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Evaluation of EPA's FOIA Program

Final Report

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EXECUTIVE SUMMARY

The U.S. Environmental Protection Agency (EPA) has worked continuously to strengthen its Freedom of Information Act (FOIA) program; this evaluation is a continuation of these improvement efforts. Senior managers in EPA's Office of Environmental Information (OEI) initiated this evaluation to examine EPA's current implementation of FOIA and identify opportunities to improve the program. This study assesses the program's current effectiveness and efficiency, and provides recommendations to inform strategic planning decisions.

This study was funded by OEI's Office of Program Management (OPM) and Office of Information Collection (OIC). It was co-managed by OPM and the Office of Policy's Evaluation Support Division. EPA contracted with Industrial Economics, Incorporated (IEc) to provide evaluation support.

EVALUATION QUESTIONS

This evaluation was guided by nine questions:

Questions on Current Implementation of the FOIA Program

1. How have the updated Agency-wide FOIA policy and procedures (September 2014) affected FOIA implementation in program offices and regions to date?
2. What are the major differences in organization-specific FOIA procedures (March 31, 2015) across program offices and regions?
    a. What factors explain these differences?
3. How does the performance of EPA's FOIA program compare to the performance of other, comparable federal agencies?
4. What are the major differences in FOIA program structure and practices across EPA's regions and program offices?
    a. How do these differences affect employee accountability to the FOIA program?
    b. How do these differences affect consistency in the Agency's FOIA processes and responses to FOIA requests?

Prospective Questions on Improving the FOIA Program

5. What best practices could EPA adopt to ensure accountability in the Agency's FOIA processes and responses to FOIA requests?

6. What best practices could EPA adopt to ensure consistency in the Agency's FOIA processes and responses to FOIA requests?
7. What opportunities, if any, exist for EPA to streamline its FOIA processes?
8. How might changes to the program's organizational structure and/or the adoption of new technologies affect EPA's efforts to ensure the accountability, consistency, and efficiency of the Agency's FOIA program?
    a. In what ways could EPA centralize its FOIA program (e.g., centralizing receipt to processing of FOIA requests, enhancing FOIAonline capabilities to centrally track and manage FOIA requests, adopting a centralized program structure in regions/program offices, etc.)?
    b. In what ways could EPA use technology to efficiently manage and process FOIA requests, and/or be proactive in making information publicly available?
    c. What are the potential benefits and costs of each of the approaches listed in sub-questions a and b, including but not limited to potential impacts on: total personnel required, human resources reallocation requirements, hardware/software costs, training costs, FOIA processing times, strategic coordination of FOIA requests, and litigation costs?
9. How can EPA most effectively leverage the FOIA Expert Assistance Team (FEAT) within the context of ongoing FOIA improvement efforts?

METHODOLOGY

IEc used multiple data sources to answer the evaluation questions. Key sources of information included: 1) document review of reports, policies and procedures, FOIA Lean outputs, and previous evaluations; 2) 45 interview sessions with 55 individuals, including personnel from across the Agency, one interview at the Department of Justice (DOJ), and one at the Occupational Safety and Health Administration (OSHA); and 3) a brief online survey administered to EPA staff with FOIA responsibilities, which resulted in 429 useable survey completions.

Two additional data methods – process maps and case studies – leveraged existing data and built on new data collections. These additional data methods synthesize qualitative and/or quantitative data; the process maps illustrate EPA's FOIA processes, and the case studies identify best practices in FOIA operations.

Thus, the analysis combines findings from across data sources, using an approach known as "mixed-methods evaluation." Mixed-methods evaluation increases confidence in the evaluation findings if a finding is validated with more than one source. Conversely, this approach can highlight contradictions across data sources and indicate areas that require additional investigation. In general, our findings and conclusions are validated by multiple sources.

CONCLUSIONS

The evaluation concludes that:

1. **Overall, the Agency is following the updated FOIA policy and procedures, but many respondents expressed concern about the sign-off requirement.** One of the most significant changes affecting offices/regions is the requirement for authorized officials to sign off on FOIA responses. Some offices had instituted this requirement prior to the updated Agency-wide policy and procedures, but most had not. The sign-off requirement is intended to ensure that all FOIA responses are reviewed by senior-level managers; however, interviews and survey responses indicate this requirement causes delays in the process, with one region noting that it negated the benefits of the region's previous streamlining efforts. IEc's review of the Agency-wide FOIA policy and procedures also indicates a lack of clarity regarding division directors' authority to sign the response letter sent to requesters. The current procedures allow division directors the authority to issue initial determinations only with a formal re-delegation of authority from administrators or equivalents. However interviews suggest that formal delegation of authority may not be standard across the Agency.

2. **With very few exceptions, there is little variation in the written FOIA procedures across offices/regions.** However, office/regional procedures across the Agency do differ in some ways – mostly in terms of the staff position assigned with implementing steps in the process, rather than the actual process steps. The degree of centralization of the FOIA program in an office or region helps explain this difference in the written procedures.

3. **EPA's FOIA program has a strong reputation among federal agencies; however, EPA's backlog has been growing since 2013.** EPA has seen recent improvement in its speed of processing simple requests. EPA also typically ranks high in utilization of technology, largely due to the Agency's leadership in FOIAonline. However, EPA had a higher percentage of requests backlogged (approximately 16 percent) at the end of FY 2014 than other federal agencies that had a similar or higher volume of FOIA requests. EPA's backlog has also been growing over the past several years. This is due, in part but not entirely, to the Department of Justice (DOJ)'s clarification of the definition of "backlog" to include instances in which requesters agree to an extension beyond the 20-day window.

4. **Although written procedures show little variation across the Agency, actual implementation of the FOIA program differs across offices and regions.** The process maps (see Appendix F) indicate multiple areas where the process differs across the Agency, including: who has primary responsibility for collection and review of potentially responsive records, and the process of communicating with requesters. Another major difference is how offices/regions collect data to respond to FOIA requests – e.g., technology uses and knowledge, use and access of FOIAonline, use of OEI eDiscovery services, FEAT involvement, and use of

contractor support. Each of these differences can affect accountability and/or consistency. Program performance, as indicated by total and percent backlog and FOIA response time, also varies across offices and regions.

5. **EPA has the opportunity to adopt best practices that may increase accountability in the Agency's FOIA program.** Interviews, survey responses, and literature suggest that EPA could increase accountability by: increasing management support and involvement to ensure that staff respond to FOIA tasks; clarifying the role and responsibilities for each step in the FOIA process; and professionalizing the FOIA Coordinator and Officer roles as Government Information Specialists.

6. **EPA could adopt and/or expand its use of practices to ensure greater consistency in processing and responding to FOIA requests.** The evaluation identified many possibilities to improve consistency; these include: enhancing the functionality and user-friendliness of FOIAonline; improving records management; resolving issues with Outlook e-mail searches; strengthening FOIA staff expertise and limiting turnover; providing training to meet specific needs; clarifying the fee and fee waiver process; using standard templates to ensure consistency in FOIA communication and responses to FOIA requests; developing a list of technologies and databases that are currently available to assist with FOIA requests; and exploring options to centralize the FOIA program within program offices/regions.

7. **Potential streamlining efforts could address a range of inefficiencies in the FOIA process.** The process maps reflect multiple areas where there are delays in the process– particularly the process for fee waivers, handling large FOIA requests, collecting and reviewing potentially responsive records, coordinating with the eDiscovery team, use of FOIA online, and the review and sign-off process. Survey and interview responses indicate these delays may be due, in-part, to confusion about FOIA policy and procedures. Streamlining measures might include: clarifying roles and responsibilities, particularly for large FOIA requests; increasing the use of proactive disclosure; enhancing the review and sign-off process in FOIAonline; improving records management; adapting relevant Lean findings from individual offices/regions to other parts of the Agency; leveraging currently existing technology; and, where appropriate, adopting a centralized office/regional FOIA program.

8. **Organizational changes and technology improvements have the potential to significantly improve EPA's FOIA program; however, the potential benefits need to be weighed against the costs.** Various parts of the Agency are considering changes to the program's organizational structure (i.e., centralization). Overall, 42 percent of survey respondents were in favor of greater centralization within their own office/region, while 23 percent of respondents favored centralization within a core FOIA group at Headquarters. Benefits of centralization may include: increased accountability, greater expertise and specialized knowledge, enhanced intra-Agency FOIA communication and

consistency, improved customer service, and allowing subject matter experts (SMEs) to focus on their program activities. Potential costs of centralization include: perceived difficulty or infeasibility of dedicating additional FTEs to FOIA, the need for ongoing SME involvement, loss of control for subject matter offices, and costs associated with improved records management.

The evaluation identified several opportunities to enhance EPA's use of technology to strengthen the FOIA program. However, greater access to technology is not in itself sufficient to improve the process, unless technology users have the knowledge and skills required to use the technology effectively. FOIAonline improvements, OEI eDiscovery search improvements, improved hardware, and enhanced training on how to use these resources could improve consistency and significantly reduce the staff time dedicated to responding to FOIA requests. Although these technology improvements would reduce costs over time through efficiency gains, each of these solutions would require upfront expenditures.

9. **EPA can leverage the FEAT by further clarifying the FEAT's role and responsibilities, and by increasing communication and coordination between the National FOIA Office and FEAT.** Feedback obtained from interviews indicates that the FEAT has been helpful in improving the quality and timeliness of EPA's responses to large and complex FOIA requests and could continue to play this role. Clarifying the respective roles and responsibilities of the FEAT and the National FOIA Office, maintaining open and productive communication, and coordinating messaging and information dissemination would help to further integrate the FEAT into EPA's ongoing FOIA improvement efforts.

RECOMMENDATIONS

Based on the conclusions, IEc offers the following recommendations to strengthen EPA's FOIA program:

- **Increase intra-Agency coordination, communication, and accountability.** *(Evaluation Questions 4,5,6,7,9)*
    - Increase coordination and communication among the FOIA program, FEAT, and eDiscovery.
    - Increase communication between the eDiscovery team and eDiscovery requesters.
    - Develop standard operating procedures (SOPs) for processing large FOIA requests with multiple offices/regions.
    - Regularly track and report FOIA task assignments.
- **Leverage available technology and improve FOIAonline.** *(Evaluation Questions 4,6,7,8)*
    - Develop a technology inventory on available technology, accessibility of the technology, and technology expertise.

- Work across the Agency to develop SOPs for central records storage.
- Provide step-by-step guidance for using FOIAonline.
- Improve FOIAonline functionality: allow batch uploads, create a better feedback mechanism to obtain information on user interface issues, enhance efforts that increase authorized officials' use of FOIAonline, and continue to explore the use of digital signatures.[1]
- Use FOIAonline to provide additional real-time metrics on FOIA performance.

- **Clarify FOIA policy and procedures.** *(Evaluation Questions 1,4,5,7)*
  - Use office/regional SOPs to specify roles and designate responsibilities for completing FOIA tasks (e.g., identify the specific job duties for FOIA Coordinators vs. SMEs).
  - Clarify division director authorization for initial determinations.
  - Professionalize the FOIA Coordinator and FOIA Officer positions.
- **Support the assessment and implementation of centralization options in program offices and regions.** *(Evaluation Questions 6,7,8)*
  - Encourage program offices and regions to examine the benefits and costs of centralization in their respective office or region.
  - Provide support and share knowledge with offices/regions moving towards centralization.
  - Combine a centralized FOIA system with improved centralized records management across the Agency.
- **Leverage and learn from Lean experiences.** *(Evaluation Question 7)*
  - Leverage and adapt lessons from previous FOIA Lean events to strengthen FOIA processes in other parts of the Agency and to focus future Lean events.

[1] Examples of user interface issues are discussed in Chapter 3 in response to evaluation question six. The National FOIA Officer indicates that batch upload functionality is under development for FOIAs processed using Relativity. The National FOIA Office is also currently working with OGC to allow for the use of digital signatures.

CHAPTER 1 | INTRODUCTION

OVERVIEW OF THE REPORT

This report presents the results of the evaluation of the U.S. Environmental Protection Agency (EPA)'s Freedom of Information Act (FOIA) program. This introduction describes the context for the evaluation and the questions that the evaluation was designed to answer. The report then presents the evaluation methodology, findings for each evaluation question, and the overall conclusions and recommendations.

The report is organized as follows:

- Chapter 1 provides an overview of the FOIA program, the purpose and objectives of the evaluation, and the questions that guided this effort.
- Chapter 2 discusses the data sources and approaches used to answer the evaluation questions, and addresses the strengths and limitations of the methodology.
- Chapter 3 presents the findings for each evaluation question.
- Chapter 4 summarizes the evaluation's overall conclusions and recommendations for the FOIA program.

A series of appendices follows the main body of the report. Appendix A provides a bibliography of literature consulted for the evaluation. Appendix B provides a summary of previous and ongoing FOIA improvement efforts. Appendix C lists the individuals who were interviewed for the evaluation, and Appendix D contains the interview guides. The survey instrument is attached in Appendix E. The process maps are shown in Appendix F. Appendices G and H contain case studies about the Occupational Safety and Health Administration (OSHA)'s FOIA program, and EPA's FOIA-related Lean events, respectively. Appendix I contains they survey output tables

BACKGROUND AND HISTORY OF EPA'S FOIA PROGRAM

Enacted by Congress in 1966 and amended several times,[2] FOIA embodies "the people's right to know" about the government's operations and activities.[3] FOIA gives any requester the right to obtain access to federal agency records, unless such records are protected by any of the nine exemptions or three law enforcement exclusions contained in the law. The U.S. Department of Justice (DOJ) is charged with "encouraging agency

[2] 5 U.S.C. § 552. Congress amended FOIA in 1974, 1976, 1986, 1996, 2007, and 2010.

[3] Ginsberg, Wendy. The Freedom of Information Act (FOIA): Background, Legislation, and Policy Issues. Congressional Research Service. January 23, 2014.

compliance" with FOIA;[4] however, every federal executive agency is responsible for administering the FOIA program within its own organization.

EPA's FOIA program is highly decentralized across the Agency's National FOIA Office, 13 headquarters program offices, and 10 regions. Located in the Office of Environmental Information (OEI), the National FOIA Office oversees and coordinates EPA's FOIA program. The National FOIA Office manages EPA's FOIA tracking and management system, provides FOIA training, prepares Annual FOIA Reports for DOJ, issues determinations on fee waiver and expedited processing requests, and develops FOIA procedures, policies, and guidance. The public may submit a FOIA request to the National FOIA Office (which in turn forwards the request to the appropriate program offices or regions to respond), or directly to any of EPA's regions. FOIA Coordinators (headquarters program offices) and FOIA Officers (regions) route FOIA requests to subject matter experts (SMEs) who communicate with the requester and locate relevant records. The Office of General Counsel (OGC) (and the Legal Counsel for the Office of Inspector General, for OIG requests and appeals) provides legal advice on FOIA matters, issues final decisions on FOIA appeals and confidentiality determinations, and serves as co-counsel with DOJ in FOIA litigation.

EPA has worked continuously to strengthen its FOIA program. In 2001, then-Administrator Whitman established a task force to review EPA's administration of FOIA. The task force findings and recommendations addressed issues concerning accountability, centralization, policies, regulations, and guidance. Since 2001, EPA has taken steps that have significantly reduced its backlog of FOIA requests. In 2010, then-Deputy Administrator Perciasepe created a new workgroup to develop recommendations for ensuring the effectiveness, efficiency, and transparency of EPA's FOIA program. EPA has implemented some workgroup recommendations and is in the process of implementing others. In October 2012, EPA launched FOIAonline – an electronic portal that allows the public to submit FOIA requests, track their status, communicate with the processing agency, search previous requests, access previously released documents, and file appeals. Although developed by EPA, FOIAonline is used by several federal agencies.

While improvement efforts have been underway for years, recent developments have prompted managers to take a fresh look at the Agency's implementation of FOIA. Two studies conducted in 2014 by the Office of Inspector General (OIG) identified areas in which EPA could strengthen the consistency and clarity of its FOIA processes.[5] In September 2014, OEI issued updated FOIA policy and procedures documents, which required program offices and regions to develop or revise their own (organization-specific) FOIA procedures by March 31, 2015.

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[4] Ibid.

[5] U.S. Environmental Protection Agency Office of Inspector General, Briefing Report: Review of EPA's Process to Release Information Under the Freedom of Information Act. Report No. 14-P-0262, May 16, 2014; and No Indications of Bias Found in a Sample of Freedom of Information Act Fee Waiver Decisions But the EPA Could Improve Its Process. Report No. 14-P-0319. July 16, 2014.

Recently, various parts of the Agency have taken steps to streamline their FOIA processes. The Office of Air (OAR), Region 3, Region 7, and Region 10 have conducted Lean, Kaizen, or process improvement events focusing on FOIA, and an Agency-wide FOIA Technology Subgroup is reviewing technologies that could improve the efficiency of the FOIA program. In addition, EPA senior managers have established a FOIA Expert Assistance Team (FEAT) within OGC to provide assistance with particularly complex and/or multi-office FOIA requests.

EVALUATION PURPOSE, INTENDED USES, AUDIENCES, AND SCOPE

Senior managers in OEI initiated this evaluation to examine EPA's current implementation of FOIA and identify additional opportunities to improve the program in the future. This evaluation assesses the program's current effectiveness and efficiency, and provides recommendations to inform strategic planning decisions.

This study was funded by OEI's Office of Program Management (OPM) and Office of Information Collection (OIC). It was co-managed by OPM and the Office of Policy's Evaluation Support Division. EPA contracted with Industrial Economics, Incorporated (IEc) to provide evaluation support.

Multiple audiences may benefit from the evaluation results. Primary audiences include senior managers in OEI and the EPA's National FOIA Officer. Additional audiences include the OGC; senior managers and FOIA Coordinators and FOIA Officers in offices/regions; and other EPA staff involved in responding to FOIA requests. Finally, due to the leadership role among federal agencies that EPA has taken with FOIAonline, other federal FOIA programs are also a potential audience for the evaluation results.

As the first step in the program evaluation process, IEc conducted a scoping task to understand previous and ongoing FOIA improvement efforts at EPA, and clarify how the current study can build on these existing efforts.

Based on the results of IEc's scoping research, and feedback from OIC, the evaluation focuses on the following topics:

- Effectiveness and efficiency of EPA's FOIA program;
- Intended or realized effects of the updated Agency-wide FOIA policy and procedures;
- Comparison of new/updated organization-specific FOIA procedures developed by EPA program offices and regions;
- Comparison of EPA's FOIA practices and results across regions and program offices, and with other federal agencies (i.e., benchmarking);
- Opportunities to strengthen, standardize, and/or streamline FOIA processes;

- Technologies that could ensure the efficiency and consistency[6] of FOIA processes or mechanisms to address the public's information needs without FOIA requests (e.g., through FOIAonline or EPA's website);
- Costs and benefits of centralized versus decentralized FOIA processing systems;
- Organizational or structural changes that could enhance the accountability[7] of managers and staff in responding to FOIA requests; and
- Opportunities to strategically leverage the FEAT in light of other ongoing improvement efforts.

Given the need to prioritize evaluation time and resources, and feedback provided during the scoping interviews, this evaluation did not address certain topics. Specifically, IEc did not evaluate the implementation of any new FOIA regulations; the 2011 workgroup provided detailed recommendations in this area, but new regulations have not yet been adopted. IEc also did not evaluate the management of confidential business information (CBI), which is a related but distinct issue relative to EPA's basic FOIA process. The 2011 workgroup addressed CBI issues, but progress in implementing the recommendations for CBI has been limited. Finally, while the evaluation focused on technology solutions that could directly benefit the FOIA process, it did not comprehensively assess EPA's technology improvement efforts (e.g., the eDiscovery Workgroup).

EVALUATION QUESTIONS

This evaluation examined two types of evaluation questions: Questions 1-4 assessed the current status of EPA's FOIA program; and Questions 5-9 explored future opportunities for strengthening the program. The prospective questions (Questions 5-9) yielded mostly qualitative information on potential benefits and costs of proposed changes, but did not measure actual changes.

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[6] IEc defines consistency (1) within and (2) across program offices/regions. (1) A program office/region is internally consistent if it follows the same or similar process for responding to the same or similar FOIA request. In other words, the selection of search parameters; determinations about potentially responsive records; decisions about what information to release, redact, or withhold; contacts between the Agency and the requester; and the level of management review – as well as the information ultimately released to the public – should be the same or similar, regardless of the individuals who process and respond to the request. (2) Program offices and regions are consistent across one another if they respond to the same or similar FOIA request in the same or similar manner. For example, two program offices/regions that have similar records (number and type) pertaining to a particular FOIA request should provide a similar response to the request.

[7] IEc defines accountability in terms of (1) how staff and mid-level managers respond to FOIA requests, and (2) the extent to which senior managers commit to meeting, and achieve, the Agency's FOIA goals. (1) Staff and mid-level managers are accountable to the FOIA program if they devote due time and attention to their FOIA responsibilities, follow the stipulated FOIA processes and procedures in their program office/region, respond to internal requests from senior managers and/or the National FOIA Office within a reasonable timeframe, and provide responses that are comprehensive and of acceptable quality. (2) Senior managers demonstrate accountability to the FOIA program if they devote the time, staff, and resources required to achieve the Agency's FOIA goals and statutory requirements and to reduce the backlog of FOIA requests; clearly delineate staff roles and responsibilities for processing FOIA requests; assign well-qualified/experienced staff to work on FOIA; and provide adequate oversight and supervision to ensure that FOIA responsibilities are being fulfilled.

Questions on Current Implementation of the FOIA Program

1. How have the updated Agency-wide FOIA policy and procedures (September 2014) affected FOIA implementation in program offices and regions to date?
2. What are the major differences in organization-specific FOIA procedures (March 31, 2015) across program offices and regions?
    a. What factors explain these differences?
3. How does the performance of EPA's FOIA program compare to the performance of other, comparable federal agencies?
4. What are the major differences in FOIA program structure and practices across EPA's regions and program offices?
    a. How do these differences affect employee accountability to the FOIA program?
    b. How do these differences affect consistency in the Agency's FOIA processes and responses to FOIA requests?

Prospective Questions on Improving the FOIA Program

5. What best practices could EPA adopt to ensure accountability in the Agency's FOIA processes and responses to FOIA requests?
6. What best practices could EPA adopt to ensure consistency in the Agency's FOIA processes and responses to FOIA requests?
7. What opportunities, if any, exist for EPA to streamline its FOIA processes?
8. How might changes to the program's organizational structure and/or the adoption of new technologies affect EPA's efforts to ensure the accountability, consistency, and efficiency of the Agency's FOIA program?
    a. In what ways could EPA centralize its FOIA program (e.g., centralizing receipt to processing of FOIA requests, enhancing FOIAonline capabilities to centrally track and manage FOIA requests, adopting a centralized program structure in regions/program offices, etc.)?
    b. In what ways could EPA use technology to efficiently manage and process FOIA requests, and/or be proactive in making information publicly available?
    c. What are the potential benefits and costs of each of the approaches listed in sub-questions a and b, including but not limited to potential impacts on: total personnel required, human resources reallocation requirements, hardware/software costs, training costs, FOIA processing times, strategic coordination of FOIA requests, and litigation costs?
9. How can EPA most effectively leverage the FOIA Expert Assistance Team (FEAT) within the context of ongoing FOIA improvement efforts?

CHAPTER 2 | METHODOLOGY AND APPROACH

IEc used multiple data sources to answer the evaluation questions. Key sources of information included: 1) document review of reports, policies and procedures, FOIA Lean outputs, and previous evaluations; 2) 45 interview sessions with 55 individuals, including personnel from across the Agency, one interview at DOJ, and one at OSHA; and 3) a brief online survey of EPA staff with FOIA responsibilities resulting in 429 useable survey responses.

Two additional data methods, process maps and case studies, leveraged existing data and built on new data collections. These additional data methods synthesize qualitative and/or quantitative data. The process maps summarize EPA's FOIA processes, and the case studies highlight differences and identify best practices in FOIA operations.

Thus, the analysis combines findings from across data sources, using an approach known as "mixed-methods evaluation." Mixed-methods evaluation increases confidence in the evaluation findings if a finding is validated with more than one source. Conversely, this approach can highlight contradictions across data sources and indicate areas that require additional investigation. In general, our findings and conclusions are validated by multiple sources.

This chapter describes each data source, explains how IEc used each source to answer the evaluation questions, and notes the strengths and limitations of the methodology.

EXISTING DATA SOURCES

IEc used already existing quantitative and qualitative data sources for this evaluation. FOIA.gov and Annual FOIA Reports contain quantitative data IEc used to extract and analyze trends in program metrics. Available literature, including federal FOIA policy documents, EPA FOIA policies and procedures, previous EPA FOIA evaluations, and EPA FOIA workgroup reports provided contextual information for understanding the current status of EPA's FOIA program. Finally, outputs from recent FOIA-related Lean efforts provided information on streamlining opportunities that may be broadly applicable across EPA.

Benchmarking Data

FOIA.gov and federal agency Annual FOIA Reports provided a rich source of existing data on FOIA implementation across the federal government. Using these existing data, IEc conducted benchmarking across a selection of federal agencies. IEc used existing data to select federal agencies for benchmarking by looking at agency size, volume of FOIA requests received, and ratio of complex to simple requests. IEc also benchmarked

trends in FOIA performance across EPA regions and headquarters to understand internal EPA FOIA performance trends.

IEc's benchmarking of EPA offices/regions compared general trends in program performance and explored correlations between program performance and program structure (e.g., centralization). Existing data were available for regions and headquarters offices in aggregate from 2001 to 2014. IEc had access to disaggregated regional data from 2001-2014, but only had access to data on individual headquarters offices for 2013 and 2014. Therefore, IEc was not able to examine FOIA program performance for *individual* headquarters offices over time. IEc examined trends over time using aggregated (consolidated) headquarters data and disaggregated regional data.

IEc examined FOIA program performance using a number of metrics, but focused primarily on the following:

- Total number of backlogged[8] requests;
- Backlogged requests as a percent of total requests;
- Average cost (dollars spent and personnel[9]) per request; and
- Request response time (average number of days) for responding to simple requests.

Literature Review

IEc reviewed relevant online resources and documents on the history, goals, and status of EPA's FOIA program. In addition, IEc conducted a targeted literature search to identify additional evaluations, studies, and analyses of the program, both for EPA and other federal agencies. Appendix A provides a complete bibliography of the literature reviewed.

Key documents include:

- *Freedom of Information Act Workgroup Report* (June 2011);
- *OIG's Briefing Report: Review of EPA's Process to Release Information Under the Freedom of Information Act* (May 2014);
- *OIG's No Indications of Bias Found in Sample of Freedom of Information Act Fee Waiver Decisions But the EPA Could Improve Its Process* (July 2014);
- *Freedom of Information Act Policy* (September 2014);

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[8] The *U.S. Environmental Protection Agency Chief FOIA Officer Report for 2013 (March 2013- March 2014),* explains that prior to FY 2013, EPA did not count a request as backlogged if an extension was granted by the requester. For FY 2013 and on, any request pending at the EPA for more than 20 working days, or an additional 10 days (if taken for unusual circumstances) is considered backlogged, regardless of a granted extension. IEc took into account this definitional change during our analyses.

[9] Prior to the launch of FOIAonline in October 2012, FOIA personnel data were estimated across regions based on guidance from the National FOIA Office. IEc examined trends in number of full-time FOIA employees and number of equivalent full-time FOIA employees over time. Our analysis indicated variability in reported values for equivalent full-time employees that may indicate data inconsistency.

- *Procedures for Responding to Freedom of Information Act Requests* (September 2014);
- *FOIA Expert Assistance Team presentation* (November 2014);
- Organization-specific FOIA procedures submitted by EPA offices and regions (March 2015);
- FOIA information, documents, and links on EPA's website; and
- Lean and process improvement outputs for OAR, Region 3, Region 7, and Region 10 (see the Lean section below).

IEc conducted an in-depth review of selected documents and synthesized existing information on steps that EPA could take to improve FOIA processes and workflow, strengthen accountability, and ensure consistency in the Agency's responses to FOIA requests.

To gather additional information about FOIA best management practices, IEc reviewed documentation for other federal agencies that have enhanced their FOIA performance in recent years (e.g., reduced their backlog, decreased processing time, etc.). For example, IEc reviewed Annual FOIA Reports that EPA and other federal agencies submitted to DOJ to identify steps agencies are taking to improve their FOIA programs. IEc reviewed Center for Effective Government scorecards, the National Security Archive's FOIA administration audits, FOIA Advisory Committee[10] reports, and related publications to identify information on best management practices. IEc focused on best practices that 1) have not been implemented by EPA, and 2) have not been deemed infeasible by OEI (see Appendix B).

Lean Outputs

As discussed above, OAR, Region 3, Region 7, and Region 10 recently conducted Lean, Kaizen, or other process improvement events to simplify their FOIA processes and procedures (for simplicity, IEc refers to these collectively as "Lean events"). IEc used the materials associated with these events to identify opportunities for streamlining the FOIA process, as well as best practices to strengthen accountability and improve consistency.[11]

IEc received materials from OAR, Region 3, Region 7, and Region 10. A brief summary of the materials follows:

- **OAR:** IEc reviewed the "report-out" for the Lean event that OAR conducted in January 2015. The goal of this event was to streamline the process and reduce the

[10] The FOIA Advisory Committee was established through the 2013 Open Government National Action Plan and is comprised of both government and non-government members working to improve FOIA implementation. Government members include representatives from EPA, Department of Labor, Department of State, Department of Homeland Security, Department of Defense, and others. Although these agencies may not all be comparable to EPA based on the volume of FOIA requests or organizational structures, they may provide useful insights and best practices for EPA's consideration. https://ogis.archives.gov/foia-advisory-committee.htm.

[11] See footnotes 5 and 6 for the definitions of consistency and accountability that IEc used for this evaluation.

time required to respond to FOIA and Congressional requests.[12] The team mapped and analyzed the current process to identify the causes of delays. This exercise suggested that decentralization, the increasing use of electronic communication, technology limitations, and the increasing complexity of requests contributed to delays in the process. The team specifically noted the difficulties in locating and managing responsive e-mail records (see above for discussion of the FOIA Technology Subgroup, which is working to address this issue). The team developed recommendations and a detailed action plan to address these issues.

- **Region 3:** The PowerPoint slide presentation for Region 3's FOIA Process Improvement Project[13] describes Region 3's current (as of September 2013) FOIA process, other regions' FOIA processes, major FOIA tasks, and FOIA response statistics. The slides also present ideas for "immediate fixes" and options to strengthen the region's FOIA processes. Region 3's project investigated how structural differences in FOIA programs across regions (e.g., centralized, decentralized, or hybrid structure) could affect differences in the time required to process and close FOIA requests.
- **Region 7:** Four documents from Region 7 related to their Kaizen event. First, the FOIA kickoff document describes the scope of the Kaizen event and provides selected data on FOIA requests.[14] The "customer" for the Kaizen event was the FOIA Officer; the goal was to provide the FOIA Officer with complete, legally defensible, and timely responses; reduce the number of steps in the process; and transition to the new National FOIA Office-directed procedures efficiently and effectively. Second, the FOIA Kaizen Report provides the results from the event, including a current-state process map, future-state process map, recommendations, key performance indicators, and an implementation plan.[15] Third, the Value Stream Map (VSM) shows a partial process map for the future state.[16] Finally, the FOIA Champion Report summarizes the status of the project after 90 days.[17] The report indicates that Region 7 has completed many of the implementation steps.
- **Region 10:** IEc reviewed an October 2014 status update from Region 10's Fall 2013 Lean workshop. This one-page document provides a brief summary of workshop outcomes and the new FOIA process, including: distinction between simple and complex FOIAs; clearly defined roles; new tool kit including standard operating procedures, template letters, and checklists; and improvements to electronic tools. The document also identifies remaining issues primarily based on

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[12] U.S. Environmental Protection Agency OAR/OGC/OEI/OCIR. Lean Event Report-Out: OAR Document Request Production (FOIA and Congressional Requests). January 9, 2015.

[13] EPA Region 3. *FOIA Process Improvement Project*. Planning and Analysis Branch. September 11, 2013.

[14] EPA Region 7. Process Excellence Project Pre-Kaizen Meeting: Region 7 FOIA Process. August 2014.

[15] EPA Region 7. Process Excellence Project Report Out: FOIA Process. Undated.

[16] EPA Region 7. *FOIA new VSM.* Undated.

[17] EPA Region 7. FOIA Process: Champions Meeting Update. Undated.

the need for additional FOIA Coordinator and Officer expertise and manager support.

