

**National Endowment for the Humanities
2017 Chief FOIA Officer Report**

(Agencies Receiving 50-1,000 Requests in FY2015)

**Content of 2017 Chief FOIA Officer Reports
Margaret Plympton, Deputy Chair and Chief FOIA Officer**

Section 1: 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?

Answer: Yes.

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

Answer: During the reporting period, our primary FOIA professional attended the FOIA Public Liaison and FOIA Requester Service Center Training on the FOIA Improvement Act of 2016 offered by OIP in August 2016; she also attended the Annual and Chief FOIA Officer's report refresher sessions at OIP. Our new staff attorney with FOIA responsibilities, who started working at NEH in January 2016, attended the *Introduction to the FOIA* seminar in November 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.

Answer: Approximately 70%. During the reporting period, NEH had four FOIA professionals (three attorneys and one paralegal) in the Office of the General Counsel (OGC) assigned to process FOIA requests and work on FOIA matters. The FOIA professional with primary FOIA responsibility and our new attorney attended training held by OIP, as described above. One of the attorneys resigned from her position half-way through the reporting period and did not attend substantive FOIA training, also the third attorney with FOIA duties also did not attend training this year.

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.

Answer: Each year NEH plans for its FOIA professionals, currently the three OGC staff members with part-time FOIA responsibilities, to attend substantive training. During the next reporting period, NEH's primary FOIA professional will attend at least two OIP-facilitated workshops. Also, all OGC staff working on FOIA routinely review the OIP website and other sources to keep apprised of training opportunities and attend training when possible. NEH is investigating the possibility of implementing an electronic learning management system so that it may offer to staff the electronic training modules developed by OIP.

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?

Not required of agencies such as NEH which received less than 1,000 FOIA requests in Fiscal Year 2016.

C. Other Initiatives

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

Answer: Our primary FOIA professional conducts one-on-one training verbally and in writing, as needed, to provide refreshers about the FOIA responsibilities and to respond to specific questions.

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.

Answer: NEH regularly posts new information about agency activities on its website. For example, it posts press releases about funded projects, lists of recent grant awards, sample grant application narratives, speeches by the NEH Chairman, information on grant administration, application guidelines, annual agency reports (e.g., Performance and Accountability reports, Service Contract Inventory reports, etc.) and the full text of *Humanities*, NEH's bimonthly magazine.

NEH also maintains on its website its organizational chart and staff directory; biographies and photographs of some of its senior staff; webpages for its Office of Communications and Public Affairs, and its Office of Congressional Affairs; a social media index, which contains NEH as well as office and division specific RSS feeds and Twitter page links; a section called *Explore*, which contains an interactive database of websites, applications, and NEH-supported digital projects; and guidelines on using NEH's logo (e.g., how to use it in print and electronic communications).

<http://www.neh.gov/about/legal/reports> (budget and performance reports)
<https://www.neh.gov/news/press-release/December2016Grants> (grants awarded)
<http://www.neh.gov/about/foia/library> (credit card holders)
<http://www.neh.gov/about/staff> (searchable staff directory)
<http://www.neh.gov/grants/research/awards-faculty-hispanic-serving-institutions> (sample of grant guidelines)
<http://www.neh.gov/humanities> (*Humanities* magazine)
<http://www.neh.gov/about/chairman> (biography of Chairman, links on this site include those to the Chairman's speeches, the biography of the Deputy Chairman, Offices of Communications and Congressional Affairs)
<http://www.neh.gov/brand-materials> (guidelines for use of NEH logo)

Section II: Steps Taken to 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? Please see Section VIII.A. of your agency's Fiscal Year 2016 Annual FOIA Report.

Answer: In Fiscal Year 2016, NEH received one request for expedited processing and adjudicated this request within three 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.

Answer: 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.

Not required of agencies such as NEH which received less than 1,000 FOIA requests in Fiscal Year 2016.

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.

Answer: Approximately 25%.

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.

Answer: NEH's FOIA Public Liaison is available to receive feedback from requesters, as is our primary FOIA professional who interacts regularly with requesters and sends feedback to the Public Liaison. The contact information for our Public Liaison and Primary FOIA professional is given on the NEH website; in every acknowledgement of a request, we provide the requester with the name and contact information of the analyst who will process their request. Also, as required in the FOIA Improvement Act of 2016, in every FOIA response letter NEH provides the requester with the contact information for our FOIA Public Liaison.

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.

Answer: No requesters sought assistance from the NEH FOIA Public Liaison in 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.

