

DEPARTMENT OF VETERANS AFFAIRS



Second Annual Report to Congress on the Plan for Reduction of Backlog of Freedom of Information Act Request

March 2025

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Executive Summary

On December 29, 2022, the Consolidated Appropriations Act, 2023, which included the Cleland-Dole Act – Division U, title IV, Section 406 – Plan for Reduction of Backlog of Freedom of Information Act (FOIA) Requests (Section 406) became law. Section 406 requires the Secretary of Veterans Affairs to submit an annual report to the House and Senate Committees on Veterans' Affairs containing information relating to the progress on the previously submitted Department of Veterans Affairs (VA) plan to improve compliance with the FOIA and to incorporate technology improvements. This report is the second annual update to the VA FOIA Plan presented to Congress in June of 2023.

This update provides an enterprise perspective on the decentralized VA FOIA program and shares publicly available information to illustrate VA FOIA performance compared to FOIA operations in other elements of the Executive Branch.

In compliance with Section 406, this report will be posted on the VA website. This is the second in a series of annual updates.

VA FOIA Operations

FOIA was signed in 1966 and designed to provide an effective method for individuals to request Federal records. FOIA has been amended many times over its history; however, it has always kept this portion of President Johnson's signing statement at its core.

"A democracy works best when the people have all the information that the security of the Nation permits. No one should be able to pull curtains of secrecy around decisions which can be revealed without injury to the public interest."¹

FOIA has grown from a much celebrated and little used statute to one which generated nearly 1.2 million unique requests received in fiscal year (FY) 2023 as reported to the Department of Justice Office of Information Policy (DOJ OIP)². VA is a leader in the FOIA field, earning multiple DOJ OIP awards, and is perennially among the largest FOIA programs in the Federal Government. While the program's performance in FY 2024 was remarkable, VA has much work to accomplish in FY 2025 if it is going to move towards meeting the requirements of Section 406.

This Congressionally Mandated Report (CMR) will provide statistical highlights of FY 2024 FOIA Performance, provide updates on continuing operations, share updates on three major lanes of effort for FY 2025, and share projected compliance with the Office of Government Information Services evaluation.

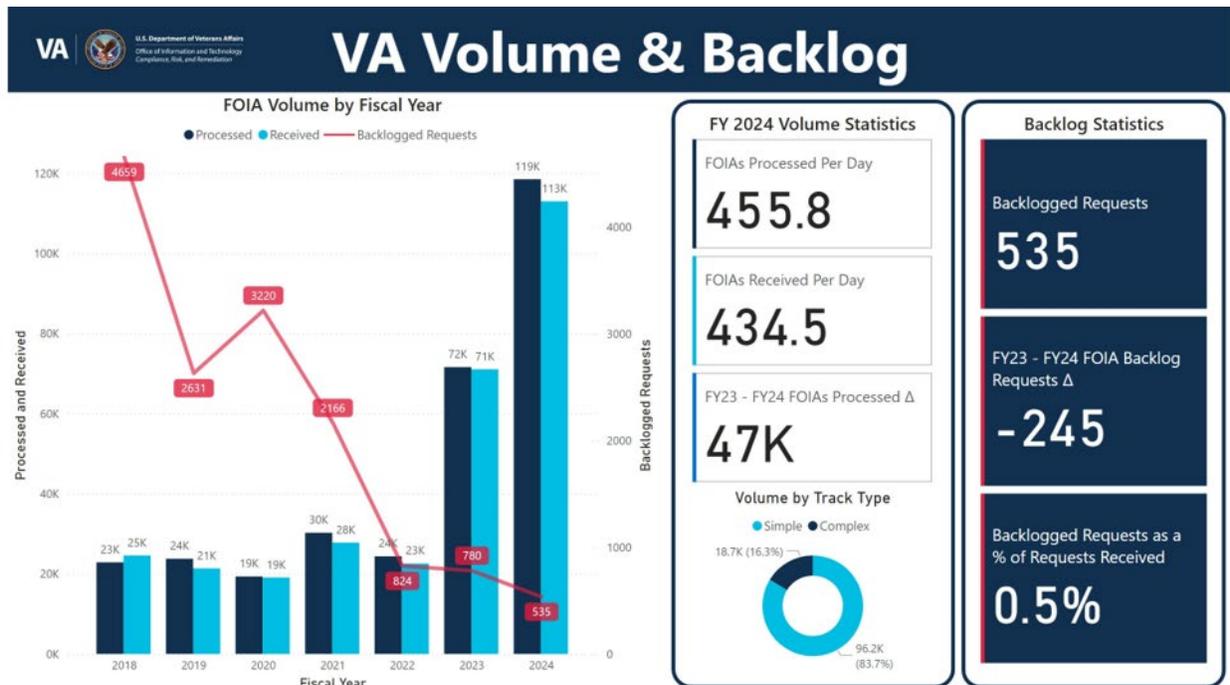
¹ Statement by the President Upon Signing the "Freedom of Information Act," July 4, 1966. Accessed at The American Presidency Project here: <https://www.presidency.ucsb.edu/documents/statement-the-president-upon-signing-the-freedom-information-act>.

