

2017 Chief FOIA Officer Report

Gulf Coast Ecosystem Restoration Council

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Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's [FOIA Memorandum](#) and the Attorney General'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.

FOIA Training:

1. Did your agency conduct FOIA training during the reporting period for FOIA professionals?

- Training can include holding an agency-wide FOIA conference, holding a seminar on a particular FOIA topic, or providing training to FOIA or agency staff during a staff meeting, among other types of training.
- The training provided here should be substantive and should cover the application of the law and policy. Conversely, your agency's efforts to provide training on the use of technology or IT tools (such as case management systems) that assist in the processing of requests should be addressed below in response to Question 4 of Section IV of your Chief FOIA Officer Report.

Answer: Yes.

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

Answer: All professional staff (GS 11 and higher) received FOIA training in March of 2016. The Chief FOIA Officer has attended several FOIA trainings as part of his SES responsibilities.

3. If no, please explain why your agency did not hold training during the reporting period, such as if training offered by other agencies was sufficient for your agency's training needs.

Answer: N/A

4. Did your FOIA professionals attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice?

- Such training or events can include offerings from OIP, your own agency or another agency or organization.

Answer: No.

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

Answer: N/A

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

Answer: With a small staff of approximately 20 FTE at the end of Fiscal Year 2016, the Deputy Executive Director serves as the Chief FOIA Officer and an administrative serves as the Records Management Officer. The 2016 Annual FOIA Report for GCERC estimated 0.022 FTE to process a total of 3 FOIA requests received during the fiscal year.

Discretionary Releases:

7. Does your agency have a distinct process or system in place to review records for discretionary release?

- If so, please briefly describe this process.
- If your agency is decentralized, please specify whether all components of your agency have such a process or system in place?

Answer: Yes. Spurred by the *Deepwater Horizon* oil spill, the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012, or the RESTORE Act, was signed into law by President Obama on July 6, 2012. The Gulf Coast Ecosystem Restoration Council (GCERC) was created in 2012 and as of fiscal year 2015 was formally established as a new, independent Federal agency with a clear mission to implement a long-term, comprehensive plan for the ecological and economic recovery of the Gulf Coast region. On May 22, 2015 published in the Federal Register (adding part 1850 to 40 CFR chapter VIII) a rule that sets forth the Gulf Coast Ecosystem Restoration Council's (Council) regulations regarding FOIA, Privacy Act (PA), and declassification and public availability of national security information. The FOIA requires each federal agency to promulgate regulations implementing the provisions of those laws and this Final Rule fulfills that mandate, facilitating public access to Council records. The rule became effective June 22, 2015.

8. During the reporting period, did your agency make any discretionary releases of information?

Answer: Yes.

9. What exemption(s) would have covered the material released as a matter of discretion? For a discussion of the exemptions that allow for discretionary releases, please see OIP's guidance on implementing the President's and Attorney General's 2009 FOIA Memoranda.

Answer: N/A

10. Provide a narrative description, as well as some specific examples, of the types of information that your agency released as a matter of discretion during the reporting year.

Answer: GCERC provides online access to GCERC final actions to facilitate public awareness of

those decisions as well as to reduce the need to seek these documents through FOIA protocols established by the federal government and further articulated through the Council's FOIA Final Rule. The GCERC FOIA Library is found at: <https://www.restorethegulf.gov/resources/council-documents-foia-library>. If the a FOIA request is deemed necessary by an interested party, the process for making that request is provided on the website, including the following email account to submit your request: foiarequest@restorethegulf.gov (link sends e-mail). Alternatively, the requestor can also directly contact the Chief FOIA Officer or Records Management Officer.

If your agency was not able to make any discretionary releases of information, please explain why. For example, you should note here if your agency did not have an opportunity to make discretionary disclosures because you provided full releases in response to all requests or the only exemptions that were applied were those that do not lend themselves to discretionary release (i.e. Exemptions 1, 3, 4, 6, 7A, 7B, 7C, 7F).

Answer: N/A

Other Initiatives:

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

- Efforts can include training for non-FOIA professionals, distributing memoranda on the FOIA, announcements on FOIA matters, making available OIP's FOIA for Senior Executive's briefing video, distributing the FOIA infographic developed by OIP, having your agency staff take OIP's FOIA for all Federal Employees eLearning module, etc.

Answer: All GCERC staff were required to take an on-line FOIA training during 2016. Participation was tracked and recorded; all 13 FTEs to whom this requirement applied completed the training.

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

The Attorney General'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 that describes your agency's efforts in this area.

