesters from all communities to discuss FOIA requests in general. This communication consists of clarifying requests, narrowing requests, negotiating fees, pending status and other issues that enable us to process requests more efficiently. Open communication with the requester is a practice that has been and continues to be encouraged as way to keep the requester apprised of our ongoing processing efforts.

At the Chicago office, the FOIA Officer routinely follows up with requesters after a final response has been issued. The FOIA Officer's goal is to solicit feedback regarding the requester's satisfaction with the processing of the request.

7. Does your agency have a formal process in place to review records for discretionary release? If so, please briefly describe this process. If your agency is decentralized, please specify whether all components at your agency have a process in place for making discretionary releases.

At the Department, records holders are encouraged to review records and try to ascertain if potentially protectable information under the FOIA, could be released at the DOE's discretion. If it is determined by the cognizant office/record holder that responsive information should be protected from release, the documents and rationale for withholding are provided to the Office of General Counsel for review. This potentially protectable information is reviewed to determine if the material meets the threshold of the exemption that is identified. If the information can be protected by the exemption, counsel then determines whether there is a justifiable harm in releasing the information. If there is no justifiable harm, counsel advises the cognizant office/record holder that release is warranted. Counsel also provides advice regarding discretionary release of information that could otherwise be protected.

8. During the reporting period did your agency make any discretionary releases of otherwise exempt information?

Yes.

9. What exemptions would have covered the information that was released as a matter of discretion?

Discretionary releases were made for documents that could have been withheld under exemption 5.

10. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.

The types of discretionary releases DOE made are as follows: personnel security analyst comments and recommendations in personnel security files; draft reports; technical drawings; exposure and health data on individuals; historical investigative files; operations security information;; and deliberative internal e-mail discussions. In addition, deliberative process material has been released when decision processes are outdated, and when decision makers see no foreseeable harm in release.

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

N/A

12. Did your agency post all of the required quarterly FOIA reports for Fiscal Year 2013? If not, please explain why not and what your plan is for ensuring that such reporting is successfully accomplished for Fiscal Year 2014.

Due too technical issues the DOE did not post all of the required quarterly FOIA reports for Fiscal Year 2013. The issue has been resolved and the DOE will post all future quarterly reports.

13. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied. If any of these initiatives are online, please provide links in your description.

The current Secretary of Energy issued a new memorandum for Heads of all DOE elements regarding the FOIA program on August 27, 2013, and found at http://www.energy.gov/management/downloads/memorandum-secretary-moniz-freedom-information-act-foia.   This memorandum discussed his full support of the President's commitment to open government and transparency. He encouraged the improvement of response times to FOIA requests and to closing longstanding requests. He also declared his expectation that the DOE's senior leaders continue to support the President's guidance regarding transparency and to make certain that FOIA requests are responded to in an expeditious manner.

At the DOE, the FOIA Offices also continue to communicate with records holders and subject matter experts on sensitivities contained in responsive documents and the possibility of discretionary release. Legal counsel reviews, and must concur on all withholdings using a FOIA exemption. If it is determined by the cognizant office/record holder that the responsive information should be protected from release by an exemption, the documents and rationale for withholding are provided to counsel for review. Counsel reviews the documents to first determine if the material meets the threshold of the identified exemption. If the information

can be protected by the exemption, counsel then determines whether there is a justifiable harm in releasing the information. If there is no justifiable harm, counsel advises the cognizant office/record holder that release is warranted.

We continue to include language in our response letters referencing the Attorney General's memorandum, our commitment to openness and providing as much information (including segregating releasable information) when full disclosure is not possible. DOE has redistributed the President's and Attorney General's guidance on FOIA and transparency to ensure that all are educated.