² Department of Justice OIP Summary of Annual FOIA Reports FY23 accessed here: <https://www.justice.gov/oip/media/1354721/dl?inline>.

FY 2024 FOIA Program Performance

Over the years, VA has seen variations in the raw numbers of FOIA requests submitted. In FY 2023, VA saw a near tripling of FOIA requests to 71,587 from 24,343 in FY 2022. This growth continued in FY 2024, reaching a record 118,950 cases processed. Despite this 66% increase in workload, VA was able to decrease the FOIA backlog by 32% and process complex requests much faster than the Government averages reported in FY 2023 to the DOJ OIP.³

Figure 1



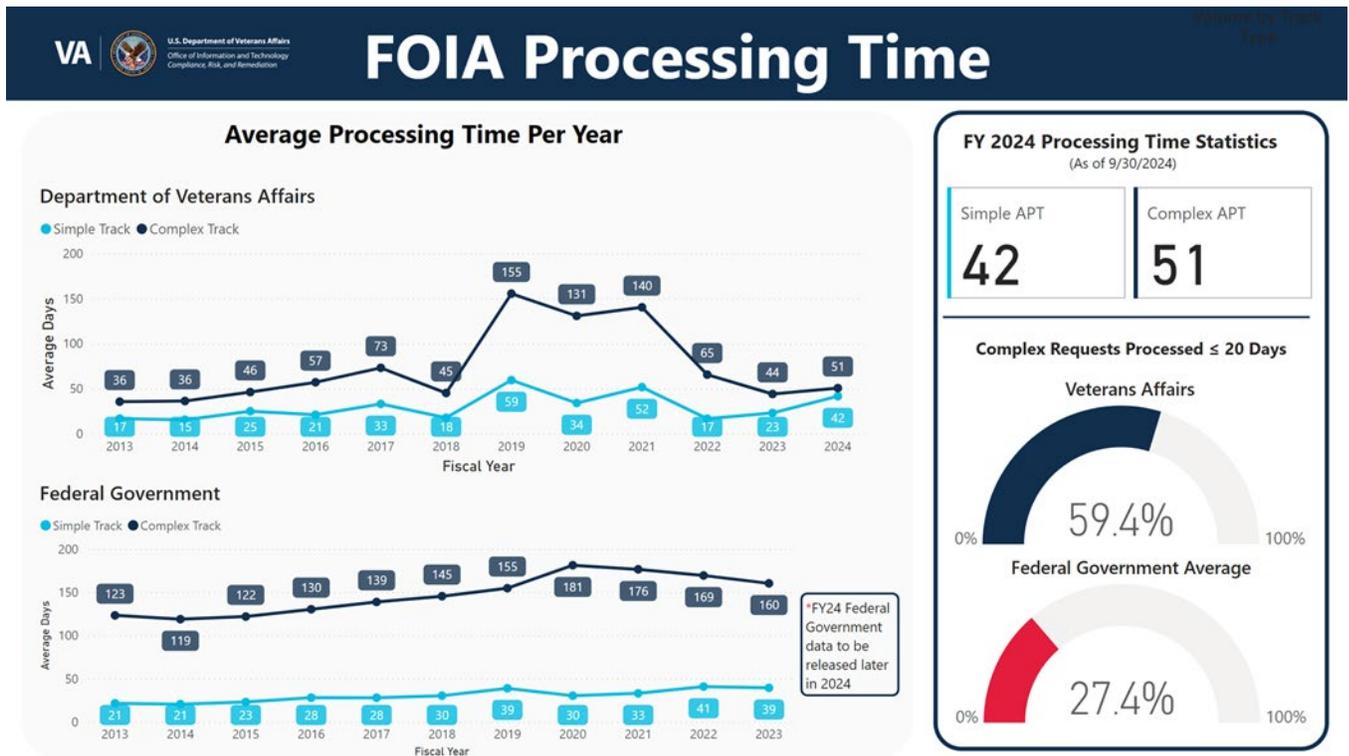
VA's FOIA backlog decreased from 780 backlogged cases to 535 cases in FY 2024. This number is remarkable when one considers that VA processed 118,950 requests in FY 2024, meaning that VA's backlogged cases represent just 0.5% of its overall caseload. See Figure 1 above. This contrasts to the FY 2023 Governmentwide numbers of 200,843 backlogged cases versus 1,199,699 cases processed, a backlog ratio of 16.7% Governmentwide.

