

THE NATIONAL SCIENCE FOUNDATION

2017 CHIEF FOIA OFFICER REPORT

Chief FOIA Officer: Erin Dawson, Assistant General Counsel, Office of the General Counsel

**Section I: Steps Taken to Apply the Presumption of Openness**

**A. FOIA Training**

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

*Yes.*

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

*The Chief FOIA Officer and the FOIA Officer attended training regarding the FOIA Improvement Act of 2016 at the Department of Justice on August 8, 2016.*

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

*100%*

4. 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.

*Not applicable.*

**B. Outreach**

5. OPTIONAL: Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA?

*No response.*

**C. Other Initiatives**

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

*The FOIA Officer makes a presentation about FOIA at bi-weekly New Employee Orientation Training sessions.*

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

*The NSF Chief FOIA Officer and FOIA Officer meet with NSF staff who are affected by FOIA requests on an as needed basis and explain applicable FOIA obligations.*

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

***A. Processing Procedures***

1. For Fiscal Year 2016, what was the average number of days your agency reported for adjudicating requests for expedited processing?

*NSF did not receive any requests for expedited processing in Fiscal Year 2016.*

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.

*Not applicable.*

3. OPTIONAL: 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.

*No response.*

4. Please provide an estimate of how many requests your agency processed in Fiscal Year 2016 that were from commercial use requesters. If your agency is decentralized, please identify any components within your agency that received a majority of their requests from commercial use requesters.

*In Fiscal Year 2016 NSF processed 55 requests from commercial use requesters.*

***B. Requester Services***

5. OPTIONAL: Does your agency provide a mechanism for requesters to provide feedback about their experience with the FOIA process at your agency? If so, please describe the methods used, such as making the FOIA Public Liaison available to receive feedback, using surveys posted on the agency's website, etc.

*No response.*

6. 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 how often requesters sought assistance from your agency's FOIA Public Liaison.

*The NSF FOIA Public Liaison was not contacted by the public during the Fiscal Year 2016.*

7. The FOIA Improvement Act of 2016 requires agencies to make their reference material or guide for requesting records or information from the agency electronically available to the public. Please provide a link to your agency's FOIA reference guide.

<https://www.nsf.gov/policies/foia.jsp>

### ***C. Other Initiatives***

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

*The NSF FOIA database is maintained electronically and continually reviewed for efficiency and updated with any additional requirements. Many of the FOIA requests that NSF receives are for research proposals. This information is maintained in an electronic database allowing for direct access by the FOIA Officer and more efficient electronic redaction. NSF also asks individuals who submit proposals to the agency to identify potential confidential commercial information at the time that the proposal is submitted. While this preliminary identification does not mean the information will necessarily be withheld under an exemption, the identification does make the submitter notice process more efficient if a proposal is requested pursuant to FOIA.*

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

### ***A. Posting Material***

1. Describe your agency's process or system for identifying "frequently requested" records that should be posted online.

*The NSF FOIA Officer processes all FOIA requests received by NSF and reviews records for proactive disclosure on a case-by-case basis. The majority of the requests NSF*

*receives are for research proposals. While, NSF rarely receives a request for the same research proposal more than once, the NSF FOIA Officer maintains all requested proposals in a central electronic file by proposal number and the requester last name to facilitate easy identification of frequently requested records.*

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

*NSF identifies and makes records and information available to the public through a variety of ways. For example, NSF currently has 95 data sets available on [data.gov](http://data.gov). NSF also currently has 3,246 records available in the NSF document library found here: <https://www.nsf.gov/publications/>.*

*NSF also periodically inventories data assets not yet publicly available, by following the processes and goals outlined in the Open Data Policy inventory schedule (<http://www.nsf.gov/data/>). In addition, NSF encourages public use of released datasets to promote public knowledge of the agency's activities and outcomes, and to foster innovation related to science and engineering.*

3. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?

*No.*

4. If so, briefly explain those challenges and how your agency is working to overcome them.

*No response.*

5. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material.

*NSF continually updates its public database of awards with abstracts of awarded proposals, resulting publications, and final reports on research results: <http://www.nsf.gov/awardsearch/>. In addition, NSF publicizes agency data sets on the agency's Open Government (<https://www.nsf.gov/open/>), Digital Strategy (<https://www.nsf.gov/digitalstrategy/>), Open Data (<http://www.nsf.gov/data>) and Developer (<http://www.nsf.gov/developer/>) web pages, as well as through the agency's social media sites. Research is also highlighted on the agency website at [www.nsf.gov](http://www.nsf.gov).*

6. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If yes, please describe these efforts.

*On the agency website, NSF publicizes information about National Science Board meeting announcements and minutes; NSF solicitations; NSF funding trends data; NSF budget information; NSF-related statistical information; lists of publications available*

*for download; award and funding information; minutes from the various directorate, office and NSF-wide advisory committees; committee of visitor reports for the various directorates and offices; an events calendar; texts of speeches given by the NSF Director and Deputy Director; a list of NSF-related congressional hearings; news releases and media advisories; factsheets about NSF programs and priorities; feature articles; audio podcasts and videos about NSF-supported research results; and the NSF Multimedia Gallery which provides images and other visual media for educational and informational use.*

*In addition, NSF participates in several government-wide initiatives that provide the public with access to NSF data including Data.gov, Science and Engineering Indicators State Data Tool, Science and Engineering Indicators Digest, USASpending.gov, and the Federal IT Dashboard.*

### ***B. Other Initiatives***

7. If there are any other steps your agency has taken to improve proactive disclosures, please describe them here. For example, has your agency engaged requesters in determining how and what to post? Has your agency used web analytics to inform your proactive disclosures?

