U.S. Department of Homeland Security

Departmental Freedom of Information Act (FOIA)

Backlog Reduction Plan: 2020 - 2023

A Business Modernization Roadmap

March 2020

With honor and integrity,
we will safeguard the American people,
our homeland, and our values.

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Executive Summary

The Department of Homeland Security (DHS) has a broad mandate to secure the nation from threats. The DHS mission is to safeguard the American people, our homeland, and our values with honor and integrity. To accomplish this mission, DHS relies on a dedicated workforce of more than 240,000 employees in jobs that range from aviation and border security to emergency response, from cybersecurity analyst to chemical facility inspector.

DHS is proud of the investments made in our Freedom of Information Act (FOIA) program and workforce. The Department's FOIA program provides the public and Department with an immensely valuable service, providing records that promote transparency and directly impact and assist the public while also protecting sensitive, confidential, and private information.

The DHS 2020 - 2023 FOIA Backlog Reduction Plan includes five goals that lay out a sustainable course for containing and reducing the age of the backlog in the short-term, and sustainably lowering the size of the backlog over the next three to five years. To achieve success, the plan addresses the underlying causes of the backlog – including decentralization, technology and interoperability limitations, and staffing and resource constraints.

The Department's FOIA vision is to embrace modern workforce and information management techniques, leverage technology, enhance our systems and rebuild our processes, to create a modern, mature, and sustainable FOIA program. Modernization and maturation will benefit members of the public and our staff, and allow the agency to focus its attention on its mission-critical operations. As a result of these efforts, the DHS FOIA Program will achieve its five goals: 1) Improve Service to the Public; 2) Improve Service to the Department; 3) Improve the FOIA IT Infrastructure; 4) Improve FOIA Workforce Engagement; and 5) Strengthen the FOIA Policy and Regulatory Environment.

Sincerely,

James V.M.L. Holzer
Deputy Chief Freedom of Information Act Officer
U.S. Department of Homeland Secretary

Introduction

The work of DHS employees touches the public on a regular basis. An employee with U.S. Customs and Border Protection (CBP) inspects imported consumer products at U.S. ports of entry, from food to kids' toys and other household goods. The Cybersecurity and Infrastructure Security Agency (CISA) ensures you can safely connect to the internet. The Transportation Security Administration (TSA) ensures that you can safely travel to visit loved ones, see new places, and enjoy vacation time away from home.

CBP officers inspect goods at a U.S. port of entry.

FEMA assists the public in the wake of declared natural disasters.

DHS employees are also available to help the public at dangerous moments in their lives. The United States Coast Guard (USCG) regularly saves people in peril, and conducts investigations into maritime accidents. Federal Emergency Management Agency (FEMA) employees focus on helping people before, during, and after disasters..

DHS employees also have a key role in protecting fundamental parts of our society. U.S. Citizenship and Immigration Services (USCIS) administers the nation's lawful immigration system, and U.S. Immigration and Customs Enforcement (ICE) enforces criminal and civil federal laws governing customs, trade, and immigration. The United States Secret Service (USSS) safeguards the nation's financial infrastructure and payment systems, and protects national leaders, visiting heads of state and government, designated sites, and National Special Security Events.

In conducting its work, DHS employees generate a number of documents that are of great interest to the public. FOIA gives the public the right to access agency records. FOIA includes nine exemptions to protect certain sensitive categories of information like national security or personally identifiable information. Agencies are required to the greatest extent possible to protect only portions of records that are exempt and release all non-exempt information.

CNew citizens are sworn in at a USCIS ceremony.

While the primary purpose of the FOIA is to shed light on the government's actions and prevent secret laws, the law is also used by people who are applying for immigration or other benefits, researching family history, seeking business information about competitors' contacts with the agency, and other purposes.

The vast majority of requests sent to DHS are for first-party records, meaning that requesters are seeking copies of information about themselves previously submitted to the government or records that document their interactions with agency officials. DHS receives a substantial number of first-party requests for contents of Alien files (A-Files) held by USCIS, entry-exit records held by CBP, biometric information held by the Office of Biometric Identity Management (OBIM), and personnel records held throughout the Department. Requesters need

these records for personally critical and often time-sensitive reasons – they might be applying for benefits, facing deportation, or challenging their employment termination. DHS also receives third-party requests for these kinds of records related to high-profile people, particularly once the person is deceased.

The National Records Center in Kansas City, Missouri stores more than 20 million immigration files.

Requests for A-file material comprise the vast majority of DHS's FOIA workload. A-Files document the life of immigrants in the United States. The average A-file includes around 200 pages; the size of A-Files is increasing and varies significantly based on the number of interactions with U.S. officials and the amount of material submitted to the government by the immigrant. While there have been some recent efforts to digitize some of the forms in A-Files, the records are largely paper-based. These records are held and processed at the National Records Center (NRC), a vast cave located in Lees Summit, Missouri. DHS uses a cave for NRC operations because the environment is beneficial for paper-based records, and is large enough to accommodate the amount of space needed for storage – the facility has an area of nearly six football fields. A-Files might also be located at one of hundreds of field offices around the country. To process a FOIA request for an A-file, USCIS must locate and retrieve the file and digitize its contents using a high speed scanner before the documents can be reviewed.

DHS also holds a number of records that are of regular interest both to first parties and members of the news media. These records might be needed by first parties for certain matters, including but not limited to, applications for benefits and appearances in immigration court. These records may also be of interest to the media due to high-profile incidents or general public interest. This category includes ICE Homeland Security Investigations (HSI) records, the results of USCG accident investigations, and records generated by FEMA related to disaster recovery.

Additionally, the Department produces a number of records that are regularly requested by the news media, academics, civil society organizations, and businesses. Commonly requested records in this category include Congressional correspondence and contracts. There is also a great deal of interest in DHS policies, including policies related to ICE HSI, and in DHS's efforts to implement high-profile administration priorities, such as the construction of a wall on the southern border.

The Challenge: DHS Backlog and Systemic Challenges

DHS inherited a substantial number of pending FOIA requests upon creation in 2003. The first DHS Annual FOIA Report[1] shows that almost 30,000 requests were pending at the end of Fiscal Year (FY) 2003. According to the summary of Annual FOIA Reports compiled by the Department of Justice (DOJ) Office of Information Policy (OIP),[2] about 250,000 requests were pending across the government at the end of FY 2006 – more than 40 percent of these requests were pending at DHS.

President George W. Bush signs the Homeland Security Appropriations Act of 2004 at the Department of Homeland Security in Washington, D.C., Wednesday, Oct. 1, 2003.

Not all pending requests are a part of an agency's FOIA backlog. In FY 2008, OIP issued guidelines requiring agencies to report the number of backlogged requests in their FOIA Annual Reports. Overall, the number of backlogged requests across the government was 133,295; the DHS backlog of 74,879 requests constituted almost 57 percent of the overall FY 2008 backlog.

FOIA backlogs have continued to be a systemic problem at DHS, driven in large part by the continued increases in the number of incoming requests. While DHS has made impressive progress on the number of requests processed each year, these gains have been surpassed by steady increases in the number of incoming requests. The backlog has also been influenced by an increase in the complexity of requests and the volume of electronic records generated by the Department.

Figure 1: FOIA Requests Received, Processed and Backlog FY 2008 – FY 2018
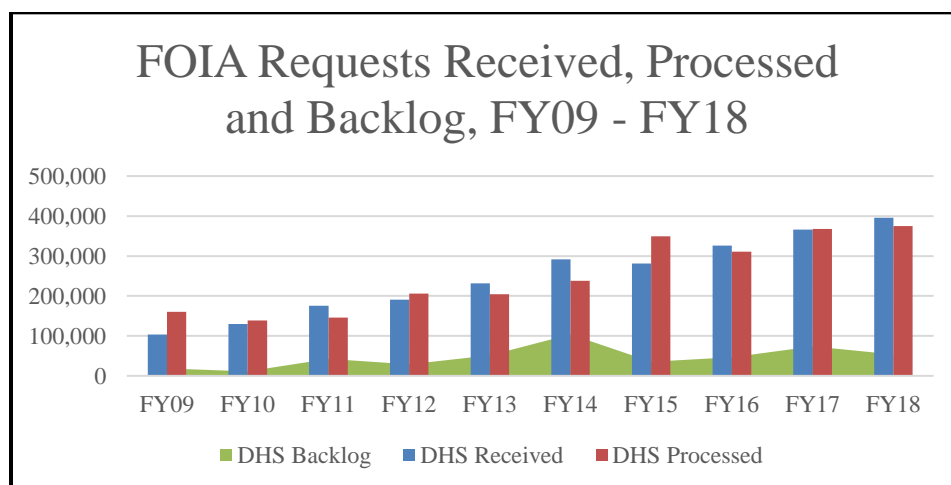
Since FY 2009, DHS has received an average of 249,086 requests and processed an average of 249,439 requests per year. Over the same time period, the average backlog has accounted for about 18 percent of the average number of requests received. The percentage of backlog to

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[1] *See:* https://www.dhs.gov/sites/default/files/publications/privacy_rpt_foia_2003.pdf.

[2] *See:* https://www.justice.gov/oip/blog/foia-post-2007-summary-annual-foia-reports-fiscal-year-2006.

requests received ranged from a low of nine percent in FY 2010, to a high of 36 percent in FY 2014, when the DHS backlog hit a high-water mark of 103,778 requests. Between FY 2014 and FY 2015, DHS ramped up the number of requests processed by 47 percent and drove down the backlog by 66 percent. However, between FY 2015 and FY 2018, the backlog increased by about 53 percent.

