



# Department of the Treasury

2020 Chief Freedom of Information Act Officer Report  
to the Attorney General of the United States

## Message from the Deputy Assistant Secretary for Privacy, Transparency, and Records



On behalf of the Chief Freedom of Information Act Officer, I am pleased to present the Department of the Treasury's (Treasury or Department<sup>1</sup>) 2020 Chief Freedom of Information Act Officer Report to the Attorney General of the United States. This report summarizes Treasury initiatives to comply with the Freedom of Information Act<sup>2</sup> (FOIA) and to promote transparency and openness in its operations. This report covers the period of March 2019 through March 2020 (the reporting period).

Inquiries about this report may be directed to the Office of Privacy, Transparency, and Records via phone at (202) 622-0930 or via e-mail at [FOIA@treasury.gov](mailto:FOIA@treasury.gov). This report, as well as previous reports, can be found on the Department's FOIA website under [FOIA Reports](#).

A handwritten signature in blue ink, appearing to read "RLaw".

Ryan Law  
Deputy Assistant Secretary  
Office of Privacy, Transparency, and Records  
U.S. Department of the Treasury

---

<sup>1</sup> In this report, the "Department" or "Treasury" includes all of the Treasury Department's bureaus and offices.

<sup>2</sup> 5 U.S.C. § 552



**2020 Chief Freedom of Information Act Officer Report  
To the Attorney General of the United States**

**Table of Contents**

Message from the Deputy Assistant Secretary for Privacy, Transparency, and Records.....2  
FOIA at the Department of the Treasury.....4  
Section I: Steps Taken to Apply the Presumption of Openness.....6  
Section II: Steps Taken to Ensure that Treasury has an Effective System in Place  
Responding to Requests.....9  
Section III: Steps Taken to Increase Proactive Disclosures.....10  
Section IV: Steps Taken to Greater Utilize Technology.....13  
Section V: Steps Taken to Improve Timeliness in Responding to Requests and  
Reducing Backlogs.....15

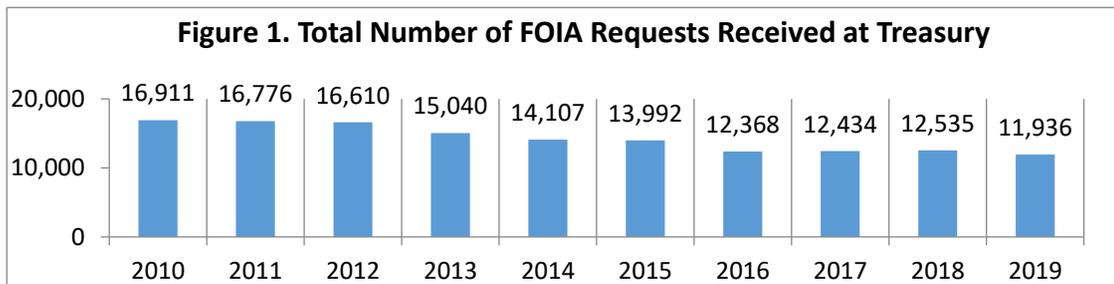
## FOIA at the Department of the Treasury

FOIA administration is decentralized at the Department of the Treasury. In other words, the nine bureaus that comprise the Department separately receive and respond to FOIA requests:

1. Alcohol and Tobacco Tax and Trade Bureau (TTB)
2. Bureau of Engraving and Printing (BEP)
3. Bureau of the Fiscal Service (Fiscal Service)
4. Departmental Offices (DO)
5. Financial Crimes Enforcement Network (FinCEN)
6. Internal Revenue Service (IRS)
7. Office of the Comptroller of the Currency (OCC)
8. Treasury Inspector General for Tax Administration (TIGTA)
9. United States Mint (Mint)

Departmental Offices encompasses a number of Treasury program and policy offices,<sup>3</sup> including, for example, the Office of Foreign Assets Control (OFAC). The Office of Privacy, Transparency, and Records (OPTR), situated within DO, functions as the centralized DO resource for FOIA administration. OPTR is also responsible for Treasury-wide policy, guidance, and compliance with the FOIA. The Deputy Assistant Secretary for Privacy, Transparency, and Records leads OPTR, and reports to the Assistant Secretary for Management, Treasury's Chief FOIA Officer.

Treasury received 11,936 FOIA requests during Fiscal Year (FY) 2019. This figure represents a less than 1% percent decrease from FY 2018. From FY 2010 through the present, Treasury received an average of 14,271 requests per fiscal year (See Figure 1).