The mission of our Office of Scientific and Technical Information (OSTI) is to advance science and sustain technological creativity by making R&D finds available and useful to DOE researchers and the public. As a result, OSTI is a leader in increasing access to the government's vast stores of R&D results. As OSTI has increased precision and power of information search tools, information access to DOE R&D results has become quicker, more convenient, and more complete than ever before. In addition, since March 2013, OSTI initiated a large scale digitization effort, whereby approximately 90,000 documents were digitized. Approximately 30,000 of the 90,000 documents are currently available in OSTI's web base products and services that are publicly available via www.osti.gov.

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

1. Has your agency converted all of its FOIA professionals to the new Government Information Specialist job series?

   No, the DOE has not converted all of its FOIA professionals to this new series.

2. If not, what proportion of personnel has been converted to the new job series?

   Seventy-five percent of the FOIA professionals have been converted to the new job series. The remaining 25% are working with the Human Resources Office to determine if the change is applicable. NNSA has an Information Specialist position description at the NQ-2 level within NNSA's Demonstration Project personnel system. In some offices the FOIA professionals have FOIA as a collateral duty or FOIA is just one of their duties and therefore will not be converted. Therefore, they were not included in this calculation.

3. If not, what is your plan to ensure that all FOIA professionals' position descriptions are converted?

   The HQ FOIA Office will obtain the rationale for the delay in converting eligible professionals for this new job series. These issues will then be forwarded to the Human Resources Office at HQ for resolution.

4. For Fiscal year 2013 did your agency maintain an average of ten or less calendar days to adjudicate requests for expedited processing? If not, describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

   Yes. The DOE maintained a seven day average to adjudicate requests for expedited treatment.

5. Has your agency taken any steps to make the handling of consultations and referrals more efficient and effective, such as entering into agreements with other agencies or components on how to handle certain categories or types of records involving shared equities so as to avoid the need for a consultation or referral altogether, or otherwise implementing procedures that speed up or eliminate the need for consultations. If so, please describe those steps.

   The DOE continues to treat consultations with the same priority as requests received directly. We communicate with other agencies on an ad hoc basis to try to resolve issues quickly and efficiently and to eliminate unnecessary processing time. While we do not have any agreements or established guidelines, we work with agencies as each case dictates.

   We review each consultation/referral independently to determine how we can efficiently take action. This includes contacting the originating agency for further guidance/instruction and in some cases arranging to have documents shipped electronically. We have also reviewed our process for documents that require consultations with other agencies. For example, if a document that contains equities of another agency(s) is being withheld in its entirety by our office, a consult may not be necessary, thus eliminating unnecessary processing days.

6. Do you use e-mail or other electronic means to communicate with requesters when feasible?

   Yes, the DOE communicates with requesters by e-mail. These communications may concern status of request, discussion of fees, need to clarify or narrow scope, provide responses, and so forth.

7. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at NARA?

Appeal decisions issued by the DOE's Office of Hearings and Appeals include language for the requester regarding the mediation services offered by OGIS. FOIA professionals also contact OGIS or recommend a requester contact OGIS if the agency and the requester are not coming to amenable terms regarding the scope of request, timeliness, fees, and so forth.

8. Describe 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.
The DOE continually strives for ways to improve our process. Issues are discussed at meetings between the Chief FOIA Officer, FOIA staff and FOIA Managers. The FOIA Office continues its monthly status meeting with the Office of General Counsel to resolve pending issues. We communicate and provide suggestions to the contractor on ways to improve the FOIA software utilized at the DOE.
We work closely with the Information Technology support group in the Office of Management that provides technical support for the FOIA tracking system. Our Office of the Chief Information Officer has created a new server to better facilitate our FOIA tracking system and allow us to use certain features more efficiently. The DOE continues its conference calls with DOE FOIA Officers, during which individual requests, as well as the overall process, are discussed. A desk reference guide is provided to employees with FOIA responsibilities to ensure that they are knowledgeable about procedures for processing FOIA requests.

Our monthly training calls assist in ensuring that FOIA professionals are trained and updated on current procedures. We continue to educate offices on how to conduct searches. We believe this will help to decrease the time it takes record holders to conduct searches. The DOE plans to conduct a demo of software that will allow records to be de-duped electronically and search for specific responsive documents.