The majority of the backlog is held by Components that process records related to immigration; in FY 2018, these Components – CBP, ICE, USCIS, and OBIM held 92 percent of the Department's backlog, with USCIS responsible for 77 percent of the backlog. These Components also receive the largest proportion of requests.

DHS is also concerned with reducing the backlog of Components that receive a relatively small number of requests each year compared to the size of the Component's backlog. The ratio of requests received to backlog in FY 2018 was more than 50 percent at the USCG, TSA, and USSS. Monthly oversight reports also indicate that the age of requests in the backlog tends to be higher at Components that do not primarily process immigration-related files.

Increase in Requests Received and Productivity

The number of requests received by DHS has increased in nine of the last 10 fiscal years. For the majority of this time period, the growth in the number of requests per fiscal year has been in the double digits. Between FY 2014 and FY 2015, the number of requests received decreased by only three percent. In FY 2016, the number of requests received increased by 16 percent, and the number of requests received has grown each year since.

Figure 2: Growth in DHS FOIA Production
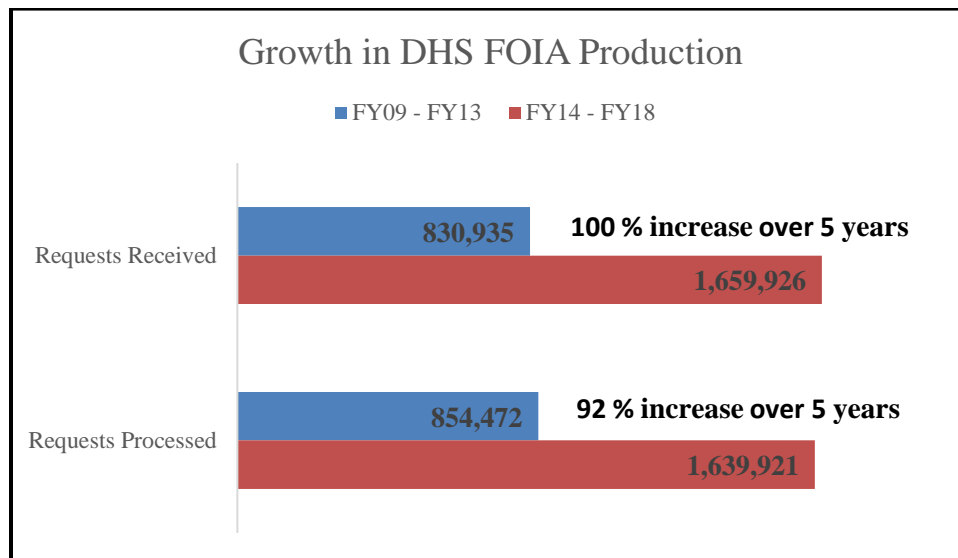
While DHS substantially increased the number of requests processed over the last 10 years, the growth in production did not maintain pace with the growth in demand. DHS increased the number of requests processed between FY 2014 and FY 2018 by 92 percent compared to the number processed between FY 2009 and FY 2013. The number of requests received between FY 2014 and FY 2018 increased by 100 percent compared to the number of requests received between FY 2009 and FY 2013.

Figure 3: Increase in Requests Processed and Pages Released
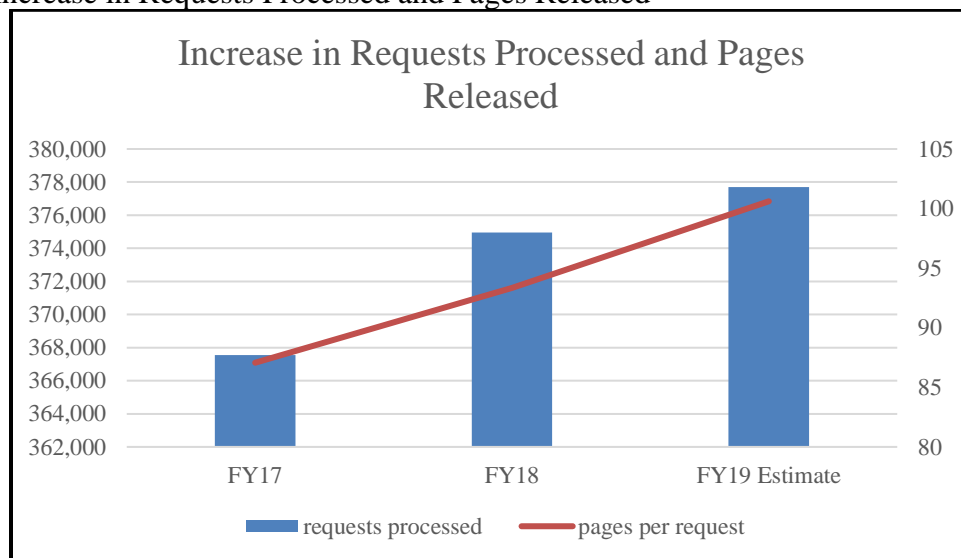
Each year the DHS FOIA program locates, reviews, and releases more records than in previous years. DHS creates a significant volume of electronic records regarding its activities. Electronic search tools have improved the FOIA program's ability to locate records that might be responsive to a FOIA request, and the number of pages released has increased. As depicted in Figure 3, between FY 2017 and FY 2018, the average number of pages released in response to a request grew from 87 to 93, an increase of seven percent. DHS is on track to increase the average number of pages released per request in FY 2019 to more than 100 – another increase of eight percent. Managing the higher volume of records also presents its own challenges with information technology (IT) infrastructure, technology, and workforce constraints.

DHS Efforts to Increase Productivity and Reduce the Backlog

As previously noted, DHS increased the number of requests processed over the last five years by 92 percent. Key to this increase in productivity was the DHS Privacy Office's initiative to stand up an enterprise-wide FOIA processing solution. This processing solution made the FOIA process fully electronic and included features that increased the ability of the DHS Privacy Office and Component FOIA Officers to appropriately manage and oversee operations.

In addition to compiling the Department's annual oversight reports, the DHS Privacy Office compiles a monthly report monitoring the number of requests and appeals received and processed and the size of the backlog. These monthly reports also capture information about the number of pages released, the age of pending requests, the status of the ten oldest requests from the previous year's Annual Report to the Attorney General and the Office of Government Information Services (OGIS), and proactive disclosures. These reports allow the Chief FOIA Officer to identify surges and bottlenecks at Component FOIA Offices that might contribute to a backlog increase, and to work with the Component FOIA Officers to address these issues. The DHS Privacy Office also holds monthly calls with Component FOIA Officers to discuss management and policy issues, and in January 2019 established the DHS FOIA Council. The Council is a forum for coordinating cross-component challenges and developing solutions.

The DHS Privacy Office frequently provides Components with management and processing support, and assists Components with backlog reduction efforts. A noteworthy example is the DHS Privacy Office's partnership with OBIM. Between FY 2014 to FY 2017 the number of requests submitted to OBIM drastically increased from approximately 7,000 to over 26,000 requests. To handle this increase in demand, in FY 2016 the DHS Privacy Office partnered with OBIM leadership to execute an aggressive 40-day Backlog Reduction Plan that resulted in a 75 percent reduction in OBIM's backlog, which resulted in a 26 percent reduction in DHS's overall backlog. The DHS Privacy Office has continued to partner with OBIM to control the backlog, and, as a result of the positive working relationship, efforts are underway to transfer the OBIM FOIA program to the DHS Privacy Office. Another example is the DHS Privacy Office's intensive backlog reduction efforts in collaboration with CBP and ICE – that eliminated approximately 6,000 requests from the DHS backlog at the end of FY 2018.

Components also regularly undertake efforts to reduce the backlog, including hiring contractors, authorizing overtime, and initiating a surge as the end of the fiscal year draws near. In one notable example, in FY 2015, ICE eliminated its backlog of about 60,000 requests using a contract valued at $6.2 million. ICE's efforts resulted in a decrease of more than 99 percent in its backlog and contributed to the overall decrease of the DHS backlog by 66 percent.

Figure 4: DHS & Select Components Backlog, FY08 – FY18
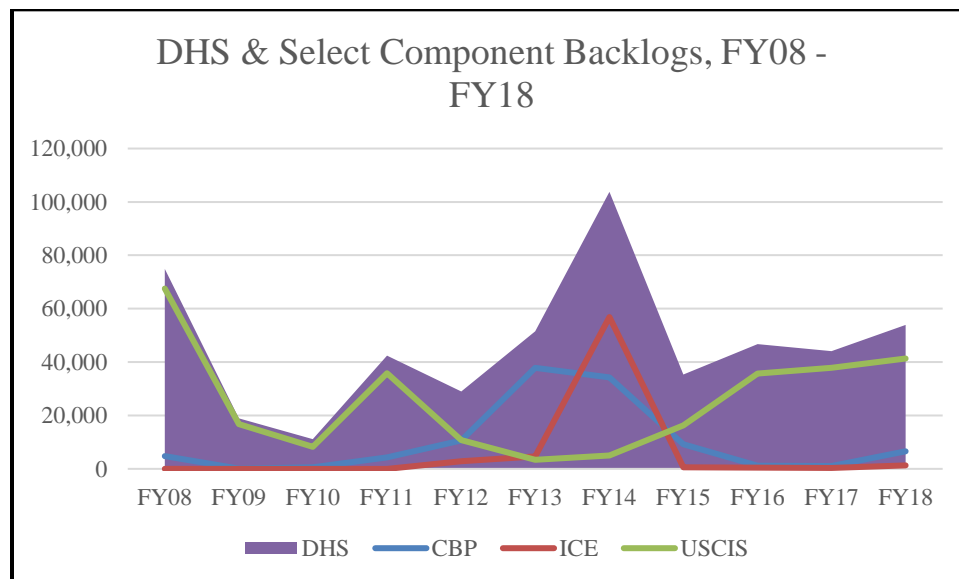
Since FY 2015, ICE has supplemented its processing with additional contract support and has maintained its relatively low backlog. However, ICE's success highlights the difficulty of maintaining backlog reductions through Component-led backlog reduction efforts. Between FY 2014 and FY 2016, the number of requests submitted to USCIS increased by 22 percent, contributing to an increase in the Department's overall backlog.