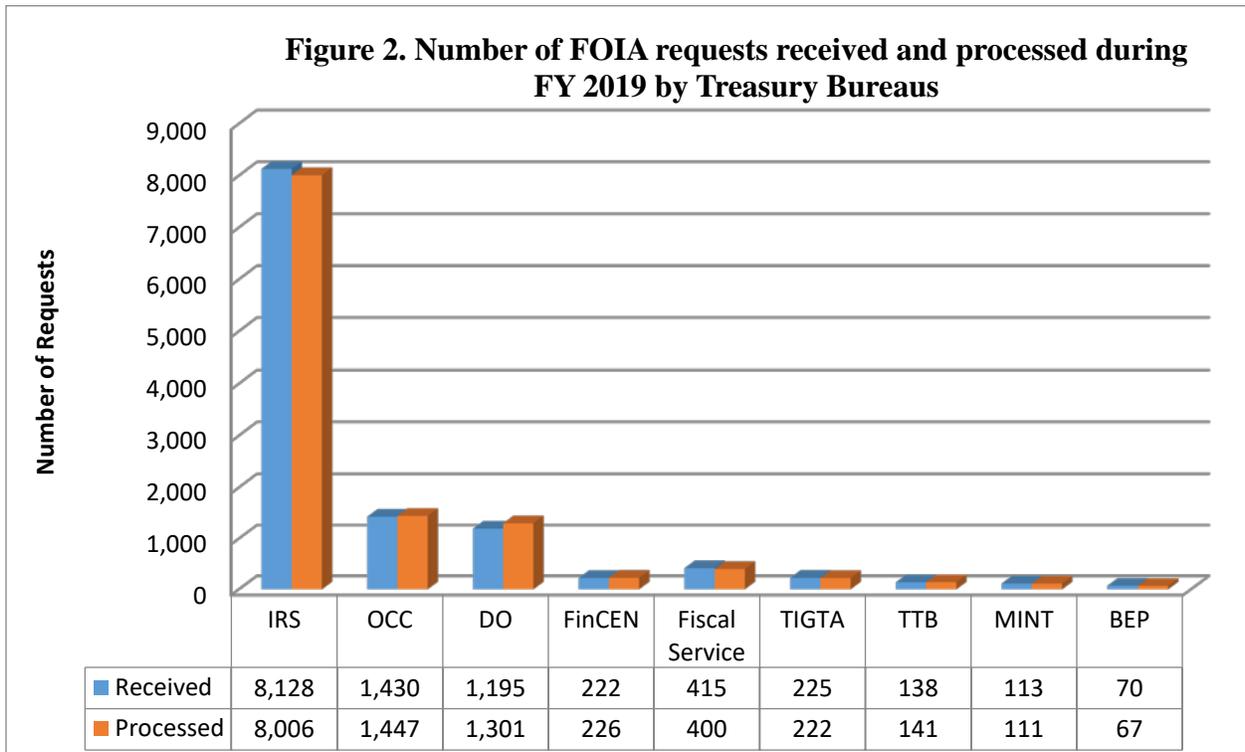


In FY 2019, there was a wide disparity in the number of FOIA requests directed to individual Treasury bureaus. For example, IRS received 8,128 requests in FY 2019, or 68% of Treasury's

---

<sup>3</sup> DO also includes the Offices of the Secretary, Domestic Finance, Economic Policy, General Counsel, International Affairs, Legislative Affairs, Management, Public Affairs, Tax Policy, Terrorism and Financial Intelligence, and the Treasurer of the United States. DO statistics in this report also include requests made to the Financial Stability Oversight Council (FSOC, an entity chaired by the Secretary of the Treasury), the Treasury Inspector General (OIG), and the Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP). For more information, please visit Treasury's webpage at <https://home.treasury.gov/about/general-information/organizational-chart>.

total FOIA requests. On the other hand, TTB, Mint, and BEP each received fewer than 150 requests during the same period (See Figure 2).



The Department closed 11,921 requests in FY 2019. OCC, DO, FinCEN, and TTB closed more requests than they received in FY 2019.

## Section 1: Steps Taken to Apply the Presumption of Openness

### A. FOIA Leadership

1. *The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at the Assistant Secretary or equivalent level. Is your agency's Chief FOIA Officer at this level?*

Yes.

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

David F. Eisner, Assistant Secretary for Management.

### B. FOIA Training

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

Yes.

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

Every year the Department of Treasury hosts an annual FOIA summit. There are a variety of topics discussed through panels of experts or briefed by FOIA professionals. During this reporting period, the topics covered included FOIA litigation; appeals, Treasury's new FOIA Regulations, Exemption 4 and the submitter notice process, Exemption 5, fees and fee waivers, and expedited processing.

Treasury was joined this year by the Department of Homeland Security in its first joint FOIA training during Sunshine Week. The training included discussions of the interface between the FOIA and Privacy Act, Exemptions 3 and 7, and dispute resolution. Additionally, the training included an "Ask the Requester" panel featuring representatives from American Oversight, Cause of Action, and Citizens for Responsibility and Ethics in Washington.