As discussed below, IEc also interviewed the Lean event coordinators for three of these offices: OAR, Region 3, and Region 7.

NEW DATA COLLECTIONS

IEc used two primary data collection tools: 1) in-depth interviews with EPA personnel and select interviews at DOJ and OSHA, and 2) a brief online survey administered to EPA staff with FOIA responsibilities. Each data collection is described in more detail below.

Interviews

Interviews informed our answers to all of the evaluation questions. IEc conducted 45 interview sessions with 55 individuals, which we used to gather information, opinions, and input about the current FOIA program and ways to strengthen it. Specifically, IEc gathered information on:

- Changes in FOIA implementation in EPA program offices and regions following the updated Agency-wide FOIA policy and procedures (September 2014);
- Differences in organization-specific FOIA procedures developed by EPA program offices/regions (March 31, 2015), and reasons for these differences;
- EPA's FOIA performance and implementation relative to other federal agencies;
- Differences in FOIA program structure, practices, and performance across the Agency;
- Potential costs and benefits of centralizing the FOIA program (within each program/region, throughout EPA in the National FOIA Office, etc.);
- Technological approaches for managing FOIA requests (including analytics about requests and mechanisms to address the public's information needs without FOIA requests); and
- Role of the FEAT in context of ongoing improvement efforts.

IEc used the interviews to collect information on FOIA program structure within a particular office/region; obtain interviewees' perceptions of the impact of program structure on accountability and consistency; and to solicit feedback on: mechanisms for ensuring accountability and consistency, streamlining opportunities, existing and potential centralization options, and technologies for managing FOIA requests.

Interviewees included EPA FOIA Coordinators and Officers, a sample of individuals involved with FOIA from EPA offices of regional counsel, a sample of EPA staff with FOIA responsibilities, senior managers in OEI, FOIA litigation experts and/or a senior manager in OGC, the FOIA technology sub-group, Lean FOIA experts, FEAT personnel, a FOIA manager at OSHA, and a DOJ FOIA contact (regarding DOJ's general impressions about EPA's FOIA program, how EPA's FOIA performance compares to

other federal agencies, and general suggestions for agencies' FOIA programs). Exhibit 1 provides an overview of the interview categories and the number of interviews in each category.

Appendix C provides the full list of interviewees, the interview category, type (i.e., group vs. individual) and the interviewee's organization and title. Appendix D contains the interview guides for each interview type.

During the scoping interviews and initial literature review IEc noted organizations and individuals as potential interviewees. Based on the initial list, IEc worked with EPA to identify the names of particular individuals who are knowledgeable about EPA's FOIA program. Interviews reflect a purposive sample to ensure adequate representation across key EPA organizations. The interviews are not statistically representative, and IEc does not attempt to make statistical inferences about the FOIA program based on the results of the interviews.

EXHIBIT 1. INTERVIEWS

INTERVIEW CATEGORY	NO. OF INDIVIDUALS
EPA FOIA Coordinators and Officers*	28
Offices of Regional Counsel	6
EPA subject matter expert with FOIA responsibilities	5
Senior managers in OEI*	4
FOIA Technology Sub-group*	2
Lean FOIA experts	6
FEAT personnel*	2
FOIA manager at OSHA	1
DOJ representative familiar with EPA's FOIA program	1
Total	**55**
Note: (*) Two EPA FOIA Coordinators and Officers, two senior managers in OEI, two individuals in the FOIA Technology Sub-group, and one FEAT personnel participated in evaluation scoping interviews in addition to the in-depth interviews conducted during the implementation of the evaluation.	

To ensure the transparency of the selection process and adequate representation across the Agency, IEc and EPA used the following interview selection criteria:

For EPA FOIA Coordinators and Officers:

- Representation of all regional EPA FOIA programs; and
- Representation of most headquarters offices.

For Offices of Regional Counsel:

- Counsel representing regions with updates to FOIA procedures that are unique;
- Counsel that the regional FOIA Officer has identified as particularly knowledgeable about key aspects of the FOIA process; or

- Counsel in regions where the counsel has more FOIA-related knowledge than the acting FOIA Officer.

For EPA subject matter experts:

- Participation in survey (see below) and willingness to be interviewed; and
- New, surprising, or insightful survey responses that offer new learning opportunities.

IEc interviewed senior managers at OEI knowledgeable about the FOIA program and able to provide insights on the new EPA policies and procedures. IEc also interviewed FOIA Technology Sub-group members previously interviewed during the scoping phase of this evaluation to gain additional information on FOIA-related technology. IEc also conducted interviews of Lean FOIA experts in OAR, Region 3, and Region 7. FEAT personnel interviews included the Acting FEAT Director and a FEAT attorney. IEc also interviewed a FOIA manager at the OSHA National Office, and a DOJ representative familiar with EPA's FOIA program.

IEc analyzed responses to each interview question to identify themes and summarize responses. IEc used qualitative analysis tools to code responses to open-ended questions, identified themes across interviews, and summarized the frequency with which each theme was raised.

Survey

IEc surveyed and received useable, complete responses from 429 EPA staff with FOIA responsibilities,[18] including subject matter experts, to collect information on the following topics:

- Intended or realized effects of the updated Agency-wide FOIA policy and procedures;
- Differences and similarities in the level and nature of responsibility for FOIA implementation across different offices and regions;
- Nature and extent of coordination to process FOIA requests and any frequent or common problems/frustrations;
- Time required to respond to FOIA requests, and the percent of overall time spent on FOIA versus other job responsibilities;
- Perceived importance of FOIA-related goals relative to other job responsibilities;
- Effects of technology on FOIA processing time;
- Access to technological resources to process FOIA requests; and
- Staff input on potential streamlining opportunities.

[18] 430 respondents completed the survey; however, one respondent made the following comment near the end of the survey: "I don't do enough regular FOIA work to know [what would make work on FOIA easier]. This survey mischaracterizes my usual FOIA involvement and is nearly impossible to answer accurately, including the responsibility to NOT answer some questions." Based on the respondent's comment, IEc excluded this respondent's answers from our analysis.

IEc used a web-based survey, which was faster and more convenient for respondents compared to a phone or paper survey, and was far more cost-effective. IEc programed the survey using Survey Monkey software. To reduce survey burden and reduce costs associated with data coding, the survey largely consisted of discrete choice questions with optional open text fields to allow respondents to elaborate on answers. The survey also employed skip logic, which allowed respondents to skip questions based on their answers to previous questions. This survey technique ensured that respondents only answered relevant questions. The survey instrument is located in Appendix E.

IEc distributed the survey to all EPA FOIAonline users. EPA maintains a comprehensive list of all EPA staff, contractors, and grantees that have responded to a FOIA request since FOIAonline was launched in October 2012. There are approximately 1,700 active users and an additional 500 inactive users registered with FOIAonline. Due to the requirements of the Paperwork Reduction Act,[19] IEc was unable to survey contractors and grantees. Therefore, IEc included a question at the beginning of the survey to screen out individuals who are not EPA employees. OEI distributed a letter announcing the survey, defining the eligibility criteria (i.e., employed by EPA), containing the survey link, and encouraging participation by eligible individuals.

For some data analyses, IEc grouped survey responses into two broad categories: respondents that self-identified as having a title in the FOIA program, and respondents that self-identified as not having an official title in the FOIA program.

ADDITIONAL METHODS

The process maps and case studies leveraged existing data and built on new data collections. These additional data methods synthesized qualitative and/or quantitative data; the process maps summarize EPA's FOIA process in practice, and the case studies highlight differences and identify best practices in FOIA operations. The remainder of this section describes the process maps and case studies in more detail.

Process Maps

IEc developed two general process maps that summarize EPA's FOIA program in a typical headquarters office and a typical region. IEc used two main sources to build the process maps: (1) policies, procedures, and statutory requirements that underlie EPA's FOIA processes, and (2) interviews with practitioners in EPA headquarters and regions to understand how the process is implemented. The process maps are located in Appendix F.

IEc used interviews to verify how the process is supposed to work and areas where inconsistencies and/or delays may occur. As part of this effort, IEc developed two preliminary, simple process maps to present to interviewees and prompt discussion on FOIA processes within a respective office or region. Based on interview responses, IEc revised the process maps. As a final product, IEc developed two generic process maps: one for headquarters offices and one for the regions.

[19] The Paperwork Reduction Act prohibits EPA and its contractors from asking the same questions of more than nine non-federal employees without obtaining approval from the Office of Management and Budget.

IEc used the process maps to describe the current process, including key differences across regions and program offices, and to identify where delays or inconsistences occur. IEc also used the process maps to describe how differences or changes in key parts of the process could affect accountability, consistency, and efficiency. IEc discusses opportunities for streamlining in the findings section of this report.

Case Studies

The case study is not a primary method, but a way of synthesizing information holistically to showcase differences and best practices in FOIA operations. IEc developed two case studies by drawing from information collected through the literature review, interviews, benchmarking, and the survey of EPA staff with FOIA responsibilities. One case study is on another federal agency – the Department of Labor's (DOL) Occupational Safety and Health Administration (OSHA)'s FOIA program; and the other case study is on EPA Lean FOIA events.

Case Study of Another Federal Agency

IEc's criteria for selecting a federal agency for a case study included:

- Comparable structure to EPA;
- Comparable number of annual FOIA requests;
- Good track record of processing FOIA requests and avoiding backlogs, and/or recent improvement in FOIA processing over time; and
- Similar distribution of complex versus simple FOIA requests.[20]

Based on information collected, IEc identified OSHA as the best candidate for a FOIA case study due to its similar volume of FOIA requests, regulatory nature, and regional structure. [21]

OSHA's low numbers of backlogged requests, experience processing complex requests, and comparatively lower cost of FOIA activities – and the agency's similarity to EPA across multiple dimensions – suggested that a more in-depth review of OSHA could identify best management practices and/or initiatives relevant to EPA's FOIA program. See Appendix G for the OSHA case study.

Case Study of EPA Lean FOIA events

IEc also developed a case study summarizing and synthesizing lessons learned from EPA's FOIA-related Lean events in OAR, Region 3, Region 7, and Region 10 based on

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[20] A *simple request* is a FOIA request that an agency anticipates will involve a small volume of material or which will be able to be processed relatively quickly. A *complex request* is a FOIA request that an agency anticipates will involve a voluminous amount of material to review or will be time-consuming to process. (Freedom of Information Act Glossary: http://www.foia.gov/glossary.html)

[21] During our interview with OSHA, IEc sought to clarify the nature of requests that OSHA receives, and how this may affect OSHA's FOIA performance relative to EPA. The majority of OSHA's FOIA requests pertain to enforcement files in health and safety investigations, and most of these requests are narrow in scope. Despite these differences, the FOIA case study identifies some best practices that might be relevant to EPA, including: strong cross-agency communication, displays of management support, and overall support for FOIA staff.

the literature review, interview responses, and relevant survey responses. The Lean case study can be found in Appendix F.

ANALYTICAL APPROACH

IEc used a combination of quantitative and qualitative analyses to answer the evaluation questions. Quantitative methods included benchmarking using existing data from FOIA.gov and federal agency Annual FOIA reports, and a survey of EPA personnel with FOIA responsibilities. Qualitative data sources included the interviews, literature review, process maps, and case studies. The interviews provided important insights and context for interpreting the quantitative data and identifying improvement opportunities. As noted above, the case studies synthesized research collected through other methods.

Exhibit 2 provides a crosswalk of evaluation questions, data sources and methods, and IEc's analytical approach. The "Data Sources and Methods" columns indicate whether each source was of primary (★) or secondary (✓) importance for answering each evaluation question. The notes in the "Analytical Approach" column on the far right indicate how IEc used the data sources and methods to answer the evaluation questions. IEc used multiple data sources and methods to address each question. In general, consistent information obtained from across multiple data sources and methods bolsters the strength and confidence of evaluation findings.

The remainder of this chapter describes the analytical approaches for each evaluation question, drawing on the benchmarking, literature review, process maps, Lean outputs, interviews, survey, and case studies, as appropriate.

EXHIBIT 2. EVALUATION QUESTIONS, METHODS, AND ANALYTICAL APPROACH

EVALUATION QUESTIONS	METHODS							ANALYTICAL APPROACH
KEY: ★ = PRIMARY DATA SOURCE FOR ANSWERING QUESTION ✓ = SUPPLEMENTAL DATA SOURCE FOR ANSWERING QUESTION	BENCH-MARKING	LIT REVIEW	PROCESS MAP	LEAN OUTPUTS	INTERVIEWS	SURVEY	CASE STUDIES	
Questions on Current Implementation of the FOIA Program								
1. How have the updated Agency-wide FOIA policy and procedures (September 2014) affected FOIA implementation in program offices and regions to date?		✓			★	★		• **Literature review:** Reviewed updated Agency-wide FOIA policy and procedures. • **Interviews:** Interviewed EPA FOIA Coordinators and Officers, senior managers in OEI and OGC, and a sample of staff with FOIA responsibilities about changes following the new Agency-wide policy and procedures. • **Survey:** Surveyed staff with FOIA responsibilities, including subject matter experts about changes following the new Agency-wide policy and procedures.
2. What are the major differences in organization-specific FOIA procedures (March 31, 2015) across program offices and regions?		★			✓			• **Literature review:** Reviewed organization-specific FOIA procedures developed by program offices/regions; conducted a high-level qualitative comparison of procedures across different program offices/regions; and summarized key differences. • **Interviews:** Interviewed EPA FOIA Coordinators and FOIA Officers in different EPA program offices and regions about their procedures.
a. What factors explain these differences?		✓			★			• **Literature review:** Reviewed and determined if the procedure documents developed by the program offices/regions provide a rationale or explanation that helps explain the differences across organizations. • **Interviews:** Interviewed EPA FOIA Coordinators and FOIA Officers in different EPA program offices and regions about their procedures.
3. How does the performance of EPA's FOIA program compare to the performance of other, comparable federal agencies?	★	✓			✓		★	• **Benchmarking:** Using a set of common and readily available metrics, benchmarked EPA to other, comparable federal agencies using existing data in FOIA.gov and Annual FOIA Reports. • **Literature review:** Reviewed Annual FOIA Reports filed with DOJ by EPA and other federal agencies. • **Interviews:** Interviewed FOIA manager at OSHA, DOJ representative familiar with EPA's FOIA program, and FEAT personnel with experience in NOAA's FOIA program to gain insights on intra-Agency benchmarking data. • **Case studies:** Prepared a case study of an agency comparable to EPA with exemplary FOIA performance (i.e., OSHA).

EVALUATION QUESTIONS	METHODS							ANALYTICAL APPROACH
KEY: ★ = PRIMARY DATA SOURCE FOR ANSWERING QUESTION ✓ = SUPPLEMENTAL DATA SOURCE FOR ANSWERING QUESTION	BENCH-MARKING	LIT REVIEW	PROCESS MAP	LEAN OUTPUTS	INTERVIEWS	SURVEY	CASE STUDIES	
4. What are the major differences in FOIA program structure and practices across EPA's regions and program offices?	★		★		✓	✓		• **Benchmarking:** Using a set of common and readily available metrics, benchmarked regional performance using data in Annual FOIA Reports. • **Process map:** Prepared generic process maps for EPA's FOIA program, and used the process maps in combination with the interview findings to describe key differences across regions and program offices. • **Interviews:** Interviewed EPA FOIA Coordinators and FOIA Officers in different EPA program offices and regions to gain insights into differences in program structure and practices. • **Survey:** Surveyed staff with FOIA responsibilities, including subject matter experts, to explore the time required to respond to different types of FOIA requests, and the percent of their time spent on FOIA versus other job responsibilities.
a. How do these differences affect employee accountability to the FOIA program?			✓		★	✓		• **Process map:** Used the process maps in combination with the interview findings to describe how differences in key parts of the process could affect accountability. • **Interviews:** Interviewed EPA FOIA Coordinators and Officers and senior managers in OEI and OGC to collect perceptions on how program structure affects accountability. • **Survey:** Surveyed staff with FOIA responsibilities, including subject matter experts, using questions designed to assess the level and nature of responsibility that respondents in different offices and regions have toward the FOIA program.
b. How do these differences affect consistency in the Agency's FOIA processes and responses to FOIA requests?			✓		★	✓		• **Process map:** Used the process maps in combination with the interview findings to describe how differences in key parts of the process could affect consistency. • **Interviews:** Interviewed EPA FOIA Coordinators and Officers and senior managers in OEI and OGC to gather perceptions on how program structure affects consistency. • **Survey:** Surveyed staff with FOIA responsibilities, including subject matter experts, to assess with whom they coordinate – and the nature and extent of coordination – in responding to FOIA requests.
Prospective Questions on Improving the FOIA Program								
5. What best practices could EPA adopt to ensure accountability in the Agency's FOIA processes and responses to FOIA requests?		✓		✓	★		✓	• **Literature review:** Identified best practices in the literature (e.g., Annual FOIA Reports, EPA FOIA task force and work group report, independent studies of EPA and other agencies' FOIA programs, etc.) for strengthening accountability in responding to FOIA requests. • **Lean outputs**: Identified best practices in Lean outputs for strengthening accountability in responding to FOIA requests. • **Interviews:** Interviewed EPA FOIA Coordinators and Officers, senior managers in OEI and OGC, and OSHA FOIA managers to solicit their input on mechanisms for strengthening accountability. • **Case studies**: Illustrated how OSHA has implemented its FOIA program to ensure accountability.

EVALUATION QUESTIONS	METHODS							ANALYTICAL APPROACH
KEY: ★ = PRIMARY DATA SOURCE FOR ANSWERING QUESTION ✓ = SUPPLEMENTAL DATA SOURCE FOR ANSWERING QUESTION	BENCH-MARKING	LIT REVIEW	PROCESS MAP	LEAN OUTPUTS	INTERVIEWS	SURVEY	CASE STUDIES	
6. What best practices could EPA adopt to ensure consistency in the Agency's FOIA processes and responses to FOIA requests?		✓		✓	★		✓	• **Literature review:** Identified best practices in literature for improving consistency in responding to FOIA requests. • **Lean outputs**: Identified best practices in Lean outputs for improving consistency in responding to FOIA requests. • **Interviews:** Interviewed EPA FOIA Coordinators and Officers, senior managers in OEI and OGC, and OSHA FOIA managers to solicit their input on mechanisms for improving consistency. • **Case studies**: Illustrated how OSHA has implemented its FOIA program to ensure consistency.
7. What opportunities, if any, exist for EPA to streamline its FOIA processes?		✓	✓	✓	★	✓		• **Literature review:** Identified mechanisms in the literature for streamlining FOIA policies and procedures that 1) have not been implemented by EPA and 2) have not been determined to be infeasible by OEI. • **Process map**: Identified and described where delays/inconsistencies occur and possible streamlining opportunities, in light of key steps in the process maps. • **Lean outputs**: Identified streamlining opportunities in Lean outputs. • **Interviews:** Interviewed EPA FOIA Coordinators and Officers to solicit their input on streamlining opportunities that the IEc team thinks may be practical and effective based on our scoping interviews, literature review, Lean outputs, and benchmarking data. • **Survey:** Surveyed staff with FOIA responsibilities, including subject matter experts, to gather their input on streamlining opportunities that the IEc team thinks may be practical and effective based on the scoping interviews, literature review, Lean outputs, and benchmarking data.
8. How might changes to the program's organizational structure and/or the adoption of new technologies affect EPA's efforts to ensure the accountability, consistency, and efficiency of the Agency's FOIA program?	*(See methods discussed by sub-question, below.)*							*(See approaches discussed by sub-question, below.)*
a. In what ways could EPA centralize its FOIA program (e.g., centralizing receipt to processing of FOIA requests, enhancing FOIAonline capabilities to centrally track and manage FOIA requests, adopting a centralized program structure in regions/program offices, etc.)?		✓			★			• **Literature review:** Synthesized information in the literature regarding options and mechanisms for FOIA centralization. • **Interviews:** Interviewed EPA FOIA Coordinators and Officers, and a sample of staff with FOIA responsibilities, to solicit feedback on existing and potential centralization options.

EVALUATION QUESTIONS	METHODS							ANALYTICAL APPROACH
KEY: ★ = PRIMARY DATA SOURCE FOR ANSWERING QUESTION ✓ = SUPPLEMENTAL DATA SOURCE FOR ANSWERING QUESTION	BENCH-MARKING	LIT REVIEW	PROCESS MAP	LEAN OUTPUTS	INTERVIEWS	SURVEY	CASE STUDIES	
b. In what ways could EPA use technology to efficiently manage and process FOIA requests, and/or be proactive in making information publicly available?		✓			★	✓		• **Literature review:** Synthesized information in the literature regarding technologies available for managing FOIA requests. • **Interviews:** Interviewed EPA FOIA Coordinators and Officers, and a sample of staff with FOIA responsibilities, to solicit feedback on technologies for managing FOIA requests that they have used or would like to try. • **Survey:** Surveyed staff with FOIA responsibilities, including subject matter experts, about access to technological resources to process FOIA requests.
c. What are the potential benefits and costs of each of the approaches listed in sub-questions a and b, including but not limited to potential impacts on: total personnel required, human resources reallocation requirements, hardware/software costs, training costs, FOIA processing times, strategic coordination of FOIA requests, and litigation costs?	✓	✓			★	★	✓	• **Benchmarking:** Compared data on personnel and FOIA costs across EPA regions and offices to discern trends, and explored possible correlations with centralization and/or greater use of technological approaches to manage FOIA requests. • **Literature review:** Synthesized information in the literature regarding costs and benefits of centralization and technological approaches to managing FOIA requests. • **Interviews:** Interviewed EPA FOIA Coordinators and Officers to gather information on potential costs and benefits of centralization and technological approaches for managing FOIA requests, and to gather insights on benchmarking data on costs and benefits. • **Survey:** Surveyed staff with FOIA responsibilities, including subject matter experts, on: FOIA request processing times; effects of technology use on processing time; and percent of their overall time dedicated to FOIA. • **Case studies**: Analyzed available information on costs and benefits of centralization and technology use within the context of the case studies.
9. How can EPA most effectively leverage the FOIA Expert Assistance Team (FEAT) within the context of ongoing FOIA improvement efforts?					★			• **Interviews:** Interviewed EPA FOIA Coordinators and Officers to gather information on experience working with the FEAT to date and planned future use of the FEAT.

QUESTIONS ON CURRENT IMPLEMENTATION OF THE FOIA PROGRAM

1. How have the updated Agency-wide FOIA policy and procedures (September 2014) affected FOIA implementation in program offices and regions to date?

IEc's review of the updated Agency-wide FOIA policy and procedures provided a baseline understanding of the policy and procedures offices/regions are tasked with implementing. The interviews with EPA FOIA Coordinators and Officers, senior managers in OEI and OGC, and a sample of staff with FOIA responsibilities provided information on the relative changes within each office/region following the new Agency-wide policy and procedures. The survey of staff with FOIA responsibilities enabled IEc to examine the types of changes that affect FOIA operations at the ground level.

2. What are the major differences in organization-specific FOIA procedures (March 31, 2015) across program offices and regions?

IEc used the literature review as the primary source of information to assess organization-specific FOIA procedures and to conduct a high-level qualitative comparison of procedures across different program offices/regions. IEc summarized and compared the key differences. Interviews with EPA FOIA Coordinators and Officers corroborated information from the written procedures. This research helped establish similarities and differences in FOIA written procedures across offices/regions.

a. What factors explain these differences?

As part of the literature review, IEc examined the procedure documents developed by the program offices/regions for a rationale that may help explain the differences across organizations (e.g., FOIA program structure). Interviews with EPA FOIA Coordinators and Officers provided additional information regarding the logic and purpose shaping the procedures.

3. How does the performance of EPA's FOIA program compare to the performance of other, comparable federal agencies?

Benchmarking, the literature review, interviews, and case studies helped to facilitate a comparison of EPA's FOIA program performance to other federal agencies. IEc used a set of common and readily available metrics (from FOIA.gov and Annual FOIA Reports) to benchmark EPA to other, comparable federal agencies. IEc used the metrics to examine Agency FOIA performance trends over time. In addition to this quantitative data, IEc examined the Annual FOIA Reports for qualitative information that provided context and detail for understanding Agency FOIA performance for any given year. Interviews with FOIA managers at OSHA, a DOJ representative familiar with EPA's FOIA program, and FEAT personnel with experience in NOAA's FOIA program allowed IEc to gain insights into intra-Agency benchmarking data. Finally, IEc used the data collected through the above methods to prepare a case study of an agency comparable to EPA with exemplary FOIA performance (i.e., OSHA).

4. What are the major differences in FOIA program structure and practices across EPA's regions and program offices?

IEc used benchmarking, the literature review, process maps, interviews, and the survey to compare differences in FOIA program structure and practices across EPA's regions and program offices. Similar to the federal benchmarking exercise, IEc used a set of common and readily available metrics from the Annual FOIA Reports to benchmark regional FOIA performance over time. EPA only has data for individual headquarters program offices for FY 2013 and FY2014; therefore, IEc focused the benchmarking exercise on EPA regions that have readily available data from FY 2001 to FY 2014. The literature review focused on EPA's Annual FOIA Reports filed with DOJ to identify differences in regional FOIA program performance. Interviews with EPA FOIA Coordinators and Officers in different EPA program offices and regions provided insights into practical differences in program structure and practices. IEc prepared two generic process maps for EPA's FOIA program, and used the process maps in combination with the interview findings to describe key differences across regions and program offices. The survey of staff with FOIA responsibilities, including subject matter experts, allowed IEc to examine the percent of their time spent on FOIA versus other job responsibilities. IEc summarized and compared responses and findings from the multiple data collection approaches.

a. How do these differences affect employee accountability to the FOIA program?

IEc used some benchmarking data in conjunction with interviews to investigate program structure effects on accountability. IEc also used the interviews of EPA FOIA Coordinators and Officers and senior managers in OEI and OGC to collect perceptions on how program structure affects accountability. In combination with the interview findings, IEc developed the process maps to describe how differences in key parts of the process could affect accountability. Finally, IEc used the survey of staff with FOIA responsibilities, including subject matter experts, to assess how staff view their FOIA responsibilities relative to other job responsibilities.

b. How do these differences affect consistency in the Agency's FOIA processes and responses to FOIA requests?

Interviews were the primary method for assessing the impact of differences in FOIA program structure on consistency in the Agency's FOIA processes and response to FOIA requests. During the interviews with EPA FOIA Coordinators/Officers and senior managers in OEI and OGC, IEc collected opinions on how program structure affects consistency. IEc investigated effects on consistency using the benchmarking data in conjunction with the interview data. The process maps built on the interview findings to describe how differences in key parts of the process could affect consistency. The survey of staff with FOIA responsibilities, including subject matter experts, assessed with whom they coordinate – and the nature and extent of coordination – in responding to FOIA requests.

PROSPECTIVE QUESTIONS ON IMPROVING THE FOIA PROGRAM

5. What best practices could EPA adopt to ensure accountability in the Agency's FOIA processes and responses to FOIA requests?

IEc relied heavily on interviews to identify best practices to ensure accountability in the Agency's response to FOIA requests. The literature review and analysis of Lean outputs determined best practices in reports and studies (e.g., Annual FOIA Reports, EPA FOIA task force and work group report, independent studies of EPA and other agencies' FOIA programs, etc.) for strengthening accountability in responding to FOIA requests. IEc conducted interviews with EPA FOIA Coordinators and Officers, senior managers in OEI and OGC, and OSHA FOIA managers to solicit input on mechanisms for strengthening accountability. Finally, the case study illustrates how OSHA has implemented its FOIA program to strengthen accountability.

6. What best practices could EPA adopt to ensure consistency in the Agency's FOIA processes and responses to FOIA requests?

Similar to our approach to the previous evaluation question, IEc used interviews as the primary data sources to identify best practices to ensure consistency in the Agency's FOIA processes and responses to FOIA requests. IEc also interviewed EPA FOIA Coordinators and Officers, senior managers in OEI and OGC, and OSHA FOIA personnel to solicit their input on mechanisms for improving consistency. The literature review was a secondary data source, and the case study illustrates how OSHA has implemented its FOIA program to improve consistency

7. What opportunities, if any, exist for EPA to streamline its FOIA processes?

Interviews were the primary data source for identifying opportunities for EPA to streamline its FOIA processes. IEc used the process maps to pinpoint and describe potential delays and inconsistencies within the FOIA process. The literature review, Lean outputs, and interviews provided mechanisms and opportunities for streamlining FOIA policies and procedures. The literature review and interviews also provided information on the policies and procedures 1) that have not been implemented by EPA and 2) have not been determined to be infeasible by OEI. Finally, the interviews and survey provided IEc the opportunity to solicit input from EPA FOIA Coordinators and Officers and other staff with FOIA responsibilities (including SMEs) on streamlining opportunities.

8. How might changes to the program's organizational structure and/or the adoption of new technologies affect EPA's efforts to ensure the accountability, consistency, and efficiency of the Agency's FOIA program?

    a. In what ways could EPA centralize its FOIA program (e.g., centralizing receipt to processing of FOIA requests, enhancing FOIAonline capabilities to centrally track and manage FOIA requests, adopting a centralized program structure in regions/program offices, etc.)?

The literature review, process maps, Lean outputs, interviews, and case studies all provided information on options for EPA to consider regarding centralization of its FOIA program. IEc synthesized information in the literature regarding options and mechanisms for FOIA centralization. IEc used interviews with EPA FOIA Coordinators and Officers, and subject matter experts, to solicit feedback on existing and potential centralization options.

    b. In what ways could EPA use technology to efficiently manage and process FOIA requests, and/or be proactive in making information publicly available?

Interviews were the primary data source for identifying ways EPA could use technology to efficiently implement the FOIA program. The literature review synthesized information in the literature regarding technologies available and tested for managing FOIA requests. As described in the above question, interviews of EPA FOIA Coordinators and Officers, and subject matter experts, allowed IEc to solicit feedback on technologies for managing FOIA requests that they have used or would like to try. IEc also surveyed staff with FOIA responsibilities, including subject matter experts, about access to technological resources to process FOIA requests, and the effects of technology on processing time.

    c. What are the potential benefits and costs of each of the approaches listed in sub-questions a and b, including but not limited to potential impacts on: total personnel required, human resources reallocation requirements, hardware/software costs, training costs, FOIA processing times, strategic coordination of FOIA requests, and litigation costs?

IEc used benchmarking data, the literature review, interviews, survey, and case studies to conduct a forward-looking, primarily qualitative examination of the potential benefits and costs of the proposed changes, but did not measure actual benefits and costs. IEc examined data on personnel and FOIA costs across EPA regions and offices to discern trends, including any potential correlations with centralization. IEc synthesized information in the literature regarding costs and benefits of centralization and technological approaches to managing FOIA requests. Interviews of EPA FOIA Coordinators and Officers allowed IEc to gather information on potential costs and benefits of centralization and technological approaches for managing FOIA requests, and to gather insights on benchmarking data. IEc surveyed staff with FOIA responsibilities,

including subject matter experts, on: FOIA request process times; effects of technology use on processing time; and percent of overall time dedicated to FOIA.

9. How can EPA most effectively leverage the FEAT within the context of ongoing FOIA improvement efforts?

In combination with the answers to the previous evaluation questions, IEc used interviews to examine how EPA can most effectively leverage the FEAT within the context of the ongoing FOIA improvement efforts. IEc used the responses to discern where the FEAT contributes to FOIA program efficiencies, effectiveness, and consistency. Interviews with EPA FOIA Coordinators and Officers allowed IEc to gather information on experience working with the FEAT to date and planned future uses of the FEAT. With this information, IEc identified opportunities for the Agency to utilize (or better utilize) the FEAT in order to improve the FOIA program.

STRENGTHS AND LIMITATIONS OF THE METHODOLOGY

This evaluation combined findings from multiple data sources, a technique known as "mixed-methods evaluation." This approach enabled us to validate findings from more than one source, thereby increasing confidence in the evaluation findings due to consistent results across methods. Mixed-methods evaluation is a common approach used to enhance methodological robustness of evaluation designs. Additionally, IEc's use of quantitative and qualitative methods supports well-substantiated and meaningful results. Quantitative data provides strength to evaluation findings. Combined with qualitative data, this evaluation approach allows users to understand underlying facts about program performance and the appropriate contextual information to interpret those facts. Finally, IEc's evaluation implementation method was an iterative approach that allowed for additional investigation as necessary. For example, IEc used preliminary survey results to identify SMEs for interviews to examine interesting or notable survey findings.