Simple and Complex Processing Time

Backlog reduction is an important programmatic goal; however, VA FOIA is focused on reducing the time it takes a FOIA requester to receive their requested records. These requests generally fall into either the "simple" track or the "complex" track.

³ Department of Justice OIP Summary of Annual FOIA Reports FY23 accessed here: <https://www.justice.gov/oip/media/1354721/dl?inline>.

Figure 2



VA was able to process “simple track” requests with an average processing time (APT) of 42 working days. See Figure 2 above. This is slightly longer than the Governmentwide average of 39 working days reported by DOJ OIP’s “Summary of Annual FOIA Reports for Fiscal Year 2023.”⁴

When it comes to complex requests, VA processed requests with an APT of 51 working days. This compares favorably to the Governmentwide figure of 160 days. On average, VA processes complex requests more than three times faster than the Government at large. Perhaps most impressively, VA processes nearly 60% of complex cases within 20 days. This is more than twice as many as Government as a whole accomplishes in this time frame.

Given the unprecedented increase in the volume of FOIA requests, the scope of the incoming requests, and the complexity of the FOIA mission, these results are remarkable. Despite this success, it indicates that there is still work to be done to meet the sub-20-day APT envisioned by Section 406. Overall, these numbers illustrate that across the Federal Government, VA processes more requests than almost every other Federal agency (see Figure 3, page 4), performs that function faster than the Federal Government at large (see Figure 2), does so with a fraction of the average backlog ratio

⁴Department of Justice OIP Summary of Annual FOIA Reports FY22 accessed here: <https://www.justice.gov/oip/page/file/1581856/dl?inline>.

of the rest of the Government (see discussion of Figure 1, page 2), and, as VA reported last year, does it with a comparatively small budget, see Figure 4 below.