Additionally, a number of Treasury FOIA professionals attended training opportunities provided by the Department of Justice (DOJ) including FOIA for Attorneys and Access Professionals, the Advanced FOIA Seminar, Introduction to the FOIA, and the Litigation Seminar. Treasury staff also participated in DOJ's online training modules for FOIA Professionals. Numerous topics covered were, including but not limited to, the FOIA's procedural requirements and exemptions, workshops on individual FOIA Exemptions, basic principles for processing FOIA requests from start to finish, the FOIA's proactive disclosure requirements, the interface between the FOIA and the Privacy Act, overview of the FOIA, receiving and acknowledging FOIA requests, initial processing, statutory protections for sensitive information, advanced considerations for Exemptions 6 and 7(C), FOIA case law

developments and advanced litigation considerations, basic principles for processing FOIA requests, communication with requesters, searching for and reviewing documents, preparing final determinations and responses, fee categories, foreseeable harm, reasonable searches and reasonable description of FOIA requests, and an Exemptions redaction workshop.

Treasury staff also participated in dispute resolution skills training for FOIA Professionals hosted by the National Archives and Records Administration (NARA) Office of Government Information Services (OGIS).

Several FOIA professionals attended American Society of Access Professionals training, which covered topics including FOIA procedures, FOIA Exemptions, FOIA litigation and recent court decisions, the Privacy Act, fee categories, reasonable harm, searches, and FOIA appeals.

Also, Treasury's FOIA Professionals received training through various continuing education opportunities and other workshops. For example, FinCEN staff attended the 2019 Intelligence Community (IC) FOIA Officer's Day and 2019 IC FOIA Equity Training Day, which focused on topics such as redaction tools; the Glomar response, developments in FOIA program technology, and search best practices. IRS provided continuing education through classes on the use of FOIA Exemption 7(E) and the release of "Public Information Listings". Additionally, new IRS FOIA professionals were trained on general FOIA law and the use of FOIA exemptions during IRS Disclosure Phase One and Disclosure Phase Two trainings, Disclosure Tax Law Specialists received training on "reasonable descriptions of IRS records" and "E-mail and calendar requests". Treasury Inspector General for Tax Administration staff developed their FOIA professionals through workshops and specific training events with topics including Electronic Document Review and FOIA Exemption 3.

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

Ninety-five percent (95%) of FOIA professionals attended substantive FOIA training.

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

N/A

## **C. Outreach**

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

The Department continues to encourage open communication with the requester community and continued practice of routinely reaching out to requesters to discuss FOIA processes and the specifics of FOIA requests. These communications consisted of providing guidance and insight into Treasury's FOIA processes, narrowing the scope of a request to reduce or eliminate processing costs and reducing overall processing times, prioritizing document searches, ensuring appropriate consent is on file, and other issues that facilitate efficient FOIA administration.

The IRS conducted outreach to the Illinois Practitioner Liaison and Florida State Agencies Regional Practitioners Meetings, and provided information on the FOIA process, including the FOIA Improvement Act of 2016, FOIA.gov, and the FOIA portal.

During the reporting period, the U.S. Mint's Disclosure Office frequently engaged in dialogue with requesters regarding the administration of the FOIA and the requesters' right to information and appeal rights. The dialogue is usually by telephone and the requesters are walked step-by-step through the FOIA process.

Treasury continued to work and collaborate with OIGIS to facilitate dialogue with various FOIA requesters.

#### **D. Other Initiatives**

8. *Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA.*

Overall, Treasury has taken significant steps to ensure non-FOIA professionals have a full understanding of the FOIA requirements in order to provide every response with as much openness and transparency as possible. Non-FOIA professionals are informed through several training methods, including one-on-one, case-by-case, and group training sessions. Additionally, there are other avenues of informing non-FOIA professionals of their obligations under the FOIA, such as an issuance of a memorandum that reiterates a commitment to openness in the government and reinforcing every employee's responsibility to promote transparency; displaying FOIA awareness posters throughout Treasury's different locations; utilizing newsletter and electronic rotator announcements; new employees onboarding training; internal FOIA guides or quick reference guides; and attending mandatory briefings through presentations addressing FOIA obligations, e.g. proactive disclosures, documenting search efforts. Non-FOIA professionals are always invited to the annual FOIA summit to ensure they are abreast of all FOIA requirements and changes that are discussed through panels and briefings.