Implementing the Backlog Reduction Roadmap

There is no easy remedy for reducing the DHS FOIA backlog. The solutions Components regularly rely on – hiring contractors, authorizing overtime, and initiating a surge as the end of the fiscal year draws near —only serve to improve statistics temporarily. The number of

requests received by DHS is likely to continue to increase, and the challenges faced by the Components will continue to grow.

The DHS FOIA Backlog Reduction Plan 2020 - 2023 lays out goals and a sustainable course for containing and reducing the age of the backlog in the short-term, and sustainably lowering the size of the backlog over the next three to five years. Over the past 15 years, the underlying causes of the backlog, including decentralization, technology and interoperability limitations, and staffing and resource constraints, have caused wide fluctuation in the size of the backlog and brought negative attention to the Department. This inability to control the backlog has sparked seven Government Accountability Office (GAO) engagements,[3] three Inspector General engagements,[4] eight OGIS engagements,[5]

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[3] GAO-18-365: FOIA: Agencies Are Implementing Requirements but Additional Actions Are Needed. Published: Jun 25, 2018. (https://www.gao.gov/products/GAO-18-365); GAO-16-667: FOIA: Litigation Costs For Justice and Agencies Could Not Be Fully Determined. Published: Sep 8, 2016. (https://www.gao.gov/products/GAO-16-667); GAO-15-82: FOIA: DHS Should Take Steps to Improve Cost Reporting and Eliminate Duplicate Processing. Published: Nov 19, 2014. (https://www.gao.gov/products/GAO-15-82); GAO-12-828: FOIA: Additional Actions Can Strengthen Agency Efforts to Improve Management. Published: Jul 31, 2012. (https://www.gao.gov/products/GAO-12-828); GAO-09-260: FOIA: DHS Has Taken Steps to Enhance Its Program, but Opportunities Exist to Improve Efficiency and Cost-Effectiveness. Published: Mar 20, 2009. (https://www.gao.gov/products/GAO-09-260); GAO-08-344: Agencies Are Making Progress in Reducing Backlog, but Additional Guidance Is Needed; Published: Mar 14, 2008. (https://www.gao.gov/products/GAO-08-344); and GAO-06-20: FOIA: Improvements Needed to Address Backlogs and Ensure Quality. Published: December 21, 2005. (https://www.gao.gov/products/GAO-06-20).
[4] OIG-18-085-ISP-PRIV (ongoing); OIG-17-116-VR, "DHS Review of Responses to Significant Freedom of Information Act Requests." Published September 29, 2017. (https://www.oig.dhs.gov/sites/default/files/assets/2017/OIG-17-116-VR-Sep17.pdf); and OIG-11-67, " The DHS Privacy Office Implementation of the Freedom of Information Act." Published March 11, 2011. (https://www.oig.dhs.gov/reports/2011-03/dhs-privacy-office-implementation-freedom-information-act/oig11-67mar11)
[5] "U.S. Citizenship and Immigration Services: Efficient FOIA Process Supported by Strong Management and Customer Service; Investments in Technology Can Further Improve Performance" Office of Government Information Services, National Archives and Records Administration. Published: February 9, 2018. (https://www.archives.gov/ogis/foia-compliance-program/agency-compliance-reports/dhs/uscis); "Privacy Office Meets Chief FOIA Officer Responsibilities by Aiding FOIA Implementation and Oversight and Supporting Customer Service" Office of Government Information Services, National Archives and Records Administration. Published: December 27, 2016. (https://www.archives.gov/ogis/foia-compliance-program/agency-compliance-reports/dhs/chief-foia-officer); "U.S. Immigration and Customs Enforcement: Strong Management, Innovative Use of Technology, and Suggested Improvements to Customer Service" Office of Government Information Services, National Archives and Records Administration. Published: October 18, 2016. (https://www.archives.gov/ogis/foia-compliance-program/agency-compliance-reports/dhs/ice); "United States Secret Service: Management Controls, Technology Support, and Improved Communication Needed" Office of Government Information Services, National Archives and Records Administration. Published: July 27, 2016. (https://www.archives.gov/ogis/foia-compliance-program/agency-compliance-reports/dhs/usss); "U.S. Customs and Border Protection: Good Management Practices in Place; Clear Communication and Increased Technology Use Needed" Office of Government Information Services, National Archives and Records Administration. Published: March 9, 2016. (https://www.archives.gov/ogis/foia-compliance-program/agency-compliance-reports/dhs/cbp); "U.S. Transportation Security Administration: Management Oversight, Training on Technology Use, and Clear Communication with Requesters Needed" Office of Government Information Services, National Archives and Records Administration. Published: January 11, 2016. (https://www.archives.gov/ogis/foia-compliance-program/agency-compliance-reports/dhs/tsa); "United States Coast Guard: Effective Management of Decentralized Program, Better Use of Technology, and Improved Communication with Requesters Needed" Office of Government Information Services, National Archives and Records Administration. Published: September 25, 2015. (https://www.archives.gov/ogis/foia-compliance-program/agency-compliance-reports/dhs/uscg); and

two Congressional hearings,[6] and countless media stories. In order to be successful, the plan addresses the underlying causes of the backlog by calling for: the creation of organizational performance metrics; improved service to our stakeholders; investment in and leveraging of technology; improved workforce engagement and planning; and undergirding FOIA operations with sound policy.

FOIA Backlog Reduction Goals

In order to improve service to the public, the DHS FOIA program needs a unified approach that accounts for differences in the type and volume of requests received across the agency. In February 2019, the DHS Privacy Office created a blue-print for this unified approach by issuing FOIA performance metrics for Components. The goal of the metrics, which were influenced by discussion with Component FOIA Officers, is to set challenging, but achievable, backlog reduction goals.

In the June 2018 GAO report, "FOIA: Agencies Are Implementing Requirements but Additional Actions Are Needed,"[7] evaluating progress by agencies in implementing the FOIA Improvement Act of 2016, GAO recommended that performance metrics are valuable for assessing the effectiveness of backlog reduction efforts and ensuring that senior leadership supports backlog reduction efforts. The goal of DHS's performance metrics is two-fold: to set clear expectations for Component FOIA performance, and to assist Component leadership and FOIA Officers in assessing any additional resources needed to achieve backlog reduction.

While we expect the performance metrics to be an important aspect of improving our service to the public, DHS must also address some of the issues with decentralized operations that have frustrated past backlog reduction efforts. Components have independent responsibility for establishing, operating, and appropriately resourcing their FOIA operations, subject to oversight by the DHS Privacy Office. Decentralization of the FOIA program at the Department causes problems in program coordination and workforce management, making it difficult for the DHS FOIA enterprise to share manpower, coordinate surge efforts, and plan for future challenges.Key to addressing some of the challenges created by decentralized operations is clarifying the DHS Chief FOIA Officer's authorities and delineating Component responsibilities through management policies, directives, and instructions.

As noted previously, the Department's progress has been overcome by continual increases in demand. In order to be successful, the DHS FOIA program must continue to evolve. The Department's FOIA vision is to embrace modern workforce and information management techniques, leverage technology, enhance our systems and rebuild our processes, to create a modern, mature, and sustainable FOIA program. The benefits of modernization and maturation will be shared by members of the public and our staff, and allow the agency to focus its attention

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"Federal Emergency Management Agency: Management Controls, Better Use of Technology, and Improved Communication with Requesters Needed" Office of Government Information Services, National Archives and Records Administration. Published: September 18, 2015. (https://www.archives.gov/ogis/foia-compliance-program/agency-compliance-reports/dhs/fema)

[6] "Ensuring Compliance with the Freedom of Information Act" House Committee on Oversight and Government Reform. June 3, 2015. (https://republicans-oversight.house.gov/hearing/ensuring-agency-compliance-with-the-freedom-of-information-act-foia/); and "Why Isn't the Department of Homeland Security Meeting the President's Standard on FOIA?" House Committee on Oversight and Government Reform, March 31, 2011. (https://fas.org/sgp/congress/2011/dhs-foia.pdf)

[7] *See:* https://www.gao.gov/products/GAO-18-365.

on its mission-critical operations. The figure below illustrates the five goals to achieve a sustainable FOIA operation.

