

NATIONAL INDIAN GAMING COMMISSION

CHIEF FOIA OFFICER'S REPORT 2025



Section I: FOIA Leadership and Applying the Presumption of Openness

A. Leadership Support for the FOIA

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

Yes.

2. Please provide the name and title of your agency's Chief FOIA Officer.

Tim Osumi, Privacy & Records Information Officer

3. What steps has your agency taken to incorporate FOIA into its core mission?

The NIGC currently maintains "Agency Accountability" as a one of its four strategic goals. This goal, as described in the agency's most recent annual report, "establishes and follows the tenants of responsible governance, fiscal accountability, and meaningful performance assessment." The Commission views the FOIA, and the public oversight it enables, as an important mechanism for achieving this goal.

B. Presumption of Openness

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

At this time, the Commission does not provide such confirmation in all response letters but continues to make progress in fully incorporating this guideline.

5. In some circumstances, agencies may respond to a requester that it can neither confirm nor deny the existence of requested records if acknowledging the existence of records would harm an interest protected by the FOIA exemption. This is commonly referred to as a Glomar response. If your agency tracks Glomar responses, please provide: the number of times your agency issued a full or partial Glomar response;

0

the number of times a Glomar response was issued by exemption;

0

6. If your agency does not track the use of Glomar responses, are you planning to track this information in the future?

N/A

Section II: Ensuring Fair and Effective FOIA Administration

A. FOIA Training

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

The NIGC has contracted an e-learning platform to make available learning content and a variety of FOIA trainings in the learning library. Annual information security training is deployed on this platform and the course includes an explanation of the FOIA and the agency's obligations under the statute.

2. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend substantive FOIA training during the reporting period such as that provided by the Department of Justice.

Yes

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

"Freedom of Information Act: Training for FOIA Professionals (DOJ presentation)." Provides in-depth look at the FOIA and its proper implementation.

"Recent Court Decisions." An overview of FOIA-related court decisions and their impact on the FOIA process.

"FOIA Exemptions Overview." Overview of each FOIA exemption and current interpretations.

"Foreseeable Harm – An In-Depth Look." Presentation and panel discussion among subject matter experts and stakeholders of Foreseeable Harm standard.

"Privacy Act and FOIA Interface." Understanding the underlying purposes of the different statutes and how they interface with each other.

4. Please provide an estimate of the percentage of FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

100%

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 the year.” If your responses 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 received or attend substantive FOIA training during the next reporting year.

N/A

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

As noted above, the annual information security training deployed on the agency’s e-learning platform includes content pertaining to the FOIA and the agency’s obligations under the FOIA. In addition, in FY 2024, FOIA awareness training was integrated into the agency’s record schedules consultations so that each agency records group was informed of the importance of accurate recordkeeping and management in context of fulfilling agency’s FOIA response obligations under the FOIA.

B. Outreach

7. As part of the standard request process, do your 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? Please describe any such outreach or dialogue and, if applicable, any specific examples.

In any request in which there is an issue with the request, or if the request has been designated as a Track 3 request, the FOIA Officer will email to the requester in order to learn more specifically what the requester is seeking and offer any suggestions that might enable the request to be processed more expeditiously. The email will also typically suggest that a telephone call be set up in order to discuss the request in person and the majority of Track 3 requests will involve at least one in-person discussion.

8. Outside of the standard request process or routine FOIA Liaison or FOIA Requester Service interactions, did your FOIA professionals engage in any outreach or dialogue, with the requester community or open government groups regarding your administration of the FOIA? For example, did you proactively contact frequent requesters, host FOIA-related conference

coals with open government groups, or provide FOIA training to members of the public? Please describe any such outreach or dialogue and, if applicable, any specific examples of how this dialogue has led to improvements in your agency's FOIA administration.

Yes, the NIGC FOIA Office regularly engages in outreach efforts with frequent users.

9. The FOIA Improvement Act of 2016 requires notification to requesters about the services provided by the agency FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during the Fiscal Year 2024 (please provide a total number or an estimate of the number for the agency overall).

0

C. Other Initiatives

10. has your agency evaluated the allocation of agency personal resources needed to respond to current and anticipated FOIA demands? If so, please describe what changes your agency has or will implement.

The NIGC is actively seeking to hire an Information Management Specialist who will assist in the processing agency's FOIA requests.

11. How does your agency use data or processing metrics to ensure efficient management of your FOIA workload?

The NIGC FOIA Office utilizes a FOIA tracking system which has the ability to configure and generate reports that can be used to monitor the request response process.