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

Within Treasury, there are continuing initiatives to ensure openness throughout the Department. For example, the Secretary's calendars are posted to provide the public with detailed information regarding day-to-day activities of the Treasury Department and the Secretary. These calendars reflect scheduled meetings, calls, and events that occurred,

including clarifying information. Also, Treasury publishes a list of individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries. It also lists individuals, groups, and entities, such as terrorists and narcotics traffickers designated under programs that are not country-specific. Openness is communicated effectively through official social media accounts and internal communications channels that distribute records; public datasets used to improve public knowledge of Treasury and its operations, such as weekly electronic newsletters and Industry circulars; reviews of investigatory and inspection records; and through the use of Treasury's FOIA Libraries. The FOIA Libraries are another essential avenue of ensuring openness with the public by proactively posting training material, updated instruction manuals, and records requested by three or more requesters.

## **Section II: Steps Taken to Ensure that Treasury Has an Effective System in Place for Responding to Requests**

1. *For Fiscal Year 2019, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2019 Annual FOIA Report.*

Treasury's average number of days to adjudicate requests for expedited processing is 0.9 calendar days.

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

N/A

3. *During the reporting period, did your agency conduct a self-assessment of its FOIA program? If so, please describe the methods used, such as reviewing Annual Report data, using active workflows and track management, reviewing and updating processing procedures, etc.*

Yes. The types of methods used to conduct a self-assessments during the reporting period included the DOJ OIP FOIA Self-Assessment Toolkit, reviews of annual FOIA report data, the review of monthly case inventories, and assessments of FOIA tracking systems, tools, and internal processing procedures.

4. *The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2019 (please provide a total number or an estimate of the number).*

Treasury's FOIA Public Liaisons received more than 1,300 inquiries during the reporting period of which 95% were directed to the IRS' FOIA Public Liaison.

5. *Optional – Please describe.*

- *Best practices used to ensure that your FOIA system operates efficiently and effectively.*

To ensure the agency's FOIA system operates effectively and efficiently and requesters receive responses as quickly as possible, Treasury decentralized its FOIA process to each Bureau and to certain specific Program Offices within DO. Once a request is received, an analysis of what the requester is seeking is conducted and terms are generated to conduct a search. After completing a search for records, analysts are assigned to determine responsiveness and provide recommendations to release to the appropriate authority. Upon approval, responses are submitted electronically to requesters. There is some variance among Treasury's Bureaus in how they process FOIA requests. However, each bureau collaborates with information technology experts, legal communities, internal organizations, as well as requesters to ensure the best releasable product is provided and made available to the public. Their electronic tracking systems are updated or being updated to ensure data is accurate in order to produce timely responses, track performance, and address backlog. Additionally, coordinating with Records Officers provides added value to the effectiveness of records searches, preserving information and retention policy, and identifying records for proactive disclosure.

- *Any challenges your agency faces in this area.*

Over time systems become antiquated and need to be updated or replaced. DO and IRS have an initiative to replace its current electronic FOIA system with new technology. Their current system lacks the robust technology needed to efficiently track and manage FOIA cases effectively.

### **Section III: Steps Taken to Increase Proactive Disclosures**

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

- [Acquisition Planning Policy](#)
- [Active Enrolled Agents Listing](#)
- [Annual Transfer of Numismatic Items and Related Materials to the Smithsonian Institution](#)
- [Assignment Of Technical Personnel For Procurements](#)
- [Audit Reports for FY 2019 and FY 2020](#)
- [Authorization Of All Production Activities](#)
- [BEP Chief Financial Officer Performance and Accountability Report](#)
- [BEP Lean Six Sigma Policy](#)
- [Bureau Of Engraving And Printing Organization Manual](#)
- [Calendars and Travel of the Secretary](#)
- [CDFI Fund Previously Released Applications](#)
- [CDFI News Release on Annual CIIS Public Data Release](#)
- [CDFI News Release on CDFI Fund Releases Summary Report](#)