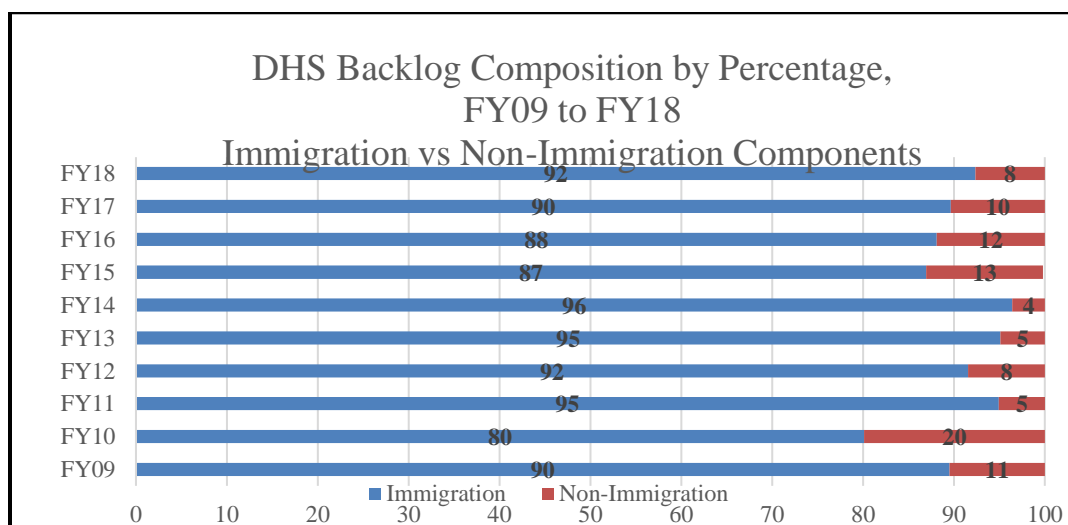| DHS FOIA Backlog Reduction Goals |
|---|
| Goal 1: Improve Service to the Public by: |
| -Reducing High-volume Component FOIA Backlogs by 10 percent
-Reducing Low-volume Component FOIA Backlogs by 15 percent
-Responding to FOIA Requests in a Consistent Timely Manner
-Reducing the Age of Open Requests
-Adopting Coordinated and Disciplined Approaches to Backlog Reduction Efforts |
| Goal 2: Improve Service to the Department by: |
| -Increasing Stakeholder Satisfaction with Reliability, Security, Privacy, and Responsiveness
-Mitigating Risks
-Enabling Faster, More Accurate and Better Documented Decisions
-Improving Data Reliability and Consistency |
| Goal 3: Improve FOIA IT Infrastructure by: |
| -Eliminating Duplication of Efforts by Reducing the Number of Systems Used to Process FOIA Requests
-Ensuring Interoperability between Solutions to Enable Faster and More Accurate Processing
-Promoting the Use of Artificial Intelligence (AI) to Enable a Quicker Path to New Capabilities
-Increasing Use of Shared Resources
-Fostering Innovation to Improve Operational Efficiency |
| Goal 4: Improve FOIA Workforce Engagement by: |
| -Demonstrating Investment in Front-line Employees
-Establishing Government Information Specialist (FOIA) Career Paths
-Automating Routine Work So Employees Can Focus on the More Complex Tasks
-Changing the Culture of the FOIA Employee/Stakeholder Relationship |
| Goal 5: Strengthen the Regulatory and FOIA Policy Framework by: |
| -Clarifying and Delineating Authorities and Responsibilities
-Solidifying FOIA Officer Relationships
-Establishing a DHS FOIA Compliance and Oversight Program |

Goal 1: Improve Service to the Public by:

-Reducing High-volume Component FOIA Backlogs by 10 percent

-Reducing Low-volume Component FOIA Backlogs by 15 percent

-Responding to FOIA Requests in a Consistent Timely Manner

-Reducing the Age of Open Requests

-Adopting Coordinated and Disciplined Approaches to Backlog Reduction Efforts

Reducing High-volume Component FOIA Backlogs by 10 percent

In FY 2018, more than 90 percent of the requests submitted to DHS were directed to USCIS, CBP, ICE, and OBIM. These Components primarily process first-party requests for immigration-related records. These Components also hold the largest portion of the DHS backlog: in FY 2018, USCIS, CBP, ICE, and OBIM held 92 percent of the Department's backlog.

In order to successfully reduce the backlog, these high-volume Components will need to increase production to both reduce the backlog and keep up with continued increases in the number of requests received. An annual 10 percent reduction in the backlog at high-volume Components provides these Components with the flexibility necessary to make any necessary changes to processes and advocate for needed resources.

Figure 5: DHS Backlog Composition by Percentage FY09 – FY18

DHS Backlog Composition by Percentage, FY09 to FY18
Immigration vs Non-Immigration Components

Year	Immigration	Non-Immigration
FY18	92	8
FY17	90	10
FY16	88	12
FY15	87	13
FY14	96	4
FY13	95	5
FY12	92	8
FY11	95	5
FY10	80	20
FY09	90	11

Reducing Low-volume Component FOIA Backlogs by 15 percent

The number of requests received annually by low-volume Components ranges from a few hundred to 5,000. CISA, FEMA, the DHS Privacy Office, TSA, USCG, and USSS receive an average of between 500 to 5,000 requests per year. The remaining Component FOIA Offices – the Federal Law Enforcement Training Centers (FLETC), the Office of Intelligence and Analysis (I&A), Office of Inspector General (OIG), and the Science and Technology Directorate (S&T) – receive an average of only a few hundred requests each year.

Figure 6: Non-Immigration Components Received, Processed, Backlog, Pages Released
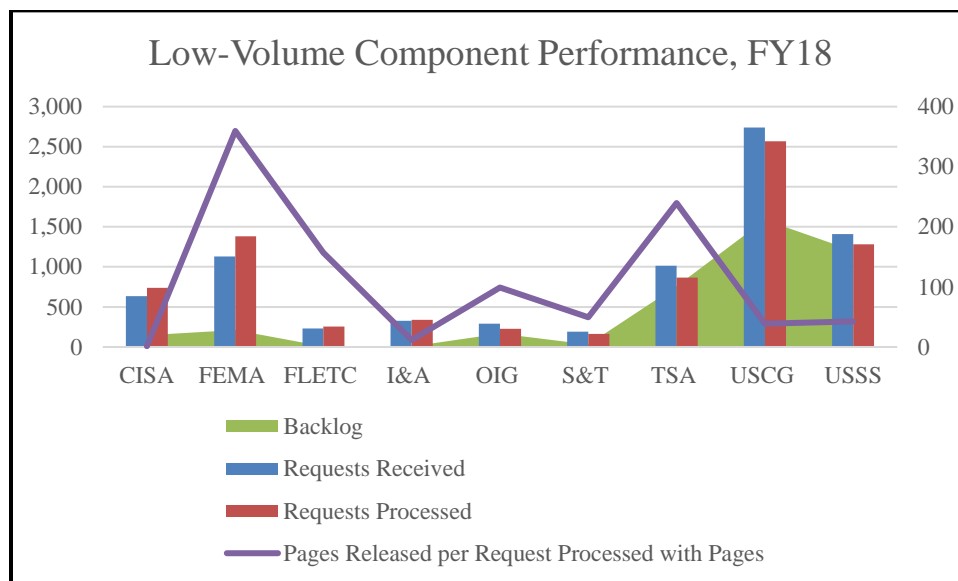
Under the Open Government Directive, the Office of Management and Budget requires that all agencies with a substantial backlog reduce the backlog by at least 10 percent annually.[8] Setting a more aggressive target for Components that receive low-volume requests is warranted to address the disparity in the ratio of requests received to backlog at some of the low-volume Components compared to the high-volume Components: as illustrated by Figure 6, whereas the backlog accounts for between approximately 10 to 20 percent of the number of incoming requests at high-volume Components, the ratio of backlog to incoming requests surpasses 50 percent at some of the low-volume Components. As depicted in Figure 6, the low-volume Components with the largest backlogs release on average a relatively small number of pages Further, as depicted in Figure 7 below, several low-volume Components hold a disproportionate number of the oldest requests in the backlog – for example, while USCG held only two percent of the FOIA backlog at the end of June 2019, it held 17 percent of requests more than 200 days old.

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[8] *See*: https://obamawhitehouse.archives.gov/open/documents/open-government-directive.

Figure 7: Proportion of Backlog and Proportion of Backlog More than 200 Days Old
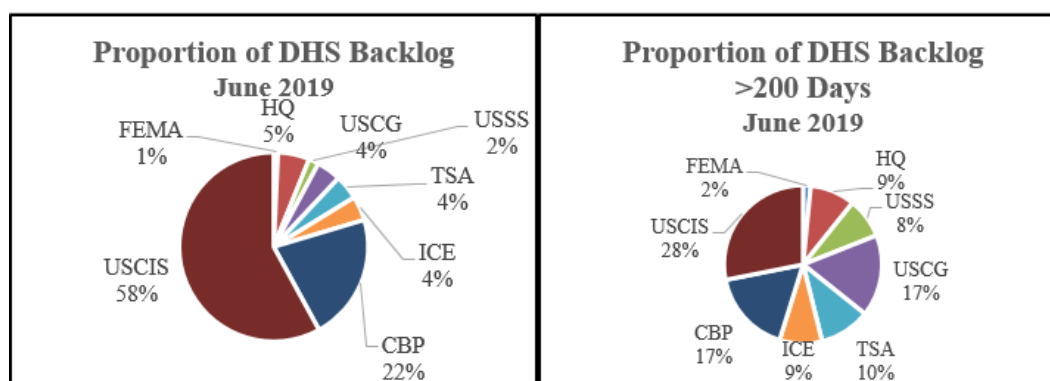
## Responding to FOIA Requests in a Consistent Timely Manner

DHS will continue to drive down the average response time for simple and complex requests through process improvements and utilizing advanced technology to dramatically improve search capabilities and decrease review time. In FY 2018, DHS responded to simple requests in an average of 27 days – a reduction of 30 percent compared to an average response time of 39 days in FY 2017. DHS responded to complex requests in an average of 80 days in FY 2018, a decrease of 15 percent compared to an average response time of 94 days in FY 2017.

