

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

EXECUTIVE OFFICE OF THE PRESIDENT



2025 CHIEF FREEDOM OF INFORMATION ACT OFFICER

ANNUAL REPORT

Agency Received More than 50 Requests in FY2024

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Introduction

The Office of the United States Trade Representative (USTR), the second largest component in the Executive Office of the President (EOP), is responsible for developing and coordinating U.S. international trade, commodity and direct investment policy, and overseeing trade negotiations with other countries. The head of USTR is the U.S. Trade Representative, a Cabinet member who serves as the President's principal trade advisor, negotiator and spokesperson on trade issues. USTR has approximately 300 employees assigned to regional and functional offices in its headquarters in Washington DC. USTR also has offices in Beijing China, Brussels Belgium, and Geneva Switzerland. The Geneva office represents the United States before the World Trade Organization.

The USTR Freedom of Information Act (FOIA) Office consists of two people - a Chief FOIA Officer and a Deputy Chief FOIA Officer/attorney who acts as the FOIA Public Liaison. The FOIA requests USTR receives vary in size and complexity from narrow requests for a single or a few documents to voluminous and complex requests that require broad searches and line-by-line review of thousands of pages of text and emails. Many of USTR's documents contain sensitive national security information that is classified pursuant to Executive Order 13526. Before making a release determination, the FOIA Office often coordinates with other Federal agencies, foreign governments, and private or commercial entities the information of which may be contained in USTR records. If a request involves a voluminous amount of material or searches in multiple locations, USTR may provide interim responses, releasing the records on a rolling basis. USTR received 136 FOIA requests in FY2024, which was more than double the number received in FY2023. The FOIA Office processed 113 requests, which was about 65 percent more requests processed than in FY2023, and expects to close most of the remaining FY2024 requests by the end of the third quarter of FY2025. While the number of large and multifaceted FOIA requests increased in FY2024, USTR maintained an average processing time well below the government-wide average. USTR also received and closed 24 consultations requests from other agencies, usually within 1 day of receipt and always ahead of the time the agencies requested. The FOIA Office also timely adjudicated three administrative appeals.

Due to USTR's global presence, unique international mission, and the high level of coordination with third parties, the FOIA Office faces significant challenges in achieving full compliance with the FOIA's time limits. USTR is committed to achieving the fullest possible compliance with a strong focus on maintaining open dialogue with requesters and leveraging technology to improve internal processes.

Section I: FOIA Leadership and Applying the Presumption of Openness

A. *Leadership Support for FOIA*

- 1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at the Assistant Secretary or equivalent level. See 5 U.S.C. § 552(j)(1) (2018). Is USTR's Chief FOIA Officer at or above this level?**

Answer: Yes. The FOIA Office is part of the Office of General Counsel, and the Chief FOIA Officer is the Chief Counsel for Administrative Law who reports directly to the General Counsel. This is a senior position with the authority to make recommendations on any adjustments to agency practices, policies, personnel and funding that may be necessary to improve FOIA implementation.

2. Provide the name and title of USTR’s Chief FOIA Officer.

Answer: Janice Kaye, Chief Counsel for Administrative Law.

3. What steps has USTR taken to incorporate FOIA into its core mission? For example, has USTR incorporated FOIA milestones into its strategic plan?

Answer: A key element of USTR’s responsibility for developing and coordinating U.S. trade policy and enforcing trade laws and agreements is outreach and communication to key stakeholders and the public, both for purposes of developing policy in an open and transparent manner and for ensuring public support for Administration trade policy goals. USTR’s FY2022 – FY2026 Strategic Plan identifies timely responses to FOIA requests as a critical strategy to ensure that the U.S. trade agenda and the policies necessary to fulfill it are broadly understood.

B. *Presumption of Openness*

4. The Attorney General’s 2022 FOIA Guidelines provides that “agencies should confirm in response letters to FOIA requesters that they have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.” Does USTR provide such confirmation in its response letters?

Answer: Yes.

5. In some circumstances, agencies may respond to a requester using a Glomar response, *i.e.*, that it can neither confirm nor deny the existence of requested records if acknowledging the existence of records would harm an interested protected by a FOIA exemption.

Answer: In FY2024, USTR did not issue any Glomar responses.