- [Congressional Requests for Testimony, Comments on Proposed Legislation, and Budget Submissions](#)
- [Contracting Officer Technical Representative Certification Program](#)
- [Corporate Bank Applications and Securities Filings](#)
- [Country-by-Country Reporting Guidance](#)
- [Delegations Of Authority](#)
- [Departmental Offices FOIA Logs](#)
- [Disclosure Of Procurement Information](#)
- [Document 6209 - ADP and IDRS Information](#)
- [Donation to Treasury from the Trump Organization](#)
- [Exchange of Mutilated Paper Currency Regulation – Request for Examination of Mutilated Currency for Possible Redemption](#)
- [Exhibition Program](#)
- [External Communications Policy](#)
- [Federal Firearms and Ammunition Excise Tax \(FAET\) on handguns, long guns/other firearms, and ammunition from FY 1991 to the 2nd Quarter of FY 2019 \(calculated per returns\)](#)
- [Fiscal Service Purchase Card Holder Listing \(PDF\)](#)
- [FOIA Obligations and Transparency - March 2019](#)
- [FY 2019 Statutory Review of Denials of FOIA and IRC Section 6103 Requests](#)
- [General Litigation Training](#)
- [Guidelines for the Use of the Bureau of Engraving and Printing Representation Fund](#)
- [Implementing The Competition In Contracting Act \(CICA\)](#)
- [IRS FOIA Logs](#)
- [IRS General Records Schedules](#)
- [List of Alcohol Industry Members](#)
- [Matured, Unredeemed Debt and Unclaimed Money Reports](#)
- [Monthly FHA Debenture Reports \(PDF\)](#)
- [Petition to Establish California Shenandoah Valley American Viticultural Area](#)
- [Petition to Establish Tehachapi American Viticultural Area](#)
- [Petition to Establish the El Dorado American Viticultural Area](#)
- [Petition to Establish the Fiddletown American Viticultural Area](#)
- [Policy For BEP Courtesy Floor Tours In Production Areas](#)
- [Procedures For Processing Proposed Organizational Changes](#)
- [Public Sales Program – Processing Sales](#)
- [Quarterly Marijuana Banking Information](#)
- [Receipt And Handling Of Unsolicited Proposals](#)
- [Receipt, Handling, And Transport Of Mutilated Currency Received Through Bureau Of Engraving And Printing Mail](#)
- [Regulations Governing Conduct In Bureau Of Engraving And Printing Buildings And On The Grounds Of Washington, Dc And Fort Worth, Texas](#)
- [Reimbursement Procedures For Payment Of Bar Dues And Court Membership Fees](#)
- [Reimbursement Procedures For Professional Liability Insurance](#)
- [Return Preparer PTIN Listing](#)
- [SIGTARP Reports to Congress](#)

- [Social Media Policy](#)
- [Tax Cuts and Jobs Act \(TCJA\) Training Material](#)
- [The Annual Report to Joint Committee on Taxation - Disclosures of Tax Information](#)
- [Third Party Data Store \(TPDS\) Extracts](#)
- [TIGTA 2018 FOIA Log](#)
- [TIGTA List of Purchase Cardholders](#)
- [Unauthorized Procurement Commitments](#)

2. *Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?*

Yes.

3. *If yes, please provide examples of such improvements.*

There are several on-going efforts to ensure the posted materials are Section 508 complaint and searchable. For example:

- IRS is updating its FOIA Library to provide a more user friendly experience, which will make proactively disclosed documents easier to locate. IRS also plans to promote the FOIA Library through social media and IRS.gov announcements.
- TIGTA posts releasable records in commonly accessed formats (e.g., PDF, CSV), along with metadata. Also, certain documents may be provided with added search ability features, such as Optical Character Recognition.
- TTB requesters asked that the agency make certain datasets available in machine readable format (HTML versus PDF). TTB reviewed the matter and determined that the agency was unable to make the information available in HTML format at that time. In order for the public to be able to access the data, TTB provided a download to a website (HTML page), rather than providing a download URL for each monthly report it published. Additionally, due to the type of records TTB handles (e.g. taxpayer records), proactive disclosure is an ongoing effort.

4. *Optional -- Please describe:*

- *Best practices used to improve proactive disclosures.*
  - IRS established a forum to meet quarterly with IRS business unit points of contact to discuss proactive disclosure requirements and FOIA processing. IRS also conducted a review of Internal Revenue Manuals to ensure procedural changes are appropriately disclosed on the FOIA Library. The IRS Disclosure Policy team has been involved in discussions with many IRS offices in regards to the Tax Cuts and Jobs Act as well as the Taxpayer First Act to ensure they proactively disclose new training materials and documents showing how business will be conducted at the IRS following the changes. The IRS Chief Privacy Officer issued the "FOIA Obligations and Transparency" memo to all IRS employees to remind them of their responsibilities in

- proactively disclosing information as well as releasing information directly to requesters who have a right to that information.
- TIGTA uses its FOIA System to track requests and redact and store responsive documents. They utilize the system's search tool to retrieve requests for similar records to ensure frequently requested records are available in its Library.
  - TTB receives numerous requests annually to compile, sort, and publish data in different formats. Based on mission requirements and on occasion, TTB will proactively disclose records in the requested format.
  - OCC's Disclosure Office always considers whether the information being released would be of interest to a much broader audience. Additionally, OCC has made its public facing website much more useful and is making additional banking information available by bank name, enforcement actions taken against it, Community Reinvestment Act Evaluations and Corporate applications all available as a result of an institution search.
- *Any challenges your agency faces in this area*
    - IRS FOIA requests primarily deal with records protected under Title 26, United States Code, §6103. These records are legally required to be protected and cannot be proactively disclosed.
    - The majority of TIGTA FOIA requests seek law enforcement records on or about individuals, which cannot be disclosed publicly (i.e. information on complaints or investigations protected by the Privacy Act).
    - Certain data is almost always requested in HTML versus PDF format. Based on how TTB categorizes the information, they provided the public with a download website (HTML page) instead because of current technology limitations. This website identifies the monthly published reports that are frequently requested.