At Headquarters and the NNSA, a FOIA process flow chart was created. It was created to ensure that our FOIA system operates efficiently and effectively, by referring to the flow chart and ensuring that all steps are taken when processing FOIA requests. In an effort to eliminate redundancy, we also review our database to determine if previously requested records are responsive to a current request.

III.   Steps Taken to Increase Proactive Disclosures

1. Do your FOIA professionals have a system in place to identify records for proactive disclosures?

Yes.

2. If so, describe the system that is in place.

   The FOIA Office notifies the Open Government Team of records that are frequently requested and/or has determined to be of greatest interest to the public and makes recommendations for proactive posting on DOE webpages. We also provide listings of FOIA requests to that office.

3. Provide examples of material that your agency has posted this past reporting period, including the links to where this material can be found online.

   At the DOE, we focus on using transformative science and technology solutions to ensure America's security and prosperity. Data is a key ingredient to this mission, which is why we are so excited about the Open Data movement. We believe providing open access to energy data can accelerate the pace of scientific discovery and empower entrepreneurs to build new products and services. We have several exciting ongoing initiatives to increase access and use of our data: Energy.gov/data provides a central location for information about data released by the DOE. In addition, the DOE posted a department wide data index in .json format that provides metadata and URLS to all public datasets. The data index is available here: http://energy.gov/data/downloads/open-data-catalogue. Examples can be found on www.hanford.gov, www.twitter.com/hanfordsite, www.facebook.com/hanfordsite, and www.youtube.com/hanfordsite. On the landing page of www.hanfordsite.gov, the visitor will find a rotating slide show with featured items that the Hanford Site is promoting.
   Example:

   The visitor will also find a news feed, with announcements, fact sheets, and photos.

Example:

Hanford News

December 05, 2013
Washington Closure Hanford Reaches $1 billion in Small Business Subcontracting
$783 million goes to businesses in Washington state

November 18, 2013
NEWS RELEASE: CH2M HILL Awards $1 Billion to Small Businesses
Contractor CH2M HILL Plateau Remediation Company has awarded $1 billion in contracts to small businesses since its contract with the Department of Energy began in 2008.

November 06, 2013
Status of Single-Shell Tanks With Level Decreases

October 31, 2013
FACT SHEET: Hanford Site Cleanup Progress
This fact sheet has been updated with statistics on Hanford Site cleanup progress through the end of September 2013.

▸ **Hanford News Archive**

The visitor will also find a calendar of public involvement events and opportunities to provide public input. Explanatory material is provided on the calendar dates for each event (e.g., agendas, fact sheets, decision documents). Example:

Hanford Events Calendar

December 10, 2013
Public Comment Periods
Proposed Updates to Permit for Hanford Dangerous Waste Management Units

December 10, 2013
Public Involvement Meetings
Hanford Advisory Board Public Involvement and Communication Committee Meeting

December 11, 2013
Public Involvement Meetings
Hanford Advisory Board Meeting

December 12, 2013
Public Involvement Meetings
Hanford Advisory Board Meeting

▸ **More Event Calendar**

www.energy.gov/sepa

OSTI's archival collection can be found at www.osti.gov. This website provides individuals from the general public, other government agencies a one-stop service for our gray literature, journal articles, conference proceedings, technical reports, multimedia, books, etc… Information pertaining to Transmission Infrastructure program updates, environmental assessments and impact assessments, ongoing Western project updates and up-coming events, including Western's

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accomplishments can be found at
http://ww2.wapa.gov/sites/western/pages/default.aspx. Key contracts at the
EMCBC can be found at http://www.emcbc.doe.gov/about/foia.   Links on FOIA
website to M&O contracts online, FY12 M&O contractor performance ratings,
and ISC Government Purchase Cardholder can be found at
http://science.energy.gov/isc/foia/electronic-reading-room/#MOContracts. 2013
Solar Decathlon information and Alliance for Sustainable Energy documents can
be found at http://www.eere.energy.gov/golden/foiapd.aspx.