Figure 3

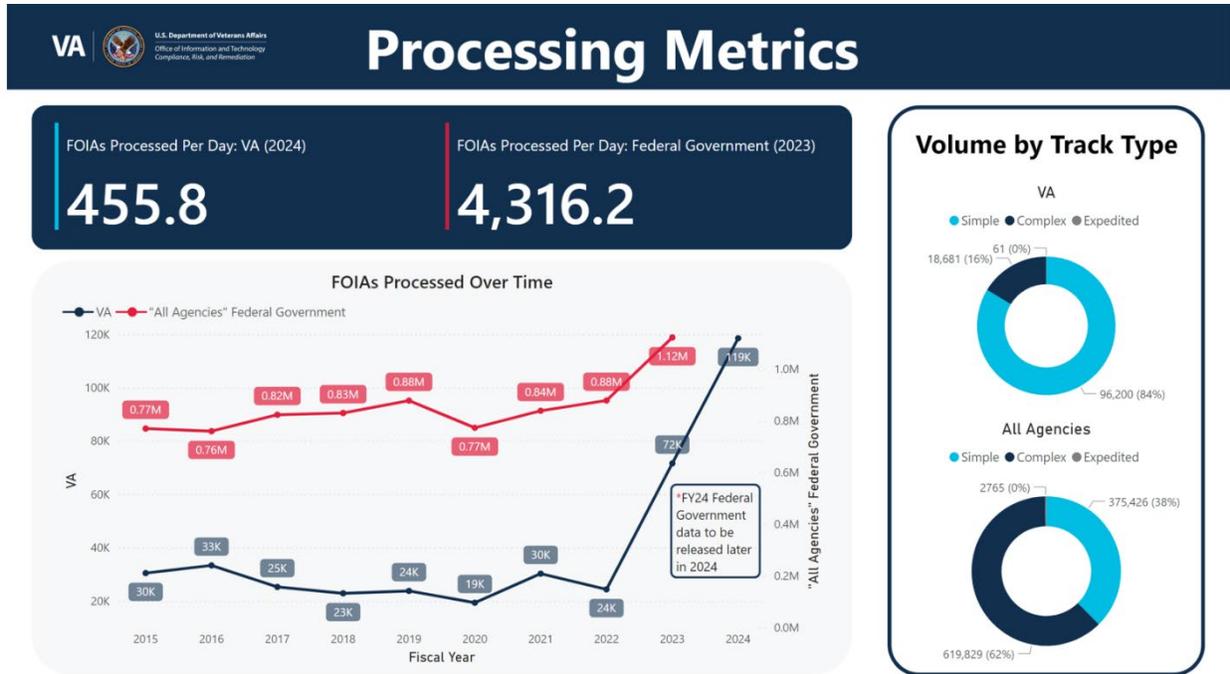


Figure 4



The most recent Governmentwide data reveal that while VA expends \$70.56 per FOIA processed, the Federal average is more than eight times that number at \$588 per FOIA processed (see Figure 4, page 4). Thus, VA is finding success with fewer resources than other FOIA programs.

While VA takes pride in these FY 2024 results, additional days need to be cut from the VA ATP to meet the requirements of Section 406. VA also needs to acquire technology to process requests, like email pulls, directly; to memorialize efficient procedures, policies, and systems fully; and to continue VA interactions with Office of Government Information Services (OGIS) in FY 2025 to assess overall VA FOIA compliance.

VA FOIA Service Pilots

As communicated in VA's initial report and updated in the first annual report, VA continues to pilot centralized intake and review for VA Central Office-level FOIA requests. These initiatives yielded remarkable success in FY 2024.

The VA Centralized Intake Unit leveraged the first ever comprehensive records map for VA FOIA professionals to identify where requested records would likely reside. This map enabled new staff to integrate into their role quickly and addresses one of the challenges of high staff turnover in the VA FOIA community; whereas once it would take a new FOIA Officer many months to learn their jobs, this map points in the right direction on day one.

Centralized review has sharpened the work product of staff members who are participating. Simply knowing that there is an additional set of eyes on a work product has improved that work product in some instances. In others, VA has identified training gaps and taken immediate action to provide just-in-time training to stakeholders.

VA FOIA Service Improvement Initiatives

The VA FOIA Service continued its successful Program Office Support Team (POST) to provide direct support and oversight to program offices. The POST team worked to ensure that requests were properly assigned and rerouted legacy requests while closing additional requests which were no longer needed by the requester or had already been serviced but not closed out in the VA's FOIA tracking software. This direct support for collateral duty FOIA Officers built relationships and assisted in upskilling many of them.

FY 2025 Action Plan

Under the direction and guidance of the VA FOIA Advisory Committee, the VA FOIA community is building on three major lanes of effort in FY 2025. These are a Technology Working Group (TWG), a Training Working Group (TRWG), and Staffing Working Group (SWG). Each of these groups are comprised of various members of the VA FOIA community and are led by GS-14 level employees. VA Central Office,

Veterans Benefits Administration, and Veterans Health Administration FOIA Directors routinely attend meetings and provide guidance.

Technology Working Group

TWG works to gather, analyze, and review information about FOIA information technology (IT) platforms/technology-related tools based upon responses to VA-issued Request for Information documents and provides technical assistance for the Request for Proposal (RFP) phase of potential technology adoption for the VA FOIA program, including selection and implementation recommendations.