Answer: <https://www.neh.gov/about/foia/how-to-submit-foia-request>

C. Other Initiatives

8. 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.

Answer: Our primary FOIA professional is in regular contact with the various NEH divisions and offices responsible for searching for records responsive to a FOIA request, to offer assistance or advice. For each FOIA request, the search process is coordinated by a single staff member tasked with handling FOIA requests for records from their particular office.

Our FOIA professionals are always available to any NEH staff for consultations on the search process, FOIA regulations and any other issue that might arise.

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.

Answer: Prior to Fiscal Year, 2016, our FOIA professionals regularly reviewed the NEH FOIA log and automatically evaluated any record that had been requested twice as a potential "frequently requested" record. In Fiscal Year 2016, NEH revised its process for identifying "frequently requested records" and began reviewing all responsive documents for posting to the NEH FOIA Library. With the exception of documents responsive to first-party requests or those involving OIG investigations into an individual, the NEH posted almost all responsive documents to the NEH FOIA Library in Fiscal Year 2016.

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.

Answer: Yes. Program officers in the various NEH divisions select samples of grant application narratives from projects NEH has funded, and forward them to the OGC FOIA professionals for review before NEH posts them online with agency grant guidelines, and in NEH's electronic FOIA Library.

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

Answer: No.

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

Answer: Not Applicable.

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

Answer: On a regular basis, we proactively release sample grant narratives and other documents we feel will be of interest to the public. NEH also regularly releases financial reports concerning NEH's grant-making and budget; maintains a list of NEH credit card holders and our complete staff directory on our website. Please see Question 7, in Section I, above, for more information and links to these items on our website.

Additional links:

<http://www.neh.gov/about/foia/freedom-information-act-sample-grant-application-narratives> (sample grant narratives)

http://www.neh.gov/files/dmp_from_successful_grants.zip (a file of data management plans submitted by successful grantees)

<https://www.neh.gov/grants/research/awards-faculty-tribal-colleges-and-universities>

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

Answer: Yes. The NEH Office of Communications uses social media to publicize important proactive disclosures, such as updated grant guidelines with sample narratives. Also, some NEH program divisions and offices publicize proactive disclosures through their program blog, unique social media account, and/or through newsletters they send to program's e-mail subscribers.

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?

Answer: Please see Section III, Question 1.

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?

Answer: Yes. NEH continues to fine-tune the search feature of its website. Furthermore, NEH ensures that every page of the website, including materials posted, is accessible on mobile devices.

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

Answer: NEH maintains a search results interface which allows users to sort results by various fields. During the reporting period, NEH has increased the accessibility of materials on its website by increasing the amount of alt-text (descriptive text that is

inserted or attached to an image and which can be read by machine readers). Also, NEH has improved video accessibility has through the increased use of captions.

B. Other Initiatives

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

Answer: 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.

Answer: 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?

Answer: 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?

Answer: Yes. The NEH processed all simple requests within twenty working days, with an average of 13.1 days for processing.

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

Answer: 87%

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?

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

Answer: NEH had no backlogged requests at the end of Fiscal Year 2015 or 2016.

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.

Answer: Not applicable

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.

Answer: Not Applicable.

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 2015? If not, explain why and describe the causes that contributed to your agency not being able reduce backlog.

Answer: NEH had no backlog of appeals at the end of Fiscal Year 2015 or 2016.

9. 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 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.

Answer: 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. If your agency did not receive any appeals in Fiscal Year 2016 and/or has no appeal backlog, please answer with "N/A."

Answer: 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 Year 2015 Annual FOIA Report?

Answer: Yes. In its Fiscal Year 2015 report, NEH reported four requests as pending; NEH closed all four of them in Fiscal Year 2016.

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.

Answer: Not Applicable.

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?

Answer: None were withdrawn; NEH completed processing and responded to all four requests.

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?

Answer: NEH did not have pending appeals in our Fiscal Year 2015 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.

Answer: 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?

Answer: NEH did not have pending consultations in our Fiscal Year 2015 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.

Answer: 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.

Answer: NEH did not face obstacles in this regard; NEH closed its four pending requests from Fiscal Year 2015 in Fiscal Year 2016, and did not have pending appeals or consultations at the end of Fiscal year 2015.

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.

Answer: 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.

Answer: Not Applicable.

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.

NEH processed 95% of our FOIA requests within 20 days or less.

In Fiscal Year 2016, NEH successfully implemented and continues a policy of uploading to our FOIA Library almost all response documents sent out to requesters.