The DOE continues to monitor and update these major data sets on its Open
Government Page:
(1) **Deepwater Horizon Response Datasets:** Due to the high level of interest in
the oil spill in the Gulf of Mexico, Data.gov is featuring data from the DOE, the
Environmental Protection Agency (EPA), the National Oceanic and Atmospheric
Administration (NOAA), the Department of the Interior (DOI), and the states of
Florida and Louisiana related to the spill, its effects, and the cleanup effort. Data
include oil and gas flow and recovery measurements, air and water sample data,
oil spill-related exposure information, and other data of interest to scientists,
recovery workers and citizens;
(2) **DOE Patents Database:** DOEs central collection of patent information
contains bibliographic data for a database of patents resulting from sponsored
research by the DOE and predecessor agencies. This data service allows the
downloading of bibliographic records in a format that can be used to load the
records into other databases or search tools. A request for data returns the first one
hundred records. See Technical Documentation for instructions on obtaining
additional records; and
(3) **Geothermal Technologies Database:** Contains geothermal technical and
programmatic reports dating from the 1970's to present day. These "legacy"
reports are among the most valuable sources of DOE-sponsored information in
the field of geothermal energy technology. This data services allows the
downloading of bibliographic records in formats that can be used to load the
records into other databases or search tools. A request for data returns the first
twenty-five records. See Technical Documentation for instructions on obtaining
additional records.

4. 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, such as soliciting feedback on the
   content and presentation of the posted material, improving search capabilities on
   the site, creating mobile applications, providing explanatory material, etc.?

   Yes.

5. If so, provide examples of such improvements.

   The DOE uses the energy.gov platform and third party social media to engage with customers and collect input on data. Specifically, energy.gov/data and energy.gov/developer contains articles and blog posts that may be used to directly seek information from the public in compliance with the Memorandum on Social Media, Web-Based Interactive Technologies, and the Paperwork Reduction Act. In addition, the DOE Web Council is made up of stakeholders across all branches of the complex. The National Labs has expertise that will be invaluable for determining which projects should be prioritized for transparency and impact. We solicit their feedback via email and/or in person meetings. Program offices may use additional means to best engage their specific stakeholders. Metrics are collected in a variety of ways, including web analytics.

   Further, DOE is committed to providing openness and transparency of its data. The Energy Data Initiative has announced a milestone with the creation of a new resource hub for open energy data, a scalable web portal. Energy.gov/data includes targeted features for different groups of data customers. For coders, this resource hub includes featured developer tools such as new Application Programming Interfaces (APIs). There will also be features on popular open datasets and search tools that are valuable for students, regulators, and energy professionals. Government managers of open data, particularly those that are familiar with the Data.gov platform, will soon take advantage of new "federated search" capabilities by leveraging a growing data catalogue.

   Finally, entrepreneurs and job creators will be able to see exactly how open data is fueling economic growth and even contribute their own stories if they so choose. The new resource hub will continue to grow with the community it supports. Planned features include improved interoperability with other data platforms like energy.data.gov, openei.org and the National Library of Energy. There will also be frequent updates from Energy Data Jams. The content and capabilities will grow along with a portfolio of "agency.gov/data" sites that will be created by other Federal agencies in the coming months. Ultimately, the goals of this coordinated effort are to improve our level of customer service for open data as well to empower innovators to create and sustain valuable products that help all Americans.