Section II: Ensuring Fair and Effective FOIA Administration

A. *FOIA Training*

1. The FOIA directs Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. See 5 U.S.C. § 552(a)(j)(2)(F). Describe the efforts USTR has undertaken to ensure proper FOIA training is made available and used by agency personnel.

Answer: The FOIA Office requires all incoming USTR employees, political appointees, detailees, presidential management fellows, contractors and consultants to review comprehensive FOIA training within three months of their start date. The FOIA staff distributes a virtual presentation that employees certify completing by answering a series of questions. FOIA staff reviews responses and provides corrections or explanations as needed. In FY2024, the FOIA staff presented a live training session for agency managers and offered one-on-one refresher training to program offices and individual employees involved in processing an open request.

2. Did USTR's FOIA professionals attend any substantive FOIA training during FY2024 such as that provided by the Department of Justice?

Answer: Yes.

3. If yes, provide a brief description of the type of training attended or conducted and the topics covered.

Answer: In FY2024, USTR FOIA staff attended the *Virtual Chief FOIA Officer Report Refresher Training* and *Virtual Advanced Freedom of Information Act Training* offered by the Department of Justice.

4. Provide an estimate of the percentage of USTR's FOIA professionals who attended substantive FOIA training in FY2024.

Answer: 100 percent.

5. 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."

Answer: USTR is in full compliance with this OIP guidance. All FOIA professional attended substantive FOIA training in FY2024.

6. Describe any efforts USTR has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, describe how often and in what formats USTR provides FOIA training or briefings to non-FOIA staff, and if senior leaders received a briefing on USTR's FOIA resources, obligations and expectations during the FOIA process.

Answer: USTR requires all new employees, political appointees, detailees, presidential management fellows, contractors and consultants to complete introductory FOIA training, which provides an overview of the process, including working with requesters, conducting effective searches, and applying FOIA exemptions in a careful manner that balances the presumption of openness against the foreseeable risks of disclosing exempt information. The FOIA staff provides this training to employees at all levels, including senior leadership. In FY2024, the FOIA Office presented a live training session for agency managers and provided ongoing advice and counsel

concerning obligations under the FOIA to USTR staff either in response to questions or in the process of responding to a particular FOIA request.

B. Outreach

- 7. As part of the standard request process, do USTR's FOIA professionals proactively contact requesters concerning complex or voluminous requests in an effort to clarify or narrow the scope of the request so requesters can receive responses more quickly?**

Answer: Yes. The FOIA staff often interacts with requesters, the majority of whom are representatives of the media or open government groups, to clarify or narrow overly broad requests and gather missing or incomplete information. If a requester declines to narrow the scope of their request and it is possible to perfect the request and process it, staff then works with them to prioritize the order of documents released on a rolling basis.

- 8. Outside of the standard request process or routine FOIA Liaison interactions, did USTR's FOIA professionals engage in any outreach or dialogue, with the requester community or open government groups regarding administration of the FOIA at USTR?**

Answer: Yes. The FOIA staff routinely engages with the requester community to explain how the USTR eDiscovery platform works and how to request USTR records controlled by the National Archives and Records Administration (NARA). Staff also directs them to publicly available information in the FOIA Library and on USTR.gov, and provides assistance on using other research tools such as the NARA Library, GSA Federal Advisory Committee Act database, and Regulations.gov.

- 9. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the FOIA Public Liaison. Provide an estimate of the number of times requesters sought assistance from USTR's FOIA Public Liaison during FY2024.**

Answer: In FY2024, requesters sought assistance on about 60 occasions.

C. Other Initiatives

- 10. Has USTR evaluated the allocation of agency personnel resources needed to respond to current and anticipated FOIA demands?**

Answer: Yes. USTR does not anticipate making any staffing changes at this time.

- 11. How does USTR use data or processing metrics to ensure efficient management of its FOIA workload?**

Answer: Because USTR is a small agency with a very specific mission, the FOIA Office uses simple tracking methods to monitor its workload and program performance. The FOIA spreadsheet

tracks upcoming due dates and where a request is in the process, *e.g.*, search requested, assigned to FOIA official, under program office review, etc.

12. The federal FOIA Advisory Committee, comprised of agency representatives and members of the public, was created to foster dialogue between agencies and the requester community, solicit public comments, and develop recommendations for improving FOIA administration. Since 2020, the FOIA Advisory Committee has issued a number of recommendations. Is USTR familiar with the FOIA Advisory Committee and its recommendations? Has USTR implemented any of its recommendations or found them to be helpful?

