

## **Time frame for 2015 Chief FOIA Officer Reports**

Unless otherwise noted, your 2014 Chief FOIA Officer Report should address agency activities that have occurred since the filing of last year's Report, which was March 17, 2014, up until the filing of the 2015 Report (March 15, 2015). Thus, the general reporting period for the Chief FOIA Officer Reports is March 2014 to March 2015.

## **Content of 2015 Chief FOIA Officer Reports**

**Name of agency: National Indian Gaming Commission**

**Name and Title of agency Chief FOIA Officer: Eric Shepard**

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

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

#### ***FOIA Training: All Other Agencies***

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

**Answer:** Yes. The FOIA professionals in the NIGC's FOIA Office attended multiple trainings hosted by the U.S. Department of Justice Office of Information Policy in FY 2014.

2. Provide an estimate of the percentage of your FOIA professionals who attended substantive FOIA training during this reporting period.

**Answer:** 100%

3. In the [2014 Chief FOIA Officer Report Guidelines](#), OIP asked agencies to provide a plan for ensuring that core, substantive FOIA training is offered to all agency FOIA professionals at least once each year. Please provide the status of your agency's implementation of this plan.

- Include any successes or challenges your agency has seen in implementing your plan.

**Answer:** At this time, all NIGC employees are required to take the Department of Interior’s annual records management training course that is provided online through DOI Learn. This course incorporates FOIA concepts and describes generally how employees should treat records responsive to requests. Moreover, the agency’s FOIA attorney has developed an in-house training that is delivered annually at agency training events. This training reviews the staff’s responsibilities under FOIA and provides an overview of the Act and its exemptions. In addition, all FOIA staff is encouraged to attend the Department of Justice’s seminars on the FOIA as they are available throughout the year.

***Outreach: All Other Agencies***

**Not required, but agencies may answer the questions for this section if they have information they would like to include.**

6. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA?
  - This question addresses outreach that is conducted outside of the individual request or appeal process. For example, outreach activities can include engaging with frequent requesters by holding meetings or events which include them, conducting surveys or otherwise soliciting requester feedback, or participating in any other requester initiative coordinated by your agency or by others, such as OIP.

**Answer:** None

7. If you did not conduct any outreach during the reporting period, please describe why?

**Answer:** None

***Discretionary Releases: All Other Agencies***

4. 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 at your agency have a process in place for making discretionary releases.

**Answer:** The NIGC has statutory restrictions that limit the scope of information dissemination under FOIA. Specifically, the NIGC is charged by Congress with administering and implementing the Indian Gaming Regulatory Act (IGRA). IGRA mandates that the NIGC “preserve any and all information received pursuant to [its investigative powers] as confidential pursuant to the provisions of paragraphs (4) and

(7) of section 552(b) of Title 5.” 25 U.S.C. § 2716(a). The only exception to this rule is when that information indicates a violation of Federal, State, or Tribal law, in which case it must be provided to the appropriate law enforcement officials. 25 U.S.C. § 2716(b). As part of its statutory responsibilities, the NIGC receives confidential financial information as well as investigatory information. Both of those types of information are exempt under the above listed FOIA exemptions. Given these restrictions regarding disclosure, the NIGC has less discretion to release this information to the public.

Nevertheless, when processing its requests, the agency makes every effort to release nonexempt information by performing a line-by-line review of all responsive materials and consulting with submitters, where necessary, to ascertain what, if any, information can be publicly disclosed. This is especially relevant with respect to the agency’s use of Exemption 5 of the FOIA. The agency closely scrutinizes its application of Exemption 5. Where the material at issue can be reasonably segregated to allow for disclosure of non-exempt information, the agency routinely releases the information. In cases of drafts and working papers, agency staff performs a line-by-line review of each draft and compares it with the final document associated with those drafts, if one exists. Information contained in both the final and draft versions is released and only material that truly conforms with the interests protected by Exemption (b)(5) is redacted.

Finally, in each request, the NIGC has at least three separate individuals reviewing the redactions before they are finalized. Having separate individuals reviewing the same material leads to open discussions as to where discretionary releases can be made. Ultimately, this process leads to more information being provided to the public.