   At the Richland Office, they are taking steps to improve www.hanford.gov. During 2013 a team of communicators and web developers evaluated www.hanford.gov and identified areas for improvement, they are:
   - Simplify Access Points to focus on the cleanup mission; the contractors performing the work; programs of importance at Hanford; Public Involvement; the Newsroom
   - Content Tagging: Provide a way to link related content by subject matter
   - Wider layout – meet new standards for layout given people viewing with larger screens

- Develop Document Center or Document Search Tool – provide more useful way to search documents, find specific documents, host documents in a place where information is more easily accessible.
- Make a modern "Newsroom" and have main newsroom content, photos, and videos appear as a main feature on the homepage
- Develop "Responsive" design techniques for mobile environments – make some aspects of the website more smartphone friendly
- Updated security processes and standards
- Increase social media tie in to content on the website
- Decrease text, increase images, video and graphic media.

These improvements are being made currently and are in a beta testing phase, except for the document center or document search tool effort, which will be a focus for 2014. We know that www.hanford.gov receives about 4,000 unique visits per day and averages 40,000 page views per day, so our focus will be to make those visits are useful as possible through better search tools, more visual content, and better layout/design techniques.

The Western Area Power Administration periodically performs website usability and accessibility tests. Its web team meets monthly to review analytics to determine what improvements can or need to be made that will enhance a visitor's experience. Western also provides links on every web page to Adobe PDF reader download and Western's/DOE's accessibility policy. Western's web guidance reminds content owners to review content for accuracy and relevance quarterly, at a minimum (Web Internet Style Guide, Section 8.c). Examples include: - Regional public facing web measurements, October 2013, -Web usability report: Regional site content dated June 27, 2013, - Web Usability Report: External website dated November 5, 2012.

6. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If so, was social media used?

Yes. See this recent blog post as an example: http://energy.gov/data/articles/pursuing-open-data-department-energy. Also, social media is routinely used to publicize data release related activities. At Hanford Social media was utilized to publicize a number of different types of information, including promoting public meetings and results of a public involvement survey on www.twitter.com/hanfordsite. Results from the 2012 #Hanford public involvement survey have been posted online http://ow.ly/nKYBh.

OSTI has used multiple methods for increasing public awareness of our dissemination of scientific and technical information. These methods included social media, blogging, as well as traditional media outlets. The Western Area Power Office uploaded press releases and also pulled important meetings, events and activities to the Western homepage at www.wapa.gov under Spotlight and

Projects. We also used an RSS feed to further disseminate news and activities. Flickr and YouTube were used as supporting mediums but not the primary mode of distribution.

7. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post? If so, please briefly explain what those challenges are.

   There is a concern that a lack of coordination from a central organization could lead to a mosaic affect with non-DOE datasets (e.g., we are concerned that a dataset at DOE could be combined with a dataset from another agency to create a PII issue). Additionally, the resources needed to minimize a mosaic affect is a challenge as are the resources needed to ensure only appropriate documents are posted online.

   At Richland, there are challenges to posting records to www.hanford.gov in that there are an enormous amount of documents that various staff members would like to post. Also, there is not a single, clear, and easy-to-find location to post those documents. Visitors often have a hard time finding the document they need due in large part to the sheer volume of documents available. There is also a concern that the process for public release can be circumvented and documents that are not yet approved for public release have been occasionally posted online. The amount of work and expense that goes into approving, releasing, and posting documents can be prohibitive. However, we're identifying ways to make it easier and more effective and will identify a solution during 2014 that will create an easily searchable one-stop shop for documents.

8. Describe any other steps taken to increase proactive disclosures at your agency.

   Hanford's external website, www.hanford.gov, undergoes regular reviews by DOE's Richland Operations Office (RL), DOE's Office of River Protection (ORP), and contractor personnel to ensure that information pertaining to companies and projects is accurate and up-to-date. The website's updates include posting recent photos depicting personnel changes or new details about Hanford cleanup of the various projects on Site. In addition, we use the website as one of our most successful ways to reach out to stakeholders, community groups, and members of the public with information about Hanford cleanup activity. This year, www.hanford.gov helped us to solicit nominations for seats on our Hanford Advisory Board, to announce public meeting dates, times, and topics, to publicize the local and national budget rollouts, to seek public input on documents including draft environmental impact statements, and to alert visitors of upcoming activities on the Site. The website also provides emergency alert notifications to Site employees, Hanford stories and photos that have run on local media outlets, a location to register for public tours of the Site, and dozens of "quick links" that take visitors to updated information on programs and departments.