## **Section IV: Steps Taken to Greater Utilize Technology**

1. *Is your agency leveraging or exploring any new technology to facilitate efficiency in its FOIA administration that you have not previously reported? If so, please describe the type of technology.*

Yes. Treasury is working to implement new FOIA request tracking systems. The new FOIA solution will enhance compliance with FOIA and Privacy Act laws, including the FOIA Improvement Act of 2016, as well as records retention policies. This system will replace Treasury's current FOIA Management Systems, increase operation efficiencies in processing FOIA cases, improve customer service by reducing response time to customer requests, enrich customer experience by allowing the public to submit and track FOIA cases, then receive documents via Treasury FOIA public website, provide interoperability with National FOIA Portal (FOIA.gov) and Pay.gov, enhance transparency through simplified release of 508-compliant documents to the public, and improve Treasury's annual and ad-hoc reporting process via automation and standardization.

Additionally, TIGTA created a wiki, which allows the search of Disclosure policies and procedures by key words to locate instructions, training materials, templates, standard

language, and guidance. Recently TIGTA added a section on definitions, case summaries, and three new Standard Operating Procedures. The wiki has proven to be a valuable tool in improving TIGTA's FOIA administration.

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

Yes.

3. *Did your agency successfully post all four quarterly reports for Fiscal Year 2019?*

Yes

4. *If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2020.*

N/A, all quarterly reports were successfully posted.

5. *The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2018 Annual FOIA Report and, if available, for your agency's Fiscal Year 2019 Annual FOIA Report.*

#### Treasury's Fiscal year 2018 Annual Report

Note: The raw statistical data has been posted for the 2018 Annual FOIA Report. However, Treasury's current system is not robust enough to capture all data referenced in the annual report. To correct this, Treasury is purchasing a new FOIA System as discussed above that will correct this deficiency.

6. Optional -- Please describe:

- *Best practices used in greater utilizing technology.*

OCC employed the use of a new payment module that interfaces directly between its FOIA request tracking system and [www.Pay.gov](http://www.Pay.gov). As a result, OCC has been able to accept electronic payment at the time a request for certified documents is received. Thus, the agency no longer has to wait for checks to clear. Further, with that module connected to its online ordering system, OCC no longer has to worry about inputting cases, but rather, this is done by the requester at the time of submission. As a result, the agency has seen a dramatic drop in the number of requests submitted by U.S. mail. In addition, the agency has gone to only electronic payment for its FOIA processing. This has also cut down the amount of time staff uses to contact requesters to arrange for payment. The new module also allows staff to monitor when payments are actually received.

TIGTA has collaborated with its information technology staff to conduct email queries on all Bureau employee email, using specific key words or email addresses to locate responsive records. This process is a much more effective and efficient in use of the agency's resources with quicker turnaround times.

IRS consistently works with the inventory management system database administrators to ensure FOIA professionals have the tools necessary to work complex requests, requests with voluminous responsive records or with responsive records provided on media other than paper. IRS continues to utilize Microsoft SharePoint to transfer documents between areas quickly and to ensure training is accessible to FOIA professionals on a continuous basis.

- *Any challenges your agency faces in this area.*

IRS is required to protect any information that meets the criteria of Title 26, United States Code, §6103. This results in potential delays and complications with any technology that does not meet Information Technology standards to also protect the information.

## **Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs**

### **A. Simple Track**

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

The Department uses a separate track for simple requests, except IRS.

2. *If your agency uses a separate track for simple requests, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2019?*

Yes.

3. *Please provide the percentage of requests processed by your agency in Fiscal Year 2019 that were placed in your simple track.*

Treasury processed 20% of its requests in the simple track.

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

For the one Treasury Bureau (IRS) that does not track simple requests, the average number of days to process all non-expedited requests was 39.

### **B. Backlogs**

## **BACKLOGGED REQUESTS**

5. *If your agency had a backlog of requests at the close of Fiscal Year 2019, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018?*

Yes.

6. *If not, did your agency process more requests during Fiscal Year 2019 than it did during Fiscal Year 2018?*

N/A

7. *If your agency's request backlog increased during Fiscal Year 2019, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:*

- *An increase in the number of incoming requests.*
- *A loss of staff.*
- *An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.*
- *Any other reasons – please briefly describe or provide examples when possible.*

N/A

8. *If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2019. If your agency has no request backlog, please answer with "N/A."*

Treasury's backlog percentage is 12 percent.

## **BACKLOGGED APPEALS**

9. *If your agency had a backlog of appeals at the close of Fiscal Year 2019, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018?*

No.