In sum, the NIGC endeavors to release as much information as it can in every request it receives. In particular, the agency carefully scrutinizes its use of Exemptions 5 to ensure that it is not used too broadly. The agency believes that this increases the amount of information that is released to the public in compliance with the presumption of openness.

5. During the reporting period did your agency make any discretionary releases of otherwise exempt information?

**Answer:** Yes. The NIGC made several discretionary releases of information that would have otherwise been eligible for withholding under FOIA Exemption 5.

6. What exemptions would have covered the information that was 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 FOIA Memoranda](#).

**Answer:** FOIA Exemption 5

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

**Answer:** Most of the information released by the agency as a matter of discretion would normally fall under Exemption 5. Specifically, the agency has made discretionary releases of information contained in internal emails, handwritten notes, and draft documents. In these cases, FOIA staff reviews [FOIA Update Vol. I, No. 1](#) (guidance on using the deliberative process privilege) and determines whether the release of information that qualifies under Exemption 5 would reasonably cause foreseeable harm. Where the information is unlikely to cause any harm, the agency heavily considers and normally makes discretionary releases.

7. If your agency was not able to make any discretionary releases of information, please explain why.

**Answer:** Not applicable.

***Other Initiatives: All Other Agencies***

8. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.
  - If any of these initiatives are online, please provide links in your description.

**Answer:** Outside of the context of FOIA requests, the NIGC goes to great lengths to pro-actively release information to the public. The NIGC publishes on its website all discussion drafts of potential changes to its regulations, proposed rules, comments to discussion drafts and proposed rules, and transcripts of every consultation it participated in as part of its recent regulatory review. (See [http://www.nigc.gov/Tribal\\_Consultation/Consultation\\_Policy\\_February\\_2013.aspx](http://www.nigc.gov/Tribal_Consultation/Consultation_Policy_February_2013.aspx)) Copies of final rules are also published on the website.

With respect to the agency's everyday business, the NIGC publishes its decisions with regard to gaming ordinances and management contracts, as well as its Office of General Counsel's legal opinions. ([http://www.nigc.gov/Reading\\_Room.aspx](http://www.nigc.gov/Reading_Room.aspx)). Along with the agency's decision documents, the postings also include redacted versions of the approved management agreements and gaming ordinances.

As a result of the regulatory review and other routine postings of NIGC documents, information that would otherwise have to be requested is already available to the public. When reviewing these documents prior to their posting, the agency strives to release as much of the information as it can. Moreover, the fact that so many of the agency's records are proactively disclosed is evidence of the agency's application of the presumption of openness.

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

As the Attorney General emphasized in his FOIA Guidelines, "[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 your 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.

### ***Personnel: All Other Agencies***

**Not required, but agencies may answer the questions for this section if they have information they would like to include.**

1. In the [2014 Chief FOIA Officer Report Guidelines](#), OIP asked agencies about the status of converting all eligible FOIA professionals to the new Government Information Series. If your agency reported that its staff was eligible for conversion but had not yet converted all professionals to the new series, what is the current proportion of personnel that have been converted?

**Answer:** Pursuant to 25 U.S.C. § 2707(b) the Chair of the NIGC "shall appoint and supervise other staff of the Commission without regard to the provisions of Title 5, governing appointments in the competitive service." Accordingly, the NIGC is exempted from this Title 5 job classification.

2. If your agency has not converted all of its eligible employees yet, what is your plan to ensure that all FOIA professionals' position descriptions are converted?

**Answer:** Please see the answer to question 1 above.

### ***Processing Procedures: All Other Agencies***

1. For Fiscal Year 2014, what was the average number of days your agency reported adjudicating requests for expedited processing? Please see Section VII.A. of your agency's Fiscal Year 2014 Annual FOIA Report.

- Please note here if your agency did not adjudicate any requests for expedited processing during Fiscal Year 2014.

**Answer:** The agency adjudicated two requests for expedited processing. It took the agency on average ten days to adjudicate a request.

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. Please see the answer to question 1 above.

