

## 2017 Chief FOIA Officer Report

### Tennessee Valley Authority

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

The guiding principle underlying the President's **FOIA Memorandum** and the DOJ's **2009 FOIA Guidelines** is the presumption of openness.

Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working 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?
2. If yes, please provide a brief description of the type of training attended and the topics covered.

TVA's FOIA professionals participated in workshops, conferences and webinars sponsored by the Department of Justice Office of Information Policy (OIP) and the American Society of Access Professionals (ASAP) most recently in 2016. In addition, the FOIA Officer and TVA's advisory attorney stay informed of news and developments in FOIA through online resources available from the Department of Justice such as FOIA Post and the FOIA Guide; membership in professional organizations such as the American Society of Access Professionals (ASAP); subscriptions to newsletters such as Access Reports; and through social media sites such as the FOIA Blog, among others. Both the FOIA Officer and the primary advisory attorney who supports the FOIA Office have more than 10 years experience working with FOIA.

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

100% (FOIA Officer and primary advisory attorney)

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.

N/A.

### ***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?

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

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

FOIA training and counsel is provided to agency personnel by the FOIA Officer and TVA's advisory attorney year-round, as needed. TVA's standard operating procedures governing communications incorporate the presumption of openness and outline the responsibilities of all agency personnel to comply with the requirements of FOIA.

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.

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

The DOJ's [2009 FOIA Guidelines](#) emphasized that "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies effectively manage their FOIA program.

Please answer the following questions to describe the steps your agency has taken to ensure that the management of your FOIA program is effective and efficient. You should also include any additional information that describes your agency's efforts in this area.

### ***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.

Five (5) days

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

N/A.

3. *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.

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.

TVA processed 27 FOIA requests from commercial use requesters. This represents 12% of the total requests processed.

### ***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.

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.

1-2.

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

<https://www.tva.com/Information/Freedom-of-Information/A-Guide-to-Information-About-The-Tennessee-Valley-Authority>

### ***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.

TVA's Enterprise Content Management (ECM) project is one example. The ECM project is a multi-year endeavor to modernize content management at TVA including improved search capabilities and records management. ECM allows the FOIA Office, in some cases, to search for records responsive to FOIA requests directly rather than relying on the internal TVA organizations to provide them.

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

Both the **President's** and **DOJ's** FOIA memoranda focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

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

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

The FOIA Officer closely monitors information requested under FOIA to identify records that meet the requirement for online posting.

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.

The TVA FOIA Office is part of TVA's Communications & Marketing organization. As such, the FOIA Office is closely aligned with TVA's Public & Community Relations team. This alignment, along with knowledge of information being requested under FOIA, allows the FOIA Office to stay abreast of issues and information of interest to the public and to advocate for the proactive disclosure of such information.

TVA has several processes in place to proactively disclose activities, decisions and records including, but not limited to, the following: Sarbanes-Oxley Program (disclosures in financial reporting including 10-Qs, 8-Ks and 10-Ks); news releases, media advisories, social media posts

and website postings; Federal Register notices; and newspaper advertisements (public notices), among others.

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

No.

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

N/A

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

[SEC Financial Filings](#)

[Environmental Reviews](#)

[Determination on the Regulation of Pole Attachments](#)

[TVA Newsroom](#)

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

Communication channels include the TVA website; TVA social media channels (Facebook, Twitter, Instagram, You Tube, LinkedIn, Flickr); traditional news releases, advisories, alerts, and statements; media interviews and appearances on television news shows featuring TVA leadership and subject matter experts; public meetings, and tours of TVA facilities.

### ***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?

We review web analytics from the TVA website to determine stakeholders' primary areas of interest and work to continually improve the content and usability of the information available. We have had no feedback from FOIA requesters indicating an interest in having records they receive in response to FOIA requests posted online.

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

A key component of the President's **FOIA Memorandum** was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that that describes your agency's efforts in this area.

##### ***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?

In 2015, we executed a complete overhaul of TVA's web properties to enhance our ability to make information available to our users.

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

The web redesign focused on streamlining available content, a mobile-first approach, improved usability, and an all-new search engine. TVA also has a Lake Info app, an easy-to-use resource for operating on and around reservoirs and dams in the TVA region. TVA has several feedback mechanisms in place for website visitors to comment on all aspects of information posted on its website and strives for continuous improvement.

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

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

TVA posted all four quarterly reports for Fiscal Year 2016 on the TVA website. Quarters 1-3 appeared on FOIA.gov. Quarter 4 did not appear on FOIA.gov, but TVA is taking steps to ensure all reports appear there in the future.

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.

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

The President's **FOIA Memorandum** and the DOJ's **2009 FOIA Guidelines** have emphasized the importance of improving timeliness in responding to requests. This section of your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations.

*For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2016 Annual FOIA Report and, when applicable, your agency's 2015 Annual FOIA Report.*

### **A. Simple Track**

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

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

Yes.

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

Yes.

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

73%, an increase of 11% over Fiscal Year 2015.

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?

### **B. Backlogs**

Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2015 and Fiscal Year 2016 when completing this section of your Chief FOIA Officer Report.

## **BACKLOGGED REQUESTS**

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

No.

At the end of Fiscal Year 2015, TVA had 11 requests that had been pending more than 20 business days. At the end of Fiscal Year 2016, TVA had 13 perfected requests that had been pending more than 20 business days. All requests pending more than 20 business days were placed in the multi-track system in accordance with TVA's FOIA regulations.

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:

All "backlogged" requests at the end of Fiscal Year 2015 were completed in Fiscal Year 2016. The majority of the 13 "backlogged" requests at the end of Fiscal Year 2016 had been pending less than 60 days and have since been completed. Three high volume requests, one of which requires over 100 submitter notices, are continuing to be processed in Track 3 of TVA's multi-track processing system. Requesters declined offers to narrow the scope of these requests so that they could be processed faster.

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.

The 13 "backlogged" requests represent 6% of the total requests received in Fiscal Year 2016 (212).

## **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.

TVA did not have any backlog of appeals in either Fiscal Year 2015 or Fiscal Year 2016.

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

N/A.

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."

N/A.

### ***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?

Yes.

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.

N/A.

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

None were withdrawn.

#### **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?

TVA did not have any appeals pending at the end of Fiscal Year 2015.

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.

N/A.

### **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?

TVA did not have any consultations pending at the end of Fiscal Year 2015.

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.

N/A.

### ***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.

N/A.

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.

N/A.

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.

N/A.