10. *If not, did your agency process more appeals during Fiscal Year 2019 than it did during Fiscal Year 2018?*

No.

11. *If your agency's appeal backlog increased during Fiscal Year 2019, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:*

- *An increase in the number of incoming appeals.*

- *A loss of staff.*
- *An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.*
- *Any other reasons – please briefly describe or provide examples when possible*

With a loss of staff, Treasury was focused on reducing backlogged requests and processing appeals. After the government shutdown in late 2018 through early 2019 ended, the staff worked diligently to process backlogged appeals quickly.

12. *If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2019. If your agency did not receive any appeals in Fiscal Year 2019 and/or has no appeal backlog, please answer with "N/A."*

Treasury's appeal percentage is 68 percent.

### **C. Backlog Reduction Plans**

13. *In the 2019 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2018 was asked to provide a plan for achieving backlog reduction in the year ahead. Did you agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2019?*

In FY 2018 Treasury had a backlog of 1,445 cases and implemented a backlog reduction plan for FY 2019. As a result, bureau-specific goals for backlog reduction were established and communicated, FOIA self-assessments using DOJ's FOIA self-assessment toolkit initiated, and the plan to establish a rapid response team of FOIA Analysts to address significant and high profile cases implemented. Treasury's Disclosure Manager identified challenges affecting the backlog and focused on reducing the overall number of backlogged requests, with specific emphasis on the ten oldest requests, appeals, and consultations. The Disclosure Manager also hired and trained additional FOIA contractors to assist with the reduction of the backlog. Additionally, the Disclosure Manager focused on program area outreach and following up on overdue search responses. As a result of these efforts DO was able to close 39% more cases in FY19 as compared to FY18 and reduced its backlog by 10%. Treasury reduced its backlog by 1%.

14. *If your agency had a backlog of more than 1,000 requests in Fiscal Year 2019, what is your agency's plan to reduce this backlog during Fiscal Year 2020?*

At the end of FY 2019, Treasury had a backlog of 1,427 requests, Treasury will take the following actions targeted to reduce the backlog of pending requests:

- Treasury's Chief FOIA Officer will establish and communicate bureau-specific goals for backlog reduction.
- Complete a FOIA self-assessment within DO using DOJ's FOIA self-assessment toolkit.

- Identify challenges affecting the backlog and focus on reducing the overall number of backlogged requests, with specific emphasis on the ten oldest requests, appeals, and consultations.
- Conduct targeted training and outreach to improve the timeliness of searches.

## **D. Status of Oldest Requests, Appeals, and Consultations**

### **OLDEST REQUESTS**

15. *In Fiscal Year 2019, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2018 Annual FOIA Report?*

No.

16. *If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2018 Annual FOIA Report. If you had fewer than ten total oldest requests to close, please indicate that.*

Treasury closed four (4) of its 10 oldest requests in Fiscal Year 2019.

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

Treasury hired additional personnel to assist with reducing the overall age of pending requests. Each Bureau worked closely with subject matter experts, attorneys, and FOIA analysts, including external agencies when consultations were necessary.

### **TEN OLDEST APPEALS**

18. *In Fiscal Year 2019, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2018 Annual FOIA Report?*

No

19. *If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2018 Annual FOIA Report. If you had fewer than ten total oldest appeals to close, please indicate that.*

Treasury closed three (3) of its 10 oldest appeals in Fiscal Year 2019.

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

As discussed earlier, Treasury hired additional personnel to assist with reducing the overall age of pending requests, including appeals. Each Bureau worked closely with subject matter experts, attorneys, and FOIA analysts, including external agencies when consultations were necessary.

## TEN OLDEST CONSULTATIONS

21. *In Fiscal Year 2019, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2018 Annual FOIA Report?*

No.

22. *If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2018 Annual FOIA Report. If you had fewer than ten total oldest consultations to close, please indicate that.*

Treasury closed six (6) of its 10 oldest consultations in Fiscal Year 2019.

### **E. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans**

23. *Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2019.*

Treasury continues to experience challenges closing its ten oldest requests, appeals, and consultations. Many of the requests require multiple searches, additional coordination internally or externally through consultation, collaboration on the use of exemptions, and determining records for proactive disclosure. Additionally, Treasury possesses a significant numbers of records that are classified and contain national security, law enforcement, or confidential business sensitivities, as well as materials that originate from other federal agencies. These complexities affect the timeliness of reviews and how quickly the agency responds to requesters. Other challenges include: an increase in the volume and complexity of requests, an increase in the number of requests subject to litigation, and FOIA staff turnover due to retirements and different job opportunities.