Answer: USTR is familiar with the FOIA Advisory Committee but has not found its recommendations helpful due to the size of the USTR FOIA Office and the agency's very specific mission.

13. Describe any other initiatives USTR has undertaken to ensure fair and effective FOIA administration.

Answer: The FOIA Office helps employees who review responsive records to assess whether partial disclosure of non-exempt information is possible. The result of these interactions between FOIA staff and other USTR employees is evident in the number of partially released documents USTR provides in response to FOIA requests. In FY2024, USTR only issued full denials in response to two requests.

Section III: Proactive Disclosures

1. Describe steps USTR takes to identify, track and post (a)(2) proactive disclosures.

Answer: The FOIA Office monitors press clips and communications from the Office of Public Affairs to identify appropriate materials for proactive disclosures. Staff also monitors the FOIA log to ensure that frequently requested records are posted promptly on the USTR website.

2. Does USTR post logs of its FOIA requests? If so, what information is contained in the logs? Are they posted in CSV format? If not, what format are they posted in?

Answer: The FOIA Office posts its FOIA logs on the USTR website in Microsoft Excel format. The FOIA logs contain the name of the requester, a description of the request, the date received, the date perfected, the date a final response was transmitted and its disposition. See <https://ustr.gov/about-us/reading-room/freedom-information-act-foia/electronic-reading-room/frequently-requested-reco>

3. Provide examples of any material (with links) USTR has proactively disclosed during FY2024, including records that have been requested and released three or more times.

Answer: In FY2024, USTR did not have any frequently requested records. Examples of proactive disclosures include:

FOIA logs: <https://ustr.gov/about-us/reading-room/freedom-information-act-foia/electronic-reading-room/frequently-requested-reco>

Calendars of the U.S. Trade Representative and Chief of Staff: <https://ustr.gov/about-us/reading-room/freedom-information-act-foia/foia-library/frequently-requested-records/calendar-logs>

Information on USTR's monitoring and enforcement actions, *e.g.*, Section 201 and 301 investigations, dispute settlement matters, subsidies enforcement: <https://ustr.gov/issue-areas/enforcement>

Summaries of dispute settlement proceedings, *e.g.*, arising under U.S. free trade agreements or in the World Trade Organization: <https://ustr.gov/issue-areas/enforcement/dispute-settlement-proceedings>

Speeches and public remarks: <https://ustr.gov/about-us/policy-offices/press-office/speeches-and-remarks>

Fact sheets on a variety of trade issues: <https://ustr.gov/about-us/policy-offices/press-office/fact-sheets>

USTR reports including the National Trade Estimate, the Special 301 report, the Trade Policy Agenda and Annual Report: <https://ustr.gov/about-us/policy-offices/press-office/reports-and-publications>

Solicitations for and public comments received posted on Regulations.gov and the USTR public docket on the web portal at <https://comments.USTR.gov>

4. Please provide a link (or component links, if applicable) where your agency routinely posts its frequently requested records.

Answer: <https://ustr.gov/about-us/reading-room/freedom-information-act-foia/foia-library>

5. Beyond posting new material, is USTR taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access USTR's website? If yes, provide examples of such improvements.

Answer: Yes. USTR has centralized the information related to key initiatives such as the US-Mexico-Canada Agreement (USMCA) Facility-Specific Rapid-Response Labor Mechanism and updates these webpages in real-time. The webpages include links to other sources for

information, such as relevant Federal Register notices and public dockets. USTR utilizes machine-readable formats such as XML and PDF when posting documents to the website.

6. Does USTR's proactive disclosure process or system involve any collaboration with USTR staff outside the FOIA Office, such as IT or data personnel? If so, describe this interaction.

Answer: The FOIA Office works closely with regional and program offices to identify appropriate materials for proactive disclosures, and coordinates with the IT staff to post materials to the USTR website.

Section IV: Steps Taken to Greater Utilize Technology

1. Has USTR reviewed its FOIA-related technological capabilities to identify resources needed to respond to current and anticipated FOIA demands?

Answer: Yes. The FOIA Office conducts a majority of searches using a centralized eDiscovery platform simultaneously to search potential record holders' email and files and de-duplicate results. Because the USTR FOIA Office is small, staff uses simple tracking methods to monitor program performance.