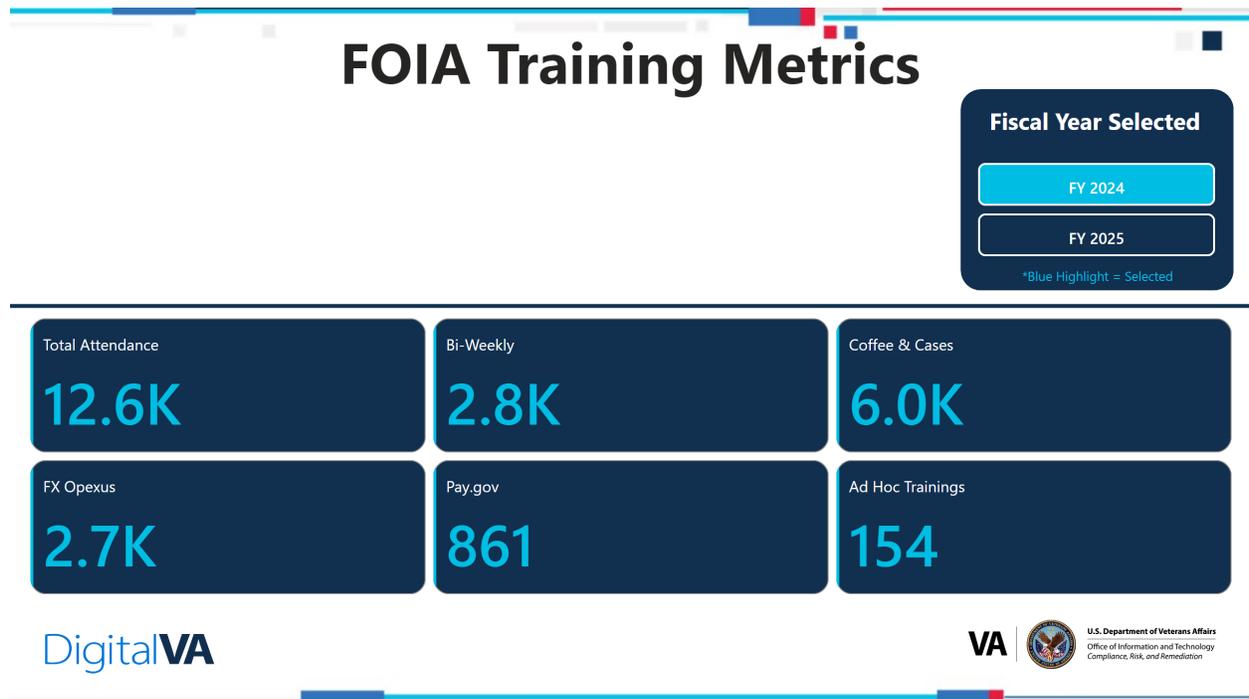
The TWG has reviewed the VA FOIA RFP and, by the time of publication of this CMR, it is expected that they will have presented recommendations for a potential modern eFOIA solution. In particular, the TWG is focused on leveraging the President's executive order on artificial intelligence to bring both attention and resources to potential FOIA applications.

If the TWG recommends that VA transition to a new software system to meet Section 406 requirements, it will also develop a best practice guidance/roadmap for a potential transition to a new or augmented IT resource. Replacing legacy software is critical, as the FOIA-eligible records the VA creates and uses continue to expand.

Training Working Group

TRWG works to gather, analyze, and review information about VA FOIA training efforts and to consolidate them into a "One VA" Approach. Because the VA FOIA program is decentralized, VA FOIA training has both variety of thought and approach that is very valuable. The TRWG brings those various approaches under one banner to provide training for VA-wide preferred/optimum workflows.