Processing Procedures:

1. For Fiscal Year 2015, 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 2015 Annual FOIA Report.

- Please note here if your agency did not adjudicate any requests for expedited processing during Fiscal Year 2016.

Answer: No expedited requests were received.

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: N/A

3. If your agency has a decentralized FOIA process, has your agency taken steps to make the routing of misdirected requests within your agency more efficient? If so, please describe those steps.

- If your agency is already handling the routing of misdirected requests in an efficient manner, please note that here and describe your process for these requests.

Answer: Yes. GCERC has an internal communications network, primarily based on Goggle Drives, that has enhanced communication between and among the GCERC dispersed staff (which ranges from our Headquarters in New Orleans, LA, to Washington, DC, Florida, Texas, Mississippi, and Louisiana. Requesters may submit their request to foiarequest@restorethegulf.gov (link sends e-mail) . The Records Management Officer and the Chief FOIA Officer monitors this email account and forwards the request to the appropriate location.

4. On July 2, 2015, OIP issued new guidance to agencies on the proper procedures to be used in the event an agency has a reason to inquire whether a requester is still interested in the processing of his or her request. Please confirm here that to the extent your agency may have had occasion to send a "still interested" inquiry, it has done so in accordance with the new guidelines for doing so, including affording requesters thirty working days to respond.

Answer: GCERC did not have cause to send a "still interested" inquiry during the reporting period. GCERC's communication with requesters is conducted in a respectful and customer friendly manner and is in accordance with OIP's new guidance.

Requester Services:

5. Agency FOIA Requester Service Centers and FOIA Public Liaisons serve as the face and voice of an agency. In this capacity they provide a very important service for requesters, informing them about how the FOIA process works and providing specific details on the handling of their individual requests. The FOIA also calls on agency FOIA Requester Service Centers and FOIA Public Liaisons to assist requesters in resolving disputes. Please explain here *any steps your agency has taken to strengthen these services to better inform requesters about their requests and to prevent or resolve FOIA disputes.*

- If your agency has not taken any steps recently to strengthen these services, either because there has been no need to due to low demand or because these services are already robust, please briefly explain that that here.

Answer: GCERC receives a relatively small number of FOIA requests compared to many other federal agencies (less than 10r year). As such, the majority of requests are processed under 30 business days of receipt. The GCERC provides a contact information on its website for the public to utilize for the status of a FOIA request. A phone number is also provided and any messages to this line are generally

returned within 24 hours.

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

Answer: N/A.

Section III: Steps Taken to Increase Proactive Disclosures

Both the President's and Attorney General'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.

Posting Material:

1. Describe your agency's process or system for identifying "frequently requested" records required to be posted online under Subsection (a)(2) of the FOIA. For example, does your agency monitor its FOIA logs or is there some other system in place to identify these records for posting.

Answer: The GCERC Records Management Officer and Chief FOIA Officer monitor its online requests to closely monitor information requested under FOIA to identify records that meet the requirement for online posting under Subsection (a)(2) of the FOIA.

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.

a. Please note that this question is directed towards proactive disclosure of records that go beyond frequently requested records required to be posted under Subsection (a)(2) of the FOIA.

Answer: Yes, all documents resulting from final agency action and appropriate supporting documents are posted on the GCERC FOIA Library (see <https://www.restorethegulf.gov/resources/council-documents-foia-library>).

3. When making proactive disclosures of records, are your agency's FOIA professionals involved in coding the records for Section 508 compliance or otherwise preparing them for posting? If so, provide an estimate of how much time is involved for each of your FOIA professionals and your agency overall.

a. Please note that this question is directed at the efforts of actually posting the records online once all disclosure determinations have been made. For example, efforts to load the records in your web content platform or making the releasable documents accessible in compliance with Section 508 of the Rehabilitation Act.

Answer: GCERC's FOIA professionals are generally not involved in preparing archival records for posting online. Rather, GCERC has a separate web staff that performs this function, including the

coding of records for Section 508 compliance.

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

Answer: No.

5. If so, please briefly explain those challenges.

Answer: N/A

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

Answer:

Gulf Coast Ecosystem Restoration Council Comprehensive Plan Update 2016, Restoring the Gulf Coast's Ecosystem and Economy. https://restorethegulf.gov/sites/default/files/CO-PL_20161208_CompPlanUpdate_English.pdf

Resources and Ecosystem Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act (RESTORE Act) Initial Funded Priorities List. December 2015. https://restorethegulf.gov/sites/default/files/FPL_forDec9Vote_Errata_04-07-2016.pdf

Gulf Coast Ecosystem Restoration Council Record of the Establishment of National Environmental Policy Act Procedures and Categorical Exclusion. https://restorethegulf.gov/sites/default/files/EC_Council_NEPA_Procedures_Record%20of%20Establishment.pdf

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

a. For example, this can be done through social media or with the offering of e-mail subscription services.