2. Briefly describe any new types of technology USTR uses to support the FOIA program.

Answer: None. The centralized eDiscovery platform currently in use meets the FOIA Office's needs.

3. Does USTR currently use any technology to automate record processing?

Answer: USTR uses a centralized eDiscovery platform that simultaneously searches potential record holders' email and files and de-duplicates results. The FOIA staff uses Adobe Pro software to apply redactions.

4. OIP issued guidance in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources and are informative and user-friendly. Has USTR reviewed its FOIA website(s) during FY2024 to ensure it addresses the elements noted in the guidance?

Answer: Yes.

5. Did all four of USTR's FY2024 quarterly reports appear on USTR's website and on FOIA.gov?

Answer: Yes.

6. If USTR did not successfully post all quarterly reports, explain why and provide USTR's plan for ensuring that such reporting is successful in FY2025.

Answer: Not applicable. USTR posted all of its quarterly reports.

- 7. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their annual FOIA reports. Provide the link to this posting for USTR's FY2023 Annual FOIA Report, and if available, for USTR's FY2024 Annual Report.**

Answer: <https://ustr.gov/about-us/reading-room/freedom-information-act-foia/annual-foia-reports>

- 8. In February 2019, DOJ and OMB issued joint guidance establishing interoperability standards to receive requests from the National FOIA Portal on FOIA.gov. Is USTR in compliance with the guidance?**

Answer: Yes.

Section V: Steps Taken to Remove Barriers to Access, Improve Timeliness in Responding to Requests, and Reduce Backlogs

A. *Remove Barriers to Access*

- 1. Has USTR established alternative means of access to first-party requested records outside of the typical FOIA or Privacy Act process?**

Answer: No.

- 2. If yes, provide examples. If no, indicate why not.**

Answer: A separate process is unnecessary because USTR rarely receives first-party requested records.

- 3. Describe any other steps USTR has taken to remove barriers to accessing government information.**

Answer: Please see the answer to Question II.B.8 on page 4.

B. *Timeliness*

- 4. For FY2024, what was the average number of days USTR reported for adjudicating requests for expedited processing? Please see Section VIII.A. of USTR's Fiscal Year 2024 Annual FOIA Report.**

Answer: Four.

5. If USTR's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of USTR's Fiscal Year 2024 Annual FOIA Report, describe the steps USTR will take to ensure that it adjudicates requests for expedited processing within ten calendar days or less.

Answer: Not applicable.

6. Does USTR utilize a separate track for simple requests?

Answer: Yes.

7. If yes, according to Annual FOIA Report section VII.A was the USTR overall average number of days to process simple requests 20 working days or fewer in FY2024?

Answer: No, it was 29.

8. If no, did the simple track average processing time decrease compared to FY2023?

Answer: No, it increased by seven days.

9. Provide the percentage of requests USTR processed in FY2024 that were placed in the simple track using the following calculation: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) x 100.

Answer: 76.79 percent

10. If USTR does not track simple requests separately, was the average number of days to process all non-expedited requests 20 working days or fewer?

Answer: Not applicable. USTR tracks simple requests separately.

C. Backlogs

BACKLOGGED REQUESTS

11. If USTR had a backlog of requests at the close of FY2024, according to Annual FOIA Report Section XII.D.2 did that backlog decrease as compared with the backlog reported at the end of FY2023?

Answer: No. USTR's backlog increased from 6 requests at the end of FY2023, to 32 requests at the close of FY2024. USTR closed three of the backlogged requests by the end of the first quarter of FY2025, and anticipates closing the remaining backlogged requests by the end of the third quarter of FY2025.

12. If not, according to Annual FOIA Report Section XII.D.1 did USTR process more requests during FY2024 than it did during FY2023?

Answer: Yes.

13. If USTR's request backlog increased during FY2024, explain why and describe the causes that contributed to USTR not being able to reduce its backlog.

Answer: The major factor in the increase is a surge in the volume of requests, which more than doubled – from 66 requests in FY2023 to 136 requests in FY2024. The next most significant factor was timeliness of review by program offices and the USTR front office, which slowed considerably. Also contributing was the fact that the two attorneys who comprise the USTR FOIA Office also are responsible for all agency administrative legal issues, and in FY2024, the non-FOIA workload, particularly personnel issues, increased substantially.

