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Backlog Reduction Ideas and Best Practices

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Discussion Topics

- Reasons Backlogs Exist
- Program Plan and Priorities
- Tips for Program Managers
- Tips for FOIA Professionals

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Reasons Why...

- Broadly scoped requests involving large volumes of responsive records
- Increasing complexity of requests received
- Time needed to consult with program offices or consult with other agencies
- Overall number of FOIA requests received
- Requests involving classified or sensitive records involving extensive legal reviews or redactions
- FOIA staffing losses or turnover
- Demands of FOIA Litigation

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Reasons Why...

Table 6. Frequency with Which Agencies Cited Factors Contributing to Their Freedom of Information Act (FOIA) Request Backlogs, 2019-2023

	2019	2020	2021	2022	2023
Responding agencies*	54	49	55	47	42
Contributing factor					
Request, technology, and coordination challenges					
Broadly scoped requests involving large volumes of responsive records	33	26	32	31	20
Increasing complexity of requests received	28	17	20	18	17
Time needed to coordinate with program offices or consult with other agencies on record searches and reviews	18	21	19	17	17
Overall increase in the number of FOIA requests received	24	14	21	13	16
Requests involving classified or sensitive records requiring extensive legal reviews or redactions	12	13	14	8	6
Issues with FOIA request management systems or other technology used to process FOIA requests	7	10	6	7	5
Difficulty locating or retrieving relevant records	1	1	2	3	2
Staffing challenges					
FOIA staffing losses or turnover	26	23	23	24	22
Staffing limitations, including difficulties hiring new staff or staff balancing FOIA processing with other responsibilities	26	21	18	10	16
Time needed to train and educate new staff on FOIA processes and requirements	3	7	4	7	3
Demands of FOIA litigation					
Demands of supporting FOIA-related litigation	12	14	14	12	11

Source: Government Accountability Office (GAO) Report to Congressional Requesters, Freedom of Information Act: Additional Questions and Answers from the Attorney General, January-March 2024, Appendix 1, item 26.

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Path to Reduction: Start with a Plan

How should your
FOIA program operate?

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Path to Reduction: Steps

- Assess current FOIA Program
- Identify critical areas for improvement
- Prioritize action items

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Tips for Program Managers

- Honest and Effective Management
- Administration and Triage

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Effective Management

- Leadership Support
 - Identify key objectives and corresponding short- and long-term goals.
 - Develop a strategic plan to present to senior leadership.
 - Present the goals to senior leadership to obtain their feedback and commitment to support the FOIA improvement efforts across the organization.

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Effective Management

- Include measurable metrics in performance evaluations and contracts
 - Assign tasks based on ability and experience of staff
 - *For example, Team A handles simple requests, while Team B handles complex requests.*

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Effective Management

- Meet regularly with personnel
 - Establish clear expectations
 - Solicit input on options, improvements, or alternatives to approaching problem tasks or issues with workflows or operating procedures
- Review 10 oldest requests often
 - Track the oldest requests throughout year
 - Assess and collectively address any challenges periodically

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Effective Management

- Reach out to Public Affairs/Press Office
 - Proactively create webpages on emerging issues
 - Post agency records routinely on the subject
- Understand the Mission
 - Emerging issues, legislative changes, case law
 - Ensure adequate training is available in FOIA, technology, etc.
 - In highly complex organizations, need to know the purpose of each agency component

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Effective Management

- Beware of standard quotas in redaction and release
 - Not all redaction issues are equal in complexity or volume
- Communicate often and clearly with agency level management
 - Provide clear metrics
 - Compete for resources

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Administration & Triage: Intake

- Is the request appropriately routed to your agency (may be referral)?
- Is the request duplicative?
- Triage incoming requests and only log "perfected" requests
- If request isn't clear, make early contact before logging and document

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Administration & Triage: Request Analysis

- Was the record previously released or publicly available?
- Is this a full denial? If so, process as "simple"
- Is consultation necessary with other components or agencies?

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Administration & Triage: Partial Response

- Send partial response
 - Demonstrates faster requester response
 - Provides "simple" records
 - Assists in agency defense if litigation results from non-response
 - Provide requesters with direct contact information, not just web address or toll-free number

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Administration & Triage: Partial Releases

- Follow-up with requesters who received partial responses
 - Confirm whether this met their needs; if so, close the file. If not, submit new request
 - If needs are met, send email or form letter of confirmation

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Tips for FOIA Professionals: Things to Know

- Know your program
- Know your records
- Know your people
- Know your requests

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Tips for FOIA Professionals: Communicate with Programs

- Do they understand the request?
- What records/data do they have?
- The parameters of the search
- Understanding “no records”
- Providing guidance as needed

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**Tips for FOIA Professionals:
Communicate with Requesters**

- Never assume → clarify!
- Narrow scope
- Offer solutions
- Communicate

Memorialize everything!

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**Tips for FOIA Professionals:
Prioritize Requests**

- **Oldest Requests**
- Straightforward requests
- Likely “no records”
- Consults
- Records Referrals
- Multiple Requests for same records

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**Tips for FOIA Professionals:
Engage Support**

- Elevate key matters/challenges to supervisor or leadership
- Engage component FOIA Program Manager/FOIA Officer
- Engage FOIA Public Liaison

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FOIA Backlog Reduction Tips

- These are tips and best practices
- Vary from program to agency
- Will work together and overlap
- Depend on support of leadership
- FOIA is a job that matters!

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Questions?

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