Reducing the Age of Open Requests

While driving down response time, DHS will also focus attention on ensuring the Department is reducing the over-all age of requests. In addition to stressing the importance of closing out the 10 oldest requests in the Department, DHS set an aggressive performance metrics goal that requires Components to reduce the number of open requests more than 200 days old by 15 percent.

Adopting Coordinated and Disciplined Approaches to Backlog Reduction Efforts

As discussed earlier, there is no easy remedy for reducing the DHS FOIA backlog. The solutions Components regularly rely on – hiring contractors, authorizing overtime, and initiating a surge as the end of the fiscal year draws near —only serve to improve statistics temporarily. Additionally, these efforts can have negative effects on the backlogs at other Components or agencies if they drive up the number of referrals. Because A-Files held by USCIS include records generated by other Components and agencies – particularly ICE and CBP – DHS FOIA statistics show a spike in the backlog at ICE and CBP in the year following a backlog reduction at USCIS. The backlog at ICE and CBP will then decrease as the backlog at USCIS increases, allowing ICE and CBP to address other requests in their backlogs. Going forward, the Department and Components will use this plan to coordinate its backlog reduction efforts.
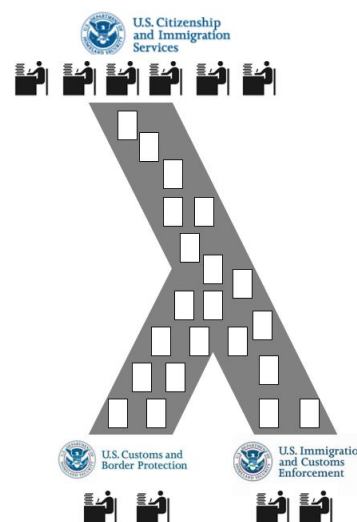
Requests for immigration files often lead to referrals to other Components.

Goal 2: Improve Service to the Department by:

-Increasing Stakeholder Satisfaction with Reliability, Security, Privacy, and Responsiveness

-Mitigating Risks

-Enabling Faster, More Accurate and Better Documented Decisions

-Improving Data Reliability and Consistency

A mature DHS FOIA program will better serve the business needs of the Department, freeing up personnel to concentrate on mission-critical activities and improving the security of sensitive information. The DHS Privacy Office will put modern management and information management tools and practices in place that will mitigate the risk of inadvertent or accidental disclosures, and the risks associated with FOIA litigation. Additionally, the mature FOIA program will increase public trust in the agency's actions by advancing transparency and public understanding.

Increasing Stakeholder Satisfaction with Reliability, Security, Privacy, and Responsiveness

The DHS Privacy Office will issue policies and management best practices that will improve operations and increase stakeholder satisfaction with reliability, security, privacy, and responsiveness of the program. This will enable DHS operators and leadership to focus critical resources on the mission of the agency.

Key to this effort will be input, buy-in, and cooperation from the DHS FOIA Council. In November 2018, the DHS Chief FOIA Officer signed the DHS FOIA Council Charter. The purpose of the Council is to advise the Chief FOIA Officer on policy and management matters concerning the departmental FOIA Line of Business function. The Council, which meets on a quarterly basis, is chaired by the Chief FOIA Officer, and co-chaired by the Deputy Chief FOIA Officer. General membership is comprised of Component FOIA Officers. The DHS Privacy Office provides an executive secretary and other staff as required to support Council meetings. The Council provides a forum for sharing FOIA best practices and for coordinating cross-component challenges and developing solutions. As a matter of policy and to ensure independence, the OIG declined to participate in the Council.

The Council Charter also gives Council members the responsibility for setting the strategic agenda for Council activities, including identifying common interests or common needs of the FOIA community and setting goals and performance measures. Additionally, the Council Charter provides the Chair with the responsibility to provide directions and final decisions on all FOIA issues before the Council after discussion, and to seek to resolve or mitigate any concerns or objections before final decisions are made.

The Council Charter enables the creation of standing and ad hoc committees as required to study emerging priorities. Members of the Council are required to be the head of any committee
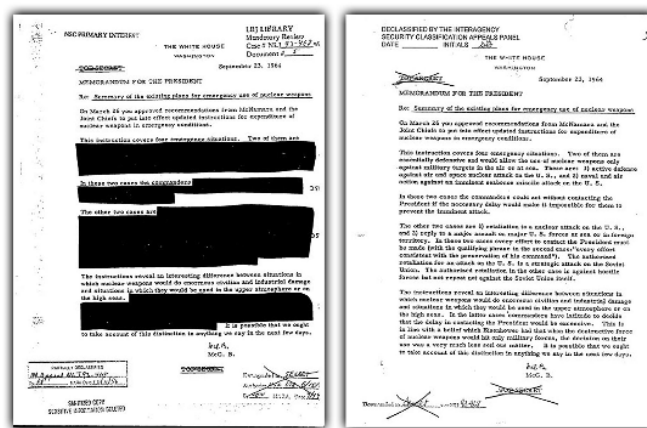
created by the Council, and Council members and staff may serve on a committee. The committee can submit reports to be made available to all Council members.

The Council currently has four Committees: Technology, which is focused on interoperability, creation of systems, and computer-assisted review; DHS FOIA Employee Development, which is focused on training, performance plans, community of practice, and awards programs; Policy, which is focused on policy development and templates; and Backlog, which is focused on the backlog reduction plan and DHS FOIA performance metrics. The topics that the Committees are dedicated to reflect much of the work needed to mature DHS FOIA operations in ways that will increase stakeholder satisfaction with reliability, security, privacy, and responsiveness of the program. In particular, the Committees will address employee management and development issues and FOIA policy. We expect the Committees will provide valuable insight and create buy-in for agency actions to take the steps necessary to appropriately mature the FOIA program management.

Mitigating Risks

The DHS Privacy Office will leverage modern technology to improve the security of sensitive DHS information. This will be accomplished by procuring an enterprise-wide FOIA processing solution that meets the demands of a modern FOIA process, reducing the number of FOIA processing solutions in use, and ensuring all systems are interoperable. In 2019, the DHS FOIA Technology System Requirements Working Group issued requirements for an appropriate enterprise-wide FOIA processing solution to accomplish this goal; OGIS cited the working group's efforts as a notable best practice in its report, "Leveraging Technology to Improve Freedom of Information Act (FOIA) Searches."[9] Currently, responsive records are maintained and processed in

This image shows that FOIA analysts will sometimes make very different release decisions concerning the same document.

Component silos. Traditionally, Components created these silos as a way to secure sensitive information by limiting access, even within the agency. An unforeseen consequence of this siloed approach is that Components can inadvertently release information that is sensitive or somehow compromises another Component's operations due to a lack of awareness between information within various Department records. For example, a Component may not recognize another Component's equity in certain records, or recognize a need to consult with another office before making a disclosure.

Improving understanding of the breadth of information that flows through the Department's FOIA offices will also allow the Department to more precisely gauge the potential risks associated with the release of information. Courts have long recognized the mosaic theory as justification for agencies to withhold information that at first glance may not seem sensitive, but would reveal classified or otherwise sensitive information when combined with other material. In the wake of the 9/11 terrorist attacks, Courts continued to defer to agency judgement
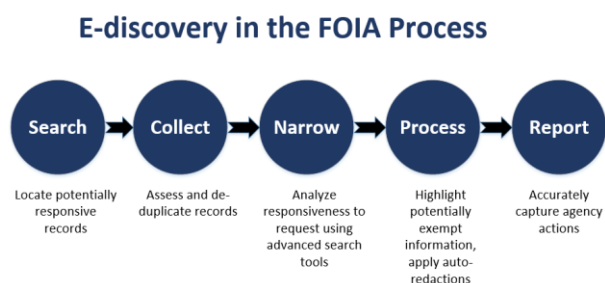
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[9] *See*: https://www.archives.gov/files/ogis/assets/leveraging-technology-to-improve-foia-searches-31-july-2019-final.pdf.

regarding the threats to national security and Congress expanded agencies' ability to withhold potentially sensitive information from records. The increase in the release of digital documents and growth in digital sources of open source information aggravates this risk. The growth in available information about agency operations makes it increasingly easy for those outside of government, including foreign adversaries or people who would like to harm the nation's interest, to "unmask" information that has been redacted from a document.

Processing records in an enterprise-wide or interoperable environment will also improve the consistency of redactions. Currently, a Component may release similar agency records with different redactions, which is not only embarrassing to the agency but can reveal information intended to be protected. An enterprise-wide solution that is interoperable with other systems will increase the agency's ability to manage its information and keep informed of information that has been released and withheld.

Enabling Faster, More Accurate and Better Documented Decisions

E-discovery in the FOIA Process

Search → Collect → Narrow → Process → Report

Search	Collect	Narrow	Process	Report
Locate potentially responsive records	Assess and de-duplicate records	Analyze responsiveness to request using advanced search tools	Highlight potentially exempt information, apply auto-redactions	Accurately capture agency actions

Advanced E-discovery tools are useful throughout the FOIA process.

The DHS Privacy Office will integrate the use of E-discovery, AI and other technological solutions to reduce processing time, increase the accuracy of redactions, and create a strong administrative record. The benefits of these powerful tools will be shared across the agency through the enterprise-wide FOIA processing solution.