14. If USTR had a request backlog, report the percentage of requests that make up the backlog out of the total number of requests received by USTR in FY2024 using the following calculation: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100.

Answer: 23.52 percent.

BACKLOGGED APPEALS

15. If USTR had a backlog of appeals at the close of FY2024, according to Section XII.E.2 of the Annual FOIA Report did that backlog decrease as compared with the backlog reported at the end of FY2023?

Answer: Not applicable. USTR had no backlogged appeals.

16. If not, according to section XII.E.1 of the Annual FOIA Report did USTR process more appeals during FY2024 than it did during FY2023?

Answer: Not applicable. USTR had no backlogged appeals.

17. If USTR's appeal backlog increased during FY2024, explain why and describe the causes that contributed to USTR's not being able to reduce its backlog.

Answer: Not applicable. USTR had no backlogged appeals.

18. If USTR had an appeal backlog, report the percentage of appeals that make up the backlog out of the total number of appeals received by USTR in FY2024.

Answer: Not applicable. USTR had no backlogged appeals.

D. Backlog Reduction Plans

19. In the 2024 guidelines for Chief FOIA Officer Reports, OIP asked any agency with a backlog of over 1000 requests in FY2023 to provide a plan for achieving backlog reduction in the year ahead. Did USTR implement a backlog reduction plan last year?

Answer: Not applicable.

20. If USTR had a backlog of more than 1,000 requests in FY2024, what is USTR's plan to reduce this backlog during FY2025?

Answer: Not applicable.

E. Reducing the Age of Requests, Appeals, and Consultations

TEN OLDEST REQUESTS

21. In FY2024, did USTR close the ten oldest pending perfected requests that were reported pending in Section VII.E of its FY2023 Annual FOIA Report?

Answer: Not applicable. USTR reported only three pending perfected requests in our FY2023 Annual FOIA Report.

22. If no, provide the number of these requests USTR was able to close by the end of FY2024. Indicate if USTR had fewer than ten total oldest requests to close.

Answer: USTR closed the three oldest pending perfected requests it reported in its FY2023 Annual FOIA Report.

23. Beyond work on the ten oldest requests, describe any steps USTR took to reduce the overall age of pending requests.

Answer: The FOIA staff submits search requests to the eDiscovery team within one or two business days of receipt of a perfected request and follows up assiduously with internal and external stakeholders to prompt timely review. The FOIA staff also targets a final response date that does not exceed the average response time for requests in the same track in the prior fiscal year.

TEN OLDEST APPEALS

24. In FY2024, did USTR close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2023 Annual FOIA Report?

Answer: Not applicable. USTR did not have any appeals pending in our FY2023 Annual FOIA Report.

25. If no, provide the number of these appeals USTR was able to close by the end of FY2024. Indicate if USTR had fewer than ten total oldest appeals to close.

Answer: Not applicable. USTR did not have any appeals pending in our FY2023 Annual FOIA Report.

26. Beyond work on the ten oldest appeals, describe any steps USTR took to reduce the overall age of pending appeals.

Answer: Not applicable.

TEN OLDEST CONSULTATIONS

27. In FY2024, did USTR close the ten oldest consultations that were reported pending in Section XII.C. of its FY2023 Annual FOIA Report?

Answer: Not applicable. USTR did not have any consultations pending in our FY2023 Annual FOIA Report.

28. If no, provide the number of these consultations USTR was able to close by the end of FY2024. Indicate if USTR had fewer than ten total oldest consultations to close.

Answer: Not applicable. USTR did not have any consultations pending in our FY2023 Annual FOIA Report.

ADDITIONAL INFORMATION REGARDING TEN OLDEST

29. If USTR did not close its ten oldest pending requests, appeals, or consultations, explain why and provide a plan describing how USTR intends to close those ten oldest requests, appeals, and consultations during FY2025.

Answer: Not applicable.

F. Additional Information about FOIA Processing

30. Were any requests at USTR the subject of FOIA litigation during the reporting period? If so, describe the impact on USTR's overall FOIA request processing and backlog. If possible, indicate the number and nature of requests subject to litigation, common causes leading to litigation, and any other information to illustrate the impact of litigation on overall FOIA administration at USTR.

Answer: No.