Given the available data, resources, and scope of the evaluation, some limitations to the evaluation approach should be noted. These limitations include: lack of comprehensive temporal data for headquarters offices,[22] inability to fully examine the diversity of FOIA implementation across the Agency, potential bias associated with purposive sampling for interviews, potential bias associated with exclusion of contractors and grantees from the survey, and potential bias associated with survey non-response. Details on the limitations are described below:

- **Lack of temporal data for headquarters offices.** IEc only had complete headquarters data broken out by program offices for FY 2013 and FY 2014. The disaggregated data did not exist on FOIAonline, FOIA.gov, or in the Annual FOIA reports. As a result, IEc was not able to compare trends in FOIA performance for headquarters offices over time – which limited our ability to

[22] EPA provided IEc with status reports for FY 2011-2014 with headquarters data. IEc's review of the spreadsheets indicated data for FY 2011 and FY 2012 was incomplete and did not correspond with headquarters data presented in the FOIA annual reports. As such, IEc had complete/consistent headquarters data broken out by program office for FY13 and FY14 only.

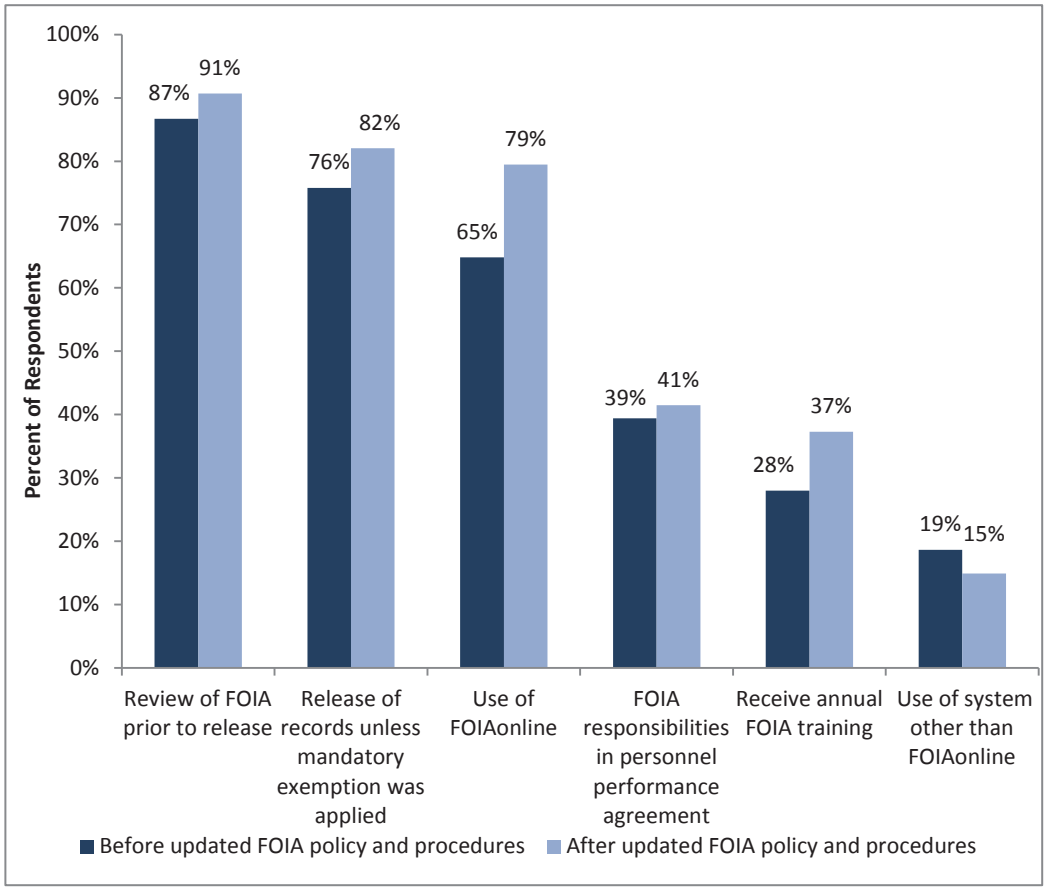
benchmark headquarters office performance and answer evaluation question four (parts “a” and “b”). Therefore, IEc focused the evaluation on differences in FOIA program performance across the regions and headquarters trends over time in aggregate.

- **Inability to fully examine the diversity of FOIA implementation across the Agency.** EPA’s FOIA program is implemented in different ways across the Agency, and depends, in part, on the organizational structure of any given office/region. Our mixed-method approach attempted to capture responses and results from a variety, but not all headquarters offices. Additionally, the evaluation resources and timeframe limited IEc’s ability to capture detailed information on FOIA program processes in each individual office/region. As described above, IEc focused our resources on developing two generic process maps rather than attempting to map the specific process for each office and region.
- **Potential bias associated with purposive sampling for interviews.** IEc was not able to select a statistically valid sample of interviewees given the relatively small number of interviews that could be conducted within the evaluation budget and timeline, and the several types of interviewees that needed to be included. Therefore, as described above, IEc selected a purposive sample of interviewees representative of all regional offices and a sub-set of headquarters program offices. IEc’s purposive sample of interviewees also included individuals most knowledgeable about: EPA FOIA policies and procedures; FOIA program streamlining opportunities; or best program practices at other federal agencies. The purposive sampling approach could potentially introduce bias into the results.
- **Potential bias associated with exclusion of contractors and grantees from the survey.** IEc conducted a brief online survey to capture responses from a representative sample of federal EPA FOIAonline users. However, federal EPA employees are not the only users of FOIAonline; EPA hires both contractors and grantees that use FOIAonline. As explained in the survey section of this chapter, the requirements of the Paperwork Reduction Act prevented IEc from surveying contractors and grantees. Yet contractor and grantee experiences with FOIA may differ from those of federal EPA employees. Depending on the number of contractor and grantee FOIAonline users, excluding these users could bias the results. Survey findings are reflective of federal EPA employees *only* and not of FOIAonline users as a whole.
- **Potential bias associated with survey non-response.** As mentioned above IEc conducted an online survey of federal EPA FOIAonline users. However, our relatively low survey completion rate (18.2 percent of FOIAonline users) could bias survey findings if the respondents were significantly different than the general population of federal EPA FOIAonline users.

1. How have the updated Agency-wide FOIA policy and procedures (September 2014) affected FOIA implementation in program offices and regions to date?

In September 2014, OEI issued updated Agency-wide FOIA policy and procedures documents, which codified several requirements and practices for the FOIA program. As shown in Exhibit 3, survey responses indicate that the Agency's observance of these requirements is greater today than one year ago (i.e., prior to the new policy and procedures documents). For example, approximately 79 percent of survey respondents indicate they use FOIAonline today compared to 65 percent who used FOIAonline one year ago. A higher percentage of respondents indicate that they receive annual FOIA training today than a year ago, but this percentage remains low at 37 percent.

EXHIBIT 3. COMPARISON OF PRACTICES BEFORE AND AFTER UPDATED FOIA POLICY AND PROCEDURES



In another survey question 15 percent of survey respondents indicated they had not heard about the updated FOIA procedures, which may help explain why the observance of these requirements remains below 100 percent.

Approximately nine of out ten respondents indicated that at least one other EPA staff person reviews documents prior to releasing FOIA records. The survey question did not specify the job title and/or level of the staff person conducting the review and sign-off; however, the interviewees suggested that one of the largest impacts of the Agency-wide policy and procedures is the requirement for authorized officials to review and sign off on all FOIA requests. Some offices had this requirement prior to the updated Agency-wide policy and procedures, but most did not.

Both interview and survey respondents expressed concern about the requirement for authorized official sign-off on all FOIA responses, indicating that it delays and complicates the process of responding to a FOIA request. Respondents perceive this requirement as being unnecessary in some cases – e.g., when responsive information is already online and the response consists of referring the requester to a website. One region also indicated that the requirement for authorized official sign-off negated the benefits of their previously instituted streamlining efforts. IEc's review of the Agency-wide FOIA policy and procedures also indicates a lack of clarity regarding division directors' authority to sign the response letter sent to requesters. The current procedures allow division directors the authority to issue initial determinations only with a formal re-delegation of authority from administrators or equivalents. However, interviews suggest that formal delegation of authority may not be standard across the Agency.

2. What are the major differences in organization-specific FOIA procedures (March 31, 2015) across program offices and regions? What factors explain these differences?

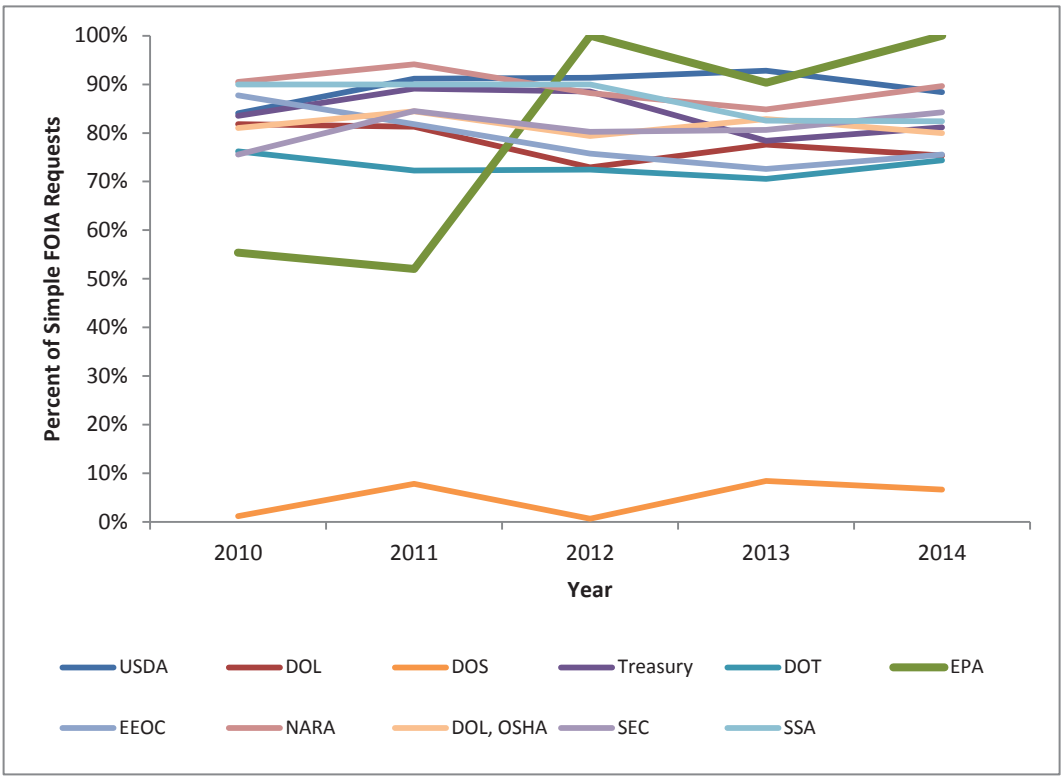
The updated FOIA policy and procedures required program offices and regions to submit their organization-specific FOIA procedures to OEI by March 31, 2015. IEc's analysis of the organization-specific procedures showed very little variation in the written procedures across different parts of the Agency. With very few exceptions, the organization-specific procedures closely follow the Agency-wide procedures and address all of the requirements.

However, office/regional procedures do differ in some ways across the Agency – mostly in terms of the staff position assigned with implementing steps in the process, rather than the actual process steps. For example, as indicated in the process maps (see Appendix F), in Region 4's centralized system, SMEs may only be involved in determining search parameters, collecting and reviewing records, and determining which records (or portions) may be released. More decentralized systems may rely on SMEs to complete additional steps in the FOIA process such as contacting the requester, making assignments via FOIAonline, or preparing the response letter. The degree of centralization of the FOIA program in an office or region helps explain this difference in the written procedures.

3. How does the performance of EPA's FOIA program compare to the performance of other, comparable federal agencies?

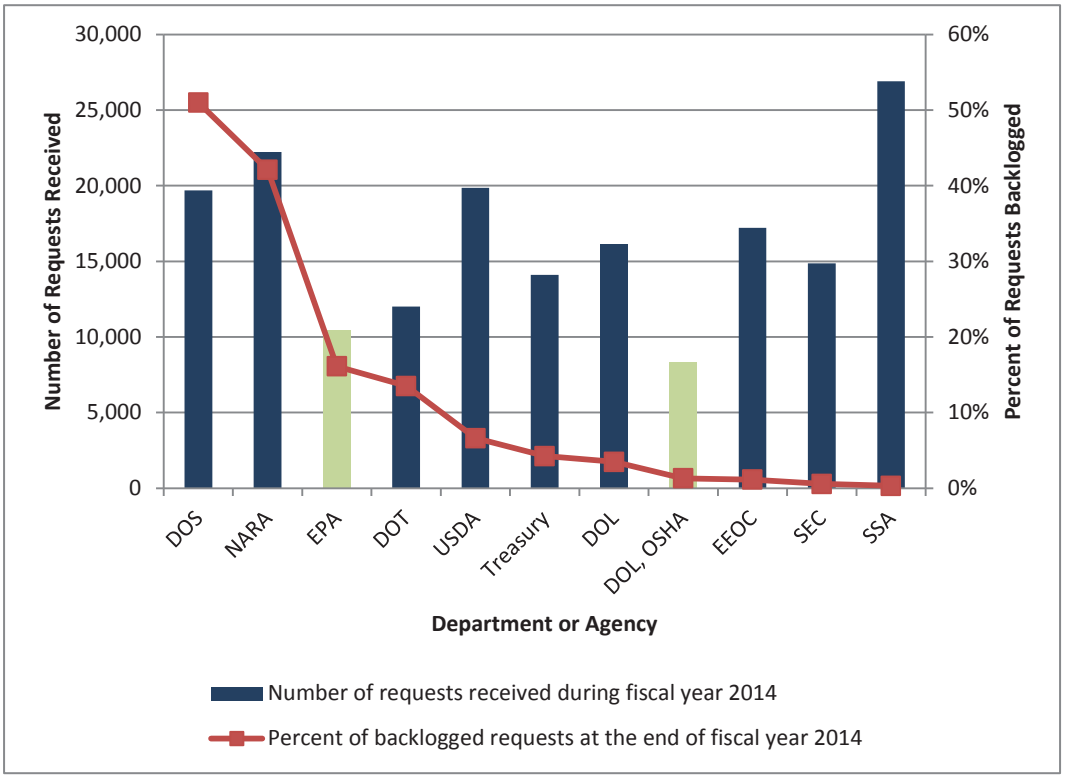
EPA's FOIA program has a strong reputation among federal agencies and compares favorably with its peers in several areas. DOJ assesses FOIA performance on the following dimensions: reducing backlogs, reducing the use of exemptions, making records available to the public, implementing technology, and having an effective system in place for responding to FOIA requests. Exhibit 4 shows the percent of FOIA requests responded to in 1-20 days for EPA and comparable federal agencies. EPA has seen recent improvement in its speed of processing simple requests (an element of effective systems in place). EPA also typically ranks highly in its utilization of technology, largely due to its leadership in FOIAonline.

EXHIBIT 4. PERCENT OF SIMPLE FOIA REQUESTS RESPONDED TO IN 1-20 DAYS



However, as shown in Exhibit 5, EPA had a higher percent of requests backlogged (approximately 16 percent) at the end of FY 2014 than other federal agencies that had a similar or higher volume of FOIA requests. (The graph calls attention to the comparison between EPA and OSHA, for which IEc prepared a case study; see Appendix G). In addition, EPA's backlog has been growing over the past several years, which is in part due to DOJ's definitional clarification of the term "backlogged" to include instances in which requesters agree to an extension beyond the 20-day window.

EXHIBIT 5. NUMBER OF REQUESTS RECEIVED AND PERCENT OF BACKLOGGED REQUESTS, END OF FY 2014



4. What are the major differences in FOIA program structure and practices across EPA's regions and program offices? How do these differences affect employee accountability to the FOIA program? How do these differences affect consistency in the Agency's FOIA processes and responses to FOIA requests?

The process maps (see Appendix F) indicate multiple areas where the process differs across the Agency and are not always reflected in the office- or region-specific procedures, including variations in who has primary responsibility for collection and review of potentially responsive records (e.g., preparing the response letter, finalizing processing fees, obtaining approval from an authorized official, responding to requests, and finalizing the FOIAonline record). The survey results indicate that in general, individuals who hold an official title in the FOIA program are more likely to be involved in all FOIA tasks, with the following exceptions: conduct research to respond to requests, search for responsive records, and review responsive materials; these are all more likely to be carried out by SMEs or individuals without an official FOIA title. Differences in FOIA responsibility assignments may affect consistency and accountability. For example, SMEs may be tasked with the final close-out process in FOIAonline; however, some FOIA Coordinators reported that once SMEs send the response to the requester, the actual close-out becomes a lower priority and gets delayed, as some SMEs do not feel accountable for completing the close-out process. Responsibility for the close-out process varies across the Agency.

As also shown in the process maps, the extent of communication with requesters throughout the process varies across offices/regions. More frequent communication with requesters throughout the FOIA process can improve FOIA responses by clarifying requests; in other cases, this may introduce inconsistency into the process. For example, one office/region indicated staff contact requesters directly by phone during the process to inform them where they can find the information online. This process is not made explicit in their procedures.

The interviews and survey identified several other differences in program practices across the Agency that reflect differences in how offices/regions collect data for FOIA requests; these include:

- **Access to technology:** Only 33 percent of survey respondents indicated they have adequate access to technology for processing FOIA requests. In addition, some interview respondents felt they do not have adequate training on how to use the technology effectively. Others reported feeling overwhelmed by the new technology and did not feel they had access to adequate information technology (IT) support. Since not all EPA staff have the same technology resources and/or proficiency, responses to FOIA requests may be inconsistent. For example, one interviewee reported that staff use black marker on hard copies to redact information. This method could produce different results than the more automated redaction method available through Adobe 11.
- **Use of FOIAonline:** Eighty percent of survey respondents report they use FOIAonline to complete their FOIA responsibilities. Interview responses suggest that some regions deliberately limit the number of FOIAonline users due to concerns about data quality and document control. When people work "outside" the system, it becomes difficult to assign responsibility, track progress, and hold people accountable for responding to FOIA requests.
- **Use of eDiscovery:** Sixty-six percent of survey respondents with an official FOIA title and only 28 percent of respondents without an official FOIA title indicated they were aware of eDiscovery. Furthermore, only 12 percent of respondents who know about eDiscovery "always" use it. Interview respondents indicated that some EPA staff still rely on Outlook searches, despite OEI's guidance that this approach is insufficient to identify responsive e-mail records. E-mail records obtained through eDiscovery could be different than those obtained through an Outlook search, resulting in a lack of consistency in FOIA responses across the Agency.
- **Involvement of the FEAT:** FEAT involvement affects the process for responding to FOIA requests. Initial feedback suggests that the FEAT has helped offices and regions provide a higher-quality response in a shorter period of time, and has helped to improve the consistency of responses that require coordination across multiple offices/regions. However, the FEAT is not currently involved in all multiple office/regional FOIAs.

- **Use of contractor support:** Some offices/regions use contractors to help with large document collection. This approach seems to work well for responding to large FOIA requests; however, it may lead to inconsistent response times if some offices use contractor support while others do not.

IEc conducted a benchmarking analysis on several measures of FOIA performance to look more closely at differences across the Agency. The benchmarking analysis breaks out each of the 10 regions, but shows a consolidated total for headquarters due to limitations in the data available. Selected benchmarking results are presented in Exhibits 6 through 9.

To provide context for the analysis, Exhibit 6 shows the number of FOIA requests received over time, by headquarters and region. The total number of requests declined between 2001 and 2009 (14,252 requests to 10,317 requests), then stayed roughly constant between 2009 and 2014. Regions 5, 3, 2, and 4 receive, on average, the highest number of requests per year, respectively.

EXHIBIT 6. REQUESTS RECEIVED BY ORGANIZATION AND FISCAL YEAR

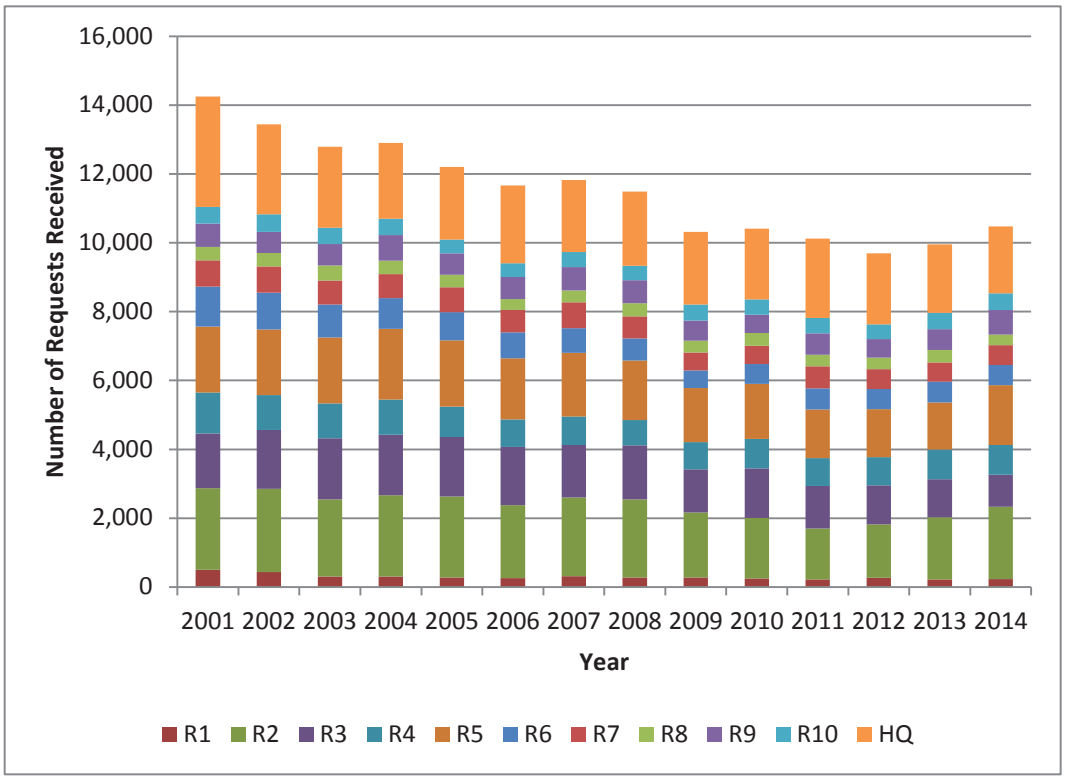
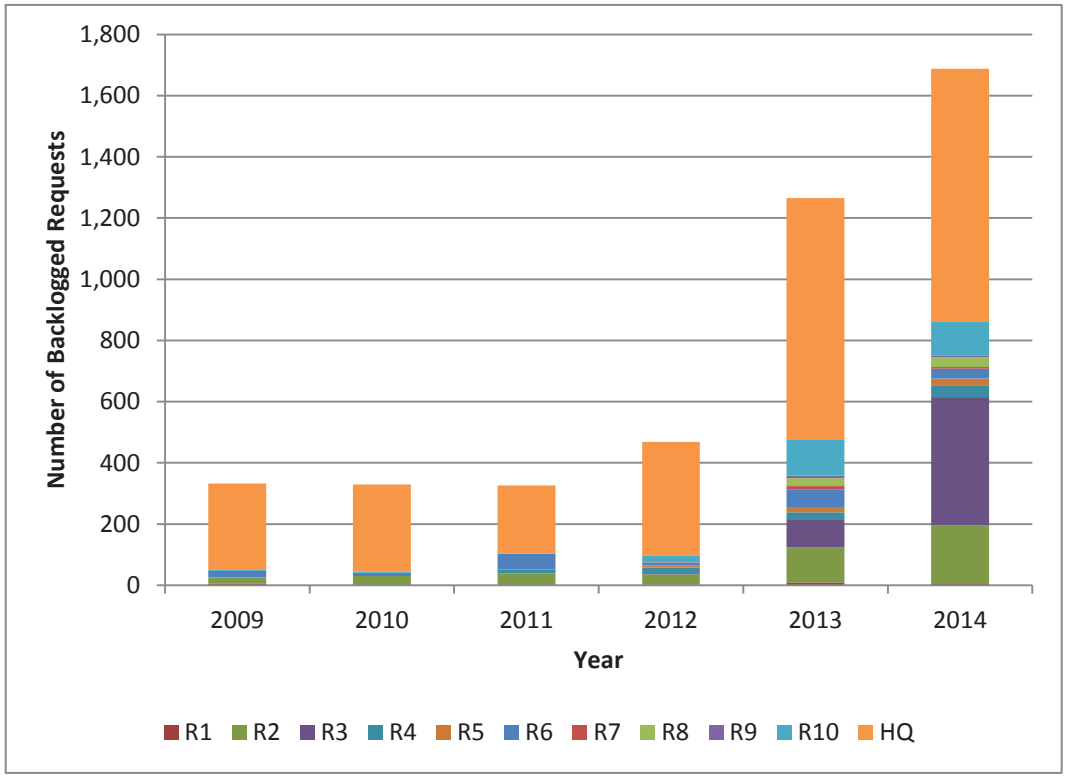


Exhibit 7 shows the number of backlogged requests for headquarters and the 10 regions from 2009 through 2014.[23] The reported number of backlogged requests across the Agency more than tripled in 2013; this was due, in part, to changes in how EPA counts

[23] Number of backlogged requests were not available in Agency Annual FOIA reports for 2001-2008.

and reports backlogged requests to DOJ. However, the backlog increased another three percent for the Agency as a whole between 2013 and 2014, which cannot be attributed to the 2013 DOJ backlog clarification. Headquarters and Regions 3, 2, and 10, respectively, appear to be the three largest contributors to the number of backlogged requests in 2013 and 2014.

EXHIBIT 7. NUMBER OF BACKLOGGED REQUESTS BY ORGANIZATION AND FISCAL YEAR



The analysis also looked at the backlog as a percent of total requests across the Agency. As shown in Exhibit 8, the percent of backlogged requests in headquarters has climbed steadily since 2011 and reached 42.7 percent in 2014. The regions with the highest percentage of backlogged requests in 2014 were Region 3 (45.1 percent, up from 8.1 percent in 2013) and Region 10 (22.6 percent, down slightly from 24.4 percent the previous year). On the other end of the spectrum, since 2009, Regions 1, 4, 5, 7, and 9 have consistently had less than five percent backlog (Regions 5, 7, and 9 have consistently had a backlog of less than two percent).

EXHIBIT 8. BACKLOGGED REQUESTS AS A PERCENTAGE OF TOTAL REQUESTS

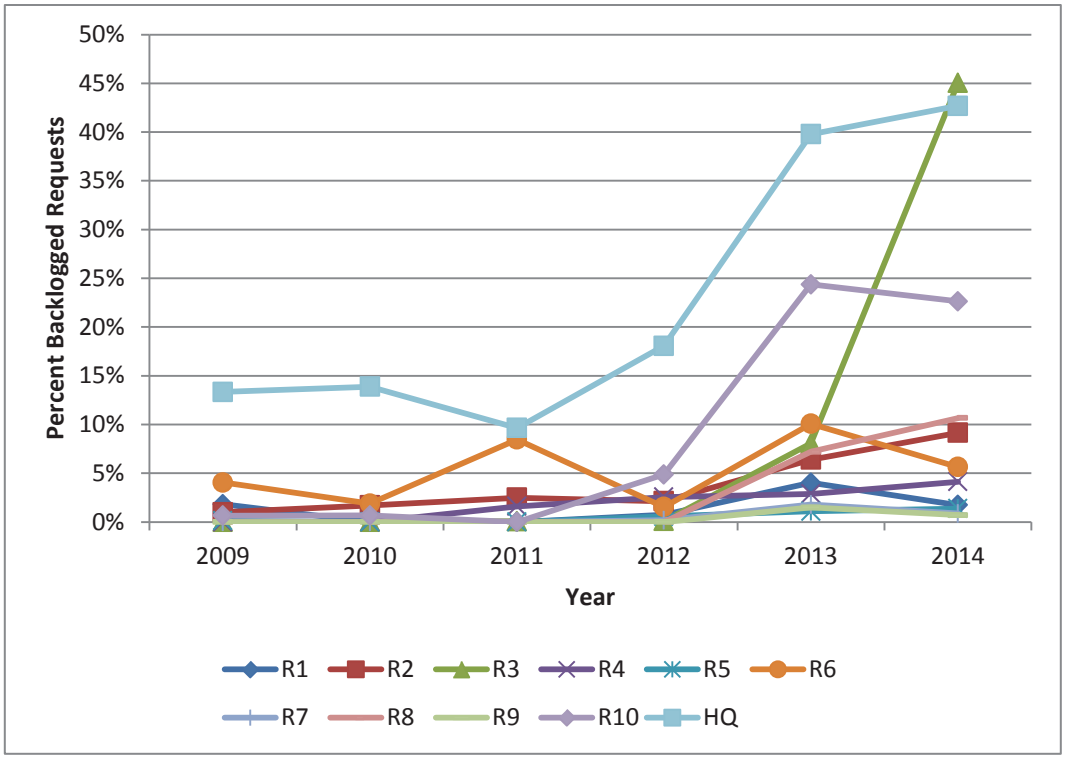
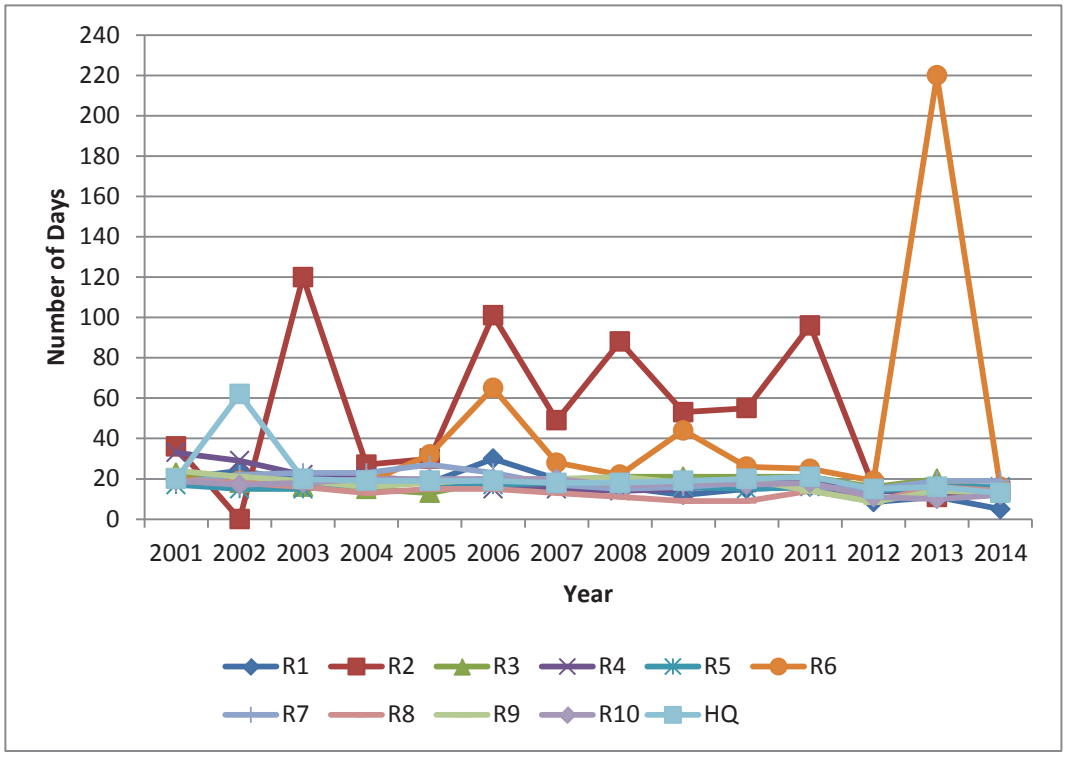


Exhibit 9 shows the median response time, in days, for responding to a simple FOIA request. Regions 2 and 6 have higher median (and average) response times across years; Region 6 had a very large increase in its response time in 2013, but came in under 20 days in 2014. It appears that the 2014 data for Region 6 is an outlier, and could be the result of a 2013 appeals case in the region, although the exact cause is unknown. With the exception of Regions 2 and 6, all regions and headquarters have achieved the 20-day response-time requirement for the majority of requests in recent years.

IEc also examined the correlations between FOIA program performance and personnel data to explain potential causes for differences in FOIA performance across the Agency. Using percent backlogged requests as a proxy for program performance and full-time FTE as representative of office/regional commitment to the FOIA program, IEc found no clear or significant relationship between program performance and resources committed. However, this finding should be interpreted in the context of information from interviewees who indicated that personnel data prior to FOIAonline was estimated and may be unreliable.