The DHS 2019 Chief FOIA Officer Report[10] documents some of the benefits of using E-discovery tools to reduce the FOIA workload by culling, de-duplicating records, threading e-mails, and narrowing large record sets based on key terms. The report highlights how CISA used the tools to reduce 47,439 individual files to 42 pages of records. This process took the software approximately one working day to run in the background, whereas it would have taken a team of employees a number of months to complete the same task with less accuracy. Additionally, the report notes that USCIS used these tools to narrow the universe of potentially responsive records from 15,000 down to 800, saving countless processing hours. USCIS also used these tools to reduce 81,987 pages of e-mails to 4,016 pages of e-mails that are responsive records, reducing the manual review of e-mails for responsive records by 95 percent and saving the government hundreds of hours in labor. While these tools are particularly useful for processing email, the same benefits apply to any electronic records, or any record that has been digitized at a high enough resolution to be read by the system. At the present time, only some Components have access to these tools, or they have agreements in place that only allow them to access these tools for certain types of cases or in litigation. By integrating these tools into the enterprise-wide solution, DHS will ensure that all Components using the system have the capability to leverage these tools to improve the process. The enterprise-wide solution will also ensure information documenting the agency's actions associated with a FOIA request are easily and consistently captured. The administrative record of a FOIA request is particularly important if the requester files an administrative appeal or

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[10] *See*: https://www.dhs.gov/sites/default/files/publications/2019_chief_foia_officer_report_april_2019.pdf.

litigation. Automatically capturing administrative information about the processing of requests across the agency will ease the FOIA administrative burden, and ensure that the agency is well-prepared should it have to defend its actions in court.

Improving Data Reliability and Consistency

DHS will improve data reliability and consistency by reducing the number of FOIA processing solutions in use and making systems interoperable. This will ensure that DHS has reliable and up-to-date information regarding FOIA needs and can move resources appropriately to meet these needs. In addition to leading to better internal management, the enterprise-wide solution will improve confidence in the annual FOIA statistics publicly reported to DOJ and available via FOIA.gov.[11] These numbers are regularly used by Congress, the news media, researchers, and the general public to measure DHS's FOIA performance.
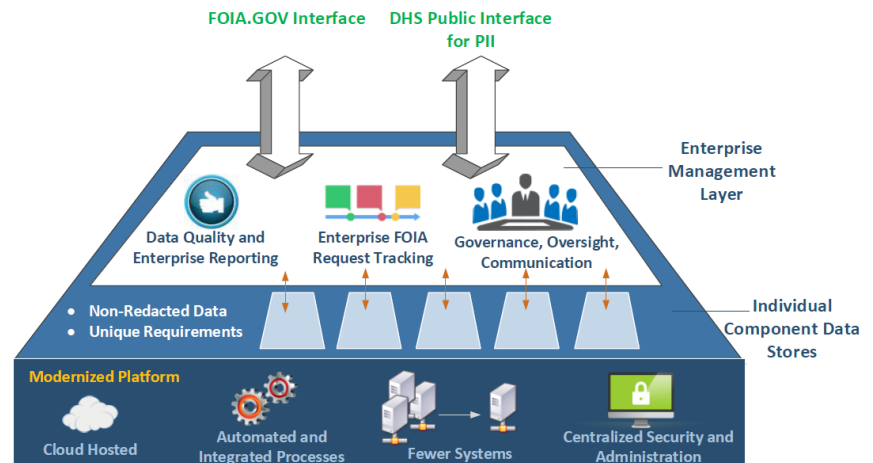
An enterprise-wide solution will improve the consistency of DHS FOIA operations and data quality.

As discussed previously, the solution will also allow the Department to better understand and compare information that flows through the Department's FOIA offices. This will enable the DHS Chief FOIA Officer to highlight potential inconsistencies in the ways that the agency is measuring, storing, reporting, and using its information. The DHS Privacy Office will act as an early alarm system for DHS leadership to these issues, and ensure that the agency is able to address efficiently address inconsistencies.

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[11] *See*: https://www.foia.gov/.

Goal 3: Improve FOIA IT Infrastructure by:

-Eliminating Duplication by Reducing the Number of Systems Used to Process FOIA Requests

-Ensuring Interoperability between Solutions to Enable Faster, More Accurate Processing

-Promoting the use of AI to Enable a Quicker Path to New Capabilities

-Increasing Use of Shared Resources

-Fostering Innovation to Improve Operational Efficiency

While technology is not a silver bullet for improving the implementation of FOIA, it can be leveraged to address some of its associated problems. In particular, agencies have had significant success in using technology to reduce the administrative burden associated with tracking FOIA requests by adopting automated tracking solutions and allowing requesters to directly input requests electronically, which shifts the administrative burden of entering information into the solution from the agency to the requester. Agencies, including DHS Components, have also used powerful AI and computer-assisted-review tools to dramatically improve the process of searching and reviewing electronic records.

DHS is a leader in using technology to improve the FOIA process. In 2011, the DHS Privacy Office stood up a FOIA tracking and processing solution, allowing Components to use the solution at no cost for a period of five years. This solution is currently used in 10 of DHS's 13 Components.[12] The solution significantly improved DHS's ability to track requests across the Department, and DHS made full use of the solution's management tools to ensure that processes were operating at peak efficiency, which was key to the FOIA program's ability to dramatically increase the number of requests processed each year.

Since the adoption of the solution currently used by most of the Components, business operations have continued to evolve – increasing the type and number of digital records created by business operations – and the technological tools available have continued to evolve. DHS will build on its success using technology in the FOIA process to update our FOIA IT infrastructure and build a FOIA program that meets the needs the Department.

Eliminating duplication by reducing the number of systems used to process FOIA requests

DHS will consolidate the number of FOIA processing solutions at the agency and make all solutions interoperable, eliminating duplicative administrative work and freeing up manpower to focus on processing requests and reducing the backlog. The solution will meet all applicable

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[12] The FOIA tracking and processing solution is currently used by CISA, FEMA, FLETC, I&A, ICE, OIG, DHS Privacy Office, S&T, TSA, and USCG.

security and accessibility requirements,[13] and better serve the Department's needs to process a large volume of records.

The Department Components currently pay for the use and maintenance of four different automated FOIA tracking and processing solutions.

- USCIS recently developed and launched an in-house solution, FOIA Immigration Records SysTem (FIRST). FIRST is intended to serve the needs of USCIS's general customer base of requesters seeking records in A-Files. FIRST allows requesters to electronically input requests and download documents, significantly reducing USCIS's administrative burden. Since A-Files are mostly paper-based, documents are primarily scanned into FIRST for processing, though some electronic records are ingested; the resolution USCIS currently uses for scanning does not enable the use of keyword searches or more advanced computer-assisted review technologies. Scanned images like the ones processed through FIRST are also much larger than documents that are maintained in their digital format, increasing the costs associated with the system's storage.

- CBP uses FOIAonline, which is a tracking solution developed by the U.S. Environmental Protection Agency (EPA) and used by several agencies. FOIAonline includes an electronic method for requesters to directly submit requests and receive
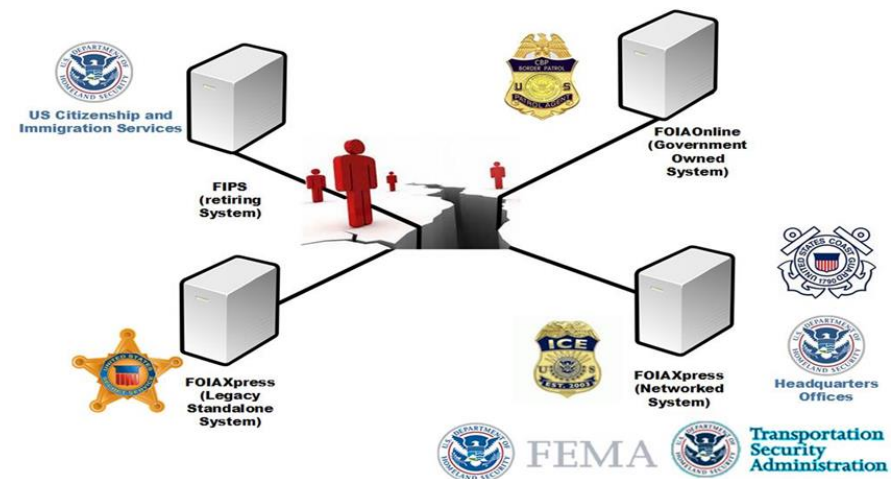
FOIA processing solutions currently in use at DHS are not interoperable, leading to the duplication of administrative work.

documents, and allows requesters to create an account. FOIAonline also includes tracking features. Records are processed outside of the system using tools like Adobe, and processors must input information about the records processed, such as exemptions used and pages released, into the system.

- The DHS Privacy Office and remaining Components with the exception of USSS use a commercial-off-the-shelf (COTS) product. The DHS Privacy Office manages the licenses and contract for use of the COTS product by participating Components. This product includes tracking and processing tools; if a processor uses the processing tools integrated into the system, information such as exemptions used and pages released are automatically captured. The COTS product can support electronic submission of requests and delivery of documents; the DHS Privacy Office intends to include these features in the near future.

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[13] *See*: https://www.gao.gov/products/GAO-15-82.

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- USSS maintains a separate instance of the same COTS product in use at the DHS Privacy Office. USSS is responsible for paying for any upgrades to its version of the product, and for needed technical support.

Because these solutions are not interoperable, any request involving a referral – which is extremely common when processing information commonly found in A-Files – must be logged in and acknowledged multiple times.[14] This unnecessary administrative work is a drain on the DHS workforce, and will alleviate the need for service level agreements between Components to process records located in A-Files.[15] Interoperable solutions will free up manpower to focus on processing and reducing the backlog.