The Hanford website features a "What's New" link which allows frequent visitors to access the most recently posted information on the site. In addition, the website lists the names and contact information for managers, media relations officials, website content managers, and Freedom of Information Act officers so that anyone accessing www.hanford.gov can send comments or questions to the appropriate individual. After launching an overhauled www.hanford.gov in 2009, which provided visitors with the most information ever posted about the Hanford Site, website content managers are once again in the process of adding new material, adding a social media component (Facebook, Twitter, and a Hanford blog), and updating programs to make website searching more efficient.

OSTI is continually converting its hard copy collection into an electronic format. The hard copy collection consists of approximately 857,000 records. Even though the task is enormous, progress has been achieved in this effort (such as, digitizing upon on-demand document request, a large scale digitization effort, or collaborating with other entities within DOE to digitize segments of a collection that has a particular interest or need to a specific organization). Recently, OSTI digitized 90,000 documents and has uploaded 30,000 into our various products and services databases. The Carlsbad Field Office routinely posts contract information on its website. Additionally, other documents are routinely posted such as reports.

The DOE's FOIA portal found at http://foiaportal.energy.gov/ is undergoing changes to try to increase the size of the repository and to increase the speed at which documents can be searched and identified. The portal provides access to documents previously released under FOIA and is full text searchable. It allows the public to conduct key word searches and locate information released by the DOE.

IV. **Steps Taken to Greater Utilize Technology**

1. Can a FOIA requester track the status of his/her request electronically?

The Chicago, Richland, Western Area Power Administration, Golden, Southwestern Area Power Administration, and the Bonneville Power Administration are components of the agency have the capability to allow requesters to track their requests electronically by posting information on the webpage. When electronic tracking is unavailable, requesters can call the service centers to obtain the status of their request. Currently, Headquarters' requesters are unable to track their request electronically. However, as mentioned previously, we upgraded the server that hosts our electronic FOIA tracking system. This will allow us to run the most current version of this software and allow the use of other tools. One of these tools will allow requesters to submit a request directly to the system and also track the status electronically.

2. If yes, how is this tracking function provided to the public? For example, is it being done through regularly updated FOIA logs, online portals, or other mediums?

   At the components listed above, information provided regularly through updated FOIA lists on their webpages.

3. Describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review." List the specific types of information that are available through your agency's tracking system.

   Some of the information available depending on the component are the requester name, subject of request, date received, due date, status disposition, closed date, and exemptions cited.

4. In particular, does your agency tracking system provide the requester with an estimated date of completion for his or her request?

   The tracking system we utilize does capture the estimated completion date for each case. However, access by the public is not a capability of our current tracking system.

5. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability?

   Yes. The agency anticipates establishing this capability during this reporting period.

6. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?

   Yes.

7. If so, describe the technological improvements being made.

   The DOE is establishing methods to electronically transport responsive documents between process steps to reduce time and cost of processing. In the past three months, the Office of Classification and the OCIO have been improving our capabilities to transport large classified and unclassified files (up to about 2 GB) over existing networks between Headquarters and field components of the

DOE. Problems are being resolved as they arise. As our electronic capabilities improve, they are being systematically implemented. The field has begun sending FOIA cases to Headquarters electronically for classification review. For instance, a large classified file was transported electronically from Headquarters to the field (LLNL) for coordination of classification determinations. Additionally, a large redacted file work product was transported electronically from Headquarters to the NNSA Albuquerque Office.