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. Please answer the below questions:

Is your agency familiar with the FOIA Advisory Committee and its recommendations?

Yes, NIGC FOIA regularly attends their meetings

Has your agency implemented any of its recommendations or found them to be helpful? If so, which ones?

Yes, in accordance with recommendation 2020-15, the NIGC continues to seek ways to make commonly requested documents available and in 2024, developed a procedure for reviewing it's (commonly requested) declination letter records for posting on the agency website.

13. Optional -- If there are any other initiatives undertaken by your agency to ensure fair and effective FOIA administration, please describe them here.

Section III: Proactive Disclosures

1. Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures.

The Commission has identified records that qualify for proactive disclosure under the FOIA and procedures have been established to enable the systematic and routine execution for these disclosures. In some cases, records subject to proactive disclosure have been assessed to be likely to contain information that may qualify for exemption from disclosure under the FOIA. In such cases, procedures have been established to ensure that the FOIA Office has an opportunity to review these records prior to their routine public disclosure.

2. Does your agency post logs of its FOIA requests

Yes

If so, what information is contained in the logs?

FOIA ID Number (agency assigned), requester first/last name, requested documents, date request received, date request perfected, date request completed, days to complete, requester category, date of request for expedited processing, date of response to request for expedited processing, decision in regards to request for expedited processing, date of request for fee waiver, date of response to request for fee waiver, decision in regards to request for fee waiver, request track, requester category, request disposition, exemption applied, fee assessments.

Are they posted in CSV format?

Yes

Please provide a link to the page where any FOIA logs are posted. If applicable, please provide component links.

[FOIA Reports | National Indian Gaming Commission \(nigc.gov\)](https://www.nigc.gov/foia-reports)

3. Provide examples of any material (with links) that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D).

In FY 2024, there were no records that were requested three or more times.

The NIGC proactively posts records that it has identified as important for public awareness at: [National Indian Gaming Commission \(nigc.gov\)](http://nigc.gov)
Click on any organizational unit tab (Commission, Compliance, Finance, Public Affairs etc.) and select from the drop-down list to see the documents pro-actively processed and posted for that unit.

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

[National Indian Gaming Commission \(nigc.gov\)](http://nigc.gov)

Click on any organizational unit tab (Commission, Compliance, Finance, Public Affairs etc.) and select from the drop-down list to see the documents pro-actively processed and posted for that unit.

5. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website? If yes, please provide examples of such improvements, such as steps taken to post information in open and machine readable formats. If not taking steps to make posted information more useful, please explain why.

Yes. In cases in which the information is contained in an electronic structured format, the Commission will seek to disclose the information in this format in order to allow the requester the maximum flexibility to filter/process the information. One of the challenges is that records that qualify for proactive disclosure under the FOIA are rarely available in an electronic structured format.

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

Yes, the FOIA Office coordinates with the record creator/receiver to ensure that that documents that are released do not contain information that may be FOIA exempted.

The FOIA Office coordinates with IT in conducting electronic searches.

The FOIA Office also coordinates with the Public Affairs Division in scheduling and tracking the release of the documents on the agency website.

In addition, it's important to work in alignment with Records Management in order to keep informed of the evolution of records schedules and to ensure that all record items are appropriately incorporated into FOIA proactive disclosure planning.

7. Optional -- Please describe the best practices used to improve proactive disclosures and any challenges your agency faces in this area

Section IV: Steps Take[n] to Greater Utilize Technology

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

Yes

2. Please briefly describe any new types of technology your agency uses to support your FOIA program.

The program has adopted a file sharing platform for sharing, and reviewing, documents with submitters. This platform complies with NIST 800-171 standards and is FIPS 140-2 v secure and provides a safe shared location for efficiently conducting the submitter notification process.

3. Does your agency currently use any technology to automate record processing? For example, does your agency use machine learning, predictive coding, technology assisted review or similar tools to conduct searches or make redactions? If so, please describe and, if possible, estimate how much time and financial resources are saved since implementing the technology.

The FOIA Program did not adopt any new technology for automating record processing in FY 2024.

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 your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?

Yes, during FY 2024, the NIGC initiated a review and renovation of its agency website and this included its FOIA sections.

5. Did all four of your agency's quarterly reports for Fiscal year 2024 appear on FOIA.gov?

Yes

6. If your agency did not successfully post all quarterly reports on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2025.

N/A

7. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2023 Annual FOIA Report and, if available, for your agency's 2024 Annual FOIA Report?