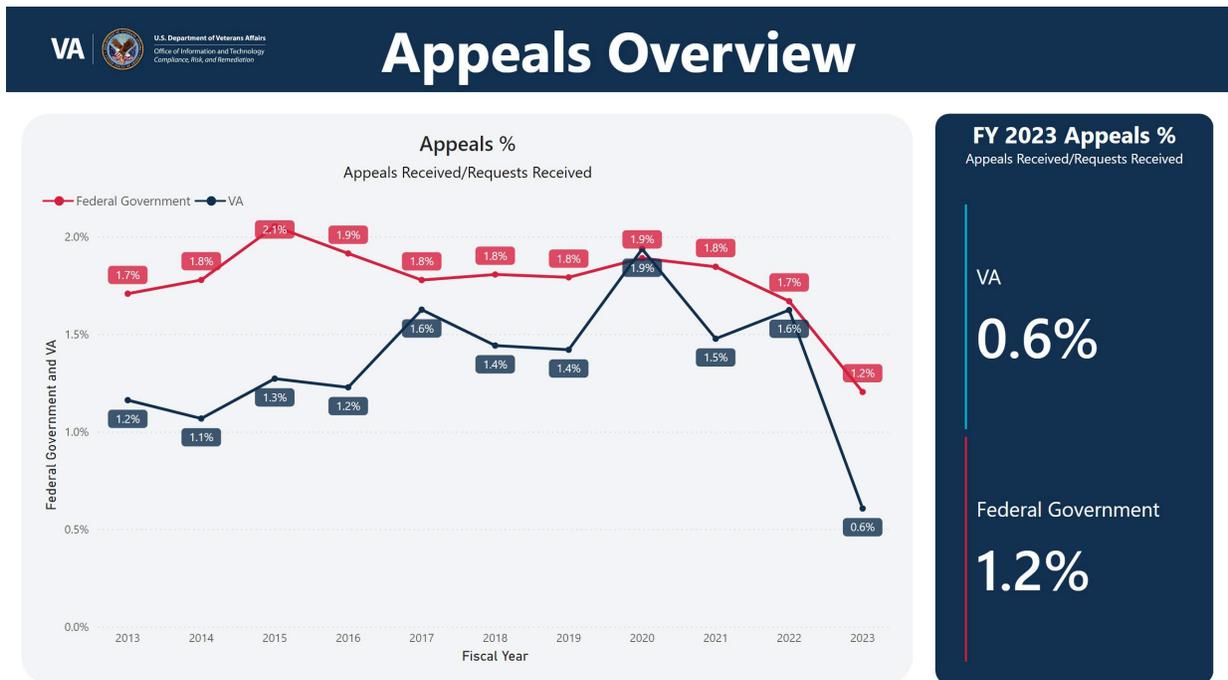
Figure 5



In FY 2024, the TRWG oversaw 12,600 unique training interactions (see Figure 5 above). This is by far the most reported in the Federal FOIA family. These trainings ranged from training on VA legacy software platform, bi-weekly case law, and FOIA processing basics to wildly successful “Coffee and Cases” sessions, where FOIA Officers come together to share best practices and ask questions specific to their caseloads. These trainings have created a community of practice whose practitioners seek to assist each other. This has further established VA FOIA’s “bias for action” and helped achieve record results in FY 2024.

In addition, the TRWG is developing a core FOIA curriculum for the eventual certification of FOIA Officers. The TRWG is the engine that creates standardized documents like directives, Frequently Asked Questions, and presentations for VA-wide use. Perhaps the leading indicator of the VA FOIA’s training program success is found in the appeal ratio of VA. While once the VA had an appeal to caseload ratio that exceeded the Government averages, after the TRWG implementation, that number is now half of the Government average (see Figure 6, page 8). This means that (a) there are fewer grounds to appeal FOIA decisions, (b) more requesters are satisfied with their requests, and (c) fewer resources need to be allocated to relitigate requests that might not meet the basic standards of 5 U.S.C. 552. In short, VA FOIA has a 99.4% satisfaction rate.