***Requester Services: All Other Agencies***

3. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration? See OIP Guidance, "Notifying Requesters of the Mediation Services Offered by OGIS." (July 9, 2010)

**Answer:** No.

4. When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester? For example, does your agency explain the amount of fees attributable to search, review, and duplication? 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)

**Answer:** Yes.

5. If estimated fees estimates are particularly high, does your agency provide an explanation for the estimate to the requester? See [id.](#)

**Answer:** Yes.

***Other Initiatives: All Other Agencies***

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.

**Answer:** Over the last three years, the agency has undertaken several steps to increase the efficiency with which it processes FOIA requests. The agency has redefined how it manages and tracks FOIA files by moving from a paper-based system to a primarily electronic based system. As part of this, agency staff has developed an internal electronic FOIA database that makes it easy to track the progress of each request and for multiple members of the FOIA team to work simultaneously on the same files. This same system permits the running of FOIA reports, which can quickly alert the user to upcoming due dates, the last work that was done on the request, the records located for that request, and each request's current status. Additionally, having a single attorney work full-time on

FOIA matters has streamlined the review process and allowed the FOIA system to be reviewed holistically rather than piecemeal. These improvements have paid dividends as demonstrated by the FOIA Office's drastic reduction in the backlog.

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

Both the President and Attorney General 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: All Other Agencies***

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

**Answer:** When the agency issues a decision or the Office of General Counsel issues a legal opinion, the FOIA Staff receives an email from a legal assistant alerting them that a document is eligible to be posted to the agency website. Upon receiving the document, FOIA personnel drafts a submitter notice to the relevant parties. Once the document has been reviewed by the submitter, the FOIA attorney analyzes any proposed redactions. When the review process is completed, the document is posted to the NIGC's electronic reading room on its website.

2. Does your process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.

**Answer:** Yes. The FOIA staff receives notifications from legal staff assistants as well as from its Finance Division when records that are eligible to be posted to the agency's reading room are issued.

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

**Answer:** The NIGC is a very small agency with a relatively low number of FOIA requests received each year. Accordingly, the same individuals work on all requests and log them into the agency's database. When the request is logged in, it is immediately reviewed to determine whether responsive documents have already been processed and released. In that manner, the agency is quickly able to determine if a

particular record has already been requested. In cases where the agency receives a second request for the same document and reasonably anticipates a third, it works with its IT staff to ensure that the document is placed in the agency's online reading room.

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

**Answer:** The NIGC posted legal opinions drafted by its Office of General Counsel ([http://www.nigc.gov/Reading\\_Room/Sole-Proprietary-Interest-Letters.aspx](http://www.nigc.gov/Reading_Room/Sole-Proprietary-Interest-Letters.aspx)), agency determinations ([http://www.nigc.gov/Reading\\_Room/Commission\\_Final\\_Decisions.aspx](http://www.nigc.gov/Reading_Room/Commission_Final_Decisions.aspx)), and settlements entered into by the Chairwoman in response to enforcement actions ([http://www.nigc.gov/Reading\\_Room/Enforcement\\_Actions.aspx](http://www.nigc.gov/Reading_Room/Enforcement_Actions.aspx)).

The agency also published its decisions on gaming ordinances and management contracts. In those cases, the NIGC also placed redacted versions of the approved management contracts ([http://www.nigc.gov/Reading\\_Room/Management\\_Contracts.aspx](http://www.nigc.gov/Reading_Room/Management_Contracts.aspx)) as well as approved ordinances ([http://www.nigc.gov/Reading\\_Room/Gaming\\_Ordinances.aspx](http://www.nigc.gov/Reading_Room/Gaming_Ordinances.aspx)) online for inspection. In situations where the NIGC's Office of General Counsel issued an opinion on the classification of a certain game ([http://www.nigc.gov/Reading\\_Room/Game\\_Classification\\_Opinions.aspx](http://www.nigc.gov/Reading_Room/Game_Classification_Opinions.aspx)), or whether certain submitted documents constitute management contracts ([http://www.nigc.gov/Reading\\_Room/Management\\_Review\\_Letters\\_Declination\\_Letters.aspx](http://www.nigc.gov/Reading_Room/Management_Review_Letters_Declination_Letters.aspx)), or whether certain lands constitute "Indian lands" ([http://www.nigc.gov/Reading\\_Room/Indian\\_Land\\_Opinions.aspx](http://www.nigc.gov/Reading_Room/Indian_Land_Opinions.aspx)) under IGRA, those documents were placed online as well.