DHS's vision for an enterprise-wide FOIA processing solution further reduces the need to direct manpower towards administrative tasks and instead focus on backlog reduction by allowing requesters to directly input requests into the system electronically. This solution will also benefit DHS by enabling the DHS Privacy Office to seamlessly shift resources at the request of a Component to address an influx in requests or a particular backlog reduction effort, streamlining reporting processes and improving oversight, reducing operating and storage costs, and improving technology support across the agency.

Increasing Efficiency by Ensuring Interoperability between Solutions to Enable Faster, More Accurate Processing

DHS will process records more efficiently and accurately by making FOIA processing solutions interoperable. As previously discussed, leveraging AI in an interoperable environment will mitigate the risk of inadvertently releasing sensitive information. AI will also allow records to be processed more quickly and with greater accuracy. AI can automatically redact information that should never be released, like Social Security numbers, detect patterns that indicate information should be protected from release, and highlight that information for processors. These advanced tools allow processors to focus their time and efforts on more complex release decisions.

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[14]GAO-15-82: FOIA: DHS Should Take Steps to Improve Cost Reporting and Eliminate Duplicate Processing. Published: Nov 19, 2014. (https://www.gao.gov/products/GAO-15-82)

[15] GAO-15-82: FOIA: DHS Should Take Steps to Improve Cost Reporting and Eliminate Duplicate Processing. Published: Nov 19, 2014. (https://www.gao.gov/products/GAO-15-82)

Promoting the Use of AI to Enable a Quicker Path to New Capabilities

DHS will procure an enterprise-wide FOIA processing solution that expands the availability of AI and computer-assisted review tools –and the time-saving benefits of these tools—across the agency. As previously discussed, Components have successfully used AI and E-discovery tools to improve searches and save significant hours in labor. Expanding access to these tools will enable all Components to reap these benefits, allowing processors to work more efficiently and reduce the backlog.

Increasing Use of Shared Resources

DHS will identify technology challenges and opportunities to share resources across Components. Technological tools can be prohibitively expensive for Components, particularly smaller Components that have less FOIA demands. Additionally, Components might only occasionally need access to a tool that requires a large investment and annual upkeep costs. Sharing these resources saves the agency valuable resources and reduces the administrative work required for Components to identify, procure, and maintain their own tools.

Sharing technology services benefits the Department by reducing costs and improving services.

Fostering Innovation to Improve Operational Efficiency

DHS will continually look for methods to improve operations and recognize and reward innovations that improve operational efficiency. Our employees bring a wealth of insight and experiences to DHS FOIA operations and often make suggestions that improve our processes. In 2019, the DHS Privacy Office presented the 2019 Sunshine Award for Exceptional Service by a FOIA Professional at the General Schedule GS-7 or GS-9 level to an employee who proposed, developed, and implemented a new process that significantly decreased the FOIA team's dependence on an external database; this innovation saved OBIM significant processing time and contributed to keeping OBIM's backlog at a very low level. DHS will continue to welcome new ideas and innovations and recognize employees for their contributions.

Goal 4: Improve FOIA Workforce Engagement by:

-Demonstrating Investment in Front-line Employees

-Establishing Government Information Specialist (FOIA) Career Paths

-Automating Routine Work Enabling Employees to Focus on the More Complex Tasks

-Changing the Culture of the FOIA Employee/Stakeholder Relationship

DHS recognizes the value of our FOIA employees and commits to creating a dynamic work environment that provides them with the resources and support necessary to succeed. DHS will accomplish this by showing our FOIA employees we value their contributions and investing in the workforce, creating a sustainable staffing model for DHS Component FOIA Offices establishing a career ladder that rewards talented employees, lowering the administrative burden of the FOIA staff, and setting FOIA employees up to have productive relationships with our requesters.

Demonstrating Investment in Front-line Employees

DHS will improve workforce engagement by providing front-line employees and supervisors with resources to support their success and highlighting their accomplishments. This investment in FOIA employees will improve performance by providing targeted training and making resources readily available and contribute to strong employee morale.

The DHS Privacy Office will create opportunities for Component FOIA Officers to provide FOIA employees with targeted, DHS-specific training on disclosure issues. In addition to improving understanding of DHS's policies and practices, these training sessions will allow Component FOIA employees to learn more about operations at other Components and exchange best practices.

Building a DHS FOIA Community of Practice will improve consistency of FOIA operations across DHS.

The DHS Privacy Office will also assist Component FOIA employees and Officers by expanding the DHS FOIA Employee Resources page on the Department's intranet site, which is accessible to all Department employees. This internal site includes links to resources, DHS FOIA policies, highlights DHS-wide FOIA training opportunities, and is a repository for DHS-specific training materials. The DHS Privacy Office will continue to build out the page to address common issues that DHS FOIA employees face and create an online community of practice for employees to use for guidance. The DHS Privacy Office will also work with Component FOIA Officers to develop and promote best practices for FOIA program management. The DHS Privacy Office will also make available resources to assist

Component FOIA Officers, including sample FOIA performance metrics, and examples of leadership awareness reports.
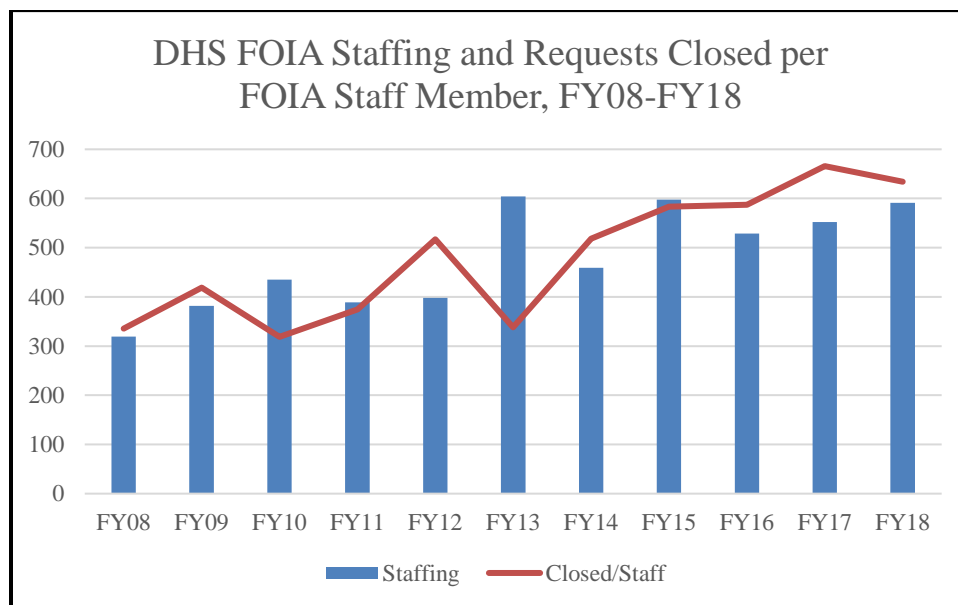
The DHS Privacy Office will also continue to promote the Sunshine Awards Program. This program recognizes exceptional DHS FOIA employees at the GS-7 through GS-15 level. In addition to presenting the awards to these employees during Sunshine Week, the DHS Privacy Office will recognize them on the DHS FOIA Employee Resources page throughout the year, and alert agency and Component leadership about the work that earned the special recognition. The DHS Privacy Office will also look for ways to recommend exceptional FOIA employees for awards outside of the organization, such as through awards programs run by DOJ OIP and other professional organizations.

Establishing Government Information Specialist (FOIA) Career Paths

DHS will create a sustainable staffing model for Component FOIA Offices and establish a career path that allows FOIA employees to advance their careers within DHS. This will ensure that the FOIA program's footprint on the agency is the correct size and that DHS can attract and retain talent.

Adding additional FOIA employees is a common backlog reduction strategy and does generally result in more requests processed each year. However, adding employees does not always have the expected outcome. In particular, DHS has struggled to maintain productivity levels when additional employees are added to the staff. DHS reached its highest FOIA staffing level in FY 2013 with a FOIA staff of 604; during that reporting period DHS processed about 338 requests per member of the staff, a similar number to the amount of requests processed per staff member in FY 2018, when DHS had its lowest level of FOIA staffing (319). In FY 2017, DHS had a FOIA staff of 552 and processed almost 667 FOIA requests per staff member.