*NSF engages with the public through various social media outlets and in-person events such as grants conferences. Based in part on these interactions, NSF continues to update the information on its website that is of public interest.*

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

### ***A. Making Material Posted Online More Useful***

1. 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.*

2. If yes, please provide examples of such improvements.

*To facilitate information reaching a broad segment of the public, NSF posts information on different social media platforms including Facebook, Twitter, and YouTube. These activities allow the public to interact with NSF and access information in many different ways.*

### ***B. Other Initiatives***

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2016?

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 2017.

*Not applicable.*

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

**A. Simple Track**

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

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

Yes.

2. If so, for your agency overall in Fiscal Year 2016, was the average number of days to process simple requests twenty working days or fewer?

*No, the average number of days to process simple requests was 39 days. However, the average was inflated by just a few requests that took much longer than 20 days. The majority of simple track requests were processed in less than 20 days as reflected in the median number of days to process simple requests, which was 17 days.*

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2016 that were placed in your simple track.

11%

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

*Not applicable.*

**B. Backlogs**

Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or

appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2015 and Fiscal Year 2016 when completing this section of your Chief FOIA Officer Report.

## **BACKLOGGED REQUESTS**

5. If your agency had a backlog of requests at the close of Fiscal Year 2016, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2015?

*No.*

6. If not, 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.

*NSF received 46 more FOIA requests in Fiscal Year 2016 than it did in Fiscal Year 2015. As a result of this increase in requests, while NSF processed more requests in Fiscal Year 2016 the backlog still grew.*

*NSF lost a part time FOIA staff member at the beginning of Fiscal Year 2016, reducing the FOIA staff to one person – the NSF FOIA Officer. While NSF brought in a contractor to provide FOIA assistance, due to administrative issues the help was intermittent and did not significantly contribute to addressing the FOIA backlog.*

*NSF continued to work on a particularly complex FOIA request from Fiscal Year 2015 that involved review of thousands of pages of e-mail and potential confidential commercial information. Processing this large request along with more “typical” requests while also addressing complex cases that were part of the backlog was a challenge for NSF’s essentially one person FOIA staff.*

7. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests *received* by your agency in Fiscal Year 2016.

60.6%

## **BACKLOGGED APPEALS**

8. If your agency had a backlog of appeals at the close of Fiscal Year 2016, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2016?

If not, explain why and describe the causes that contributed to your agency not being able to reduce backlog.

*NSF did not have a backlog of appeals in Fiscal Year 2015 or Fiscal year 2016.*

9. If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog.

*Not applicable.*

10. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2016.

*Not applicable.*

### ***C. Status of Ten Oldest Requests, Appeals, and Consultations***

Section VII.E, entitled “Pending Requests – Ten Oldest Pending Requests,” Section VI.C.(5), entitled “Ten Oldest Pending Administrative Appeals,” and Section XII.C., entitled “Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency,” show the ten oldest pending requests, appeals and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2015 and Fiscal year 2016 when completing this section of your Chief FOIA Officer Report.

### **TEN OLDEST REQUESTS**

11. In Fiscal Year 2016, did your agency close the ten oldest requests that were reported pending in your Fiscal 2015 Annual FOIA Report?

*No.*

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

*NSF closed nine of the ten oldest requests that were reported pending in the Fiscal Year 2015 Annual FOIA Report. A partial response was sent out in response to the tenth oldest request on 9/30/2016.*

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

*None of the ten oldest requests were closed because the request was withdrawn by the requester.*

### **TEN OLDEST APPEALS**

14. In Fiscal Year 2016, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2015 Annual FOIA Report?

*NSF did not have any pending appeals in the Fiscal Year 2015 Annual FOIA Report.*

15. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2015 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

*Not applicable.*

### **TEN OLDEST CONSULTATIONS**

16. In Fiscal Year 2016, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2015 Annual FOIA Report?

*NSF did not have any consultations pending in its Fiscal Year 2015 Annual FOIA Report.*

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

*Not applicable.*

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

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

*Balancing the workload of responding to new FOIA requests and working on the ten oldest requests, which were complex and involved review of many records, was challenging for NSF's essentially one person FOIA staff.*

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

*Not applicable.*

20. If your agency did not close its ten oldest pending requests, appeals or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests appeals, and consultations during Fiscal Year 2017.

*A partial response was sent out in response to the tenth oldest FOIA request on 9/30/2016. NSF continues to work to finish processing the records responsive to this request and anticipates completing the request very soon.*

***F. Success Stories***

OPTIONAL: Out of all the activities undertaken by your agency since March 2016 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency’s efforts. The success story can come from any one of the five key areas. As noted above, these agency success stories will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

*No response.*