EXHIBIT 9. RESPONSE TIME FOR SIMPLE REQUESTS (MEDIAN NUMBER OF DAYS)



5. What best practices could EPA adopt to ensure accountability in the Agency's FOIA processes and responses to FOIA requests?

Interviews, survey responses, and literature suggest that EPA could increase accountability by: increasing management support and involvement, increasing accountability for responding to FOIA tasks, clarifying the role and responsibilities for each step in the FOIA process, and creating a job series of a Government Information Specialist for FOIA personnel:

- **Management support and involvement:** Suggestions to increase the level of management support and involvement included: weekly or monthly status reports to managers; in-person status meetings, and management follow-up with the responsible employees; supervisor trainings; and inclusion of FOIA performance in managers' performance reviews.
- **Increasing accountability for responding to FOIA tasks:** Interviewees noted that getting responses from "non-lead" offices (i.e., offices that are tasked with portions of a FOIA request, but are not the designated lead) is difficult. One interviewee suggested non-lead offices may be more accountable for responding to FOIA tasks if the task is assigned directly from OEI, rather than from other "peer" offices.
- **Clarifying and specifying responsibilities for each step of the process:** Respondents suggested it was especially important to clarify the role of SMEs. In decentralized FOIA systems, SMEs may only occasionally be assigned a FOIA.

Due to the infrequency of their exposure to FOIA requests, they may not be aware of current and appropriate procedures for completing a FOIA. Additional guidance from their respective region or office could help clarify their responsibilities, and/or make them aware of resources to help them respond to FOIA requests.

- **Create a Government Information Specialist role:** DOJ's 2014 *Guidance for Further Improvement Based on 2014 Chief FOIA Officer Report Review and Assessment* suggests that EPA should convert its FOIA and Privacy Act professionals to the Government Information Series in order to professionalize the FOIA workforce and maintain a transparent and accountable government (DOJ 2014).

6. What best practices could EPA adopt to ensure consistency in the Agency's FOIA processes and responses to FOIA requests?

Interviews and survey respondents offered suggestions in the following areas:

- **Improve the functionality and user-friendliness of FOIAonline:** Interview and survey responses strongly suggest that improvements to FOIAonline are needed; improving FOIAonline was among the top three responses to the open-ended survey question: "If you could have anything to make your work on FOIA easier, what would it be?" Multiple respondents suggested that every employee who receives FOIA requests should have access to FOIAonline (currently, this is not happening consistently across the Agency).

  Specific suggestions for FOIAonline included:

  - Make it easier for users to locate the "upload e-mails" section when they need to add correspondence with the requester (currently, "upload e-mails" is classified as "other");
  - Develop a standard file-naming convention for uploading documents;
  - Create an easy-to-access FOIAonline training portal;
  - Add an option to indicate that the requester approved an extension (if the user selects "yes" to unusual circumstances for an extension);
  - Build a user interface that reduces the opportunity to accidentally release uploaded, but withheld records; and
  - Conduct user interface testing to identify additional areas for improvement to FOIAonline.

  Interviews also indicated that document uploads to FOIAonline can be extremely time consuming due to the slow upload time and lack of a batch-upload function.

- **Improve records management:** Several interview and survey respondents noted the connection between FOIA processing and records management; identifying, locating, and accessing potentially responsive documents is essential for responding to similar requests in a consistent manner. Respondents suggested that

EPA should: establish a mandatory, standardized system or process for storing records, digitize all records, and improve the records management process for e-mails. Respondents expressed interest in an "everyday" electronic content and records management system that captures all electronic records, not just e-mail records. Survey and interview respondents also suggested that the Agency should provide guidance on using of the electronic records system and management oversight to ensure the staff use the system.

- **Resolve issues with Outlook e-mail searches:** Multiple interviewees stated that they continue to use the Outlook e-mail search function to find potentially responsive e-mails. However, since it is known that the Outlook search does not provide consistent results, clear guidance and accessibility to the appropriate alternative for retrieving potentially responsive e-mails (i.e., eDiscovery) is needed.
- **Improve FOIA staff expertise and take steps to limit turnover:** Some respondents stated that they need additional expertise for responding to FOIAs, and that FOIA Coordinators could be a resource with knowledge on how to complete the FOIA process, fee waivers, exemptions, etc. In addition, respondents stated that EPA should make efforts to reduce and plan for turnover among FOIA staff.
- **Provide training to meet specific needs:** This study finds two specific areas where additional training could be helpful. First, interviewees indicated that confusion persists about the FOIA policy and procedures; training could help clarify procedures and responsibilities. Second, respondents stated that training should be geared toward personnel who search for responsive records, given the importance of this task for ensuring the quality and consistency of responses.
- **Clarify the fee and fee waiver process:** IEc's review of best practices in FOIA literature identified the following suggestions: clarify what requesters must demonstrate under each factor[24] to receive a fee waiver; inform the public of enhancements to the Agency's FOIA website and other efforts to clarify what they must demonstrate under each factor; and clarify EPA's approach on when to request additional justification.
- **Use standard templates to ensure consistency in FOIA communication and responses to FOIA requests.** Many interviewees reported using standard templates for some FOIA processes (e.g., informing an SME that their help is requested for responding to a FOIA request, communicating with requesters, and/or sending FOIA responses to requesters asking for publically available information). Offices and regions could consider expanding the use of office/region specific standard templates to aspects of the FOIA process that do not currently use standard templates.

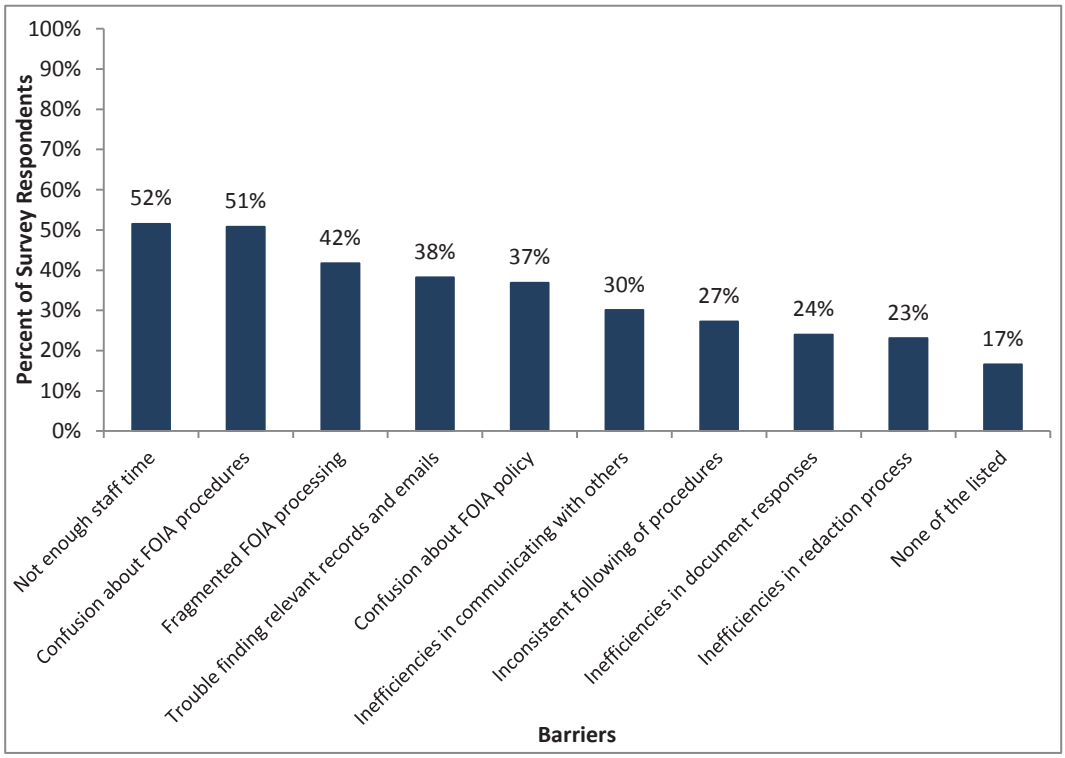
[24] Factors outlined in 40 C.F.R. § 2.107(l) (5) and 2.104(e), respectively.

- **Develop a list of technologies and databases that are currently available to assist with FOIA requests:** One interviewee indicated this type of list would be helpful, and suggested actively collaborating with technology professionals in other parts of the Agency to identify tools that can be leveraged for FOIA.
- **Centralization:** IEc discusses centralization under Question 8c below.

7. What opportunities, if any, exist for EPA to streamline its FOIA processes?

The process maps (see Appendix F) reflect multiple places where there are delays in the process – particularly the process for fee waivers, handling large FOIA requests, collecting and reviewing potentially responsive records, use of FOIA online, and the review and sign-off process. Survey and interview responses indicate these delays may be due, in-part, to confusion about FOIA policy and procedures. As shown in Exhibit 10, survey respondents indicated common barriers to FOIA efficiency.

EXHIBIT 10. PERCENT OF SURVEY RESPONDENTS INDICATING BARRIERS TO FOIA EFFICIENCY



Interview and survey respondents identified the following measures that EPA could take to streamline the FOIA process:

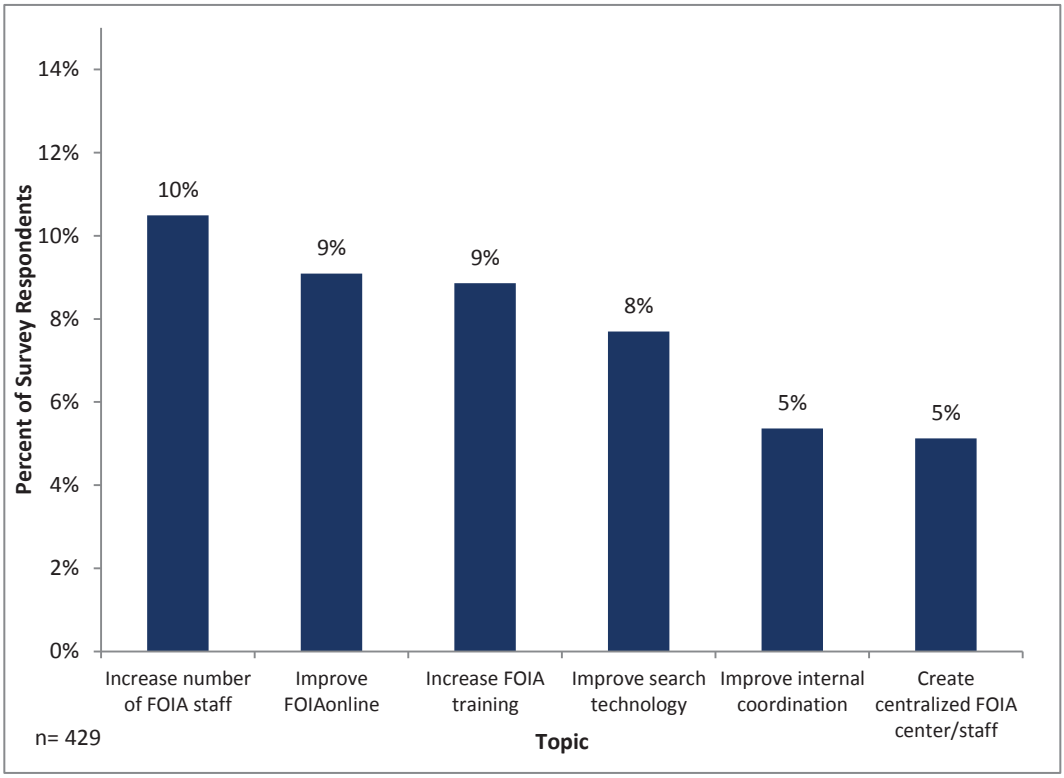
- **Clarify roles and responsibilities, particularly for large FOIA requests:** Among survey respondents, some of the most frequently cited barriers to greater efficiency were confusion about FOIA procedures (51 percent), fragmented FOIA processing (42 percent), and confusion about FOIA policy (37 percent). Confusion about processing large FOIA requests is related to general uncertainty about FOIA

procedures; an interviewee suggested this could be improved with standard operating procedures to guide large collections and reviews.

- **Increase the use of proactive disclosure:** Some interview respondents suggested adding records to the online reading room and making these records searchable. For example, proactive disclosure would enable EPA to provide a website link in response to FOIA requests for information that is publicly available. However, other respondents stated this would not help; they see the volume of complex FOIA requests increasing despite greater use of proactive disclosure.
- **Improve the review and sign-off process in FOIAonline:** In general, authorized officials do not sign off in FOIAonline, and this causes delays: a hard copy must be printed for the authorized official, signed, and scanned back into the system. In addition, the current close-out process in FOIAonline is consecutive rather than concurrent – i.e., the first reviewer must sign off before the second reviewer can see the FOIA request in the system. Some respondents suggested that both reviewers should be able to review the response at the same time.
- **Improve records management:** Respondents for this evaluation, and IEc's review of best practices, indicated that an effective records management system could streamline the FOIA process. While FOIAonline is helpful for locating records, there is room to improve the search functionality in FOIAonline so that internal (EPA) users can locate records more easily, including relevant FOIAs that are "in progress." Overall, respondents suggested that greater uniformity in where records are located would expedite the process of locating records and responding to FOIA requests.
- **Implement "Lean" approaches to FOIA.** Some examples of recommendations from OAR's Lean event include a centralized FOIA process, standardized results from OEI eDiscovery requests, and additional guidance and training. Appendix H contains a short case study synthesizing the results from Lean events across the Agency and highlighting recommendations that may be applicable to other parts of the Agency.
- **Use technology to streamline the process.** This is discussed below under Question 8c.
- **Adopt a centralized FOIA system to enhance efficiency.** This is also discussed below under Question 8c.

Survey respondents also provided responses to an open-ended survey question: "If you could have anything to make your work on FOIA easier, what would it be?" IEc coded and grouped similar responses to identify frequently cited themes. Exhibit 11 provides the top six most frequently cited responses: increase number of FOIA staff, improve FOIAonline, increase FOIA training, improve search technology, improve internal coordination, and create centralized FOIA center/staff.

EXHIBIT 11. TOP SIX MOST FREQUENTLY CITED OPEN-ENDED SURVEY RESPONSES



8. How might changes to the program's organizational structure and/or the adoption of new technologies affect EPA's efforts to ensure the accountability, consistency, and efficiency of the Agency's FOIA program?

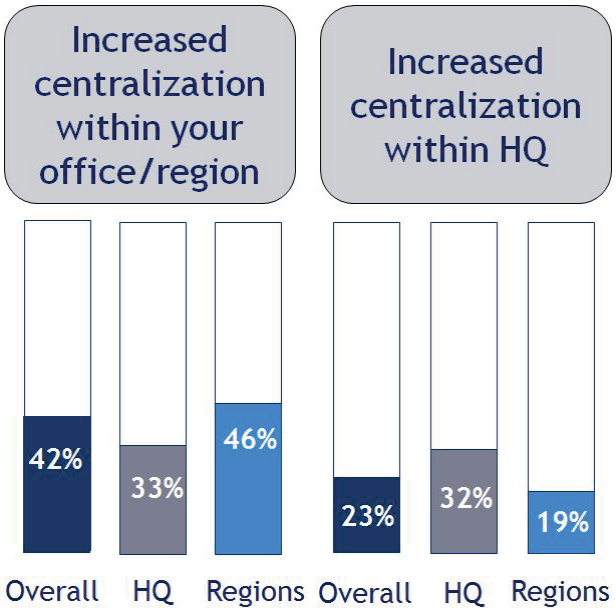
a. In what ways could EPA centralize its FOIA program?

Changes to the program's organizational structure, including options for centralization, are currently under consideration by various parts of the Agency.

The survey asked respondents whether they would be in favor of centralizing within their own office/region, and/or whether they would be in favor of centralizing the FOIA program in a core FOIA group at Headquarters. Overall, 42 percent of respondents were in favor of greater centralization within their own office/region, while 23 percent of respondents favored centralization within a core FOIA group at Headquarters (see Exhibit 12). The difference is statistically significant at a 95 percent confidence level.

IEc also analyzed responses separately for regions and headquarters program offices. Among regional respondents, 46 percent were in favor of increased centralization within their office, while 19 percent approved of increased centralization within a core FOIA group at Headquarters; this difference is statistically significant at a 95 percent confidence level. However, among headquarters program offices, the percent of respondents approving increased centralization within their office (33 percent) was not statistically different from the percent who favored increased centralization within a core FOIA group at Headquarters (32 percent).

EXHIBIT 12. SUPPORT FOR CENTRALIZATION WITHIN OFFICES/REGIONS AND CENTRALIZATION WITHIN A CORE FOIA GROUP AT HEADQUARTERS



b. In what ways could EPA use technology to efficiently manage and process FOIA requests, and/or be proactive in making information publicly available?

Interviews and survey responses identified numerous technologies for processing and collaborating on FOIA requests.[25] The list of technologies and programs that EPA and/or other federal partners use for processing FOIAs includes:

Technologies used by EPA

- FOIAonline
- High-speed scanners
- Adobe 11
- Relativity
- eDiscovery searches
- Microsoft Outlook
- PrimoPDF
- Equivio
- Ipro
- EnCase
- Lotus Notes
- Redact-It
- Harvester

Other technologies used outside EPA

- Blackout
- Clearwell
- Omega
- LexisNexis
- Max.Gov

Many interview and survey responses identified methods to leverage already existing resources and software including FOIAonline, OEI eDiscovery, and other FOIA

[25] Due to the evaluation's limited sample size, this list may not be comprehensive of all technologies EPA staff use to process FOIAs.

processing technologies. Other responses suggested EPA provide access to alternative technologies and improved hardware.

Potential technology-related improvements to FOIAonline are discussed in response to evaluation question six. Interviews suggested that improvements to OEI eDiscovery searches might focus on increasing communication between the eDiscovery team and search requesters to provide timely, relevant, non-duplicative, and useable (e.g., not corrupted) records. Interviews identified the need for better distribution of technology currently available, such as Relativity, EnCase, Ipro, and Adobe 11; and additional technology support and expertise to use these technologies.

Interviews also suggest that access to Blackout (an add-on tool for Relativity with additional search and redaction functions) or Clearwell (an alternative to Relativity that utilizes predictive coding with the ability to search, sort, and tag potentially responsive records) could improve FOIA processing. Respondents who process a large number of paper files cited the need for additional/higher-efficiency scanners. FOIAonline users also indicated the desire for bulk upload functionality to FOIAonline in order to streamline the FOIA response process.

c. What are the potential benefits and costs of each of the approaches listed in sub-questions a and b?

The evaluation identified the following potential benefits of centralization:

- **Increased accountability:** Staff in a centralized team report to a FOIA manager, which improves direct accountability for responding to FOIA requests.
- **Greater expertise and specialized knowledge:** Employees who routinely process FOIA requests in a particular subject area build a knowledge base; they also develop expertise in using technologies, such as Relativity, to process requests efficiently.
- **Enhanced intra-Agency FOIA communication and consistency:** Greater centralization and/or coordination of requests across regions and program offices would help ensure that requesters receive a consistent response from each part of the Agency.
- **Improved customer service:** According to one region that currently has a centralized FOIA system; customers receive higher quality responses, and benefit from having a single point of contact throughout the process (the FOIA specialist "owns" the request from beginning to end).
- **Greater latitude for SMEs to focus on other activities:** SMEs, and other individuals who respond to the occasional FOIA request, may lack the expertise to complete their FOIA tasks efficiently and effectively; reallocating these occasional FOIAs to a centralized team would free up SMEs' time while ensuring that a dedicated team of FOIA specialists responds to the request.

On the other hand, the evaluation identified the following potential costs of centralization:

- **Perceived difficulty or infeasibility of dedicating additional FTEs to FOIA:** Interview respondents in multiple program offices and regions stated that while centralization could enhance the efficiency of EPA's FOIA program, the Agency lacks the resources to hire or allocate the additional full-time FOIA staff they feel would be needed for a successful centralized FOIA system.
- **Need for ongoing SME involvement:** Interview respondents in multiple offices and regions stated that SME involvement would still be crucial under a centralized approach; SMEs possess the potentially responsive documents, or know where the documents are located, and would therefore still need to participate in the process.
- **Highly specialized requests / low volume of general requests:** For offices that receive a small total volume of FOIA requests and/or highly specialized requests, a centralized FOIA program may not be efficient. Similarly, in offices with multiple divisions, in which each division receives a small number of highly specialized requests, switching to a centralized approach may not be helpful.
- **Loss of control:** Interviewees in one office stated that some managers are concerned about relinquishing the ability to review all documents before they are publicly released, particularly for sensitive or high-profile matters.
- **Connection to records management:** Some interviewees suggested that the benefits of a centralized approach are greater when there is also a centralized records management system. However, creating a centralized records management system entails additional costs and complexity beyond creating a centralized FOIA program.

The evaluation also considered the benefits and costs of technology for processing FOIA requests. FOIAonline improvements, OEI eDiscovery search improvements, improved hardware, and enhanced training on how to use these resources have the potential to improve consistency and significantly reduce the staff time dedicated to responding to FOIA requests. For example, trained staff can redact information more efficiently through Adobe 11 compared to manual redactions on hard copies. Other electronic tools such as Relativity can help staff to collect, organize, and review documents for release. High-efficiency scanners would reduce the amount of time spent on digitizing documents, and hardware improvements to increase bandwidth would reduce the document upload time for FOIAonline. Although these technologies would reduce costs over time through efficiency gains, each of these technology solutions would entail upfront costs.

Overall, the findings for this evaluation question suggest that greater access to technology is not in itself sufficient to improve the FOIA process, unless people have the knowledge and skills required to use the technology. This, in turn, suggests that technology may need to be coupled with training and IT support, and/or centralized in a core group of specialized staff.

9. How can EPA most effectively leverage the FEAT within the context of ongoing FOIA improvement efforts?

Feedback obtained from the interviews indicates that the FEAT has been helpful in improving the quality and timeliness of EPA's responses to large and complex FOIA requests and could continue to play this role.

EPA can further leverage the FEAT through increased clarification of its role and responsibilities, and increased communication between the National FOIA Office and FEAT. Specific questions to clarify include:

- What specifically triggers FEAT involvement?
- What role does the National FOIA Office play in identifying cases for potential involvement of the FEAT? For example, currently the FEAT and National FOIA Office both review FOIAs, thereby duplicating a step in the process.

In addition, coordinated messaging and information dissemination from both the FEAT and the National FOIA Office would help clarify the FEAT's role across the Agency.

CHAPTER 4 | CONCLUSIONS AND RECOMMENDATIONS

Based on analysis of the data collected through interviews, survey responses, and documents, IEc offers the following conclusions and recommendations for EPA's consideration.

CONCLUSIONS

The evaluation results suggest that:

1. **Overall, the Agency is following the updated FOIA policy and procedures, but many respondents expressed concern about the sign-off requirement.** One of the most significant changes affecting offices/regions is the requirement for authorized officials to sign off on FOIA responses. Some offices had instituted this requirement prior to the updated Agency-wide policy and procedures, but most had not. The sign-off requirement is intended to ensure that all FOIA responses are reviewed by senior-level managers; however, interviews and survey responses indicate this requirement causes delays in the process, with one region noting that it negated the benefits of their previously instituted streamlining efforts. IEc's review of the Agency-wide FOIA policy and procedures also indicates a lack of clarity regarding division directors' authority to sign the response letter sent to requesters. The current procedures allow division directors the authority to issue initial determinations only with a formal re-delegation of authority from administrators or equivalents. However interviews suggest that formal delegation of authority may not be standard across the Agency.

2. **With very few exceptions, there is little variation in the written FOIA procedures across offices/regions.** However, office/regional procedures across the Agency do differ in some ways – mostly in terms of the staff position assigned with implementing steps in the process, rather than the actual process steps. The degree of centralization of the FOIA program in an office or region helps explain this difference in the written procedures.

3. **EPA's FOIA program has a strong reputation among federal agencies; however, EPA's backlog has been growing since 2013.** EPA has seen recent improvement in its speed of processing simple requests (an element of effective systems in place). EPA also typically ranks high in utilization of technology, largely due to the Agency's leadership in FOIAonline. However, EPA had a higher percentage of requests backlogged (approximately 16 percent) at the end of FY 2014 than other federal agencies that had a similar or higher volume of FOIA requests. EPA's backlog has also been growing over the past several years.

This is due, in part but not entirely, to DOJ's clarification of the definition of "backlog" to include instances in which requesters agree to an extension beyond the 20-day window.

4. **Although written procedures show little variation across the Agency, actual implementation of the FOIA program differs across offices and regions.** The process maps (see Appendix F) indicate multiple areas where the process differs across the Agency, including: who has primary responsibility for collection and review of potentially responsive records, and the process of communicating with requesters. Another major difference is how offices/regions collect data to respond to FOIA requests – e.g., technology uses and knowledge, use and access of FOIAonline, use of OEI eDiscovery services, FEAT involvement, and use of contractor support. Each of these differences can affect accountability and/or consistency. Program performance, as indicated by total and percent backlog and FOIA response time, also varies across offices and regions.

5. **EPA has the opportunity to adopt best practices that may increase accountability in the Agency's FOIA program.** Interviews, survey responses, and literature suggest that EPA could increase accountability by: increasing management support and involvement to ensure that staff respond to FOIA tasks; clarifying the role and responsibilities for each step in the FOIA process; and professionalizing the FOIA Coordinator and Officer roles as Government Information Specialists.

6. **EPA could adopt and/or expand its use of practices to ensure greater consistency in processing and responding to FOIA requests.** The evaluation identified many possibilities to improve consistency; these include: enhancing the functionality and user-friendliness of FOIAonline; improving records management; resolving issues with Outlook e-mail searches; strengthening FOIA staff expertise and limiting turnover; providing training to meet specific needs; clarifying the fee and fee waiver process; using standard templates to ensure consistency in FOIA communication and responses to FOIA requests; developing a list of technologies and databases that are currently available to assist with FOIA requests; and exploring options to centralize the FOIA program within program offices/regions.

7. **Potential streamlining efforts could address a range of inefficiencies in the FOIA process.** The process maps indicate multiple areas where there are delays in the process and confusion about FOIA policy and procedures – particularly the process for fee waivers, handling large FOIA requests, collecting and reviewing potentially responsive records, coordinating with the eDiscovery team, use of FOIA online, and the review and sign-off process. Streamlining measures might include: clarifying roles and responsibilities, particularly for large FOIA requests; increasing the use of proactive disclosure; enhancing the review and sign-off process in FOIAonline; improving records management; adapting relevant Lean findings from individual offices/regions to other parts of the Agency; leveraging

currently existing technology; and, where appropriate, adopting a centralized office/regional FOIA program.

8. **Organizational changes and technology improvements have the potential to significantly improve EPA's FOIA program; however, the potential benefits need to be weighed against the costs.** Various parts of the Agency are considering changes to the program's organizational structure (i.e., centralization). Overall, 42 percent of survey respondents were in favor of greater centralization within their own office/region, while 23 percent of respondents favored centralization within a core FOIA group at Headquarters. Benefits to centralization may include: increased accountability, greater expertise and specialized knowledge, enhanced intra-Agency FOIA communication and consistency, improved customer service, and allowing subject matter experts (SMEs) to focus on their program activities. Potential costs of centralization include: perceived difficulty or infeasibility of dedicating additional FTEs to FOIA, the need for ongoing SME involvement, loss of control for subject matter offices, and connection to and cost of records management.

   The evaluation identified several opportunities to enhance EPA's use of technology to strengthen the FOIA program. However, greater access to technology is not in itself sufficient to improve the process, unless people have the knowledge and skills required to use the technology. FOIAonline improvements, OEI eDiscovery search improvements, improved hardware, and enhanced training on how to use these resources have the potential to improve consistency and significantly reduce the staff time dedicated to responding to FOIA requests. Although these technology improvements would reduce costs over time through efficiency gains, each of these solutions requires upfront expenditures.

9. **EPA can leverage the FEAT by further clarifying the FEAT's role and responsibilities, and by increasing communication and coordination between the National FOIA Office and FEAT.** Feedback obtained from interviews indicates that the FEAT has been helpful in improving the quality and timeliness of EPA's responses to large and complex FOIA requests and could continue to play this role. Clarifying the respective roles and responsibilities of the FEAT and the National FOIA Office, maintaining open and productive communication, and coordinating messaging and information dissemination would help to further integrate the FEAT into EPA's ongoing FOIA improvement efforts.

RECOMMENDATIONS

Based on the evaluation findings and conclusions, IEc offers the following recommendations to strengthen EPA's FOIA program:

Increase Intra-Agency Coordination, Communication, and Accountability *(Evaluation Questions 4,5,6,7,9)*

- **Increase coordination and communication among the FOIA program, FEAT, and eDiscovery.** The FOIA program, FEAT, and eDiscovery team all contribute to EPA's FOIA responses. The consistency and timeliness of some FOIA responses relies, in part, on communication across these groups. Regular meetings with key members from the National FOIA Office, FEAT, and eDiscovery team could help clarify and define the roles and responsibilities for each group and ensure uniform messaging about FOIA across the Agency. Increased coordination between the broader FOIA program and the FEAT may also be achieved through office/regional points of contact with the FEAT. FOIA Coordinators and Officers are well-positioned to fill this role, but may need additional expertise and/or training to meet the demands of improving intra-Agency coordination (see the *Professionalize the FOIA Coordinator and FOIA Officer positions* recommendation below for more information).
- **Increase communication between the eDiscovery team and eDiscovery requesters.** EPA staff often communicate the status of a FOIA request with the requester in order to maintain customer satisfaction. Improved internal communication with the eDiscovery team on the search status and expected response time would help support effective communication with the requester. This is especially important in cases in which the eDiscovery search response time may contribute to a FOIA request becoming backlogged. EPA may consider other measures that increase coordination with the eDiscovery team and help meet the 20-day FOIA response time:
    - Support for constructing effective searches provided either by expert contact person(s) in the offices/regions or a contact person in the eDiscovery team. Well-constructed search parameters facilitate the search and the review process.
    - Additional contractor support for eDiscovery searches.
- **Develop standard operating procedures (SOPs) for processing large FOIA requests involving multiple offices/regions.** Large, multiple office/region FOIA requests pose a unique challenge for EPA; additional guidance is needed to better define the roles and responsibilities of lead and non-lead offices and to increase accountability in responding to these types of requests. The FEAT was developed, in part, to meet the challenges of these large FOIAs. The National FOIA Office and FEAT should work together to develop any potential SOPs. These SOPs might include: 1) the specific FOIA characteristics that trigger FEAT involvement and 2) the process and responsibilities for identifying potential FEAT cases. Currently, both the National FOIA Office and the FEAT review incoming FOIA

requests; although each office reviews FOIAs for different reasons, this process is duplicative. The process may be streamlined if the National FOIA Office uses the aforementioned jointly-developed SOPs to identify FOIAs for potential FEAT involvement. The National FOIA Office might also consider providing contractor support, on an as-needed basis, to offices/regions completing large FOIA requests. If contractor support is provided, any potential SOPs should also include guidance to offices/regions on the type of FOIA requests eligible for contractor support and the process for accessing contractor support.

- **Regularly track and report FOIA task assignments.** Accountability for responding to large, multiple-office/region FOIAs could be improved through regular tracking and reporting of FOIA task assignments. Lead offices make task assignments on FOIAonline to other offices/regions; however, only the lead office has ownership responsibility of the FOIA (e.g., if the FOIA becomes backlogged, only the lead office tracks the "backlogged" status). The FOIA program could help build accountability for responding to FOIA tasks by tracking the response time for FOIA tasks across the Agency and regularly reporting the information to office/regional administrators. An EPA internal FOIA Annual Report comparing intra-Agency performance would be a potential mechanism for this type of reporting.

Leverage Available Technology and Improve FOIAonline *(Evaluation Questions 4,6,7,8)*

- **Develop a technology inventory on available technology, accessibility of the technology, and technology expertise.** FOIA-related technologies and expertise are not evenly distributed across the Agency. A technology inventory would provide information on 1) the technology available for each step of the FOIA process, 2) the process for accessing the available technology (if not readily accessible), and 3) EPA staff and/or contractors with technology expertise who can provide support in using each technology. Such an inventory would be particularly relevant in decentralized systems because of the infrequency that SMEs may receive a FOIA request, and their potential unfamiliarity with FOIA technologies such as FOIAonline, Adobe 11, and Relativity. EPA uses Relativity licenses judiciously (e.g., individuals have access to a license for a limited period of time while working with an eDiscovery search output). As a result, users may lack familiarity with the technology and require technical support. Centralized systems may require less technology support, since centralized FOIA teams build expertise through regular use of the technology in responding to FOIA requests.