Figure 6



Staffing Working Group

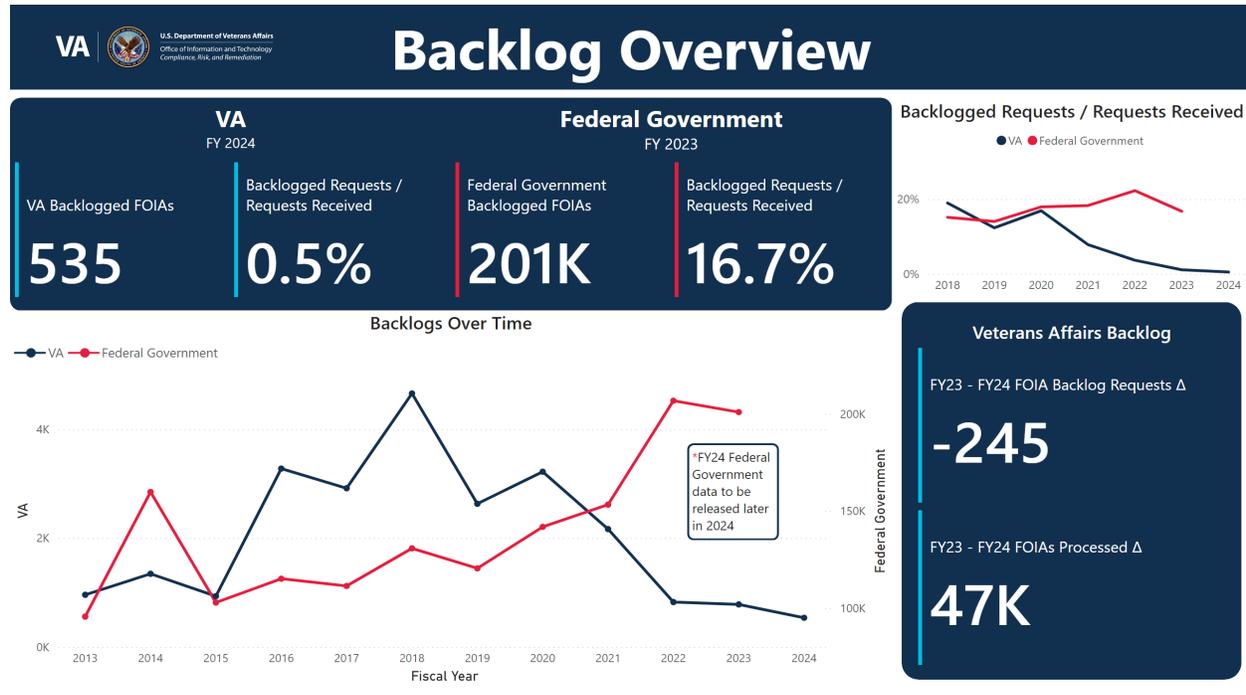
SWG continues to gather, analyze, and review information about FOIA staffing models in response to the Section 406 Working Group recommendations around centralization of FOIA operations at the national level. The basis for these recommendations is that the volume of FOIA requests does not support a full-time FOIA Officer at most VA sites or program offices. The work is highly technical, and having individuals split attention between FOIA and other areas has proven to be an inefficient way to conduct business.

Providing dedicated, uninterrupted time to focus on FOIA can often be deprioritized when weighed against the need to complete other assigned duties. Lack of processing time leaves the collateral duty FOIA Officer at a disadvantage when processing complex, large, or voluminous FOIA requests, increasing the risk of the request becoming backlogged.

Further, a site with only one collateral duty FOIA Officer also significantly increases the risk of FOIA backlog upon employee departure. (see Figure 7, page 9). Frequently, collateral duty personnel are professionals in other technical areas and move within their field. This is often cited as a challenge in lowering the large Federal FOIA case backlog numbers, a trend VA is resisting by creating an environment where FOIA Officers report satisfaction with being an important part of a successful community, increasing retention rates VA-wide.

The SWG presented optimal staffing model findings to the FOIA Council for review and approval in FY 2024. These recommendations will be conveyed to Secretary of Veterans Affairs for action/decision in FY 2025.

Figure 7



Required Office of Government Information Service Interaction

Section 406 of Cleland-Dole requires the Secretary to request an OGIS assessment of the FOIA program. This request was sent to the Director of OGIS on April 14, 2023. OGIS and VA have begun working together to conduct that assessment and the report is expected by quarter 4 of 2025. In the December 2025 report, VA will outline the findings and actions taken as a result of this interaction.

Conclusion

The structure, operation, and resources of the VA FOIA program Department-wide is consistent with the needs of organizations when the FOIA was enacted. As time has progressed and transparency has increasingly become a core component of agency operations, it is critical to update the structure, operation, and resources of FOIA programs. VA is pleased to submit this update and looks forward to continuing iterative improvements to VA FOIA operations as the VA works to fulfill President Lincoln’s promise.

**Department of Veterans Affairs
 March 2025**