The Office of Classification conducts online declassification redaction to reduce time and cost of processing. The Office of Classification conducted an electronic redaction of a large package (2,000 pages) instead of just bracketing the classified information. This saved the subsequent FOIA processing step from having to expend time and resources redacting bracketed documents. The Office of Classification is exploring alternative redaction software. They obtained alternative redaction software and conducted testing to identify the advantages and disadvantages of the alternative software.

The DOE also has tentative arrangements to conduct a demo of software that will allow us to sort, de-duplicate and redact documents. This is contingent on the new server that will host our tracking system. We are hoping that this product assists greatly in the reduction of time to process requests. Again, budget constraints are an issue regarding the ability to utilize such technologies.

8. Are there additional technological tools that would be helpful to achieving further efficiencies in your agency's FOIA program?

We are currently looking at technologies that would expand our search capabilities. We believe a technological tool of this nature would make our FOIA process more efficient.

V. Steps Taken to Improve Timeliness in Responding to Requests and Reduce Backlogs

1. 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.

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

   Yes.

b. If so, for your agency overall, for Fiscal Year 2013, was the average number of days to process simple requests twenty working days or fewer?

No.

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

N/A.

2. Sections XII.A of your agency's Annual FOIA Report entitled "Backlogs of FOIA requests and Administrative Appeals" shows the numbers of any backlogged request or appeals from the fiscal year. 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 2012 and Fiscal Year 2013 when completing this section of your Chief FOIA Officer Report.

a. If your agency had a backlog of requests at the close of Fiscal Year 2013, did that backlog decrease as compared with Fiscal Year 2012?

Yes. The DOE achieved a 3% reduction in the backlog from 453 in FY2012 to 438 in FY2013. The Department initially reported a backlog of 456 for FY2012. This figure was corrected in our FY2013 report to reflect a change to 453.

b. If your agency had a backlog of administrative appeals in Fiscal Year 2013, did that backlog decrease as compared to Fiscal Year 2012?

Yes. There was a 25% decrease in the number of backlogged administrative appeals between FY2013 and FY2012. In FY2012, there were four backlogged administrative appeals versus three in FY2013.

c. In Fiscal Year 2013, did your agency close the ten oldest requests that were pending as of the end of Fiscal year 2012?

No.

d. 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 2012 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that. For example, if you only had seven requests

listed as part of your "ten oldest" in Section VII.E. and you closed two of them, you should note that you closed two out of seven "oldest" requests.

The agency completed the oldest case and eight others for a total of nine closed of the ten reported in the FY2012 report.

e. In Fiscal Year 2013, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2012?

No.

f. If no, please provide the number of these appeals your agency was able to close, as well as the number of appeals your agency had in Section VI.C.(5) of your Fiscal Year 2012 Annual FOIA Report.

The agency completed the oldest appeal and eight others for a total of nine closed of the ten reported in the FY2012 report.

g. In Fiscal Year 2013, did your agency close the ten oldest consultations received by your agency and pending at the end of Fiscal Year 2012?

No.

h. If no, please provide the number of these consultations your agency did close, as well as the number of pending consultations your agency listed in Section XII.C. of your Fiscal Year 2012 Annual FOIA Report.

The agency completed the oldest consultation and five others for a total of six closed of the ten reported in the FY2012 report.

3. If you answered "no" to any of the questions in item 2 above, describe why your agency was not able to reduce backlogs and/or close the ten oldest pending requests, appeals, and consultations. In doing so, answer the following questions then include any additional explanation:

Request and/or Appeal Backlog:

a. Was the lack of a reduction in the request and/or appeal backlog a result of an increase in the number of incoming requests?

N/A. There was a reduction in the request and appeal backlog.

b. Was the lack of a reduction in the request and/or appeal backlog caused by a loss of staff?

N/A. There was a reduction in the FOIA backlog.

c. Was the lack of a reduction in the request and/or appeal backlog caused by an increase in the complexity of the requests received?