#### ***Other Initiatives: All Other Agencies***

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

**Answer:** The agency currently works to disclose as much as it can to the public proactively, within the constraints implemented by the IGRA. As mentioned above, in Section I "Discretionary Releases", Answer to Question 4, the agency is required to keep certain materials provided to it confidential. Where those restrictions are not implicated, the agency strives to place all agency decisions as well as legal opinions generated by its General Counsel on to its website proactively.

### **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.

***Online tracking of FOIA Requests and Appeals: All Other Agencies***

**Not required, but agencies may answer the questions for this section if they have information they would like to include.**

1. Can a FOIA requester track the status of his/her request electronically?

**Answer:** No. At this time, the NIGC does not have this feature as part of its FOIA system. The agency is currently updating its website and, as part of that process, is working with FOIA staff to implement an electronic tracking system that can be utilized to provide accurate, detailed and request-specific information. The agency is striving to have this feature in place by the end of FY 2015.

2. If yes, how is this tracking function provided to the public? For example, is it being done through regularly updated FOIA logs, online portals, or other mediums?

**Answer:** Please see the response to Question 1 above.

3. If your agency does provide online tracking, please describe the information that is provided to the requester through this feature. For example, some online tracking features may tell the requester whether the request is "open" or "closed," while others will provide further details throughout the course of the processing, such as "search commenced" or "documents currently in review."

**Answer:** Not Applicable.

4. If your agency does provide online tracking for requesters, does this feature also provide an estimated date of completion?

**Answer:** Not Applicable.

5. If your agency does not provide online tracking of requests or appeals, is your agency taking steps to establish this capability? If not, please explain why?

**Answer:** Not Applicable.

***Use of Technology to Facilitate Processing of Requests: All Other Agencies***

**Not required, but agencies may answer the questions for this section if they have information they would like to include.**

12. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents? If yes, describe the technological improvements being made.

**Answer:** The agency is currently contracting with NARA and an outside party to assess the agency's records management program and to assist it in transitioning to an entirely electronic system. As part of this process, the outside party is expected to implement an RFID file tracking system that will assist personnel with locating specific records. Both of these measures will work to consolidate all of the agency's information silos into one central filing system. This will increase FOIA staff's ability to conduct searches and to locate responsive documents much more quickly and efficiently.

The agency, however, does not utilize document sharing platforms for consultations or have software that can sort and de-duplicate documents. The low volume of requests the agency receives annually makes it so these programs are not cost-effective for the agency. For example, only 52 requests were received in FY2014.

13. Are there additional tools that could be utilized by your agency to create further efficiencies?

**Answer:** Given the relatively low volume of requests processed by the NIGC, additional technological tools are not cost effective.

***Other Initiatives: All Other Agencies***

5. Did your agency successfully post all four quarterly reports for Fiscal Year 2014?

- 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 on FOIA.gov, please contact OIP in order to resolve the issue.)

**Answer:** Yes.

6. 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 2015.

**Answer:** Not Applicable.

7. 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 are utilized by your agency to communicate with requesters?

**Answer:** At this time, the FOIA staff utilizes e-mail as a means of communication with requesters. Given the relatively low volume of requests processed by the NIGC, additional technological tools are not cost effective.

8. If your agency does not communicate electronically with requesters 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.*

**Answer:** Not applicable.

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

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section 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 those contained in the specified sections of your agency’s 2014 Annual FOIA Report and, when applicable, your agency’s 2013 Annual FOIA Report.*

### ***Simple Track Requests: All Other Agencies***

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. The NIGC has implemented the use of a separate track for “simple” requests that do not require lengthy consultations with other entities or do not involve voluminous records.