- **Work across the Agency to develop SOPs for central records storage.** EPA currently uses the Enterprise Content Management System (ECMS), a centralized electronic content management system that meets the National Archives and Records Administration (NARA) requirements under the Federal Records Act. Cloud Storage, OneDrive, and SharePoint technologies also provide central repositories, but are not currently configured as official recordkeeping systems. Interviews indicate that potentially responsive FOIA records may be located in any or all of the aforementioned repositories, and/or on local EPA computer hard

drives. The FOIA program (including both centralized and decentralized systems) would benefit from clear, well-distributed, Agency-wide guidance to all offices/regions on using central records storage (see the *Combine a centralized FOIA system with improved centralized records management across the Agency* recommendation below for more information). This guidance should consider the ease and speed to upload and download records and the ability to easily search for records in central repositories.

- **Provide step-by-step guidance for using FOIAonline.** Consider adding user prompts in FOIAonline to guide infrequent users through the steps. The FOIAonline website should also include a "how-to" guide sent out in the e-mail informing EPA staff they have received a FOIA or a FOIA task.
- **Improve FOIAonline functionality.** EPA's FOIA program could consider multiple improvements to FOIAonline, including:
    - **Allow batch uploads.** The National FOIA Officer indicates that batch upload functionality is under development for FOIAs processed using Relativity. However, since EPA has a limited number of Relativity licenses, EPA could consider expanding this function for users without access to Relativity.
    - **Create a better feedback mechanism to obtain information on user interface issues.** Despite the availability of the FOIAonline help desk, user interface issues with FOIAonline continue to pose challenges. Different types of interface issues are likely to emerge in the future, and the FOIA program would benefit from a mechanism in place to respond to these issues. This could be addressed with a regularly occurring solicitation to FOIAonline users to submit their feedback on user interface issues.
    - **Enhance efforts that increase authorized officials' use of FOIAonline, and continue to explore the use of digital signatures.** The current process for authorized officials to make initial determinations on the release of records frequently happens outside of FOIAonline; this delays the FOIA process. Easing and simplifying the review of records on FOIAonline would increase authorized officials' use of FOIAonline and streamline the process. The National FOIA Office is currently working with OGC to allow for the use of digital signatures and should continue to explore this option for authorized officials to sign FOIA response letters.
- **Use FOIAonline to provide additional real-time metrics.** FOIAonline has the potential to provide administrative users with additional metrics that could help streamline the FOIA process. For example, data on the most frequent requesters and requested topic areas could be consolidated through a real-time metrics dashboard in FOIAonline. EPA could use this information to identify potential cases for FEAT involvement, or topic areas for proactive disclosure.

Clarify FOIA Policy and Procedures *(Evaluation Questions 1,4,5,7)*

- **Use office/regional SOPs to specify roles and designate responsibilities to EPA staff for completing FOIA tasks.** FOIA procedures vary across the Agency based on the structure of the FOIA program within each office/region. Offices/regions could benefit from designating specific job duties and responsibilities for responding to FOIA requests in their SOPs. These procedures should reference the aforementioned technology inventory. Overall, this recommendation could help provide additional accountability in responding to FOIA requests by designating who is responsible for each step in the process.
- **Clarify division director authorization for initial determinations.** The National FOIA Office is currently coordinating with OGC on steps to authorize division directors to issue initial determinations to release or withhold records in response to FOIA requests. This authorization may require a revision to the FOIA regulations. The current procedures allow division directors the authority to issue initial determinations, but only with a formal re-delegation of authority from administrators or equivalents (Step 14 in the *Procedures for Responding to Freedom of Information Act Requests*). Until updated guidance from OGC and the National FOIA Office is released, and/or until the FOIA regulations are updated, offices/regions should formally delegate authority to division directors. In addition, the National FOIA Office has articulated that the "initial determination to release or withhold records" is synonymous with the response letter to requesters (Step 15). Therefore, as part of the determination process, an authorized official must sign the response letter sent to requesters. The language in the current procedures could be clearer regarding the requirement that authorized officials must sign the response letter.
- **Professionalize the FOIA Coordinator and FOIA Officer positions.** The complexity and frequency of large multiple office/regional FOIAs, the increase in electronic records, and the subsequent expertise needed to retrieve, review, and redact documents places additional demands on FOIA Coordinators. Responsibilities may include: administrative support; project management skills; and subject-based expertise on fee waivers, FOIA-related technologies, and FOIA exemptions. These roles and responsibilities are an important aspect of the FOIA program and could be better met through the professionalization of the FOIA Coordinator and Officer roles as Government Information Specialists. DOJ's 2014 *Guidance on Further Improvement Based on 2014 Chief FOIA Officer Report Review and Assessment* supports the conversion of EPA's FOIA and Privacy Act professionals to the Government Information Series.

Support the Assessment and Implementation of Centralization Options in Program Offices and Regions *(Evaluation Questions 6,7,8)*

- **Encourage program offices and regions to examine the benefits and costs of centralization in their respective office or region.** Study findings merit a renewed focus on whether and/or how offices/regions should centralize their FOIA program. Centralization utilizes a core group of FOIA experts with

specialized knowledge, which may streamline and increase consistency in the FOIA process.

- **Provide support and share knowledge with offices/regions moving towards centralization.** One headquarters division office (Office of Pesticide Programs in the Office of Chemical Safety and Pollution Prevention) and one region (Region 4) currently have centralized FOIA programs; other offices/regions are also considering or currently moving toward centralized FOIA programs (e.g., Office of Air and Radiation, Office of Water, Region 9, and Region 10). The National FOIA Office has the opportunity to learn from the offices/regions moving toward a centralized program and disseminate knowledge across the Agency. For example, the National FOIA Office could analyze impacts on total backlog, percent backlog, response time, and cost per request in centralized versus decentralized programs over time. The National FOIA Office also has the opportunity to consolidate and share qualitative lessons learned from the offices/regions transitioning to centralization. Together, this information would capture the impacts of centralization across the Agency and inform the structure of the FOIA program moving forward.

- **Combine a centralized FOIA system with improved centralized records management across the Agency.** The benefits of centralizing a FOIA program (e.g., consistency and streamlining) are enhanced in offices/regions that consistently use a centralized records repository with an easy-to-use search function (see *Work across the Agency to develop SOPs for central records storage* recommendation). The Agency should leverage existing centralized records repositories (e.g., SharePoint, OneDrive, and Cloud Storage) to the extent that they meet the demands of the FOIA program (e.g., sufficient upload and download speeds, easy-to-use search function, and guidance requiring consistent use of the system). A centralized repository allows a centralized FOIA team to easily obtain potentially responsive records.

  If potentially responsive records are <u>not</u> located in a central repository, the process for retrieving potentially responsive records requires (or may require additional) SME involvement, which often slows the process, and may reduce consistency. Therefore, offices/regions transitioning to a centralized program that do not consistently use a centralized records system across all office/regional divisions may consider developing clear guidance on roles and responsibilities for SMEs in the FOIA process. Offices/regions may also consider tracking SME response time for assigned tasks in order to increase accountability.

Leverage and Learn from Lean Experiences *(Evaluation Question 7)*

- **Leverage lessons learned and focus future Lean events**. Similar to centralization, the National FOIA Office has the opportunity to consolidate and disseminate information from previously conducted FOIA-related Lean events across the Agency. The FOIA Lean case study associated with this evaluation (see Appendix H) provides initial lessons that can be shared. If EPA sponsors additional FOIA-related Lean events in the future, events that focus on

offices/regions with 1) the largest total backlog, 2) large number of requests received, and 3) senior-level commitment may have the largest impact on EPA's overall FOIA performance. The National FOIA Office could also use the results of future FOIA Lean events to consolidate and share lessons learned with the rest of the Agency.

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APPENDIX B: SUMMARY OF PREVIOUS AND ONGOING FOIA IMPROVEMENT EFFORTS

This appendix summarizes EPA's efforts to strengthen the FOIA program from 2001 through mid-February 2015. Significant improvement efforts that IEc reviewed include:

- **2001 FOIA Task Force.** In April 2001, then-Administrator Christine Todd Whitman established a task force to review the current FOIA program, identify any significant weaknesses, and provide recommendations to strengthen the program.[26] The task force findings centered on issues relating to accountability; centralization; and policies, procedures, and guidance. The task force found that FOIA processing was often given extremely low priority, without clearly delineated responsibilities, and senior managers were not being held accountable for FOIA implementation. The task force noted that the highly decentralized nature of the program was linked to problems with consistency and communication. In addition, the task force found that Agency policy and guidance on FOIA were out of date, and Agency employees were not adequately trained on FOIA.

  To address these shortcomings, the task force recommended that EPA should hold senior managers accountable for FOIA, increase the Agency's focus on reducing the backlog of FOIA requests, and designate OEI's Office of Information Collection (OIC) as the lead office for administering FOIA. The report suggested that certain complex FOIA requests, expedited processing, fee waiver determinations, and billing should have central oversight and a lead office designated as the point of contact with the requester. The report recommended that EPA develop a web-enabled tracking and coordinating system to address existing problems and ensure compliance with the Electronic FOIA Amendments of 1996.[27] Finally, the report recommended that EPA update or develop FOIA policies, regulations and guidance, and should develop a FOIA training program for all employees.

- **2011 FOIA Workgroup.** Nearly a decade later, in July 2010, then-Deputy Administrator Perciasepe created a FOIA workgroup to study the effectiveness, efficiency, and transparency of EPA's FOIA program.[28] Completed in June 2011, the workgroup found that EPA made significant improvements in all areas of weakness identified in the 2001 task force report. Key improvements included: establishing a unit in OIC to provide national FOIA administration oversight;

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[26] The Administrator's Deputy Chief of Staff led the Task Force; participants included senior personnel from OEI, OGC, and Region 7, and staff with FOIA responsibilities in various program offices and regions. U.S. Environmental Protection Agency, FOIA Task Force Report, 2001.

[27] The Electronic FOIA Amendments of 1996 required all agencies to make certain types of records available electronically and to provide "electronic reading rooms" to make records more accessible to the public.

[28] The workgroup was co-led by OEI and OGC, and included participants from a variety of program offices and regions.

revising the Agency's FOIA regulations (2002); centralizing the fee waiver and expedited processing decisions in the National FOIA Office (2008/09); acquiring new technology for tracking and managing FOIA submissions; and increasing the accountability of EPA's senior managers for managing FOIA requests.[29] The workgroup found that as a result of the changes implemented since 2001, EPA has built a strong FOIA program and is recognized as a leader across the federal government.[30] From 2001 to 2010, EPA reduced its backlog of FOIA requests by over 98 percent – from over 23,000 backlogged requests in 2001 to 329 backlogged requests in 2010.

Despite the significant improvements in the program since 2001, the 2011 workgroup report identified numerous areas in which EPA could further enhance its FOIA program, including:[31]

- **Accountability:** The workgroup concluded that accountability at the senior management level increased significantly following the 2001 report, but has waned in recent years and has reemerged as a weakness. EPA's performance management system does not include an accountability measure for FOIA compliance or to track if the Agency met its FOIA goals. The report recommended that the National FOIA Office work with EPA's Office of Human Resources (OHR) to develop FOIA critical job elements for all EPA managers, FOIA Officers, and FOIA Coordinators; alternatively, managers could consult the National FOIA Officer for input regarding the performance of employees with FOIA responsibilities. Additionally, the workgroup recommended that Deputy Assistant Administrators (DAAs) and Deputy Regional Administrators (DRAs) be given regular reports on overdue and pending requests.
- **Centralization:** The workgroup report identified numerous challenges related to EPA's decentralized FOIA model, including inconsistency in responses to similar FOIA requests, and difficulty in managing and balancing the backlog of overdue requests across the Agency. For example, subject matter experts – who usually carry out the substantive work in responding to FOIA requests – typically communicate directly with the requester to clarify the request, narrow the scope of the request, extend due dates, and resolve other issues – and may respond directly to the requester with no second-level review. The workgroup noted a limited number of exceptions to the decentralized model: Region 4 and the Office of Pesticide Programs (OPP) have a centralized model with a

[29] U.S. Environmental Protection Agency, Freedom of Information Act Workgroup Report, June 10, 2011.

[30] Freedom of Information Act Workgroup Report, op. cit.

[31] IEc does not include recommendations relating to Confidential Business Information (CBI). However, Appendix B contains all of the recommendations from the workgroup report, and presents their implementation status as of the end of January 2015.

mid-level manager directly responsible for all FOIA responses within the region or office, and dedicated FOIA specialists who perform all FOIA functions. Region 7 has a hybrid (partly centralized) FOIA system. The workgroup recommended that EPA programs and regions that do not already have a centralized program should be required to analyze the costs and benefits of fully centralizing FOIA administration activities within their organizations.

- **FOIA regulations, procedures, and guidance:** The workgroup found that EPA's FOIA regulations were last updated in 2002 and need to be revised to comply with the 2007 Open Government Act, reflect EPA's business process changes, and correct obsolete information. EPA's National FOIA Standard Operating Procedures (SOPs) were included in the FOIA Manual last updated in 1992. The workgroup recommended that EPA finalize national SOPs to set minimum processing standards. The workgroup also identified the need to develop guidance on applying the Obama Administration's policy regarding the presumption of openness and identifying and articulating "foreseeable harm."
- **Tools and technologies:** The workgroup noted that many FOIA requests involve large volumes of electronic documents, many of which reside on employees' desktop computers, in e-mail messages, or as attachments to e-mails. Furthermore, some FOIA requests are duplicative or similar to previous FOIA requests, but the Agency's FOIA management and tracking system does not easily identify duplicate requests or store responsive records, or allow the public to review previous requests. In addition, EPA does not have a unified process to identify, review, and proactively release information to the public. Software is needed to identify responsive records in the e-mail system, identify duplicate records, facilitate large document production activities, handle redaction, and manage electronic repositories. The workgroup recommended that EPA should: invest in technology to achieve more efficient processing of FOIA requests; establish a repository of records released under FOIA that the public can search before submitting a FOIA requests; and develop a process to proactively identify and release information to the public.
- **Staff training:** The workgroup report found that while the National FOIA Office and OGC regularly conduct FOIA training, no formal training is required for employees assigned to perform FOIA duties, and not all employees have a basic understanding of FOIA requirements. New employees, employees new to FOIA responsibilities, and staff who need a "refresher" must wait for a scheduled course or conference to receive training. The workgroup recommended establishing and developing FOIA training requirements that include tailored training for different levels of FOIA professionals, and consider using external FOIA

training programs and resources that are already developed, such as training available from DOJ and private organizations.

- **FOIAonline (2012).** In October 2012, EPA launched FOIAonline,[32] an online portal that allows the public to submit FOIA requests, track their progress, communicate with the Agency, search other requests, and access previously released information. Making previous FOIA responses publicly available may preempt future, similar FOIA requests, thereby enhancing openness and transparency, and reducing administrative burden on the agency.
- **Proactive disclosure (ongoing).** In a similar vein, certain offices within EPA have proactively released large amounts of information prior to receiving a FOIA request, leading to significant efficiency gains. For example, EPA's Office of Pesticide Programs (OPP) redesigned its electronic FOIA reading room to make thousands of pesticide science data and regulatory records available without a FOIA request. After making the documents available online, FOIA requests for this type of information dropped from 20 percent to three percent of total requests.[33] However, it appears this practice is not yet widespread across the Agency.
- **eDiscovery, Records, and FOIA Technology (2012 - Present).** In FY2012, EPA established an eDiscovery Workgroup to develop policies and procedures to ensure consistency in EPA's eDiscovery practices.[34] In addition, the eDiscovery Workgroup is "developing and implementing enhanced eDiscovery software services to improve the Agency's management of electronic information potentially responsive to litigation. These services will help us more efficiently identify, collect, preserve, process, review, analyze and produce electronically stored information required to be disclosed as a result of a discovery request."[35] EPA established a Records Workgroup alongside the eDiscovery group (membership in the two workgroups overlaps, and both report to the Quality Information Council).

  In 2013, EPA established the FOIA Technology Subgroup under the Records Workgroup. The FOIA Technology Subgroup aims to identify technology solutions and provide guidance to assist EPA employees in responding to FOIA requests with greater consistency and efficiency. Specifically, the subgroup is addressing challenges that arose when EPA migrated from Lotus Notes e-mail to Outlook e-mail, which have complicated the search process. The goal is to obtain responsive records more easily and in a more useable format, allowing multiple

[32] EPA developed FOIAonline based on the existing Regulations.gov website. Though developed by EPA, other agencies also use FOIAonline.

[33] U.S. Environmental Protection Agency, "EPA's FOIA Program." Undated.

[34] U.S. Environmental Protection Agency. Report on Managing Government Records. March 27, 2012.

[35] Ibid.

offices to review the files simultaneously, redact information, and better manage the workflow process. Technologies currently under consideration include, among others: Relativity platform (EPA currently owns 50 licenses), EnCase, and Adobe 11.

- **OIG reports (2014).** EPA's FOIA program has been the subject of various OIG reports over the years[36] – mostly recently, in May and July 2014. The May 2014 report, *Review of EPA's Process to Release Information Under the Freedom of Information Act*, addressed concerns about possible inconsistencies in how EPA decides what information to release under FOIA. OIG reviewed FOIA procedures in all 10 regions and in four headquarters program offices. All offices, except one, had internal written procedures; however, seven of the 14 offices that OIG reviewed had procedures that were not consistent with EPA's interim FOIA procedures. In general, the procedures did not include language regarding the use of FOIAonline, or were "silent" or "unclear" regarding who has authority to sign EPA letters responding to FOIA requests.[37] OIG recommended that the Assistant Administrator for Environmental Information should (1) issue final FOIA procedures by September 30, 2014; and (2) require that senior information officials in each region and headquarters program office certify that their local FOIA procedures are consistent with the Agency's final procedures by March 31, 2015. Management agreed with both recommendations, and issued final FOIA procedures in September 2014 (see below).

  In July 2014, OIG issued another report, entitled *No Indications of Bias Found in a Sample of Freedom of Information Act Fee Waiver Decisions But the EPA Could Improve Its Process.*[38] EPA's Deputy Administrator requested the review to determine whether fee waiver determinations were completed in a timely and unbiased manner. OIG found no indications of bias in the fee waiver decisions reviewed. However, 47 percent of responses that OIG reviewed exceeded the goal of 10 business days (the average response time was 12 business days, but this was highly variable). Seventy-one percent of free waiver appeal decisions that OIG reviewed exceeded the goal of 20 business days. OIG recommended that the Administrator for Environmental Information and the General Counsel examine and address the reasons for variability in response times. The study also recommended that the Assistant Administrator for Environmental Information clarify what requesters must demonstrate under each factor to receive a fee waiver, clarify EPA's approach on when to request additional justification, and inform the public of enhancements to the EPA's website and other efforts to

[36] A review conducted by OIG in 2009 recommended that EPA standardize FOIA procedures at a national level, and it was shortly after this report that the Agency decided to centralize all fee waiver determinations in the National FOIA Office. Freedom of Information Act Workgroup Report, June 2011, op. cit.

[37] U.S. Environmental Protection Agency Office of Inspector General, Briefing Report: Review of EPA's Process to Release Information Under the Freedom of Information Act. Report No. 14-P-0262, May 16, 2014.

[38] U.S. Environmental Protection Agency Office of Inspector General. No Indications of Bias Found in a Sample of Freedom of Information Act Fee Waiver Decisions But the EPA Could Improve Its Process. Report No. 14-P-0319. July 16, 2014.

explain what must be demonstrated under each factor. The EPA concurred with OIG's recommendations.

- **FOIA Expert Assistance Team (August 2014 – Present).** Senior management created the FEAT to address concerns about the consistency and timeliness of FOIA responses. Located in OGC, the FEAT is intended as a "strategically centralized solution" that reviews all incoming FOIA requests, and advises and coordinate on complex or sensitive FOIAs.[39] While the FEAT identifies cases that might benefit from its involvement, program offices and regions may also request assistance from the FEAT. The FEAT does not replace EPA's existing (largely decentralized) processing model, but serves as "case managers" for requests that are large, span multiple offices, and/or involve particularly sensitive information. A Team Leader was recruited in August 2014 to stand up the FEAT. Once fully staffed, the FEAT will have six FTEs.

  From August through October 2014, the FEAT "beta tested" its review process, reviewing over 2,600 incoming FOIA requests and identifying 225 as candidates for FEAT involvement. In addition, the FEAT has already responded to requests for assistance from program and regional offices. These cases included multiple requests from a single requester to multiple offices requesting the same or similar information; coordination across offices on the release of sensitive information; and voluminous requests. The FEAT continues to test and gather feedback on the process while it recruits the remaining staff.

- **Updated FOIA policy and procedures (September 2014).** In September 2014, OEI issued final updated FOIA policy and procedures. The updated policy requires EPA personnel to process FOIA requests using the management and tracking system approved by the Chief FOIA Officer. Responsive records are to be released unless a mandatory exemption applies, or if EPA determines that foreseeable harm would result from disclosing the materials. At least two individuals, including one manager, must review all documents before they are released to the public. In addition, the policy stipulates that FOIA duties will be critical elements in the performance agreements of FOIA professionals, and FOIA professionals will take mandatory annual trainings identified by the Agency FOIA Officer. Agency managers will also have critical job elements in their performance agreements to ensure that their staff have the knowledge, skills, and abilities to perform their duties and respond to requests in a timely manner.[40]

  The updated FOIA procedures provide basic instructions for responding to FOIA requests, including 16 steps that all organizations within EPA need to follow.[41] The procedures also require the use of FOIAonline for managing FOIA requests,

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[39] U.S. Environmental Protection Agency. FOIA Expert Assistance Team (FEAT). PowerPoint presentation. November 2014.

[40] U.S. Environmental Protection Agency. Freedom of Information Act Policy. September 30, 2014.

[41] U.S. Environmental Protection Agency. Procedures for Responding to Freedom of Information Act Request. September 30, 2014.

and stipulate that all records released in response to requests should be entered into FOIAonline for public viewing and searching (with limited exceptions). Organizations have six months to bring their procedures into conformity with the updated procedures.

- **Lean events.** Four EPA organizations recently conducted Lean events to improve the efficiency of their FOIA processes: OAR, Region 3, Region 7, and Region 10. IEc has received materials from these organizations. IEc also intends to interview the Lean event coordinators for each organization during the implementation phase of this evaluation. Details about the Lean outputs that IEc has received are included in the main body of this document.

APPENDIX C: LIST OF INTERVIEWEES

INTERVIEW TYPE	NAME	INTERVIEW CATEGORY	ORGANIZATION / TITLE
Group	Lauren Lemley	EPA FOIA Coordinators and Officers	OARM FOIA Coordinator
	Janice Jablonski	EPA FOIA Coordinators and Officers	OPRM Information and Human Resources Team Leader/OARM Assistant Administrator for Admin. and Resources Management
Individual	Diane Jones-Coleman	EPA FOIA Coordinators and Officers	OW FOIA Coordinator
Individual	Maya Newman	EPA FOIA Coordinators and Officers	OECA FOIA Coordinator
Individual	Larry Gottesman	EPA FOIA Coordinators and Officers; Scoping	OEI National FOIA Officer
Individual	Yvette Hopkins	EPA FOIA Coordinators and Officers	Acting Chief, Public Information and Records Integrity Branch
Group	Marilyn Malloy	EPA FOIA Coordinators and Officers	OCSPP FOIA Coordinator
	Colby Litner	EPA FOIA Coordinators and Officers	OCSPP, OPPT, FOIA Coordinator
	Paul Cestone	EPA FOIA Coordinators and Officers	OCSPP, OPPT, National Chemical Programs Division, FOIA Coordinator
	Earl Ingram	EPA FOIA Coordinators and Officers	OCSPP, OPP FOIA Coordinator
Individual	Linda Person	EPA FOIA Coordinators and Officers	OEI FOIA Specialist
Individual	Wanda McLendon	EPA FOIA Coordinators and Officers	OSWER FOIA Coordinator
Individual	Scott Levine	EPA FOIA Coordinators and Officers	OIG FOIA Coordinator
Individual	Diane Salahuddin	EPA FOIA Coordinators and Officers	OCFO FOIA Coordinator & Management Analyst
Individual	Peter Evanko	EPA FOIA Coordinators and Officers	ORD FOIA Coordinator
Group	Cristeen Schena	EPA FOIA Coordinators and Officers	Region 1 FOIA Officer
	Fred Weeks	EPA FOIA Coordinators and Officers	Region 1 OARM Deputy Director
	Alice Kaufman	EPA FOIA Coordinators and Officers	Region 1 Operations Manager
Individual	Wanda Calderon	EPA FOIA Coordinators and Officers	Region 2 FOIA Assistant
Individual	Louann Gross	EPA FOIA Coordinators and Officers; Scoping	Region 4 Information Access Chief

INTERVIEW TYPE	NAME	INTERVIEW CATEGORY	ORGANIZATION / TITLE
Individual	Jessica Wheatley	EPA FOIA Coordinators and Officers	Region 5 Acting FOIA Officer
Individual	Leticia Lane	EPA FOIA Coordinators and Officers	Region 6 FOIA Officer
Individual	Emily Albano	EPA FOIA Coordinators and Officers	Region 7 Acting FOIA Officer
Individual	Alan V.J.S. Engels	EPA FOIA Coordinators and Officers	Region 8 Acting FOIA Officer
Individual	Ivry Johnson	EPA FOIA Coordinators and Officers	Region 9 FOIA Officer
Individual	Stephanie Kercheval	EPA FOIA Coordinators and Officers	Region 10 FOIA Specialist
Group	Bob Kaplan	Office of Regional Counsel	Region 5 Regional Counsel and former Head of E-Discovery Workgroup
	David Hoff	EPA FOIA Coordinators and Officers	Region 5 Search Point of Contact (SPOC)
Group	Yerusha Beaver	Office of Regional Counsel	Region 6 Office of Regional Counsel Attorney
	Ben Harrison	Office of Regional Counsel	Region 6 Office of Regional Counsel
Group	Robert Hartman	Office of Regional Counsel	Region 10 FOIA Attorney
	Jennifer MacDonald	Office of Regional Counsel	Region 10 Back Up FOIA Attorney
	Shannon Connery	Office of Regional Counsel	Region 10 ORC FOIA Coordinator
Individual	John Connell	EPA subject matter expert with FOIA responsibilities	OECA Subject Matter Expert
Individual	Jennifer Hovis	EPA subject matter expert with FOIA responsibilities	OSWER Subject Matter Expert
Individual	Margaret Collins	EPA subject matter expert with FOIA responsibilities	Region 8 Subject Matter Expert
Individual	Lillie Davis	EPA subject matter expert with FOIA responsibilities	Region 5 Subject Matter Expert
Individual	Kim Owens	EPA subject matter expert with FOIA responsibilities	Region 10 Subject Matter Expert
Individual	Rebecca Moser	Senior managers in OEI	Deputy Director, Office of Information Collection, OEI
Individual	Constance Downs	Senior managers in OEI	Acting Division Director, Collection Strategies Division, OEI
Group	Kevin Miller	FOIA Technology Sub-group; Scoping	Assistant General Counsel at OGC and Co-Chair of Records Workgroup
	Jennifer Hammit	FOIA Technology Sub-group; Scoping	Attorney-Advisor; Co-chair of FOIA Technology Sub-group
Individual	Jonathan Lubetsky	Lean FOIA experts	OAR Policy Analyst; OAR Document Request Production Lean Event: Congressional Team Leader

INTERVIEW TYPE	NAME	INTERVIEW CATEGORY	ORGANIZATION / TITLE
Individual	Larry Weinstock	Lean FOIA experts	OAR Program Innovation Coordinator; OAR Document Request Production Lean Event: FOIA Team Leader
Group	Curtis Carey	Lean FOIA experts	Region 7, OPA, Lean Event Project Champion
	Margie St. Germain	Lean FOIA experts	Region 7 FOIA Lean Contact
Group	Benita Gramm	Lean FOIA experts	Region 3 APD
	Kimberly Scalia	Lean FOIA experts	Region 3 CBPO
	Rita Tate	EPA FOIA Coordinators and Officers	Region 3 Acting FOIA Officer
Individual	Denise Walker	FEAT personnel	FEAT Attorney
Individual	Becky Dolph	FEAT personnel; Scoping	FEAT Acting Director
Individual	Christopher Durso	FOIA manager at OSHA	National Office FOIA Coordinator, U.S. DOL, OSHA
Individual	Bobby Talebian	DOJ representative familiar with EPA FOIA Program	Chief FOIA Compliance Staff DOJ/OIP
Individual	Renee Clark	Senior managers in OEI; Scoping	FOIA Public Liason
Individual	Renee Wynn	Senior managers in OEI; Scoping	Acting AA and Acting CIO

APPENDIX D: INTERVIEW GUIDES

INTERVIEW GUIDE FOR FOIA OFFICERS AND FOIA COORDINATORS

BACKGROUND

1. What is your current position at EPA?
    a. How long have you been in your current position?
    b. What previous positions have you held with EPA?
2. Have you ever received FOIA training?
    a. If yes, can you recall about how many FOIA trainings you have attended?
    b. If yes, who provided the training (e.g., National FOIA Office; program/regional office; etc.)?
    c. If yes, can you recall the date (month/year) of the most recent FOIA training that you attended?
3. Have you ever offered FOIA training for staff in your program office or region?
    a. If yes, can you recall about how many FOIA trainings you have offered?
    b. If yes, can you recall the date (month/year) of the most recent FOIA training that your program office/region offered?
4. Approximately what percentage of your time do you spend on FOIA compared to your other job responsibilities?

STATUS OF FOIA PROGRAM IN YOUR OFFICE OR REGION *[QUESTIONS 4, 4A, AND 4B]*

5. Does your office or region have a centralized, decentralized, or hybrid FOIA program?[42]
    a. How, if at all, do you think the structure (centralized, decentralized, or hybrid) of the FOIA program affects the FOIA process and outcomes in your office or region?
6. **[Placeholder: Ask about trends in FOIA performance data and staffing data for the individual office/region once IEc has pulled benchmarking data. What is driving FOIA performance and staffing figures?]**
7. What aspects of the FOIA program are working well in your office/region?

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[42] A "centralized" FOIA model is one in which dedicated FOIA Specialists (who do not have collateral job responsibilities) perform all FOIA functions in their office/region, and report to a manager who is directly responsible for all FOIA responses within the office/region. In a "decentralized" model, a FOIA Coordinator or FOIA Officer processes incoming requests and assigns them to the appropriate regional or program contact, who in turn assigns requests to subject-matter experts (whose main job is typically not FOIA) who locate the relevant records. A "hybrid" FOIA program includes elements of a centralized and decentralized system – e.g., a dedicated FOIA manager, but no dedicated FOIA Specialists.

8. Are there any aspects of the FOIA program in your office/region that could be improved?

    a. If yes, please describe.

9. What technologies do you currently use to process FOIA requests?

    The interviewer will first ask the question in an open-ended format and record responses. Then, the interviewer will read the following list of prompts and record responses for each prompt.

    Prompts:

    a. Workflow management and communications software

    b. Software to help identify records and e-mails

    c. Software to help search for similar FOIA requests (i.e., previous FOIA requests that addressed similar topics or records)

    d. Software to help with redaction

10. Do you have adequate access to the technology you need to process FOIA requests?

    a. If no, what capabilities are lacking?

11. What do you see as barriers to greater efficiency in processing FOIA requests in your office or region?

    The interviewer will first ask the question in an open-ended format and record responses. Then, the interviewer will read the following list of prompts and record responses for each prompt.

    Prompts:

    a. Inconsistent implementation of FOIA procedures

    b. Confusion about FOIA procedures

    c. Confusion about FOIA policy

    d. Not enough staff time dedicated to FOIA processing

    e. Fragmented FOIA processing (too many different people or offices working on the same requests)

    f. Trouble finding relevant records and e-mails

    g. Inefficiencies in documenting responses

    h. Inefficiencies in communicating with others about workflow

    i. Inefficiencies in redaction process

    j. Other (specify)

12. The current study looks at the accountability and consistency of the Agency's FOIA program. Based on the experience in your office or region:

a. What do you see as the most important factors for ensuring the accountability of employees to the FOIA program?[43]

b. What do you see as the most important factors for ensuring the consistency of the FOIA process?[44]

CURRENT PROCESS *[QUESTIONS 4, 4A, AND 4B]*

13. The attached diagram shows a simplified, generic EPA FOIA process map. ***[Attach diagram]*** We understand that not every region or program office follows the same sequence of steps to process FOIA requests, and some offices or regions may not undertake all steps. With that said, we are trying to capture the key elements of the process both to identify potential areas for improvement and as a communication tool. With this context in mind:

    a. To what extent does the FOIA process in your office or region follow the process shown in the diagram?

    b. Are we missing any important steps in the process map?

        i. If yes, please identify the step(s) and where it (they) belong(s) on the map.

        ii. Are these steps that you deem to be important for all offices/regions, or specifically for your office? Why?

    c. Are any steps shown out of order?

        i. If yes, please identify the step(s) and indicate the correct order.

    d. Where in the process do things tend to get significantly delayed or "stuck"?

        i. Please identify the step(s) and explain.