Figure 8: DHS Staffing and Requests Closed per FOIA Staff Member
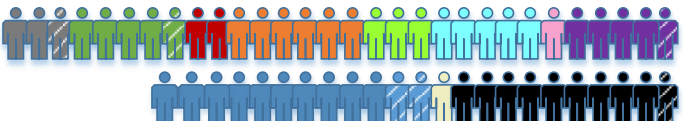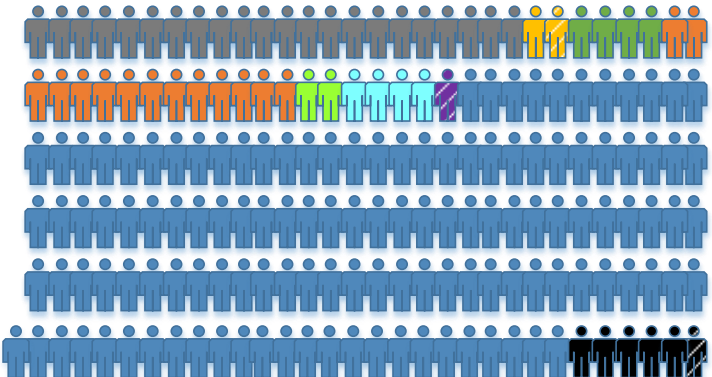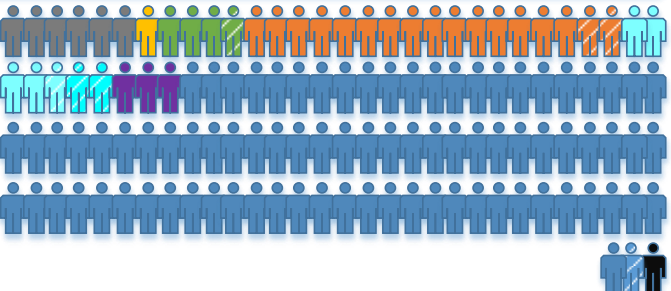
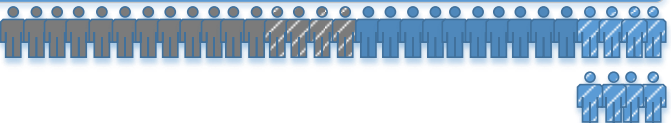# DHS FOIA Staffing

as of 6/25/19

GS 15

GS 14

GS 13

GS 11/12

GS 7/9

GS 3/4/5/6

CBP   CISA   FEMA   FLETC   I&A   ICE   OIG

PRIV   S&T   TSA   USCIS   USCG   USSS   Vacant as of 6/25/19

Snapshot of DHS FOIA staffing as of June 25, 2019.

A DHS FOIA staffing model will ensure that DHS maintains productivity and assist Components in adequately staffing FOIA Service Centers. The model will be based on improved reporting of FOIA costs that include salaries, employee benefits, non-personnel direct costs, indirect costs, and cost for other offices,[16] and take into account metrics that better capture the amount of work required to process a request – including the number of pages reviewed and amount of information redacted – and take into account factors like the complexity and sensitivity of a Component's records, the Component's risk threshold, and the impact of the use of contractors. The DHS Privacy Office will also look at the quality of data currently collected to measure FOIA staff productivity and recommend practices that ensure the data is continuously evaluated and reflective of the work completed by FOIA staff.

The DHS Privacy Office will also work with Components to create a common career ladder for Government Information Specialists. The career ladder will take advantage of the broad range in the type and complexity of records commonly processed at Components to allow employees to progress in their careers. This will help ensure that DHS benefits from the early investments and training provided to employees, and that DHS is in a better position to recruit and retain employees.

Automating Routine Work Enabling Employees to Focus on the More Complex Tasks

As previously discussed, DHS will automate routine work to allow employees to focus on more complex tasks. Relieving employees of the administrative burden also furthers the professionalization of the Government Information Specialist job series. DHS will accomplish this by enabling requesters to submit requests electronically thereby reducing duplicate FOIA requests and looking for other ways to streamline administrative processes.

Changing the Culture of the FOIA Employee/Stakeholder Relationship

DHS will give FOIA employees the resources and support necessary to effectively collaborate with requesters. The DHS Privacy Office will ensure that Component FOIA Public Liaisons[17] and front-line employees have opportunities to develop and hone skills that help them develop strong working relationships with requesters. These opportunities will include training sessions in dispute resolution skills through the OGIS, sharing guidance and best practices in communication from the DOJ OIP, and informal brown bags with members of the requester community.

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[16]GAO-15-82: FOIA: DHS Should Take Steps to Improve Cost Reporting and Eliminate Duplicate Processing. Published: Nov 19, 2014. (https://www.gao.gov/products/GAO-15-82)

[17] *Openness Promotes Effectiveness in our National Government Act of 2007*, Pub. L. No. 110-175, 121 STAT. 2524 (Dec. 31, 2007).

Goal 5: Strengthen the FOIA Policy and Oversight Framework

-Clarifying and Delineating Authorities and Responsibilities

-Solidifying FOIA Officer Relationships

-Establishing a DHS FOIA Compliance and Oversight Program

Clarifying and Delineating Authorities and Responsibilities

DHS will clarify the authority of the Chief Privacy Officer with respect to carrying out the various duties of the DHS Chief FOIA Officer, and delineate the responsibilities of the DHS leadership, Component leadership, the DHS Privacy Office, and Component FOIA Officers. This will improve the quality and consistency of DHS FOIA policies and practices, and enable the DHS Privacy Office to better coordinate agency actions to address the backlog.

Under DHS Delegation Number 13001, "Delegation to the Chief Privacy Officer," dated August 29, 2011, and DHS Directive Number 262-11, "Freedom of Information Act Compliance," dated April 17, 2017, the DHS Chief Privacy Officer is the Department's Chief FOIA Officer.[18] Agency Chief FOIA Officers have statutory responsibility for monitoring FOIA operations across the Department and recommending adjustments to agency practices, policies, personnel, and funding as may be necessary to improve performance, providing FOIA-related training, and preparing the required annual reports on the Department's FOIA performance.[19] While Components are subject to the oversight of the Chief Privacy Officer, operations at DHS are decentralized and DHS Components are responsible for establishing and maintaining their own FOIA programs. Past Component-led efforts to address the backlog have had short-term benefits, but a lack of central coordination leads to the backlog increase at other Components.

DHS will address the challenges created by decentralization by providing additional clarity around the role of the Chief Privacy Officer to more effectively carry out the statutory duties of the Chief FOIA Officer. Specifically, DHS will designate the Chief Privacy Officer to oversee the management of the DHS FOIA program, develop and issue guidance on FOIA procedures, and establish standardized processing solutions throughout the Department to improve compliance and coordination.

In addition to improving the coordination of backlog reduction efforts, clarifying the Chief Privacy Officer's role will improve the DHS Privacy Office's ability to plan for future challenges and ensure the DHS Privacy Office can provide guidance that will lead to a reduction in the number of FOIA processing solutions in use at the Department. The goal of the Chief Privacy Office is to reduce duplication of efforts, improve referrals and consultations, and share

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[18] *See*: https://www.dhs.gov/foia-statutes-resources.
[19] *FOIA Improvement Act of 2016*, Pub. L. No. 114-185, 130 Stat. 538 (2016) (provisions codified at 5 U.S.C. § 552) and Pub. L. No. 110-175 (Dec. 31, 2007).

manpower. Further, these authorities will improve the quality of DHS-specific training, ensure consistency in disclosures, and increase compliance.
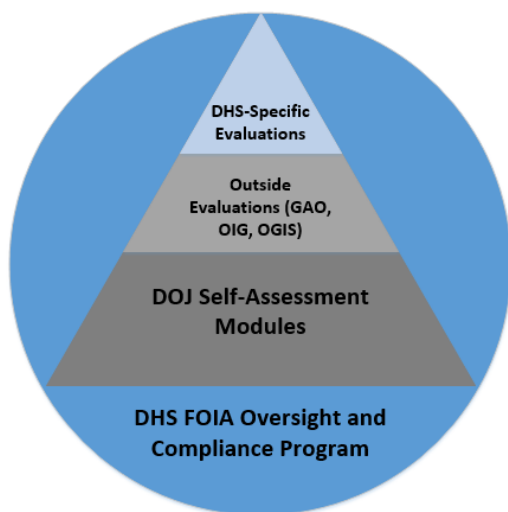
Solidifying FOIA Officer Relationships

DHS will solicit input from Component FOIA Officers and earn buy-in on strategic decisions through the DHS FOIA Council. As previously noted, the Council Charter gives Council members the responsibility for setting the strategic agenda for Council activities, including identifying common interests or common needs of the FOIA community and setting goals and performance measures. Additionally, the Council Charter provides the Chair with the responsibility to provide directions and final decisions on all FOIA issues before the Council after discussion, and to seek to resolve or mitigate any concerns or objections before final decisions are made.

Establishing a DHS FOIA Compliance and Oversight Program

The DHS Privacy Office will create a DHS FOIA Compliance and Oversight Program. This program will surface shared challenges across Components and encourage Components to implement best practices. The program will also alert the DHS Privacy Office to any emerging issues and allow the DHS Privacy Office to address these issues through the issuance of guidance or policies.

In FY 2018, Component FOIA Officers completed all 13 modules of the DOJ OIP Self-Assessment Toolkit, and the DHS Privacy Office reviewed and compiled results to identify shared challenges and best practices to improve the Department's FOIA performance. This notable effort created a baseline understanding of shared challenges and pointed towards initiatives that will help improve Component FOIA performance.

The DHS FOIA Oversight and Compliance Program involves regular responses to DOJ Self-Assessment Modules, outside evaluations of DHS FOIA operations, and DHS-specific evaluations.

The DHS Privacy Office will build on this investment by creating a robust FOIA Compliance and Oversight Program. This program will require that Component FOIA Officers complete certain sets of modules each year and submit the results to the DHS Privacy Office. Each Component must complete all of the modules within three years.

The DHS Privacy Office will supplement the self-assessment program with audit reports and evaluations completed by the DHS Privacy Office staff, the GAO, Component Inspectors General, and OGIS. Additionally, the DHS Privacy Office will develop modules tied to DHS-specific FOIA issues and policies.

Conclusion

DHS is committed to building a modern, mature, and sustainable FOIA program by embracing a forward-looking workforce and information management techniques, leveraging technology, enhancing our systems, and rebuilding our processes. This mature FOIA program will include an improved IT infrastructure, a more engaged FOIA workforce, and a stronger FOIA policy and regulatory environment that better serves the needs of the public and the Department. As we carry out this plan, DHS FOIA will continue to look for innovative solutions to improve the process and strive to provide the highest level of service to stakeholders inside and outside of the government.