2. If so, for your agency overall in Fiscal Year 2014, 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 2014 that were placed in your simple track.

**Answer:** 84% of the agency's requests were categorized as simple requests..

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.

### ***Backlogs and "Ten Oldest" Requests, Appeals and Consultations: All Other Agencies***

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. 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 2012 and Fiscal Year 2013 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 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?
  - 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

**Answer:** Yes. The agency started fiscal year 2014 with 28 backlogged requests and only had 8 backlogged requests at the end of fiscal year 2014.

6. 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 2014. If your agency did not receive any requests in Fiscal Year 2014 and/or has no request backlog, please answer with "N/A."
  - To calculate your agency's percentage, you must divide the number of backlogged requests reported in Section XII.A. of your Fiscal Year 2014 Annual FOIA Report by the number of requests received in Fiscal Year 2014, 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:** 15%

## **BACKLOGGED APPEALS**

7. If your agency had a backlog of appeals at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?
- 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 appeal
    - A loss of staff
    - An increase in the complexity of the appeals received

**Answer:** N/A. The NIGC did not have any backlog of administrative appeals in fiscal year 2013 or 2014.

8. 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 2014. If your agency did not receive any appeals in Fiscal Year 2014 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 2014 Annual FOIA Report by the number of appeals received in Fiscal Year 2014, which can be found in Section VI.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: All Other Agencies***

**Not required, but agencies may answer the questions for this section if they have information they would like to include.**

9. In the 2014 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2013 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 2014?

**Answer:** Not applicable.

10. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2014, what is your agency's plan to reduce this backlog during Fiscal Year 2015?

**Answer:** Not applicable.

***Status of Ten Oldest Requests, Appeals, and Consultations: All Other Agencies***

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 2013 and Fiscal Year 2014 when completing this section of your Chief FOIA Officer Report.

**TEN OLDEST REQUESTS**

9. In Fiscal Year 2014, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

**Answer:** Yes.

10. 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 2013 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

**Answer:** N/A

- 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:** Not applicable.

11. 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 of the agency's ten oldest requests were closed because the request was withdrawn. .

**TEN OLDEST APPEALS**

12. In Fiscal Year 2014, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

**Answer:** The NIGC did not have any backlogged appeals.

13. 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 2013 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

**Answer:** Not Applicable.

- 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:** Not Applicable.

#### **TEN OLDEST CONSULTATIONS**

14. In Fiscal Year 2014, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

**Answer:** Not Applicable.

15. 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 2013 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:** Not Applicable.

#### ***Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans: All Other Agencies***

16. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2013.

**Answer:** While the agency was able to close its ten oldest requests, some of the greatest obstacles presented to the agency include locating dated records and the submitter notice process.

17. 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.

18. 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 2015.

**Answer:** Not Applicable.

***Interim Responses: All Other Agencies***

**Not required, but agencies may answer the questions for this section if they have information they would like to include.**

21. Does your agency have a system in place to provide interim responses to requesters when appropriate? *See OIP Guidance*, “The Importance of Good Communication with FOIA Requesters.” (Mar. 1, 2010)

**Answer:** Yes. The NIGC proactively provides interim releases where possible. Once documents are received from responsive offices, we routinely review each FOIA case file to determine whether an interim response can be provided.

22. If your agency had a backlog in Fiscal Year 2014, please provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.

**Answer:** A substantive interim response was provided in one request of the agency’s current backlog of eight requests.

***Use of the FOIA’s Law Enforcement Exclusions: All Other Agencies***

Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2014?

**Answer:** No

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

**Answer:** Not applicable.

***Success Story***

**Not required, but agencies may answer the questions for this section if they have information they would like to include.**

Out of all the activities undertaken by your agency since March 2014 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.

**Answer:** The NIGC is overwhelmingly pleased with the progress of its accomplishments in Fiscal Year 2014. The agency closed 75 requests this fiscal year as compared with only 52 incoming requests. This allowed the agency to reduce its backlog from 28 to 8. As part of this reduction, the agency reached its goal of closing its ten oldest requests.