14. Within your office/region, who (division/program office[45]) is typically involved in processing a FOIA request?

    a. Please identify which step(s) each party works on.

    b. Who (division/program office) within your office or region has contact with the requester?

        i. At which step(s) in the process does contact with the requester occur?

    c. What is the process in your office or region for redacting or withholding information?

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[43] We define accountability in terms of (1) how staff and mid-level managers respond to FOIA requests, and (2) the extent to which senior managers commit to meeting (and achieve) the Agency's FOIA goals.

[44] We define consistency (1) within and (2) across program offices/regions. (1) A program office/region is internally consistent if it follows the same or similar process for responding to the same or similar FOIA request. (2) Program offices and regions are consistent across one another if they respond to the same or similar FOIA request in the same or similar manner.

[45] Examples: Front Office; Public Affairs Office; Office or Regional Counsel; etc.

i. Who (division/program office) is involved in making, or reviewing, the determination to redact or withhold information?

ii. At which step(s) in the process does this occur?

d. What is the process in your office or region for assessing "foreseeable harm"?

i. Who (division/program office) is involved in making, or reviewing, the assessment of foreseeable harm?

ii. At which step(s) in the process is this determination made?

e. In what situations, if any, does a manager review potentially responsive records before they are publicly released?

i. At which step(s) in the process is this review conducted?

f. In what circumstances does your office or region coordinate with other offices/regions to process FOIA requests?

i. How often does this occur?

ii. Please identify the step(s) where you coordinate with other offices/regions.

15. We understand that FOIA requests can be "simple" or "complex."

a. How do you assign FOIA requests to each track?

b. Is the process different for the "simple" and "complex" track?

i. If yes, please describe the main differences and where they appear on the process map.

c. How many hours do you spend working on FOIA requests – specifically:

i. Minimum number of hours

ii. Maximum number of hours

iii. Average number of hours?

d. Does the number of hours that you spend working on a FOIA request depend on whether it is a *simple* or *complex* request?

i. If yes, please explain.

16. Do you have any other comments or suggestions on the process map?

UPDATED FOIA PROCEDURES *[QUESTIONS 1, 2 AND 2A]*

17. On September 30, 2014, EPA's Chief Information Officer issued updated Agency-wide FOIA policy and procedures documents. Program offices and regions were required to develop or update their written FOIA procedures by March 31, 2015.

a. How, if at all, have your office's or region's FOIA procedures changed following the updated Agency-wide FOIA procedures?

The interviewer will first ask the question in an open-ended format and record responses. Then, the interviewer will read the following list of prompts and record responses for each prompt.

Prompts:

i. *Use of FOIAonline to manage all FOIA requests.*

ii. *Use of a management and tracking system to process all FOIA requests.*

iii. *Review of documents before releasing them to the requester.*

iv. *Consistent release of records unless one of the mandatory exemptions applies or if a determination of foreseeable harm is made.*

v. *Provision of annual FOIA training.*

vi. *FOIA responsibilities included in personnel performance agreements.*

vii. *Other (specify).*

b. (If applicable) Please indicate where these changes appear on the process map.

c. **[Placeholder: If applicable, ask about specific aspects of the office or region's organization-specific FOIA procedures that need clarification, including why they designed their procedures the way they did.]**

d. How, if at all, did you communicate these changes to staff in your office/region?

e. How have these changes been received by staff?

f. What is the schedule for implementing each major change? If you have already implemented a major change following the new procedures, please describe the change and when it was implemented.

[NOTE: If the interviewee's office or region held a FOIA Lean event, and the interviewee is knowledgeable about the Lean event and its outcomes, we will ask the following Lean questions. Otherwise, we will skip to "Program Improvement Efforts in Your Office or Region."]

LEAN EVENT GOALS, SCOPE, AND RECOMMENDATIONS *[QUESTIONS 4A AND 4B]*

18. Are you aware of any FOIA improvement efforts that your office or region contemplated or implemented prior to initiating the Lean Event?

    a. If yes, please describe. When did it occur? What topics/processes were addressed? What were the results?

19. Why did your office or region initiate the FOIA Lean Event?

20. Please describe the purpose, goals, and scope of the Lean Event.

21. Who participated in the Lean Event?
22. What major barriers or "pain points" did the Lean Event uncover?
23. What recommendations came out of the Lean Event?
24. What were the most significant differences between the "as-is" process and the "to-be" process? *(Probe: Reduction in number of steps; enhanced coordination; use of new/improved technologies; centralization; other)*
    a. (If applicable) Do you have materials on the "as-is" process, the "to-be" process, the Lean Event report-out, and/or other relevant documents that you can share with us?

LEAN FOLLOW-UP *[QUESTIONS 5, 6, AND 7]*

25. What recommendations from the FOIA Lean Event have you implemented to date?
    a. When did you implement the changes?
    b. What results, if any, have you observed following the changes?
26. What additional recommendations, if any, are you still planning to implement?
    a. What are the current status and expected timing of these changes?
27. Are there any recommendations that got "stuck," or that you have decided not to implement at the present time?
    a. If yes, please explain.
28. Can you estimate the benefits and costs (quantitative or qualitative) associated with:
    a. Recommendations that you have already implemented?
    b. Recommendations that you are in the process of implementing?
    c. Recommendations that stalled or that you have decided not to implement?
29. Aside from the Lean Event, have any other changes occurred that have affected the FOIA program in your office or region (if yes, describe)?
    a. (If applicable) How have these changes affected FOIA performance in your office or region?
30. Would you recommend that other EPA offices or regions implement a FOIA Lean Event?
    a. Why or why not?

PROGRAM IMPROVEMENT EFFORTS IN YOUR OFFICE OR REGION *[QUESTIONS 5, 6, AND 7]*

31. What [other] actions has your program office or region considered to improve the efficiency and effectiveness of the FOIA program [since the FOIA Lean event]?
    a. Which of these improvements were implemented, and when?

b. What was the result of these improvements on processing speed and consistency?

32. What opportunities do you see to further streamline FOIA processing in your office or region?

The interviewer will first ask the question in an open-ended format and record responses. Then, the interviewer will read the following list of prompts and record responses for each prompt.

Prompts:

a. Increased centralization of FOIA responsibilities with a smaller group of staff in my office

b. Increased centralization of FOIA responsibilities within a core FOIA group at HQ

c. Increased centralization of FOIA responsibilities within the program office or region

d. Increased centralization – other (specify)

e. Greater use of proactive disclosure

f. Testing new technologies to manage the FOIA process

g. Holding a FOIA Lean event

33. Where do you see the greatest potential for improving the accountability and consistency of the FOIA program in your office or region?

a. What approaches do you think might help bring about these changes?

b. Are you aware of other program offices or regions that have implemented these approaches?

i. If yes, do you know the results of their efforts?

INTRA-AGENCY PROGRAM IMPROVEMENT EFFORTS *[QUESTIONS 8, 8A, 8B, 8C, AND 9]*

34. Some parts of the Agency have identified technology solutions to enhance FOIA processing (e.g., redaction software). To what extent, if any, would new or improved technologies improve FOIA processing in your office or region?

a. (If applicable) What new or enhanced capabilities would these technologies provide?

b. Do you have any thoughts about specific technology solutions that would provide these capabilities?

i. If yes, what are they?

35. Some offices and regions have taken steps to partly or fully centralize their FOIA programs.

a. What do you see as the benefits and costs of a centralized approach to FOIA administration for your office or region?

b. Do you think that a centralized approach is appropriate for your office/region?

    i. Why or why not?

36. EPA recently established a FOIA Expert Assistance Team (FEAT) within the Office of General Counsel to provide assistance in the FOIA process.

    a. To date, has your office or region used the FEAT?

        i. If yes, what was your experience?

    b. Moving forward, do you anticipate your office or region using the FEAT?

        i. If yes, in what capacity?

        ii. If no, why not?

INTERVIEW GUIDE FOR OFFICES OF REGIONAL COUNSEL

BACKGROUND

1. What is your current role at ORC?
    a. How long have you been in your current position?
    b. What previous positions have you held with EPA?
2. How many FOIA cases are you currently working on?
3. Approximately what percentage of your caseload consists of FOIA cases? What percentage of your time do you spend on FOIA cases?
4. What triggers ORC's involvement in a FOIA case?

STATUS OF FOIA PROGRAM IN YOUR OFFICE OR REGION *[QUESTIONS 4, 4A, AND 4B]*

5. Does your office or region have a centralized, decentralized, or hybrid FOIA program?[46]
    a. How, if at all, do you think the structure (centralized, decentralized, or hybrid) of the FOIA program affects the FOIA process and outcomes in your office or region?
6. **[Placeholder: Ask about trends in FOIA performance data and staffing data for the individual office/region once IEc has pulled benchmarking data. What is driving FOIA performance and staffing figures?]**
7. What aspects of the FOIA program are working well in your office/region?
8. Are there any aspects of the FOIA program in your office/region that could be improved?
    a. If yes, please describe.
9. What technologies does your office or region currently use to process FOIA requests?

    The interviewer will first ask the question in an open-ended format and record responses. Then, the interviewer will read the following list of prompts and record responses for each prompt.

    Prompts:

    a. Workflow management and communications software

    b. Software to help identify records and e-mails

[46] A "centralized" FOIA model is one in which dedicated FOIA Specialists (who do not have collateral job responsibilities) perform all FOIA functions in their office/region, and report to a manager who is directly responsible for all FOIA responses within the office/region. In a "decentralized" model, a FOIA Coordinator or FOIA Officer processes incoming requests and assigns them to the appropriate regional or program contact, who in turn assigns requests to subject-matter experts (whose main job is typically not FOIA) who locate the relevant records. A "hybrid" FOIA program includes elements of a centralized and decentralized system – e.g., a dedicated FOIA manager, but no dedicated FOIA Specialists.

c. *Software to help search for similar FOIA requests (i.e., previous FOIA requests that addressed similar topics or records)*

d. *Software to help with redaction*

10. Does your office or region have adequate access to the technology you need to process FOIA requests?

    a. If no, what capabilities are lacking?

11. What do you see as barriers to greater efficiency in processing FOIA requests in your office or region?

    The interviewer will first ask the question in an open-ended format and record responses. Then, the interviewer will read the following list of prompts and record responses for each prompt.

    Prompts:

    a. *Inconsistent implementation of FOIA procedures*

    b. *Confusion about FOIA procedures*

    c. *Confusion about FOIA policy*

    d. *Not enough staff time dedicated to FOIA processing*

    e. *Fragmented FOIA processing (too many different people or offices working on the same requests)*

    f. *Trouble finding relevant records and e-mails*

    g. *Inefficiencies in documenting responses*

    h. *Inefficiencies in communicating with others about workflow*

    i. *Inefficiencies in redaction process*

    j. *Other (specify)*

12. The current study looks at the accountability and consistency of the Agency's FOIA program. Based on the experience in your office or region:

    a. What do you see as the most important factors for ensuring the accountability of employees to the FOIA program?[47]

    b. What do you see as the most important factors for ensuring the consistency of the FOIA process?[48]

    c. How do these factors influence the number and type of FOIA cases that ORC works on?

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[47] We define accountability in terms of (1) how staff and mid-level managers respond to FOIA requests, and (2) the extent to which senior managers commit to meeting (and achieve) the Agency's FOIA goals.

[48] We define consistency (1) within and (2) across program offices/regions. (1) A program office/region is internally consistent if it follows the same or similar process for responding to the same or similar FOIA request. (2) Program offices and regions are consistent across one another if they respond to the same or similar FOIA request in the same or similar manner.

CURRENT PROCESS *[QUESTIONS 4, 4A, AND 4B]*

13. The attached diagram shows a simplified, generic EPA FOIA process map. ***[Attach diagram]*** We understand that not every region or program office follows the same sequence of steps to process FOIA requests, and some offices or regions may not undertake all steps. With that said, we are trying to capture the key elements of the process both to identify potential areas for improvement and as a communication tool. With this context in mind:
    a. To what extent does the FOIA process in your office or region follow the process shown in the diagram?
    b. Are we missing any important steps in the process map?
        i. If yes, please identify the step(s) and where it (they) belong(s) on the map.
        ii. Are these steps that you deem to be important for all offices/regions, or specifically for your office? Why?
    c. Are any steps shown out of order?
        i. If yes, please identify the step(s) and indicate the correct order.
    d. Where in the process do things tend to get significantly delayed or "stuck"?
        i. Please identify the step(s) and explain.
14. Within your office/region, who (division/program office[49]) is typically involved in processing a FOIA request?
    a. Please identify which step(s) each party works on.
    b. Who (division/program office) within your office or region has contact with the requester?
        i. At which step(s) in the process does contact with the requester occur?
    c. What is the process in your office or region for redacting or withholding information?
        i. Who (division/program office) is involved in making, or reviewing, the determination to redact or withhold information?
        ii. At which step(s) in the process does this occur?
    d. What is the process in your office or region for assessing "foreseeable harm"?
        i. Who (division/program office) is involved in making, or reviewing, the assessment of foreseeable harm?
        ii. At which step(s) in the process is this determination made?

[49] Examples: Front Office; Public Affairs Office; Office or Regional Counsel; etc.

e. In what situations, if any, does a manager review potentially responsive records before they are publicly released?

   i. At which step(s) in the process is this review conducted?

f. In what circumstances does your office or region coordinate with other offices/regions to process FOIA requests?

   i. How often does this occur?

   ii. Please identify the step(s) where you coordinate with other offices/regions.

15. We understand that FOIA requests can be "simple" or "complex."

    a. How do you assign FOIA requests to each track?

    b. Is the process different for the "simple" and "complex" track?

       i. If yes, please describe the main differences and where they appear on the process map.

    c. Of the FOIA cases that ORC works on, how many hours do you spend – specifically:

       i. Minimum number of hours

       ii. Maximum number of hours

       iii. Average number of hours?

    d. Does the number of hours that you spend working on a FOIA request depend on whether it is a *simple* or *complex* request?

       i. If yes, please explain.

16. Do you have any other comments or suggestions on the process map?

UPDATED FOIA PROCEDURES *[QUESTIONS 1, 2 AND 2A]*

17. On September 30, 2014, EPA's Chief Information Officer issued updated Agency-wide FOIA policy and procedures documents. Program offices and regions were required to develop or update their written FOIA procedures by March 31, 2015.

    a. How, if at all, have your office's or region's FOIA procedures changed following the updated Agency-wide FOIA procedures?

       The interviewer will first ask the question in an open-ended format and record responses. Then, the interviewer will read the following list of prompts and record responses for each prompt.

       Prompts:

       i. Use of FOIAonline to manage all FOIA requests.

       ii. Use of a management and tracking system to process all FOIA requests.

       iii. Review of documents before releasing them to the requester.

iv. *Consistent release of records unless one of the mandatory exemptions applies or if a determination of foreseeable harm is made.*

v. *Provision of annual FOIA training.*

vi. *FOIA responsibilities included in personnel performance agreements.*

vii. *Other (specify).*

b. (If applicable) Please indicate where these changes appear on the process map.

c. **[Placeholder: If applicable, ask about specific aspects of the office or region's organization-specific FOIA procedures that need clarification, including why they designed their procedures the way they did.]**

d. How, if at all, did you communicate these changes to staff in your office/region?

e. How have these changes been received by staff?

f. What is the schedule for implementing each major change? If you have already implemented a major change following the new procedures, please describe the change and when it was implemented.

PROGRAM IMPROVEMENT EFFORTS IN YOUR OFFICE OR REGION *[QUESTIONS 5, 6, AND 7]*

18. What [other] actions has your program office or region considered to improve the efficiency and effectiveness of the FOIA program [since the FOIA Lean event]?

    a. Which of these improvements were implemented, and when?

    b. What was the result of these improvements on processing speed and consistency?

19. What opportunities do you see to further streamline FOIA processing in your office or region?

    The interviewer will first ask the question in an open-ended format and record responses. Then, the interviewer will read the following list of prompts and record responses for each prompt.

    Prompts:

    a. Increased centralization of FOIA responsibilities with a smaller group of staff in my office

    b. Increased centralization of FOIA responsibilities within a core FOIA group at HQ

    c. Increased centralization of FOIA responsibilities within the program office or region

    d. Increased centralization – other (specify)

e. *Greater use of proactive disclosure*

f. *Testing new technologies to manage the FOIA process*

g. *Holding a FOIA Lean event*

20. Where do you see the greatest potential for improving the accountability and consistency of the FOIA program in your office or region?

    a. What approaches do you think might help bring about these changes?

    b. What effect, if any, do you think these changes would have on the number and type of FOIA cases that you receive?

    c. Are you aware of other program offices or regions that have implemented these approaches?

        i. If yes, do you know the results of their efforts?

INTRA-AGENCY PROGRAM IMPROVEMENT EFFORTS *[QUESTIONS 8, 8A, 8B, 8C, AND 9]*

21. Some parts of the Agency have identified technology solutions to enhance FOIA processing (e.g., redaction software). To what extent, if any, would new or improved technologies improve FOIA processing in your office or region?

    a. (If applicable) What new or enhanced capabilities would these technologies provide?

    b. Do you have any thoughts about specific technology solutions that would provide these capabilities?

        i. If yes, what are they?

22. Some offices and regions have taken steps to partly or fully centralize their FOIA programs.

    a. What do you see as the benefits and costs of a centralized approach to FOIA administration for your office or region?

    b. Do you think that a centralized approach is appropriate for your office/region?

        i. Why or why not?

23. EPA recently established a FOIA Expert Assistance Team (FEAT) within the Office of General Counsel to provide assistance in the FOIA process.

    a. To date, has your office or region used the FEAT?

        i. If yes, what was your experience?

    b. Moving forward, do you anticipate your office or region using the FEAT?

        i. If yes, in what capacity?

        ii. If no, why not?

INTERVIEW GUIDE FOR THE ACTING DEPUTY DIVISION DIRECTOR, COLLECTION STRATEGIES DIVISION

BACKGROUND

1. When did you become the Acting Deputy Division Director for the Collection Strategies Division?
2. What is your role in the Agency's FOIA Program?
3. We understand that you were previously with OIC before moving to OIAA, and then moved back to OIC. Can you please describe the previous positions you have held?

STATUS OF EPA'S FOIA PROGRAM *[QUESTIONS 4, 4A, AND 4B]*

4. EPA's FOIA program as a whole is mostly decentralized; however, individual program offices and regions can have a centralized, decentralized, or hybrid FOIA program.[50]
    a. How, if at all, do you think the structure (centralized, decentralized, or hybrid) of the FOIA program affects FOIA process and outcomes?
5. What are your overall impressions of the effectiveness of EPA's FOIA program?
    a. What aspects of the program are working well?
    b. What improvements do you think are needed to strengthen the FOIA program and address public information needs?
        i. Do you have any specific thoughts or suggestions for how EPA might go about making those improvements?
6. What do you see as the barriers to greater efficiency in processing FOIA requests?
7. Our study considers the accountability and consistency of the Agency's FOIA program.
    a. What do you see as the most important factors for ensuring the accountability of employees to the FOIA program?[51]
    b. What do you see as the most important factors for ensuring the consistency of the FOIA process?[52]

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[50] A "centralized" FOIA model is one in which dedicated FOIA Specialists (who do not have collateral job responsibilities) perform all FOIA functions in their office/region, and report to a manager who is directly responsible for all FOIA responses within the office/region. In a "decentralized" model, a FOIA Coordinator or FOIA Officer processes incoming requests and assigns them to the appropriate regional or program contact, who in turn assigns requests to subject-matter experts (whose main job is typically not FOIA) who locate the relevant records. A "hybrid" FOIA program includes elements of a centralized and decentralized system – e.g., a dedicated FOIA manager, but no dedicated FOIA Specialists.

[51] We define accountability in terms of (1) how staff and mid-level managers respond to FOIA requests, and (2) the extent to which senior managers commit to meeting (and achieve) the Agency's FOIA goals.

[52] We define consistency (1) within and (2) across program offices/regions. (1) A program office/region is internally consistent if it follows the same or similar process for responding to the same or similar FOIA request. (2) Program offices

UPDATED FOIA PROCEDURES *[QUESTIONS 1, 2 AND 2A]*

8. On September 30, 2014, EPA's Chief Information Officer issued updated Agency-wide FOIA policy and procedures documents. Program offices and regions were required to develop or update their written FOIA procedures by March 31, 2015.

    a. To what extent (and how) might the updated Agency-wide FOIA policies and procedures strengthen the Agency's FOIA program? Do you have any questions or concerns about the updated Agency-wide procedures (if yes, explain)?

    b. Have you reviewed, or been briefed on, the organization-specific FOIA procedures that were due in March 2015?

        i. If yes, what are your impressions about the organization-specific procedures?

        ii. What are the main similarities and differences in the procedures across organizations?

9. Are you aware of any training that the National FOIA Office, and/or regional FOIA offices, have provided on the updated FOIA procedures? If yes, please describe.

10. Have you received any feedback from program offices or regions about the updated FOIA procedures? If yes, what was the nature of the feedback?

FOIA PROGRAM IMPROVEMENT EFFORTS *[QUESTIONS 5-9]*

11. What opportunities do you see to streamline FOIA processing in the National FOIA Office and/or within programs and regions?

    The interviewer will first ask the question in an open-ended format and record responses. Then, the interviewer will read the following list of prompts and record responses for each prompt.

    Prompts:

    a. Increased centralization of FOIA responsibilities with a smaller group of staff within regional offices

    b. Increased centralization of FOIA responsibilities within a core FOIA group at HQ

    c. Increased centralization – other (specify)

    d. Greater use of proactive disclosure

    e. Testing new technologies to manage the FOIA process

    f. Holding a FOIA Lean event

12. Where do you see the greatest potential for improving the accountability and consistency of the Agency's FOIA program?

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and regions are consistent across one another if they respond to the same or similar FOIA request in the same or similar manner.

a. What approaches do you think might help bring about these changes?

b. Are you aware of program offices or regions that have implemented these approaches?

i. If yes, do you know the results of their efforts?

13. Some parts of the Agency have identified technology solutions to enhance FOIA processing (e.g., redaction software). To what extent, if any, would new or improved technologies improve FOIA processing?

a. (If applicable) What new or enhanced capabilities would these technologies provide?

b. Do you have any thoughts about specific technology solutions that would provide these capabilities?

i. If yes, what are they?

14. Some offices and regions have taken steps to partly or fully centralize their FOIA programs.

a. What do you see as the benefits and costs of a centralized approach to FOIA administration within offices and regions?

b. In what circumstances, if any, is a centralized approach appropriate for an office or region?

15. EPA recently established a FOIA Expert Assistance Team (FEAT) within the Office of General Counsel to provide assistance in the FOIA process.

a. What are your thoughts about the FEAT's role in improving the FOIA program?

b. How do you see the National FOIA Office interacting with the FEAT?

c. How do you see program offices and regions interacting with the FEAT?

INTERVIEW GUIDE FOR SENIOR MANAGERS IN OFFICE OF GENERAL COUNSEL

BACKGROUND

1. When did you join EPA?
    a. How long have you been working in OGC?
    b. What positions have you held prior to your current position (both at EPA and previous employers)?
2. How many FOIA cases are you currently working on? Approximately how many of these are litigation cases?
3. What percentage of your time do you spend working on FOIA cases?

OGC'S ROLE IN EPA'S FOIA PROGRAM

4. Based on our preliminary research, we understand that OGC has three major roles in the FOIA program: (i) provide legal advice on FOIA matters; (ii) issue final decisions on FOIA appeals and confidentiality determinations; and (iii) serve as co-counsel with DOJ in FOIA litigation.
    a. Is this an accurate summary of OGC's role in the FOIA program? If no, please clarify.
    b. Approximately what proportion of the time that you spend on FOIA cases is directed toward each of the three activities listed above?
5. Under what circumstances do program offices and regions seek OGC's legal advice on FOIA matters? How often does this occur?
6. Are there any common features of FOIA cases that advance to litigation (if yes, what are they)?
    a. Can you estimate the proportion of FOIA litigation cases that involve non-response?
    b. Do you have any readily available information on litigation fees associated with cases involving non-response?
7. We understand that OGC co-chairs the Records Workgroup, which includes a FOIA Technology Sub-group. How familiar are you with the activities of the workgroup?

STATUS OF EPA'S FOIA PROGRAM *[QUESTIONS 4, 4A, AND 4B]*

8. EPA's FOIA program as a whole is mostly decentralized; however, individual program offices and regions can have a centralized, decentralized, or hybrid FOIA program.[53]

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[53] A "centralized" FOIA model is one in which dedicated FOIA Specialists (who do not have collateral job responsibilities) perform all FOIA functions in their office/region, and report to a manager who is directly responsible for all FOIA responses within the office/region. In a "decentralized" model, a FOIA Coordinator or FOIA Officer processes incoming requests and assigns them to the appropriate regional or program contact, who in turn assigns requests to subject-matter experts (whose

a. How, if at all, do you think the structure (centralized, decentralized, or hybrid) of the FOIA program affects FOIA process and outcomes?

9. What are your overall impressions of the effectiveness of EPA's FOIA program?
    a. What aspects of the program are working well?
    b. What improvements do you think are needed to strengthen the FOIA program and address public information needs?
        i. Do you have any specific thoughts or suggestions for how EPA might go about making those improvements?
10. What do you see as the barriers to greater efficiency in processing FOIA requests?
11. Our study considers the accountability and consistency of the Agency's FOIA program.
    a. What do you see as the most important factors for ensuring the accountability of employees to the FOIA program?[54]
    b. What do you see as the most important factors for ensuring the consistency of the FOIA process?[55]
    c. How, if at all, do these factors influence the number and type of FOIA cases that end up in litigation?

UPDATED FOIA PROCEDURES *[QUESTIONS 1, 2 AND 2A]*

12. On September 30, 2014, EPA's Chief Information Officer issued updated Agency-wide FOIA policy and procedures documents. Program offices and regions were required to develop or update their written FOIA procedures by March 31, 2015.
    a. To what extent (and how) might the updated Agency-wide FOIA policies and procedures strengthen the Agency's FOIA program?
    b. Do you have any questions or concerns about the updated Agency-wide procedures (if yes, explain)?
    c. Have you reviewed, or been briefed on, the organization-specific FOIA procedures that were due in March 2015? If yes:
        i. What are your impressions about the organization-specific procedures?

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main job is typically not FOIA) who locate the relevant records. A "hybrid" FOIA program includes elements of a centralized and decentralized system – e.g., a dedicated FOIA manager, but no dedicated FOIA Specialists.

[54] We define accountability in terms of (1) how staff and mid-level managers respond to FOIA requests, and (2) the extent to which senior managers commit to meeting (and achieve) the Agency's FOIA goals.

[55] We define consistency (1) within and (2) across program offices/regions. (1) A program office/region is internally consistent if it follows the same or similar process for responding to the same or similar FOIA request. (2) Program offices and regions are consistent across one another if they respond to the same or similar FOIA request in the same or similar manner.

ii. What are the main similarities and differences in the procedures across organizations? What factors explain these differences?

13. Are you aware of any training that the National FOIA Office, regional FOIA offices, and/or other parts of the Agency have provided regarding the updated FOIA procedures? If yes, please describe.

14. Have you heard any feedback from program offices or regions about the updated FOIA procedures? If yes, what was the nature of their feedback?

15. How, if at all, do you expect the updated FOIA procedures to affect the number and types of FOIA cases that OGC receives?

FOIA PROGRAM IMPROVEMENT EFFORTS *[QUESTIONS 5-9]*

16. What opportunities do you see to streamline FOIA processing in the National FOIA Office and/or within programs and regions?

    The interviewer will first ask the question in an open-ended format and record responses. Then, the interviewer will read the following list of prompts and record responses for each prompt.

    Prompts:

    a. Increased centralization of FOIA responsibilities with a smaller group of staff within regional offices

    b. Increased centralization of FOIA responsibilities within a core FOIA group at HQ

    c. Increased centralization – other (specify)

    d. Greater use of proactive disclosure

    e. Testing new technologies to manage the FOIA process

    f. Holding a FOIA Lean event

17. Where do you see the greatest potential for improving the accountability and consistency of the Agency's FOIA program?

    a. What approaches do you think might help bring about these changes?

    b. What effect, if any, do you think these changes would have on the number and type of FOIA cases that end up in litigation?

    c. Are you aware of program offices or regions that have implemented these approaches?

        i. If yes, do you know the results of their efforts?

18. Some parts of the Agency have identified technology solutions to enhance FOIA processing (e.g., redaction software). To what extent, if any, would new or improved technologies improve FOIA processing?

    a. (If applicable) What new or enhanced capabilities would these technologies provide?

b. Do you have any thoughts about specific technology solutions that would provide these capabilities?

    i. If yes, what are they?

c. What effect, if any, do you think these changes would have on the number and type of FOIA cases that end up in litigation?

19. Some offices and regions have taken steps to partly or fully centralize their FOIA programs.

    a. What do you see as the benefits and costs of a centralized approach to FOIA administration within offices and regions?

    b. In what circumstances, if any, is a centralized approach appropriate for an office or region?

    c. What effect, if any, do you think increased centralization of the FOIA program would have on the number and type of FOIA cases that end up in litigation?

20. EPA recently established a FOIA Expert Assistance Team (FEAT) within OGC to provide assistance in the FOIA process.

    a. What are your thoughts about the FEAT's role in improving the FOIA program?

    b. Do you think that the FEAT will reduce the Agency's FOIA-related litigation risk? Why or why not?

    c. How do you see the National FOIA Office interacting with the FEAT?

    d. How do you see program offices and regions interacting with the FEAT?

INTERVIEW GUIDE FOR LEAN COORDINATORS (REGION 3, REGION 7, AND OAR)

Note: We have received more background documents for some regions/offices than for others. We will tailor our interview questions based on the documents that we have received prior to conducting the interviews.

BACKGROUND

1. What is your current position at EPA?
    a. How long have you been in your current position?
    b. What previous positions have you held with EPA?
2. What was your role in preparing for the FOIA Lean Event?
3. What was/is your role in implementing the Lean Event's recommendations and/or tracking the implementation status?

LEAN EVENT GOALS, SCOPE, AND RECOMMENDATIONS *[QUESTIONS 4A AND 4B]*

4. Are you aware of any FOIA improvement efforts that your office or region contemplated or implemented prior to initiating the Lean Event?
    a. If yes, please describe. When did it occur? What topics/processes were addressed? What were the results?
5. Why did your office or region initiate the FOIA Lean Event?
6. Please describe the purpose, goals, and scope of the Lean Event.
7. Who participated in the Lean Event?
8. What major barriers or "pain points" did the Lean Event uncover?
9. What recommendations came out of the Lean Event?
10. What were the most significant differences between the "as-is" process and the "to-be" process? *(Probe: Reduction in number of steps; enhanced coordination; use of new/improved technologies; centralization; other)*
    a. (If applicable) Do you have materials on the "as-is" process, the "to-be" process, the Lean Event report-out, and/or other relevant documents that you can share with us?

LEAN FOLLOW-UP *[QUESTIONS 5, 6, AND 7]*

11. What recommendations from the FOIA Lean Event have you implemented to date?
    a. When did you implement the changes?
    b. What results, if any, have you observed following the changes?
12. What additional recommendations, if any, are you still planning to implement?
    a. What are the current status and expected timing of these changes?

13. Are there any recommendations that got "stuck," or that you have decided not to implement at the present time?
    a. If yes, please explain.
14. Can you estimate the benefits and costs (quantitative or qualitative) associated with:
    a. Recommendations that you have already implemented?
    b. Recommendations that you are in the process of implementing?
    c. Recommendations that stalled or that you have decided not to implement?
15. Aside from the Lean Event, have any other changes occurred that have affected the FOIA program in your office or region (if yes, describe)?
    a. (If applicable) How have these changes affected FOIA performance in your office or region?
16. Would you recommend that other EPA offices or regions implement a FOIA Lean Event?
    a. Why or why not?