Although we were able to reduce the request and appeal backlog this reporting period, it is still a difficult task. Requesters are asking for any and all records in some cases or the subject of the requests typically are complex in nature, classified, or may require searches and reviews by multiple components or agencies or involve a voluminous amount of material. NNSA lost two members of their FOIA staff and were not able to hire immediately. Moreover, budget considerations across the DOE continue to affect the ability of certain programs to hire personnel dedicated to, and experienced in, processing FOIA cases. With the exception of the HQ FOIA Office and a handful of other offices, most personnel processing FOIA cases within the DOE do so as a collateral duty.

d. What other causes, if any, contributed to the lack of a decrease in the request and/or appeal backlog?

N/A. There was a decrease in the request and appeal backlog.

e. Briefly explain the obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2012.

As mentioned earlier, requesters are asking for any and all records in some cases or the subject of the requests typically are complex in nature, classified, or may require searches and reviews by multiple components or agencies or involve a voluminous amount of material. NNSA lost two members of their staff and were not able to hire immediately. Moreover, budget considerations across the DOE continue to affect the ability of other programs to hire personnel dedicated to, and experienced in, processing FOIA cases. With the exception of the HQ FOIA Office and a handful of other offices, most personnel processing FOIA cases within the DOE do so as a collateral duty.

f. If your agency was unable to close any of its ten oldest requests or appeals 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.

N/A.

4. If your agency did not close its ten oldest pending requests, appeals, and consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2014.

   The agency will continue to monitor on a weekly basis the ten oldest cases. We will continue to meet on a monthly basis with the offices processing those requests to determine status and any issues that are affecting the closure of these cases. We have been advised by the office with the ten oldest that they have hired additional staff to reduce their backlog and to strive to close these cases.

5. If your agency had a backlog of more than 1000 pending requests and did not reduce that backlog in Fiscal Year 2013, provide your agency's plan for achieving backlog reduction in the year ahead.

   N/A.

6. Does your agency have a system in place to provide interim responses to requesters when appropriate?

   The DOE encourages interim responses to requesters. The DOE Headquarters and field sites, with the exception of the NNSA, issue partial responses whenever possible. By providing partial responses a requester is aware that his/her case is proactively being processed. This fosters a positive relationship with the requester community.

7. If your agency had a backlog in Fiscal Year 2013, please provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.

   We estimate that partial responses have been made in at least 45% of the backlogged cases.

Use of FOIA's Law Enforcement "Exclusions"

In order to increase transparency regarding the use of the FOIA's statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to "treat the records as not subject to the requirements of [the FOIA]," 5 U.S.C. §552(c)(1),(2),(3), please answer the following questions:

1. Did your agency invoke a statutory exclusion during Fiscal Year 2012?

   No.

2. If so, what is the total number of times exclusions were invoked?

N/A.

Spotlight on Success

Out of all the activities undertaken by your agency since March 2012 to increase transparency and improve FOIA administration, describe here one success story that you would like to highlight as emblematic of your agency's efforts.

- The DOE has continued to address cases that have been languishing for over a year by engaging senior leadership at DOE and other agencies, as necessary. As a result, we were able to close nine of the ten oldest backlogged cases and appeals from the FY 2012 report.
- We are also striving to improve processing times by testing resources that transmit large volumes of classified documents electronically and by testing software that electronically redacts classified documents. We believe that our efforts will improve processing times for cases involving certain types of classified records. We expect our success to continue by aggressively addressing older and complicated requests.
- At the DOE, we focus on using transformative science and technology solutions to ensure America's security and prosperity. Data is a key ingredient to this mission, which is why we are so excited about the Open Data movement. We believe providing open access to energy data can accelerate the pace of scientific discovery and empower entrepreneurs to build new products and services. We have several exciting ongoing initiatives to increase access and use of our data.
- Energy.gov/data provides a central location for information about data released by the DOE. In addition, the DOE posted a department wide data index in .json format that provides metadata and URLS to all public datasets. The data index is available here: http://energy.gov/data/downloads/open-data-catalogue.