[2024 AnnualReport raw post.xlsx \(live.com\)](#)

[2023 AnnualReport raw post.xlsx \(live.com\)](#)

8. In February 2019, DOJ and OMB issued joint Guidance establishing interoperability standards to receive requests from the National FOIA Portal on FOIA.gov. Are all components of your agency in compliance with guidance?

Yes

9. Optional -- Please describe the best practices used in greater utilizing technology and any challenges your agency faces in this area.

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 your agency established alternative means of access to first-party requested records, outside of the typical FOIA or Privacy Act process?

In 2024, the NIGC did not establish alternative means of access to first-party requested records, outside of the typical FOIA or Privacy Act process

2. If yes, please provide examples. If no, please indicate why not. Please also indicate if you do not know.

At this time, the NIGC FOIA Office is not aware of any demand for developing any specific alternative means of access to first-party requested records, outside of the typical FOIA or Privacy Act process, however, it is open to any suggestions that might arise.

3. Please describe any other steps your agency has taken to remove barriers to accessing government information.

The FOIA Office works in conjunction with the Public Affairs Division to monitor a public inquiry line and reaches out to individuals seeking information to assist them in formulating a FOIA request.

B. Timeliness

4. For Fiscal Year 2024, what was the average number of days your agency reported for adjudicating requests for expedited processing?

5.2 days

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

N/A

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

Yes

7. If your agency uses a separate track for simple requests, according to [the] Annual FOIA Report section VII.A, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2024?

Yes (10 days)

8. If not, did the simple track average processing time decrease compared to the previous Fiscal Year?

N/A

9. Please provide the percentage of requests processed by your agency in Fiscal Year 2024 that were placed in your simple track. Please use the following calculation based on data from your Annual FOIA Report: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) X 100.

84%

10. 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?

N/A

C. Backlogs

11. If your agency had a backlog of requests at the close of Fiscal Year 2024, according to [the] Annual FOIA Report Section XII.D.2 did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2023?

Yes

12. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2024 than it did during Fiscal Year 2023?

N/A

13. If your agency's request backlog increased during Fiscal Year 2024, please 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:

N/A

14. 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 2024. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. This number can be greater than 100%. If your agency has no request backlog, please answer with "N/A."

5.4 %

15. If your agency had a backlog of appeals at the close of Fiscal Year 2024, 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 Fiscal Year 2023?

N/A

16. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2024 than it did during Fiscal Year 2023?

N/A

17. If your agency's appeal backlog increased during Fiscal Year 2024, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

An increase in the number of incoming appeals

A loss of staff

An increase in the complexity of the requests received (if possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase)

Litigation

Any other reasons – please briefly describe or provide examples when possible

N/A

18. 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 2024. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received from Section VI.A) x 100. This number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2024 and/or has no appeal backlog, please answer with "N/A."

N/A

D. Backlog Reduction Plan

19. In the 2023 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2022 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your 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 2024?

N/A

20. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2023, please explain your agency's plan to reduce this backlog during Fiscal Year 2024.

N/A

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

21. In Fiscal Year 2024, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2023 Annual FOIA Report?

No

22. 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 2023 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

At the end of FY 2023, the Commission had 5 backlog requests and was able to close 3 of these during FY 2024.

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

The NIGC monitors and utilizes the request track categories to ensure that simple requests are not stacked behind those that develop into complex ones and therefore, in overall effect, limited FOIA resources can be most efficiently dispatched.

24. In Fiscal Year 2024, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2023 Annual FOIA Report?

The Commission did not have any appeals pending from Fiscal Year 2023.

25. 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 2023 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

N/A

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

N/A

27. In Fiscal Year 2024, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2023 Annual FOIA Report?

The Commission did not have any consultations pending from Fiscal Year 2023.

28. 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 2023 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

N/A

29. If your agency did not close its ten oldest pending requests, appeals, or consultations, please explain why and provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2025.

The NIGC is actively seeking to hire an Information Management Specialist who will assist in the processing agency’s FOIA requests.

Overall, the Commission plans to continue the success it achieved in FY 2024 in which it managed to close 3 out of 5 of its 2023 backlog requests while, simultaneously, successfully responding to, and completing, an unprecedented number of incoming requests.

30. Were any requests at your agency the subject of FOIA litigation during the reporting period? If so, please describe the impact on your agency's overall FOIA request processing and backlog. If possible, please indicate:

No

The number and nature of requests subject to litigation

N/A

Common causes leading to litigation

N/A