UPDATED FOIA PROCEDURES *[QUESTIONS 1, 2 AND 2A]*

17. On September 30, 2014, EPA's Chief Information Officer issued updated Agency-wide FOIA policy and procedures documents. Program offices and regions were required to develop or update their written FOIA procedures by March 31, 2015.
    a. How, if at all, have your office's or region's FOIA procedures changed following the updated Agency-wide FOIA procedures?

       The interviewer will first ask the question in an open-ended format and record responses. Then, the interviewer will read the following list of prompts and record responses for each prompt.

       Prompts:

       i. Use of FOIAonline to manage all FOIA requests.

       ii. Use of a management and tracking system to process all FOIA requests.

       iii. Review of documents before releasing them to the requester.

       iv. Consistent release of records unless one of the mandatory exemptions applies or if a determination of foreseeable harm is made.

       v. Provision of annual FOIA training.

       vi. FOIA responsibilities included in personnel performance agreements.

       vii. Other (specify).

    b. How, if at all, do the procedural changes reflect or modify the "to-be" process that you developed in the Lean Event?

c. What is the schedule for implementing each major change? If you have already implemented a major change following the new procedures, please describe the change and when it was implemented.

CONTINUOUS IMPROVEMENT IN YOUR OFFICE OR REGION *[QUESTIONS 5, 6, AND 7]*

18. What opportunities do you see to further streamline FOIA processing in your office or region?

    The interviewer will first ask the question in an open-ended format and record responses. Then, the interviewer will read the following list of prompts and record responses for each prompt.

    Prompts:

    a. Increased centralization of FOIA responsibilities with a smaller group of staff in my office

    b. Increased centralization of FOIA responsibilities within a core FOIA group at HQ

    c. Increased centralization of FOIA responsibilities within the program office or region

    d. Increased centralization – other (specify)

    e. Greater use of proactive disclosure

    f. Testing new technologies to manage the FOIA process

    g. Holding another FOIA Lean event

19. Where do you see the greatest potential for improving the accountability[56] and consistency[57] of the FOIA program in your office or region?

    a. What approaches do you think might help bring about these changes?

    b. Are you aware of other program offices or regions that have implemented these approaches?

        i. If yes, do you know the results of their efforts?

INTRA-AGENCY PROGRAM IMPROVEMENT EFFORTS *[QUESTIONS 8, 8A, 8B, 8C, AND 9]*

20. Some parts of the Agency have identified technology solutions to enhance FOIA processing (e.g., redaction software). To what extent, if any, would new or improved

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[56] We define accountability in terms of (1) how staff and mid-level managers respond to FOIA requests, and (2) the extent to which senior managers commit to meeting (and achieve) the Agency's FOIA goals.

[57] We define consistency (1) within and (2) across program offices/regions. (1) A program office/region is internally consistent if it follows the same or similar process for responding to the same or similar FOIA request. (2) Program offices and regions are consistent across one another if they respond to the same or similar FOIA request in the same or similar manner.

technologies improve FOIA processing in your office or region? **(Ask this question only if not already covered in the discussion above.)**

a. (If applicable) What new or enhanced capabilities would these technologies provide?

b. Do you have any thoughts about specific technology solutions that would provide these capabilities?

i. If yes, what are they?

21. Some offices and regions have taken steps to partly or fully centralize their FOIA programs.[58] **(Ask this question only if not already covered in the discussion above.)**

a. What do you see as the benefits and costs of a centralized approach to FOIA administration for your office or region?

b. Do you think that a centralized approach is appropriate for your office/region?

i. Why or why not?

22. EPA recently established a FOIA Expert Assistance Team (FEAT) within the Office of General Counsel to provide assistance in the FOIA process.

a. To date, has your office or region used the FEAT?

i. If yes, what was your experience?

b. Moving forward, do you anticipate your office or region using the FEAT?

i. If yes, in what capacity?

ii. If no, why not?

[58] A "centralized" FOIA model is one in which dedicated FOIA Specialists (who do not have collateral job responsibilities) perform all FOIA functions in their office/region, and report to a manager who is directly responsible for all FOIA responses within the office/region. In a "decentralized" model, a FOIA Coordinator or FOIA Officer processes incoming requests and assigns them to the appropriate regional or program contact, who in turn assigns requests to subject-matter experts (whose main job is typically not FOIA) who locate the relevant records. A "hybrid" FOIA program includes elements of a centralized and decentralized system – e.g., a dedicated FOIA manager, but no dedicated FOIA Specialists.

INTERVIEW GUIDE FOR THE ACTING DIRECTOR OF THE FEAT

CURRENT STATUS OF THE FEAT

1. When we interviewed you in early February 2015, the FEAT had "beta tested" its process with selected FOIA cases. Next steps included: continue beta testing; staff the team; and solicit feedback on operations.
    a. How many staff currently belong to the FEAT? When were they hired? What are their backgrounds?
    b. Have there been any changes to the FEAT's processes and operations since February 2015? If yes, what changed, and why?
    c. What feedback have you received from other parts of the Agency about the FEAT's operations?

FEAT PROCESSES AND OUTCOMES *[CONTEXT, AND QUESTIONS 4, 6, AND 7]*

2. Please tell us more about the current operations of the FEAT.
    a. How many cases is the FEAT currently working on? Has the number of cases increased or decreased since February 2015?
    b. Are you reviewing all incoming FOIA requests, or only certain types of requests?
    c. How are you identifying the cases that could most benefit from the FEAT's assistance?
    d. Can you estimate the proportion of cases that originate with requests from offices/regions vs. cases that you initiate based on your initial screening?
    e. Have you noticed that some offices or regions use the FEAT's services more frequently than other offices and regions?
        i. If yes, who are the most frequent users of the FEAT's services?
        ii. What factors contribute to differences in how frequently different offices and regions use the FEAT?
    f. Have you noticed any common features of the cases that the FEAT works on? (e.g., case size, complexity, topic, etc.) If yes, please describe.
    g. With whom do you coordinate on a typical case?
        i. What role do regions and program offices play?
        ii. What role does the National FOIA Office play?
    h. How many hours do you and your staff spend on each case? Please estimate the minimum, maximum, and average number of hours that you spend.
        i. What technologies do you use to process FOIA requests? (e.g., Relativity, Adobe 11, etc.) Do you have any comments about the technologies that you use?

3. Based on your experience – and any feedback you may have received about the FEAT – how, if at all, do you think the FEAT affects the Agency's:
    a. Consistency[59] in responding to FOIA requests?
    b. Efficiency/timeliness of FOIA responses?
    c. Volume, and type, of information released in response to FOIA requests? (e.g., determinations of relevance, foreseeable harm, exemption status, etc.)
    d. Other effects (please specify)?

OTHER FOIA IMPROVEMENT EFFORTS AND THE FEAT *[QUESTIONS 8, 8A, 8B, 8C, AND 9]*

4. Different parts of the Agency have adopted, or are considering, various improvements to the FOIA program, such as: new/improved technology for managing FOIA requests (e.g., redaction software); increased centralization of FOIA; and "leaning" various aspects of the FOIA process.
    a. To what extent, if any, would new or improved technologies improve FOIA processing?
        i. What new or enhanced capabilities would these technologies provide?
        ii. Do you have any thoughts about specific technology solutions that would provide these capabilities (if yes, what are they)?
    b. When we spoke in February 2015, you indicated that increased centralization of the FOIA program could be beneficial to the Agency. What do you see as the benefits and costs of a centralized approach to FOIA administration within offices and regions? In what circumstances is a centralized approach most beneficial?
    c. What opportunities do you see to streamline FOIA processing in the National FOIA Office and/or within programs and regions?
    d. How, if at all, do these efforts interact with the FEAT's work?
5. How can the rest of EPA most effectively leverage the FEAT's services within the context of these ongoing improvement efforts?

UPDATED FOIA PROCEDURES *[QUESTIONS 1, 2 AND 2A]*

6. On September 30, 2014, EPA's Chief Information Officer issued updated Agency-wide FOIA policy and procedures documents. Program offices and regions were required to develop or update their written FOIA procedures by March 31, 2015.

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[59] We define consistency (1) within and (2) across program offices/regions. (1) A program office/region is internally consistent if it follows the same or similar process for responding to the same or similar FOIA request. (2) Program offices and regions are consistent across one another if they respond to the same or similar FOIA request in the same or similar manner.

a. To what extent (and how) might the updated Agency-wide FOIA policies and procedures strengthen the Agency's FOIA program? Do you have any questions or concerns about the updated Agency-wide procedures (if yes, explain)?

b. Have you reviewed, or been briefed on, the organization-specific FOIA procedures that were due in March 2015?

    i. If yes, what are your impressions about the organization-specific procedures?

    ii. What are the main similarities and differences in the procedures across organizations?

INTERVIEW GUIDE FOR FEAT STAFF

BACKGROUND

1. When did you join the FEAT?
2. What positions did you hold prior to joining the FEAT? ***[Note: We understand from Becky Dolph that Denise Walker held a similar job at NOAA before joining EPA.]***
3. What do you see as the main purpose and functions of the FEAT?
4. What are your roles and responsibilities with the FEAT?

FEAT PROCESSES AND OUTCOMES *[CONTEXT, AND QUESTIONS 4, 6, AND 7]*

5. Please tell us more about your experience as a member of the FEAT.
    a. How many cases are you currently working on? Has the number of cases increased or decreased since you joined the FEAT?
    b. Do you review all incoming FOIA requests, or only certain types of requests?
    c. How do you identify cases that could benefit from the FEAT's assistance?
    d. Can you estimate the proportion of cases that originate with requests from offices/regions vs. cases that you initiate based on your initial screening?
    e. Have you noticed that some offices or regions use the FEAT's services more frequently than other offices and regions?
        i. If yes, who are the most frequent users of the FEAT's services?
        ii. What factors contribute to differences in how frequently different offices and regions use the FEAT?
    f. Have you noticed any common features of the cases that the FEAT works on? (e.g., case size, complexity, topic, etc.) If yes, please describe.
    g. With whom do you coordinate on a typical case?
        i. What role do regions and program offices play?
        ii. What role does the National FOIA Office play?
    h. How many hours do you spend on each case? Please estimate the minimum, maximum, and average number of hours that you spend.
    i. What technologies do you use to process FOIA requests? (e.g., Relativity, Adobe 11, etc.) Do you have any comments about the technologies that you use?
6. Based on your experience – and any feedback you may have received about the FEAT – how, if at all, do you think the FEAT affects the Agency's:

a. Consistency[60] in responding to FOIA requests?

b. Efficiency/timeliness of FOIA responses?

c. Volume, and type, of information released in response to FOIA requests? (e.g., determinations of relevance, foreseeable harm, exemption status, etc.)

d. Other effects (please specify)?

OTHER FOIA IMPROVEMENT EFFORTS AND THE FEAT *[QUESTIONS 8, 8A, 8B, 8C, AND 9]*

7. Different parts of the Agency have adopted, or are considering, various improvements to the FOIA program, such as: new/improved technology for managing FOIA requests (e.g., redaction software); increased centralization of FOIA; and "leaning" various aspects of the FOIA process.

    a. To what extent, if any, would new or improved technologies improve FOIA processing?

        i. What new or enhanced capabilities would these technologies provide?

        ii. Do you have any thoughts about specific technology solutions that would provide these capabilities (if yes, what are they)?

    b. What do you see as the benefits and costs of a centralized approach to FOIA administration within offices and regions? In what circumstances, if any, is a centralized approach appropriate?

    c. What opportunities do you see to streamline FOIA processing in the National FOIA Office and/or within programs and regions?

    d. How, if at all, do these efforts interact with the FEAT's work?

8. How can the rest of EPA most effectively leverage the FEAT's services within the context of these ongoing improvement efforts?

ADDITIONAL QUESTIONS FOR DENISE WALKER (FORMERLY AT NOAA) *[QUESTIONS 3, 5, 6]*

9. We understand that you used to work for NOAA's FOIA program.

    a. Overall, how similar or different are the FOIA programs at EPA and NOAA?

    b. What are the major similarities and differences? (e.g., organizational structure, process, types of requests)

    c. Does NOAA have anything similar to the FEAT? If yes, please explain.

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[60] We define consistency (1) within and (2) across program offices/regions. (1) A program office/region is internally consistent if it follows the same or similar process for responding to the same or similar FOIA request. (2) Program offices and regions are consistent across one another if they respond to the same or similar FOIA request in the same or similar manner.

d. What other improvements, if any, has NOAA implemented to strengthen its FOIA program? (e.g., best practices, new technologies, process improvements, etc.)

e. Which of these improvements, if any, are applicable to EPA?

INTERVIEW GUIDE FOR OSHA FOIA MANAGER

BACKGROUND

1. Please briefly summarize your past and current FOIA responsibilities at OSHA.
    a. How long have you been in your current position?
    b. What previous positions have you held with OSHA or other federal agencies?

OVERVIEW OF OSHA'S FOIA PROGRAM [QUESTION 3, AND CONTEXT FOR THE CASE STUDY]

2. Please describe the structure of OSHA's FOIA program.
    a. Does OSHA have a centralized (top-down, standardized) or decentralized (highly delegated to regional offices) FOIA program?
        i. Is there a National FOIA Office? Regional FOIA offices?
        ii. *(If applicable)* What are the roles and authorities of the National Office vis-à-vis regional offices?
    b. How, if at all, do you think the structure of the FOIA program affects the FOIA process and outcomes?
3. How familiar are you with EPA's FOIA program?
    a. *(If familiar)* How similar or different is EPA's FOIA program from OSHA's FOIA program? What are the major similarities and differences?
4. Please describe the nature of the FOIA requests that OSHA receives.
    a. What topics are typically covered in the requests?
    b. How do you identify potentially responsive records? Are all records for a request typically located in one place or in multiple places?
    c. How voluminous is a typical response?
    d. Do your answers to the previous questions differ for *simple* vs. *complex* requests?
        i. What are the typical characteristics of a simple request?
        ii. What are the typical characteristics of a complex request?
5. What are the main steps involved in processing a FOIA request?
    a. Who processes incoming requests? How many points of entry exist for incoming requests?
    b. Who locates potentially responsive records (if different from previous)?
    c. Who reviews responses before they are sent to the requester (if different from previous)?
    d. Who communicates with the requester (if different from previous)?

e. To what extent is intra-Agency coordination required when processing a FOIA request (e.g., across regions)? How often does this occur?

f. Is the process different for *simple* requests vs. *complex* requests? If yes, please explain the differences.

6. What technologies do you currently use to process FOIA requests?

7. Approximately how many hours do staff spend on processing FOIA requests?

   a. Minimum number of hours

   b. Maximum number of hours

   c. Average number of hours

8. What do you see as the most important factors for ensuring a well-functioning FOIA program?

   a. What do you see as the most important factors for ensuring the accountability of employees to the FOIA program?[61]

   b. What do you see as the most important factors for ensuring the consistency of the FOIA process?[62]

BEST PRACTICES AND PROGRAM IMPROVEMENT [QUESTIONS 5 AND 6]

9. OSHA has a consistently low number of backlogged requests relative to other agencies.

   a. To what do you attribute your consistently low backlog? How do you manage your backlog?

10. We understand that OSHA digitized its records.

    a. When did this occur?

    b. What effect, if any, have digitized records had on the steps or time required to process a FOIA request?

    c. Can you estimate the approximate cost (in dollars and/or FTEs)?

11. What other actions, if any, has OSHA considered to strengthen its FOIA program?

    a. Which of these improvements were implemented, and when?

    b. What was the result of these improvements on processing speed and consistency?

12. What practices has OSHA adopted to ensure accountability and consistency in your FOIA program?

13. Are you aware of other best practices that other federal agencies have adopted?

---

[61] We define accountability in terms of (1) how staff and mid-level managers respond to FOIA requests, and (2) the extent to which senior managers commit to meeting (and achieve) an agency's FOIA goals.

[62] We define consistency as responding to the same or similar FOIA request in the same or similar manner.

a. If yes, please describe.

b. If yes, would these practices be relevant for OSHA? Why or why not?

INTERVIEW GUIDE FOR CHIEF FOIA COMPLIANCE STAFF, OFFICE OF INFORMATION POLICY, DEPARTMENT OF JUSTICE

BACKGROUND

1. Please briefly summarize your past and current FOIA responsibilities.
    a. What role, if any, do you play in reviewing the Annual FOIA Reports from other federal agencies?
    b. What role, if any, do you play in developing FOIA guidance and training?
2. Across federal agencies, in general, what improvements have you noticed in FOIA programs over the past five years?
3. In general, what aspects of agencies' FOIA programs still need to be improved?

EPA'S FOIA PERFORMANCE (QUESTION 3)

4. What are your overall impressions of EPA's FOIA performance?
    a. What do you see as the program's strengths?
    b. What do you see as the program's weaknesses?
    c. In September 2014, EPA's Chief FOIA Officer issued updated FOIA procedures, which required the development of organization-specific FOIA procedures in each program and regional office.
        i. How familiar are you with EPA's updated FOIA procedures?
        ii. *(If familiar)* Do you think that the updated FOIA procedures address the weaknesses that you identified in the previous question? Why or why not?
    d. How does EPA's FOIA performance compare to the performance of other federal agencies?
        i. We are preparing a FOIA case study on OSHA due to its similar volume of FOIA requests, regulatory nature, and regional structure. How would you compare the FOIA performance and practices of OSHA and EPA?
    e. Are there particular agencies that stand out as leaders in FOIA implementation?
        i. Is EPA among them?
    f. What factors explain the differences in performance between EPA and other federal agencies? (e.g., degree of comparability across agencies; different practices across agencies; etc.)

BEST PRACTICES AND PROGRAM IMPROVEMENT (QUESTIONS 5 AND 6)

5. What best practices have federal agencies (EPA or other) adopted to strengthen their FOIA programs?
    a. To what extent are best practices adopted by other federal agencies transferrable to EPA?
6. What other suggestions or advice would you offer EPA to strengthen its FOIA program?
    a. Are you aware of any federal agencies that have successfully implemented these approaches (if yes, please describe)?

APPENDIX E: SURVEY INSTRUMENT

Introduction:

Thank you for participating in this brief online survey. Your responses will provide valuable input for EPA's ongoing evaluation of the Agency's FOIA program.

Senior managers in the Office of Environmental Information (OEI) initiated this evaluation to examine EPA's current implementation of FOIA and identify opportunities to improve the program. This survey is a critical part of the evaluation. The survey is intended to show what aspects of the program are working well and what can be improved. The survey results will help inform strategic planning decisions for FY16.

There are no "right" or "wrong" answers to the survey questions and your candor will ensure that the results are accurate and helpful. You should answer the questions based on your best knowledge and experience; it is not necessary to do any research to answer the questions.

EPA has hired an independent contractor to manage the survey. Please be assured that your responses will be kept STRICTLY CONFIDENTIAL. Survey results will be presented and reported only in the aggregate; findings will not be attributed to individuals nor will the names of respondents be shared.

The survey should take approximately 10 minutes to complete. The survey must be completed in one sitting, so please be sure you have sufficient time to complete the survey before you begin.

To begin the survey, click "Next."

[Next button – will direct respondents to the screening question.]

Screening question:

On average, what proportion of your time at work involves working on FOIA? (Select one.) (Screening and Evaluation Q4)

- More than 50%
- Between 25-50%
- Between 10-25%
- Between 1-10%
- None

[If respondent selects a-d, proceed to next question. If respondent selects answer choice e, go to the screen-out page.]

Screen-out page:

Based on your response to the previous question, you are not eligible to take the survey. Thank you for your time and willingness to participate.

NOTE: Gray shading indicates questions that may be skipped based on the respondent's answer to the previous question.

Survey questions:

1. **Do you have an official title or position in the FOIA program? (Select all that apply.) (general)**
   a) Yes, I am a FOIA Officer.
   b) Yes, I am a Headquarters FOIA Coordinator.
   c) Yes, I am a Regional FOIA Coordinator
   d) Yes, I am a Subject Matter Expert.
   e) Yes, I am a FOIA Professional.
   f) Yes, I am a FOIA Manager.
   g) Yes, I am a FOIA Specialist.
   h) Yes, other (specify)
   i) No

[Proceed to next question.]

2. **Have you ever participated in FOIA training at EPA? (Select one.) (general)**
   a) Yes, within the last year.
   b) Yes, between 1-3 years ago.
   c) Yes, more than three years ago.
   d) No.

[Proceed to next question.]

3. **What office or region do you work in? (Select one.) (general)**
   a) Office of Administration and Resources Management
   b) Office of Air and Radiation
   c) Office of Chemical Safety and Pollution Prevention
   d) Office of the Chief Financial Officer
   e) Office of Enforcement and Compliance Assurance
   f) Office of Environmental Information
   g) Office of General Counsel
   h) Office of Inspector General
   i) Office of International and Tribal Affairs
   j) Office of Research and Development
   k) Office of Solid Waste and Emergency Response
   l) Office of Water
   m) Region 1
   n) Region 2
   o) Region 3
   p) Region 4
   q) Region 5
   r) Region 6
   s) Region 7
   t) Region 8

u) Region 9
v) Region 10

[Proceed to next question.]

4. Are you familiar with changes in the Agency's FOIA procedures that the Chief Information Officer issued on September 30, 2014, and that were incorporated into office-specific and region-specific FOIA procedures by March 30, 2015? (Select one.) (Evaluation Q1)

a) Yes, I am very familiar with changes to FOIA procedures.
b) Yes, I am somewhat familiar with changes to FOIA procedures.
c) I have heard of changes to FOIA procedures but I don't know much about them.
d) I am not aware of changes to FOIA procedures.

[If respondent selects a – c, proceed to next question. If respondent selects answer choice d, skip question 5 and proceed to question 6.]

5. How were changes to FOIA procedures communicated to you? (Select all that apply.) (Evaluation Q1)

a) ☐ I received a copy of new procedures.
b) ☐ I received a written summary of new procedures.
c) ☐ I received a presentation of new procedures.
d) ☐ I participated in in-person training.
e) ☐ I participated in online training.
f) ☐ Other (specify)

[Proceed to next question.]

6. Indicate if the following were true or false a year ago. (Evaluation Q1)

a) True ☐ False ☐ I used FOIAonline to manage all FOIA requests.
b) True ☐ False ☐ I used a management and tracking system to process all FOIA requests.
c) True ☐ False ☐ At least one other EPA staff person reviewed documents before I released them to the requester.
d) True ☐ False ☐ I always released records requested unless one of the mandatory exemptions applied or if I made a determination of foreseeable harm.
e) True ☐ False ☐ I received FOIA training annually.
f) True ☐ False ☐ My FOIA responsibilities were included in my personnel performance agreement.

[Proceed to next question.]

7. Indicate if the following are true or false at the present time. (Evaluation Q1 and Q5)

a) True ☐ False ☐ I use FOIAonline to manage all FOIA requests.

b) True ☐ False ☐ I use a management and tracking system to process all FOIA requests.
c) True ☐ False ☐ At least one other EPA staff person reviews documents before I release them to the requester.
d) True ☐ False ☐ I always release records requested unless one of the mandatory exemptions applies or if I make a determination of foreseeable harm.
e) True ☐ False ☐ I receive FOIA training annually.
f) True ☐ False ☐ My FOIA responsibilities are included in my personnel performance agreement.

[Proceed to next question.]

8. What are your FOIA responsibilities? (Select all that apply.) (Evaluation Q4)

a) ☐ Receive and review incoming FOIA requests.
b) ☐ Assign requests to other staff.
c) ☐ Conduct research to respond to requests.
d) ☐ Search for responsive records.
e) ☐ Review potentially responsive records for relevance.
f) ☐ Redact records to be released.
g) ☐ Review responses prepared by others.
h) ☐ Communicate with requesters.
i) ☐ Close out requests.

[Proceed to next question.]

9. How much do your FOIA responsibilities vary in terms of time commitment from week to week? (Select one.) (Evaluation Q4)

a) Quite variable: Some weeks I work on FOIA a lot and some weeks not at all.
b) Somewhat variable: Some weeks I have more FOIA work than other weeks.
c) Consistent: My FOIA workload is rather consistent from week to week.
d) I only respond to the occasional FOIA request.

[If respondent selects a – c, proceed to next question. If respondent selects answer choice d, skip question 10 and proceed to question 11.]

10. Please estimate the average, minimum, and maximum number of hours that you spend to process a FOIA request. (Numeric fields) (Evaluation Q4)

Average (hours): _____

Minimum (hours): ____

Maximum (hours): ____

[Proceed to next question.]

11. Please indicate how important or unimportant the following FOIA-related goals are relative to your other job responsibilities. (Evaluation Q4a)

	Extremely Important	*Important*	*Moderately Important*	*Somewhat Important*	*Not Very Important*
Helping to reduce the FOIA backlog/maintaining a low backlog	☐	☐	☐	☐	☐
Following current FOIA procedures.	☐	☐	☐	☐	☐
Providing high-quality responses to FOIA requests.	☐	☐	☐	☐	☐

[Proceed to next question.]

12. How often do you coordinate with others to process FOIA requests? (Select one.) (Evaluation Q4b)

a) I coordinate with others on all FOIA requests.
b) I coordinate with others on most FOIA requests.
c) I coordinate with others on some FOIA requests.
d) I coordinate with others on few FOIA requests.
e) I never coordinate with others on FOIA requests.

[If respondent selects a – d, proceed to next question. If respondent selects e, skip questions 13-15, and proceed to question 16.]

13. On average, how much of the time spent on FOIA requests involves coordinating with others? (Select one.) (Evaluation Q4b)

a) A lot of time is spent on coordination
b) Some time is spent on coordination
c) Minimal time is spent on coordination

[Proceed to next question.]

14. With whom do you coordinate to process FOIA requests? (Select <u>all</u> that apply.) (Evaluation Q4b)

a) ☐ Subject matter specialists in my office
b) ☐ Subject matter specialists in other offices
c) ☐ FOIA officers/coordinators in my office
d) ☐ FOIA officers/coordinators in other offices
e) ☐ National FOIA Office
f) ☐ Regional FOIA Office
g) ☐ Others in my office (specify)

h) ☐ Others in other offices (specify)

[Proceed to next question.]

15. What parts of the FOIA process do you coordinate with others on? (Select all that apply.) (Evaluation Q4b)

a) ☐ Receive and review incoming FOIA requests.
b) ☐ Assign requests to other staff.
c) ☐ Conduct research to respond to requests.
d) ☐ Search for responsive records.
e) ☐ Review potentially responsive records for relevance.
f) ☐ Redact records to be released.
g) ☐ Review responses prepared by others.
h) ☐ Communicate with requesters.
i) ☐ Close out requests.

[Proceed to next question.]

16. On average, how efficient or inefficient is your office at processing FOIA requests? (Select one.) (Evaluation Q7)

a) Very efficient
b) Somewhat efficient
c) Somewhat inefficient
d) Very inefficient

[Proceed to next question.]

17. What do you see as barriers to greater efficiency in processing FOIA requests in your office? (Select all that apply.) (Evaluation Q7)

a) ☐ Inconsistent following of FOIA procedures
b) ☐ Confusion about FOIA procedures
c) ☐ Confusion about FOIA policy
d) ☐ Not enough staff time dedicated to FOIA processing
e) ☐ Fragmented FOIA processing (too many different people or offices working on the same requests)
f) ☐ Trouble finding relevant records and e-mails
g) ☐ Inefficiencies in documenting responses
h) ☐ Inefficiencies in communicating with others about workflow
i) ☐ Inefficiencies in redaction process
j) ☐ Other (specify)

[Proceed to next question.]

18. Would you support testing any of the following approaches to streamlining FOIA processing in your office? (Check all that apply.) (Evaluation Q7)

a) ☐ Increased centralization of FOIA responsibilities with a smaller group of staff in my office
b) ☐ Increased centralization of FOIA responsibilities within a core FOIA group at HQ
c) ☐ Greater use of proactive disclosure: releasing records on the EPA website that may be of interest to the public
d) ☐ Testing new technologies to manage the FOIA process
e) ☐ Holding a FOIA Lean event
f) ☐ Other (specify)

[Proceed to next question.]

19. Do you have adequate access to the technology you need to process FOIA requests? (Select Yes or No.) (Evaluation Q8b)

a) Workflow management and communications? Yes ☐ No ☐
b) Searching for similar FOIA requests? Yes ☐ No ☐
c) Redaction? Yes ☐ No ☐

[If respondent selects "Yes" to any selections in question 19, proceed to question 20. If respondent selects "No" to all selections, proceed to question 21.]

20. Please estimate the number of hours you save in processing the average FOIA request by using technological resources that meet your needs." (Enter number/select one.) (Evaluation Q8c)

a) Number of hours saved: ____ [numeric field]
b) None.
c) Not applicable: I have always had access to technological resources that meet my needs.
d) Don't know.

[Proceed to next question.]

21. Do you know about the OEI console for identifying records and e-mails? (Select Yes or No.) (Evaluation Q8b)

a) Yes ☐
b) No ☐

[If respondent selects "Yes" to question 21, proceed to question 22. If respondent selects "No," proceed to question 23.]

22. When processing FOIA requests, how often do you request or conduct searches through the OEI console? (Select one.) (Evaluation Q8b)

a) Always

b) Sometimes
c) Rarely
d) Never

[Proceed to next question.]

23. If you could have anything to make your work on FOIA easier, what would it be? (Comment box.) (Evaluation Question 8b)

[Proceed to end-of-survey page.]

End-of-survey page:

The independent contractor who is managing the survey would like to follow up with a small number of respondents to collect additional information about your responses. As a reminder, any information that you provide will be kept strictly confidential and will only be reported in aggregate. We will not attribute survey responses or results to individuals.

Please indicate below if you would be willing to participate in a 10-minute follow-up call to discuss your survey responses.

Yes ☐ **No** ☐

[If Yes, proceed to contact page. If No, go to thank-you page.]

Contact page:

Thank you for agreeing to participate in a 10-minute follow-up call to discuss your survey responses. Please enter your contact information below. This information will be kept strictly confidential and will be used only to follow up with you about your survey responses.

Name:	
Phone:	
E-mail:	

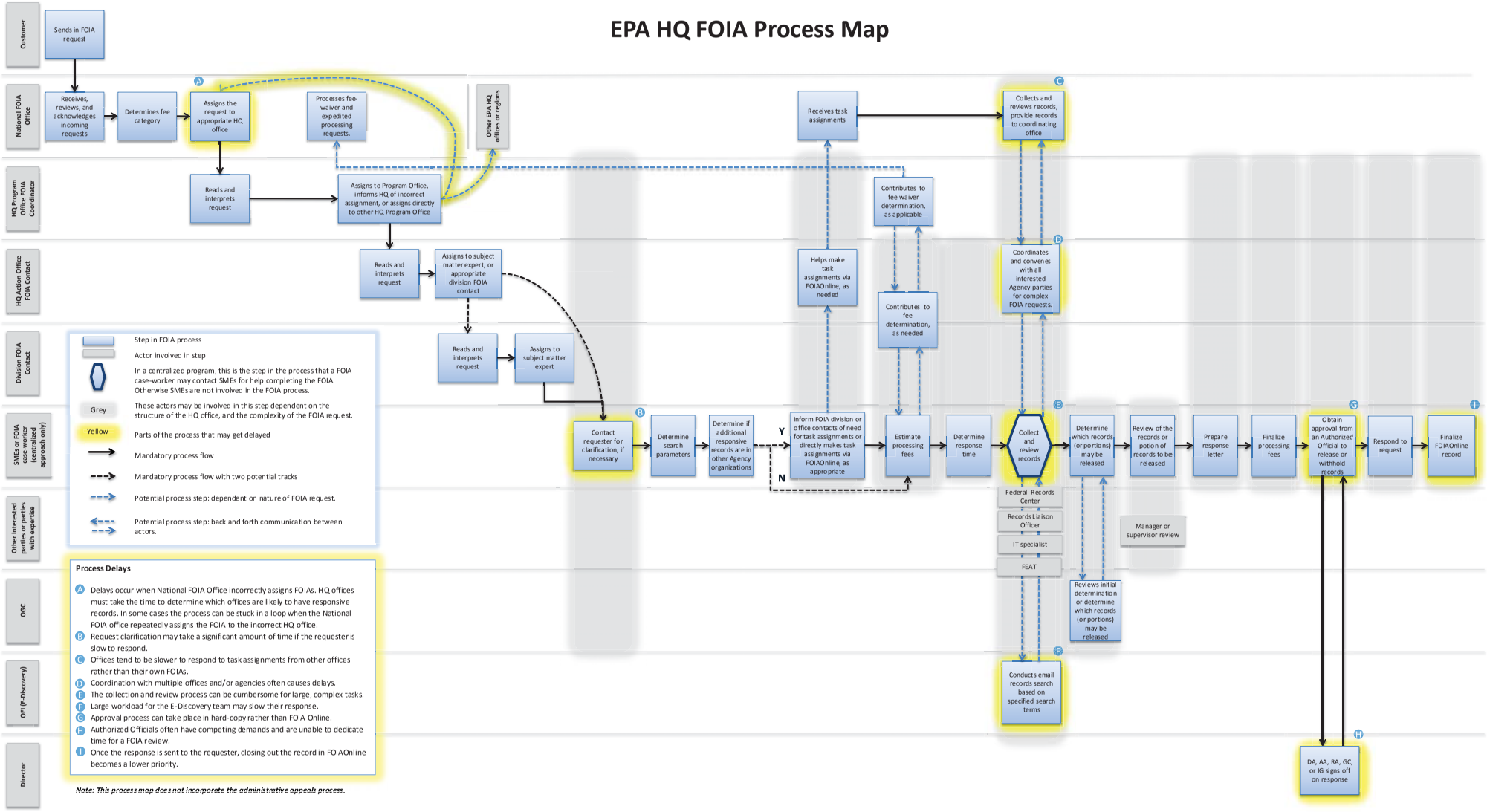
[Next button – will direct respondents to the thank-you page.]