Answer: Yes. The GCERC provides a mailing list advertised on the Council website through which GCERC announcements are made. The announcements are also archived on the website (see <https://www.restorethegulf.gov/outreach/restore-council-announcements>).

Other Initiatives:

8. If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.

Answer: N/A

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.

Making Material Posted Online More Usable:

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

- Steps can include soliciting feedback on the content and presentation of posted material, improving search capabilities on your agency website, posting material in open formats, making information available through mobile applications, providing explanatory material, etc.

Answer: No, since the GCERC is a new agency with a new web presence.

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

- If your agency is already posting material in its most useful format, please describe these efforts.

Answer: N/A

Other Initiatives:

3. Did your agency successfully post all four quarterly reports for Fiscal Year 20165?

- Please see OIP's guidance for posting of quarterly reports to ensure that your agency is following all required steps (including using the correct file type and URL structure) so that your quarterly reports are properly appearing on FOIA.gov. (If your reports are posted to your website, but not appearing of FOIA.gov, please contact OIP in order to resolve the issue.)

Answer: Being a new federal agency, this requirement was not understood; GCERC is now working toward compliance.

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: N/A

5. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible? See OIP Guidance, "*The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications*" (Nov. 22, 2013) If yes, what are the different types of electronic means that are utilized by your agency to communicate with requesters?

- If decentralized, please indicate whether all components use email or other electronic

means to communicate with requesters.

- Please note that this includes all types of communications throughout the FOIA process.

Answer: Yes. Email is one means of electronic communication that we use with requesters.

6. If your agency does not communicate electronically with requests as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such limitations? See id.

- If decentralized, please indicate whether any of your agency's components have specific limitations or restrictions for the use of such means and if those components have informed requesters of such limitations.

Answer: N/A

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

The President's [FOIA Memorandum](#) and the Attorney General'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.

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: No.

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

Answer: 100%

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: N/A

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?

Answer: GCERC has no backlogs in either Fiscal Years 2015 or 2016.

6. If not, explain why and describe the causes that contributed to your agency not being able 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: N/A

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 2015.

- To calculate your agency's percentage, you must divide the number of backlogged requests reported in Section XII.A. of your Fiscal Year 2015 Annual FOIA Report by the number of requests received in Fiscal Year 2015, which can be found in Section V.A. of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get the percentage.

Answer: 0%

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?

Answer: N/A.

9. If not, explain why and describe the causes that contributed to your agency not being able reduce 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: 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 2015. If your agency did not receive any appeals in Fiscal Year 2015 and/or has no appeal backlog, please answer with "N/A."

- To calculate your agency's percentage, you must divide the number of backlogged appeals reported in Section XII.A. of your Fiscal Year 2015 Annual FOIA Report by the number of appeals received in Fiscal Year 2015, which can be found in Section V.A. of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get the percentage.

Answer: N/A

Backlog Reduction Plans:

11. In the 2015 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1,000 requests in Fiscal Year 2014 was asked to provide a plan for achieving backlog reduction in the year ahead. Did you agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2015.

Answer: The GCERC received only 3 FOIA requests in 2016 and all were processed with no backlog for the Fiscal Year.

12. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2015, what is your agency's plan to reduce this backlog during Fiscal Year 2016?

Answer: N/A.

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

13. 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: N/A.

14. 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.

- For example, if you only had seven requests listed as part of your "ten oldest" in Section VII.E. and you closed six of them, you should note that you closed six out of seven "oldest" requests.

Answer: N/A.

15. 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: N/A.

TEN OLDEST APPEALS

16. 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: N/A.

17. 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.

- For example, if you only had seven appeals listed as part of your "ten oldest" in Section VII.C.(5) and you closed six of them, you should note that you closed six out of seven "oldest" appeals.

Answer: N/A.

TEN OLDEST CONSULTATIONS

18. 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: N/A

19. 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.

- For example, if you only had seven consultations listed as part of your "ten oldest" in Section XII.C. and you closed six of them, you should note that you closed six out of seven "oldest" consultations.

Answer: N/A

Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans:

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

Answer: N/A.

21. 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: N/A

22. 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 2016.

Answer: N/A.

Use of the FOIA's Law Enforcement Exclusions

1. Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2016?

Answer: No.

2. If so, please provide the total number of times exclusions were

Answer: N/A.