Also, financial institutions and other entities are often required to provide or submit confidential business information to Treasury, which could cause business submitters substantial competitive harm if inappropriately released. Based on the additional review required by the FOIA under the 'submitter notice' process, substantial time is added to the processing of these requests, particularly when multiple notices are required and/or there are a voluminous number of records.

Added to the obstacles discussed, Treasury's FOIA process is de-centralized. Coordinating searches and document reviews are often complicated and time consuming. Not to mention, the end of 2018 and beginning of 2019 shutdown resulted in up to 35 days of lost productivity, which affected Treasury's ability to clear these cases (oldest 10 requests, appeals, and consultations).

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

N/A

25. *If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2020.*

During FY 2020, Treasury will take the following actions targeted to reduce the backlog of pending requests, appeals, and consultations:

- Treasury’s FOIA Officers will reiterate and communicate bureau-specific goals for backlog reduction.
- Complete a FOIA self-assessment within DO using DOJ’s FOIA self-assessment toolkit.
- Identify challenges affecting the backlogs and focus on reducing the overall number of backlogged requests, with specific emphasis on the ten oldest requests, appeals, and consultations.
- Conduct targeted training and outreach to improve the timeliness of searches.
- Continue working on improving and/or replacing the electronic system currently being used by headquarters and bureaus with a more versatile FOIA System.
- Focus more resources on complex, higher level work, addressing the FOIA backlog and place elevated emphasis at each management level to obtain timely reviews.
- Monitor metrics and increase the frequency of case status updates on the oldest ten requests, appeals, and consultations since these cases are complicated and demand high concentration and focus to successfully provide appropriate responses to requesters.

## **F. Success Stories**

### The Internal Revenue Service

The Tax Cuts and Jobs Act (TCJA) of 2017 had a major impact on IRS operations. Some of the major changes included reducing tax rates for businesses and individuals, increasing the standard deduction and family tax credits, eliminating personal exemptions that made it less beneficial to itemize deductions, limit deductions for state and local income taxes and property taxes, and numerous other changes.

The impact of the TCJA was felt IRS-wide. New forms and instructions had to be created, multiple Internal Revenue manuals had to be revised, training materials created, and employees all over the country needed to be trained.

While IRS employees worked hard to make the changes required to comply with the TCJA, IRS FOIA staff worked to quickly make TCJA training materials publicly available on IRS.gov. By proactively posting the TCJA training materials online, tax professionals and the general public gained a better understanding of how IRS implemented changes mandated by the TCJA. IRS also categorized the training materials by audience type, so they would be readily available and easy to find. With the major impact the TCJA had on the general public, IRS promoted openness of operations and provided an insight into major changes to the Internal Revenue Code by proactively posting these training materials online.

Additionally, IRS circulated a memorandum to all IRS staff entitled “FOIA Obligations and Transparency”, which reiterates IRS’ commitment to openness and reinforcing every IRS employee’s responsibility to promote transparency. The memo additionally identifies specific categories of IRS records to be disclosed proactively.

#### Treasury Inspector General for Tax Administration

TIGTA finished FY 2019 without a backlog, closed 96% of all FOIA cases within 20 business days of receipt, and maintained an average processing time of nine (9) days. Additionally, TIGTA created a Disclosure Wiki and hired a new Specialist to process requests and assist with other FOIA administration improvements.

#### Alcohol and Tobacco Tax and Trade Bureau

Historically, American Viticultural Area (AVA) petitions were not made publicly available, unless they were requested three or more times under the FOIA. A limited number of AVAs were made publicly available at Regulations.gov, but those dockets often were missing key documentation of interest to the public, such as petitions, comments, and maps. Whenever a request was received for AVA petitions, the FOIA Office had to collaborate with the TTB Records Officer to request the applicable records from the NARA Federal Records Center. This added significant burden to the workload of FOIA and records staff and resulted in increased processing times.

To address this challenge, TTB’s Disclosure Officer collaborated with the TTB AVA Manager to create an [American Viticultural Area \(AVA\)](#) reading room. TTB has posted copies of publicly available AVA documents, including AVA petitions, NPRMs, public comments, and final rules. As a result of this initiative, all TTB AVA petitions are now available electronically, which has reduced the number of FOIA requests for this type of information significantly.

#### Departmental Offices

During Sunshine Week in March of 2019, Treasury brought together over two hundred FOIA professionals from the Department’s nine bureaus, the Department of Homeland Security (DHS), and staff of the Department of Justice’s Office of Information Policy and the National Archives and Records Administration’s Office of Government Information Services. The summit provided Treasury and DHS FOIA staff the opportunity to hear new ideas, share experiences, and discuss best practices in FOIA administration. The event included FOIA training sessions on FOIA Exemption 4 and submitter notices, Exemption 5, several group panel discussions on litigation, appeals, fees, fee waivers, and expedited processing.