Thank-you page:

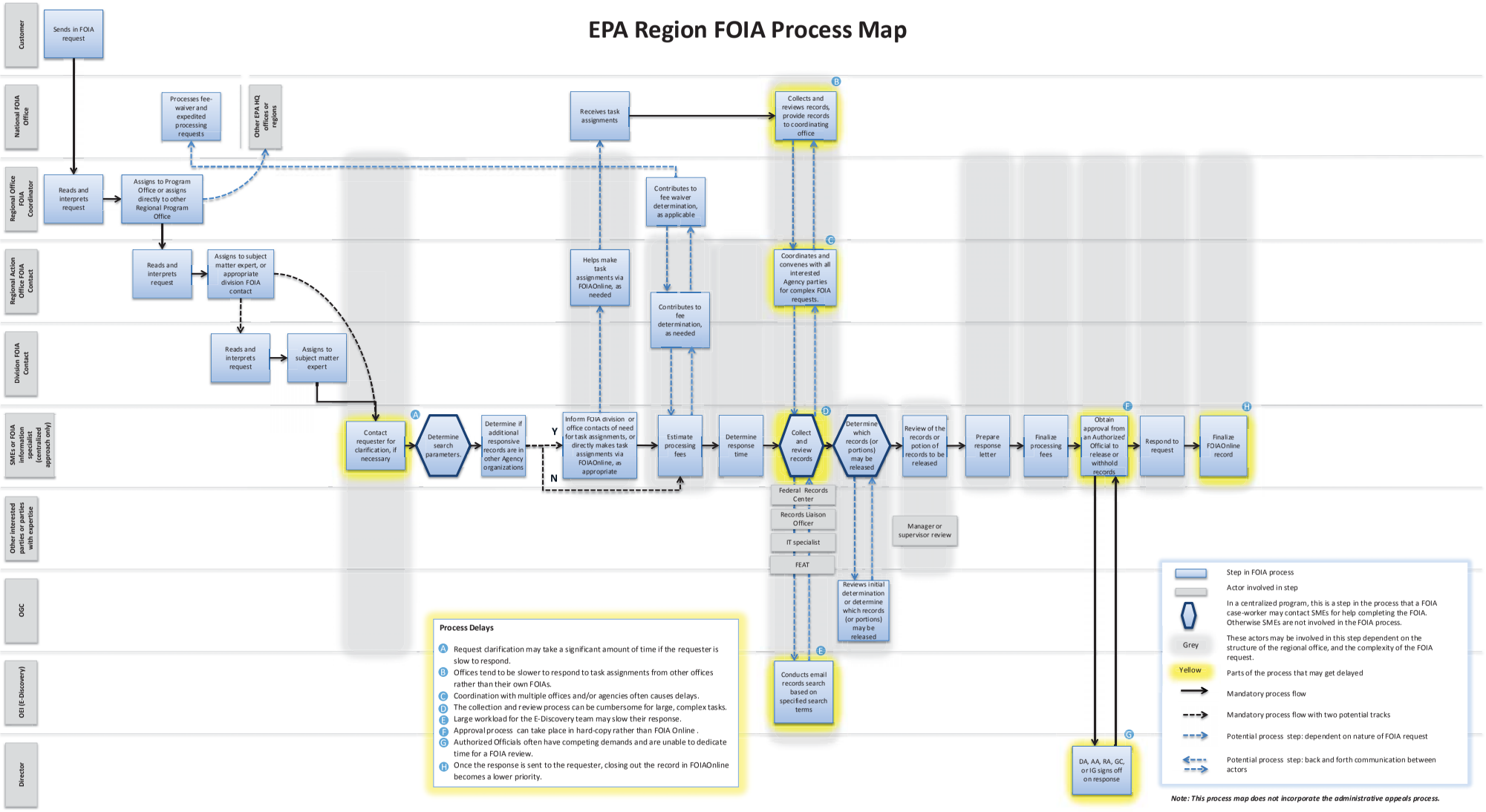
Thank you for taking the survey. Have a great day.

APPENDIX F: PROCESS MAPS

EPA HQ FOIA Process Map



EPA Region FOIA Process Map



APPENDIX G: DEPARTMENT OF LABOR, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION FOIA CASE STUDY

IEc identified the Department of Labor (DOL), Occupational Safety and Health Administration (OSHA) as the best candidate for a case study of another agency's FOIA program due to its similar volume of FOIA requests, regulatory nature, and regional structure. **Table 1** presents information on the number of FOIA requests received between 2008 and 2013 for OSHA and EPA. OSHA is a regulatory agency with the same ten-region structure and geographic jurisdictions as EPA. Although OSHA has not realized a backlog reduction in the past six years, it consistently has low numbers of backlogged requests (six-year average: 2.1%). Like EPA, OSHA has a highly decentralized FOIA process.

Table 1. FOIA requests received 2008-2013

	OSHA	EPA
Average	9,167	10,330
Minimum	8,251	9,951
Maximum	12,646	11,492

Table 2. FOIA average annual processing costs 2009-2013

	OSHA	EPA
Average cost (million)	$12.3	$16.5
Average personnel (FTE)	62.8	120.3

In recent years (2009-2013), OSHA has incurred lower total costs for its FOIA program than EPA, with fewer total full-time FOIA staff (see **Table 2**). Between 2001 and 2011, OSHA processed a greater number of complex FOIA requests compared to EPA (3,389 and 193, respectively), but in 2012 EPA's number of complex requests jumped to 4,136, a value similar to OSHA's 3,996 (see **Figure 1**).

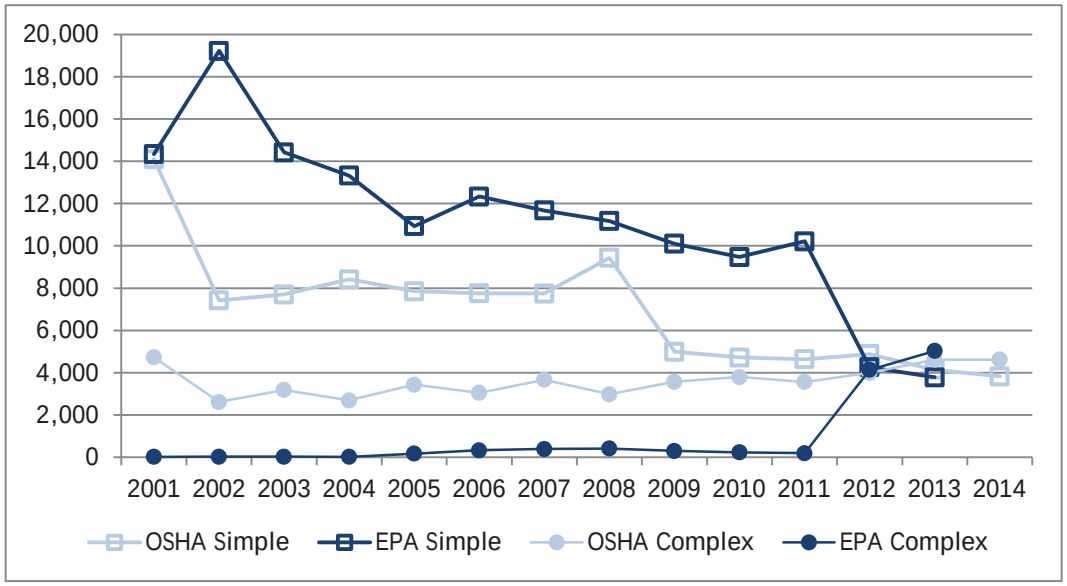


Figure 1. Number of FOIA requests received by EPA and OSHA 2001-2014

This case study discusses OSHA's FOIA program structure and practices, and describes best practices that help ensure accountability and consistency.

Program Structure. OSHA has a highly decentralized FOIA program. The bulk of processing takes place in area offices, and every area office has a FOIA officer (majority have collateral duties) that researches, drafts, and prepares FOIA responses. OSHA has approximately five full-time FOIA staff and approximately 65 Agency FOIA FTE. OSHA has considered centralizing its FOIA program to increase efficiency and staff expertise. However, resource allocation complications have slowed centralization efforts.

Request management. Requesters may submit requests via e-mail, fax, or postal mail. OSHA uses DOL's internal tracking system for acknowledging and assigning FOIA requests. OSHA has considered using FOIAonline but does not currently use it.

Nature of FOIA requests. The majority of FOIA requests pertain to enforcement files in health and safety investigations, and most of these requests are narrow in scope. Requesters often target specific investigation cases using tracking number(s). FOIA officers may spend between 15 minutes and three hours on simple requests, while complex requests may take between approximately 500 and 1000 hours.

Communication with requesters. Communication with requesters may occur at different points in the FOIA process. If the request is large, the lead FOIA officer may coordinate with the requester to narrow the scope of the request. Attorneys may also seek clarification with the requester. OSHA's training emphasizes the importance of communication with requesters.

Records management. OSHA does not currently have a centralized records management system. Potentially responsive records may be located in multiple places across the Agency including at the directorates, regions, area offices, off-site, or on electronic servers. The majority of OSHA records are currently paper-based, but OSHA is undergoing an effort to digitize all records by 2019.

Review process. All FOIA responses go through two reviews prior to release, including one review by the head of the area office. If sensitive, attorneys may review responses; and if uniquely sensitive, regional offices or OSHA management may review responses.

Technology. FOIA officers may use Microsoft Outlook to search for potentially responsive e-mails, Adobe 11 for redaction, and Lexus Nexus for organizing, sorting, and de-duplicating records. OSHA is also examining technology for video/ audio redaction. An interviewee at OSHA indicated that other federal agencies have more advanced software for searching and de-duplicating responsive records.

Select OSHA Best Practices	
Cross- Agency communication	OSHA's strong communication culture leads to greater efficiency and accountability. OSHA staff are accessible and responsive to one another. OSHA is considering using video-chat to increase Agency communication.
Management support for FOIA	Management support for FOIA includes: resources for the FOIA program and management recognition of FOIA accomplishments. Management support for FOIA also provides additional attention, resources, and training. In some instances OSHA managers personally recognize staff for FOIA efforts and performance, further incentivizing staff to provide high-quality FOIA responses.
Support for FOIA staff	FOIA officers are present in every area office across OSHA, and OSHA strives to make FOIA roles more attractive in order to retain a high level of expertise. However, OSHA also identified a need to strengthen succession planning for FOIA positions across the Agency.

APPENDIX H: EPA FOIA LEAN CASE STUDY

BACKGROUND

This FOIA Lean case study summarizes and synthesizes lessons learned from four FOIA-related Lean events in OAR, Region 3, Region 7, and Region 10.[63] IEc reviewed written materials from each office/region that held a Lean event, including PowerPoint presentations and meeting briefs, and conducted targeted interviews with EPA employees involved in the Lean events, to develop this case study.[64] In general, offices/regions used Lean events to analyze their current FOIA process, identify problem areas, draft objectives for improvement, and develop plans to implement an improved FOIA process. **Exhibit 1** summarizes the overarching goals for each office/region Lean event and the "report-out" date for the Lean event results. The remainder of this case study discusses common FOIA-related Lean objectives and implementation strategies, potential Lean event benefits, and considerations for conducting a Lean event, including measurement considerations.

EXHIBIT 1. AGENCY FOIA-RELATED LEAN EVENTS CONDUCTED TO-DATE

OFFICE/REGION	GOAL	RESULTS REPORTED
OAR	To streamline the process and reduce the time required to respond to FOIA and Congressional requests.	1/9/2015
Region 3	To improve the efficiency and effectiveness of the FOIA process while incorporating new guidance from Headquarters and capitalizing upon available technologies.	9/11/2013
Region 7	To analyze and develop an implementation plan to improve the process of responding to FOIA requests from receipt to delivery of final response.	10/1/2014
Region 10	To create a clear, consistent FOIA process across regional offices.	Fall 2013

COMMON FOIA-RELATED LEAN RESULTS

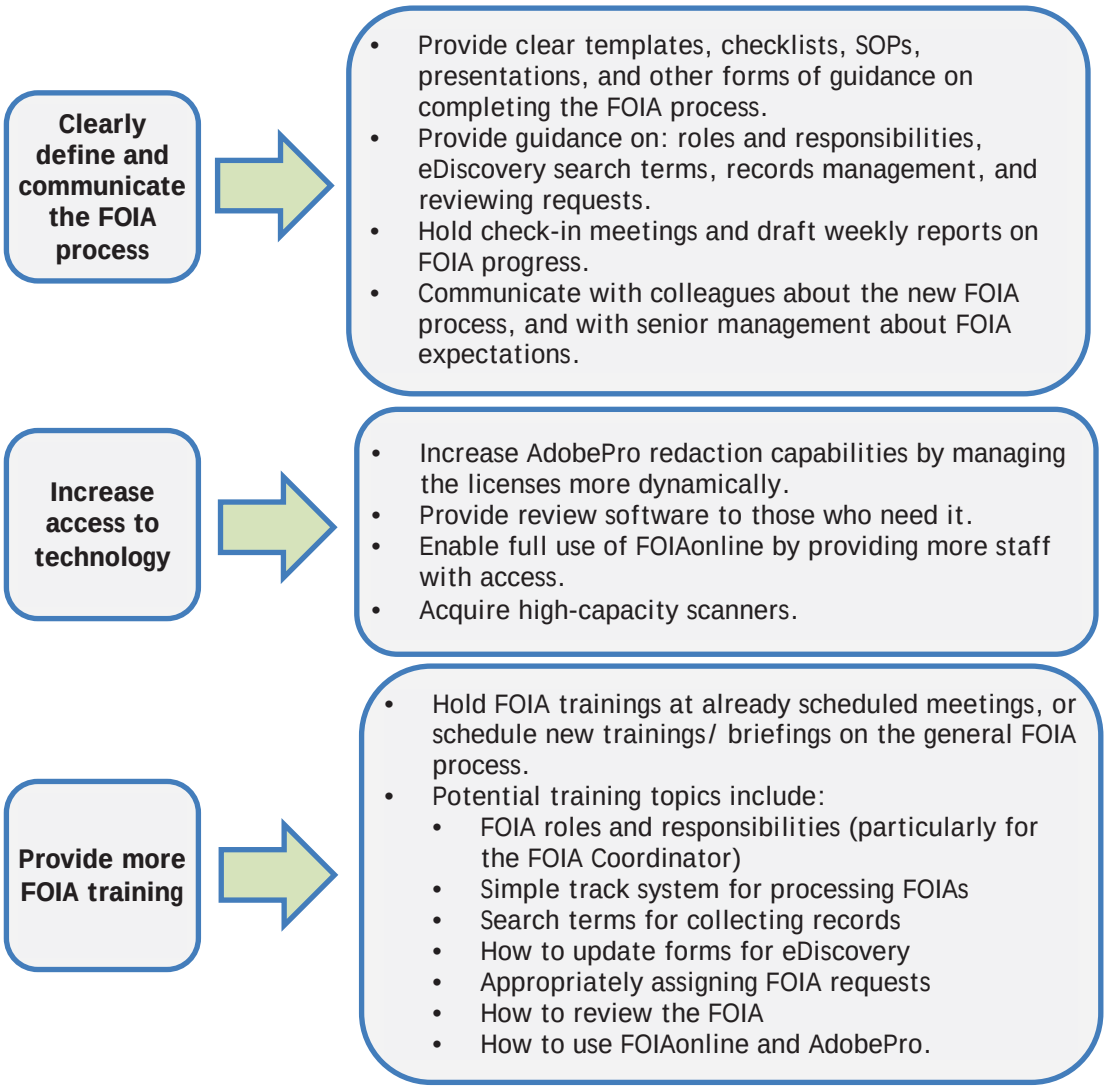
The Lean events produced several objectives and strategies for improving the FOIA process. Organizations considering implementing a FOIA-related Lean event may find these results applicable to their respective office or region. As shown in **Exhibit 2**, the following FOIA improvement objectives emerged across offices/regions: clearly define and communicate the FOIA process; increase access to technology; and provide more FOIA training. Offices/regions developed strategies to implement these objectives, including: provide clear templates, checklists, SOPs, and presentations; increase

[63] The organizations conducted Lean, Kaizen, or process improvement events – for simplicity, we refer to these collectively as "Lean events."

[64] IEc reviewed documents from Region 10's FOIA-related Lean event, but did not interview EPA Lean experts from Region 10. For a full list of written materials relied upon, please see references at the end of this document.

AdobePro redaction capabilities by managing the licenses more dynamically; and hold trainings at already scheduled meetings. Additional potential implementation strategies are presented on the right side of **Exhibit 2**. While offices/regions have implemented many of these strategies, our interviews suggest that other strategies are still being implemented.

EXHIBIT 2. SUMMARY OF OBJECTIVES AND POTENTIAL IMPLEMENTATION STRATEGIES



POTENTIAL LEAN EVENT BENEFITS

Offices/regions identified two types of beneficial impacts related to the Lean event: immediate improved cross-office communication and employee empowerment; and long-term process improvement benefits if all planned changes are fully implemented. Cross-office communication improves as staff discuss the FOIA process at the Lean event and understand the roles and responsibilities of their peers. Employee empowerment occurs as staff identify issues with the FOIA process and subsequently improve their understanding

of the process. FOIA-related Lean outputs and interviews identified other longer-term benefits of the Lean events, including:

- Reduced FOIA processing time;
- Less frustration and confusion about the FOIA process;
- More efficient process with fewer steps;
- Less disruptions to the day-to-day office/region activities in order to process requests;
- Improved quality of FOIA responses; and
- Long-term improved cross-office communication.

CONSIDERATIONS WHEN CONDUCTING A FOIA LEAN EVENT

Some offices/regions provided advice and lessons learned from their Lean event that may assist other offices/regions in efficiently planning and conducting a FOIA-related Lean event. Findings include:[65]

- No single EPA staff person has a complete understanding of the work done by every person at each step in a process;
- Senior manager support of the FOIA-related Lean event is essential;
- Cross-office participation in the Lean event is important to capture all aspects of the process, leads to synergy, and builds camaraderie;
- Being able to discuss the process and ideas with the relevant staff is key to a successful Lean process;
- A focused week-long event is more effective than multiple meetings stretched over time;
- After the event, while more people are involved and aware of the FOIA process, this may lead to staff frustration due to multiple opinions regarding the appropriate improvement strategy; and
- Agency policy can affect Lean implementation – one region indicated that the requirement for authorized official sign-off negated the benefits of their Lean event.

Offices/regions should also consider tracking metrics both before and after the Lean event to assess the success of a FOIA-related Lean event in the long term. Previous FOIA-related Lean events identified the following metrics to track the results of an improved FOIA process:

- Number of FOIA staff meetings;
- Number of backlogged FOIA requests;

[65] Since offices/regions are still implementing some strategies, additional lessons may be forthcoming.

- Number of FOIA trainings;
- Percent of FOIA requests correctly assigned; and
- Processing time at each stage of the FOIA process.

It will be important to track these types of metrics for the events that have already been conducted and for any future events. IEc attempted to examine FOIA-related Lean event impacts on percent backlog for OAR, Region 3, Region 7, and Region 10, but data limitations (i.e., lack of access to 2015 data) precluded such an assessment.

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U.S Environmental Protection Agency Region 10. (2015, October). FOIA Lean Brief.

APPENDIX I: SURVEY OUTPUT TABLES

Question 1:

Are you currently employed by the U.S. Environmental Protection Agency?		
Answer Options	**Response Percent**	**Response Count**
Yes	94.9%	554
No	5.1%	30
N = 584		

Question 2:

On average, what proportion of your time at work involves working on FOIA? (Select one.)		
Answer Options	**Response Percent**	**Response Count**
More than 50%	61.8%	342
Between 25-50%	11.4%	63
Between 10-25%	6.1%	34
Between 1-10%	13.2%	73
None	7.4%	41
N = 553		

Question 3:

Do you have a title or role in the FOIA program? (Select all that apply.)		
Answer Options	**Response Percent**	**Response Count**
FOIA Role	37.1%	159
Subject Matter Expert or No Role	62.9%	270
N = 429		

Question 4:

Have you ever participated in FOIA training offered by EPA? (Select one.)		
Answer Options	**Response Percent**	**Response Count**
Yes, within the last year.	39.4%	169
Yes, between 1-3 years ago.	29.6%	127
Yes, more than three years ago.	12.6%	54
No.	18.4%	79
N = 429		

Question 5:

What office or region do you work in? (Select one.)		
Answer Options	**Response Percent**	**Response Count**
Office of the Administrator	1.9%	8
Office of Administration and Resources Management	3.3%	14
Office of Air and Radiation	1.6%	7
Office of Chemical Safety and Pollution Prevention	4.4%	19
Office of the Chief Financial Officer	0.7%	3
Office of Enforcement and Compliance Assurance	3.7%	16
Office of Environmental Information	1.9%	8
Office of General Counsel	1.6%	7
Office of Inspector General	0.7%	3
Office of International and Tribal Affairs	0.5%	2
Office of Research and Development	2.8%	12
Office of Solid Waste and Emergency Response	4.9%	21
Office of Water	4.2%	18
Region 1	4.9%	21
Region 2	3.7%	16
Region 3	5.8%	25
Region 4	0.9%	4
Region 5	7.9%	34
Region 6	3.5%	15
Region 7	3.5%	15
Region 8	15.2%	65
Region 9	0.9%	4
Region 10	21.4%	92
N = 429		

Question 6:

Are you familiar with changes in the Agency's FOIA procedures that the Chief Information Officer issued on September 30, 2014, and that were incorporated into office-specific and region-specific FOIA procedures by March 30, 2015? (Select one.)		
Answer Options	**Response Percent**	**Response Count**
Yes, I am very familiar with changes to FOIA procedures.	24.0%	103
Yes, I am somewhat familiar with changes to FOIA procedures.	33.6%	144
I have heard of changes to FOIA procedures but I don't know much about them.	27.3%	117
I am not aware of changes to FOIA procedures.	15.2%	65
N = 429		

Question 7:

How were changes to FOIA procedures communicated to you? (Select all that apply.)		
Answer Options	**Response Percent**	**Response Count**
I received a copy of new procedures.	29.4%	107
I received a written summary of new procedures.	15.1%	55
I received a presentation of new procedures.	16.2%	59
I participated in in-person training.	14.3%	52
I participated in online training.	7.7%	28
I don't remember / I'm not sure.	33.8%	123
Other (please specify)	12.6%	46
N = 364		

Question 8:

Indicate if the following were true or false ONE YEAR AGO.		
Answer Options	**Percent of Responses for TRUE**	**Count of Responses for TRUE**
I used FOIAonline to manage or respond to all FOIA requests.	64.8%	278
I used a management and tracking system other than FOIAonline to process all FOIA requests.	18.6%	80
At least one other EPA staff person reviewed documents before they were released to the requester.	86.7%	372
I always released records requested unless one of the mandatory exemptions applied or if I made a determination of foreseeable harm.	75.8%	325
I received FOIA training annually.	28.0%	120
My FOIA responsibilities were included in my personnel performance agreement.	39.4%	169
N = 429		

Question 9:

Indicate if the following were true or false AT THE PRESENT TIME.		
Answer Options	**Percent of Responses for TRUE**	**Count of Responses for TRUE**
I used FOIAonline to manage or respond to all FOIA requests.	79.5%	341
I used a management and tracking system other than FOIAonline to process all FOIA requests.	14.9%	64
At least one other EPA staff person reviewed documents before they were released to the requester.	90.7%	389
I always released records requested unless one of the mandatory exemptions applied or if I made a determination of foreseeable harm.	82.1%	352
I received FOIA training annually.	37.3%	160
My FOIA responsibilities were included in my personnel performance agreement.	41.5%	178
N = 429		

Question 10:

What are your FOIA responsibilities? (Select all that apply.)		
Answer Options	**Response Percent**	**Response Count**
Receive and review incoming FOIA requests.	41.0%	176
Assign FOIA tasks to other staff within my office/region.	32.2%	138
Assign FOIA tasks to other staff outside of my office/region.	10.0%	43
Assign FOIA requests to other staff within my office/region.	24.0%	103
Assign FOIA requests to other staff outside of my office/region.	7.9%	34
Conduct research to respond to requests.	64.3%	276
Search for responsive records.	75.5%	324
Review potentially responsive records for relevance.	60.6%	260
Redact records to be released.	45.0%	193
Review responses prepared by others.	47.6%	204
Communicate with requesters.	54.5%	234
Close out requests.	42.4%	182
N = 429		

Question 11:

How much do your FOIA responsibilities vary in terms of time commitment from week to week? (Select one.)		
Answer Options	**Response Percent**	**Response Count**
Quite variable: Some weeks I work on FOIA a lot and some weeks not at all.	27.5%	118
Somewhat variable: Some weeks I have more FOIA work than other weeks.	11.7%	50
Consistent: My FOIA workload is rather consistent from week to week.	14.0%	60
I only respond to the occasional FOIA request.	46.9%	201
N = 429		

Question 12:

How much do your FOIA responsibilities vary in terms of time commitment from week to week? (Select one.)					
	0 (hours)	1 to 10 (hours)	11 to 100 (hours)	101 to 1000 (hours)	Over 1000 (hours)
Average (hours) *	32	146	39	5	0
Minimum (hours)	64	126	15	2	0
Maximum (hours)	11	93	72	27	4
N = 207; * N = 222					

Question 13:

How much do your FOIA responsibilities vary in terms of time commitment from week to week? (Select one.)					
	Extremely Important	Important	Moderately Important	Somewhat Important	Not Very Important
Helping to reduce the FOIA backlog/maintaining a low backlog.	154	77	46	39	113
Following current FOIA procedures.	228	111	37	23	30
Providing high-quality responses to FOIA requests.	248	117	33	16	15
N = 429					

Question 14:

How often do you coordinate with others to process FOIA requests? (Select one.)		
Answer Options	**Response Percent**	**Response Count**
I coordinate with others on all FOIA requests.	58.3%	250
I coordinate with others on most FOIA requests.	11.2%	48
I coordinate with others on some FOIA requests.	10.7%	46
I coordinate with others on few FOIA requests.	16.1%	69
I never coordinate with others on FOIA requests.	3.7%	16
N = 429		

Question 15:

On average, how much of the time spent on FOIA requests involves coordinating with others? (Select one.)		
Answer Options	**Response Percent**	**Response Count**
A lot of time is spent on coordination.	32.2%	133
Some time is spent on coordination.	26.9%	111
Minimal time is spent on coordination.	40.9%	169
N = 413		

Question 16:

With whom do you coordinate to process FOIA requests? (Select all that apply.)		
Answer Options	**Response Percent**	**Response Count**
Subject matter specialists in my office	71.9%	297
Subject matter specialists in other offices	42.9%	177
FOIA officers/coordinators in my office	74.3%	307
FOIA officers/coordinators in other offices	32.7%	135
National FOIA Office	14.5%	60
Regional FOIA Office	36.6%	151
Office of Environmental Information (OEI)	11.4%	47
Office of General Counsel (OGC)	28.3%	117
Office of Regional Counsel (ORC)	44.3%	183
Others in my office or other offices (please specify)	2.9%	12
N = 413		

Question 17:

What parts of the FOIA process do you coordinate with others on? (Select all that apply.)		
Answer Options	**Response Percent**	**Response Count**
Receive and review incoming FOIA requests.	43.3%	179
Assign requests to other staff.	40.0%	165
Conduct research to respond to requests.	59.1%	244
Search for responsive records.	71.9%	297
Review potentially responsive records for relevance.	63.9%	264
Redact records to be released.	48.7%	201
Review responses prepared by others.	47.0%	194
Communicate with requesters.	49.4%	204
Close out requests.	37.5%	155
N = 413		

Question 18:

On average, how efficient or inefficient is your office at processing FOIA requests? (Select one.)		
Answer Options	**Response Percent**	**Response Count**
Very efficient	28.7%	123
Somewhat efficient	44.8%	192
Somewhat inefficient	13.8%	59
Very inefficient	12.8%	55
N = 429		

Question 19:

What, if any, do you see as barriers to greater efficiency in processing FOIA requests in your office/region? (Select all that apply.)		
Answer Options	**Response Percent**	**Response Count**
Inconsistent following of FOIA procedures	27.3%	117
Confusion about FOIA procedures	50.8%	218
Confusion about FOIA policy	36.8%	158
Not enough staff time dedicated to FOIA processing	51.5%	221
Fragmented FOIA processing (too many different people or offices working on the same requests)	41.7%	179
Trouble finding relevant records and emails	38.2%	164
Inefficiencies in documenting responses	24.0%	103
Inefficiencies in communicating with others about workflow	30.1%	129
Inefficiencies in redaction process	23.1%	99
None of the above	16.6%	71
Other (please specify)	35.7%	153
N = 429		

Question 20:

Which, if any, of the following approaches to streamlining the FOIA process are you currently implementing in your office/region? (Select all that apply.)		
Answer Options	**Response Percent**	**Response Count**
Increased centralization of FOIA responsibilities with a smaller group of staff in my office	35.0%	150
Increased centralization of FOIA responsibilities within a core FOIA group at HQ	6.3%	27
Greater use of proactive disclosure: releasing records on the EPA website that may be of interest to the public	26.1%	112
Testing new technologies to manage the FOIA process	20.0%	86
Holding a FOIA Lean event	12.4%	53
None of the above	42.4%	182
Other (please specify)	14.0%	60
N = 429		

Question 21:

Which, if any, of the following approaches to streamlining the FOIA process would you support testing in your office/region? (Select all that apply.)		
Answer Options	**Response Percent**	**Response Count**
Increased centralization of FOIA responsibilities with a smaller group of staff in my office	41.49%	178
Increased centralization of FOIA responsibilities within a core FOIA group at HQ	22.84%	98
Greater use of proactive disclosure: releasing records on the EPA website that may be of interest to the public	42.42%	182
Testing new technologies to manage the FOIA process	49.42%	212
Holding a FOIA Lean event	24.24%	104
None of the above	20.05%	86
Other (please specify)	9.79%	42
N = 429		

Question 22:

We are interested in whether or not you have the technology you need to efficiently process FOIA requests. Please review the following list and check the items for which you have adequate technology. (Select all that apply.)		
Answer Options	**Response Percent**	**Response Count**
Workflow management and communications	43.4%	186
Searching for similar FOIA requests	23.8%	102
Redaction	33.3%	143
Compiling and organizing relevant records	32.6%	140
None	32.9%	141
N = 429		

Question 23:

Was there a time when you did not have access to adequate technology for processing FOIA requests?		
Answer Options	**Response Percent**	**Response Count**
Yes	62.5%	180
No	37.5%	108
N = 288		

Question 24:

Please estimate the number of hours you now save processing an average FOIA request by having adequate technology. (Please round to the nearest whole number; do not use decimals or fractions. If you spend less than 30 minutes, please enter 0.)		
Answer Options	**Response Percent**	**Response Count**
0 (hours)	38.3%	69
1 to 10 (hours)	53.9%	97
10 to 100 (hours)	6.7%	12
Over 100 (hours)	1.1%	2
N = 180		

Question 25:

Do you know about the OEI eDiscovery email search console for identifying records and emails?		
Answer Options	**Response Percent**	**Response Count**
Yes	42.2%	181
No	57.8%	248
N = 429		

Question 26:

When processing FOIA requests, how often do you request or conduct searches through the OEI eDiscovery email search console? (Select one.)		
Answer Options	**Response Percent**	**Response Count**
Always	12.2%	22
Sometimes	30.9%	56
Rarely	23.2%	42
Never	33.7%	61
N = 181		