

# FOIA: a digital age challenge for an industrial age process

Numerous oversight agencies and authorities have released directives and reports recommending that government agencies adopt modern technologies to meet today's FOIA challenges. However, many federal agencies remain burdened with antiquated or inadequate technology tools, and they continue to struggle to meet FOIA deadlines or provide complete and accurate responses to public records requests.

Now, another report joins in the call to use more advanced technologies in FOIA programs. A September 2018 assessment by the Inspector General (IG) of the Intelligence Community found a clear lack of adequate technology to support the processing of FOIA requests in six Intelligence Community agencies including the Central Intelligence Agency (CIA), Defense Intelligence Agency (DIA), National Geospatial-Intelligence Agency (NGA), National Reconnaissance Office (NRO), National Security Agency (NSA), and Office of the Director of National Intelligence (ODNI).



## **Major FOIA Program Challenge: Outdated Technology**

The IG examined the effectiveness of these agencies' efforts to manage FOIA requests, focusing on how programs prioritize, coordinate, and process requests to meet statutory

requirements, including response timeliness and communications with requestors. The resulting report, [Assessment of IC Freedom of Information Act \(FOIA\) Programs](#), characterizes “the execution of FOIA responsibilities as an industrial age process applied to a digital age challenge.”

The IG found that while some agencies have used technological tools to manage FOIA requests and workloads, they have not always done so in a modern way. The majority of technologies currently in use for processing FOIA requests are not designed to meet the specific challenges presented by FOIA and public records disclosure processes. Successful FOIA programs need to use integrated, advanced technology platforms specially designed to handle unique FOIA challenges and that:

- Support secure internal and external communication and collaboration;
- Efficiently collect and process large amounts of complex data from various sources;
- Automate review and redaction processes to save time and improve accuracy; and
- Use technologies such as data analytics, predictive coding, and automation to deliver many other advantages.

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## **Modern FOIA Program Challenges**

Like most government agencies, the Intelligence Community agencies are receiving increasing volumes of more complex public records requests, and the related costs are rising significantly. According to the IG’s report:

- Throughout 2016 and 2017, the six agencies handled a total of 11,804 at a cost of over \$51 million.
- In 2017, each of the six agencies closed less than 60 percent of initial cases within the deadline of 1-20 working days.

- All the agencies are currently weighed down by backlogs, which if not addressed, will continue to grow and increase the potential for litigation.

Most of the six agencies described challenges from “a lack of or an ad-hoc combination of systems and software applications that do not meet full requirements for effective FOIA functioning,” which lead to ineffective searches, cumbersome document review, increased de-duplication and redaction efforts, and dismal internal coordination, interagency referrals and consultations.

Responses to requests often include highly sensitive classified documents that require additional scrutiny and levels of review. But so far, there’s been no easy method to transfer documents from one agency to another due to the incompatibility of systems. Additional challenges listed in the report include:

- duplication of effort as requests move between offices for review;
- multiple transformations of documents from soft-to-hard copy and back to soft;
- re-entering redactions of information made on one system into records on another;
- inefficient methods for locating and processing records; and
- competing demands of litigation and other document declassification reviews.

Key areas where new or updated technology would enhance FOIA programs, as reported by the six Intelligence Community agencies, include:

## **The Repeated Call for eDiscovery Technology to Overcome FOIA Challenges**

The IG’s report is [one more in a long history](#) of presidential directives and official reports and recommendations made by organizations such as the Department of Justice, the FOIA Advisory Committee, and the FOIA IT Working Group that advocate for the use of more modern technology to improve FOIA practices.

In fact, eDiscovery technology platforms are pinpointed as uniquely suited to overcome the current FOIA challenges. For example, in its January 16, 2018 [Recommendations to the FOIA Advisory Committee](#), the Subcommittee on FOIA Searches said it was “impressed by the power of eDiscovery searches and hopeful that their use increases.”

Modern eDiscovery technology platforms are designed specifically to [end the FOIA bottle-neck](#) and improve the accuracy of search, review, and redaction. They provide a more scalable and flexible environment for processing electronic records, helping you meet today's challenges while also keeping pace with tomorrow's innovations.

For more on how eDiscovery technology platforms enhance your ability to master FOIA once and for all, download the white paper, [Take Control of Public Records Requests: A Maturity Model](#). Discover the sources of inefficiencies that are holding back the success of your FOIA program and identify the steps you need to take to reach the next level.