



United States Department of Justice
Office of Information Policy

**Chief FOIA Officers
Conference**

Opening Address Given By
Associate Attorney General Thomas J. Perrelli
Department of Justice's Chief FOIA Officer

June 30, 2010

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Director
Office of Information Policy

President Obama's FOIA Memorandum

- The President directed all agencies to administer the FOIA with a clear presumption in favor of disclosure, to resolve doubts in favor of openness, and to not withhold information based on “speculative or abstract fears.”

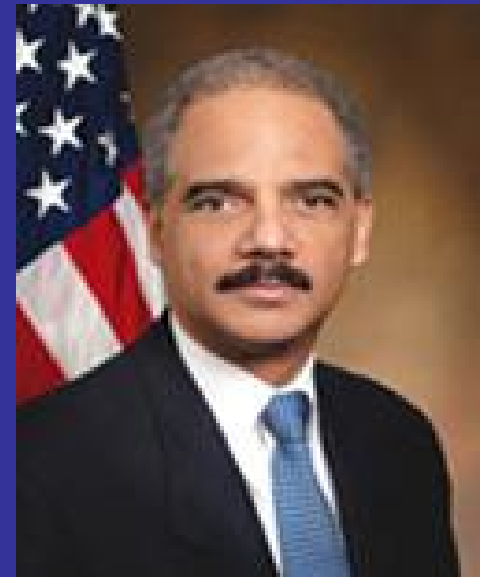


President Obama's FOIA Memorandum

- The President called on agencies to ensure that requests are responded to in “a spirit of cooperation,” that disclosures are made timely, and that modern technology is used to make information available to the public even before a request is made.

Attorney General Holder's FOIA Guidelines

- The Attorney General addressed the principles applicable to applying the presumption of openness.
- Encouraged agencies:
 - to make discretionary disclosures of information,
 - to not withhold information simply because they may do so legally, and
 - to consider making partial disclosures.



Attorney General Holder's FOIA Guidelines

- The Attorney General's Guidelines comprehensively addressed the need for each agency to establish effective systems for improving transparency.
- The Attorney General emphasized that “[e]ach agency must be fully accountable for its administration of the FOIA.”

Chief FOIA Officer

- Attorney General Holder highlighted the key role of each agency's Chief FOIA Officer.
- The Attorney General emphasized that “[i]mproving FOIA performance requires the[ir] active participation.”

Agency Accountability

- The Attorney General directed agency Chief FOIA Officers
 - to review “all aspects of their agencies’ FOIA administration,”
 - to report on the steps taken “to improve FOIA operations and facilitate information disclosure.”
- OIP was given responsibility for issuing guidance on the content of Chief FOIA Officer Reports.

Content of Chief FOIA Officer Reports

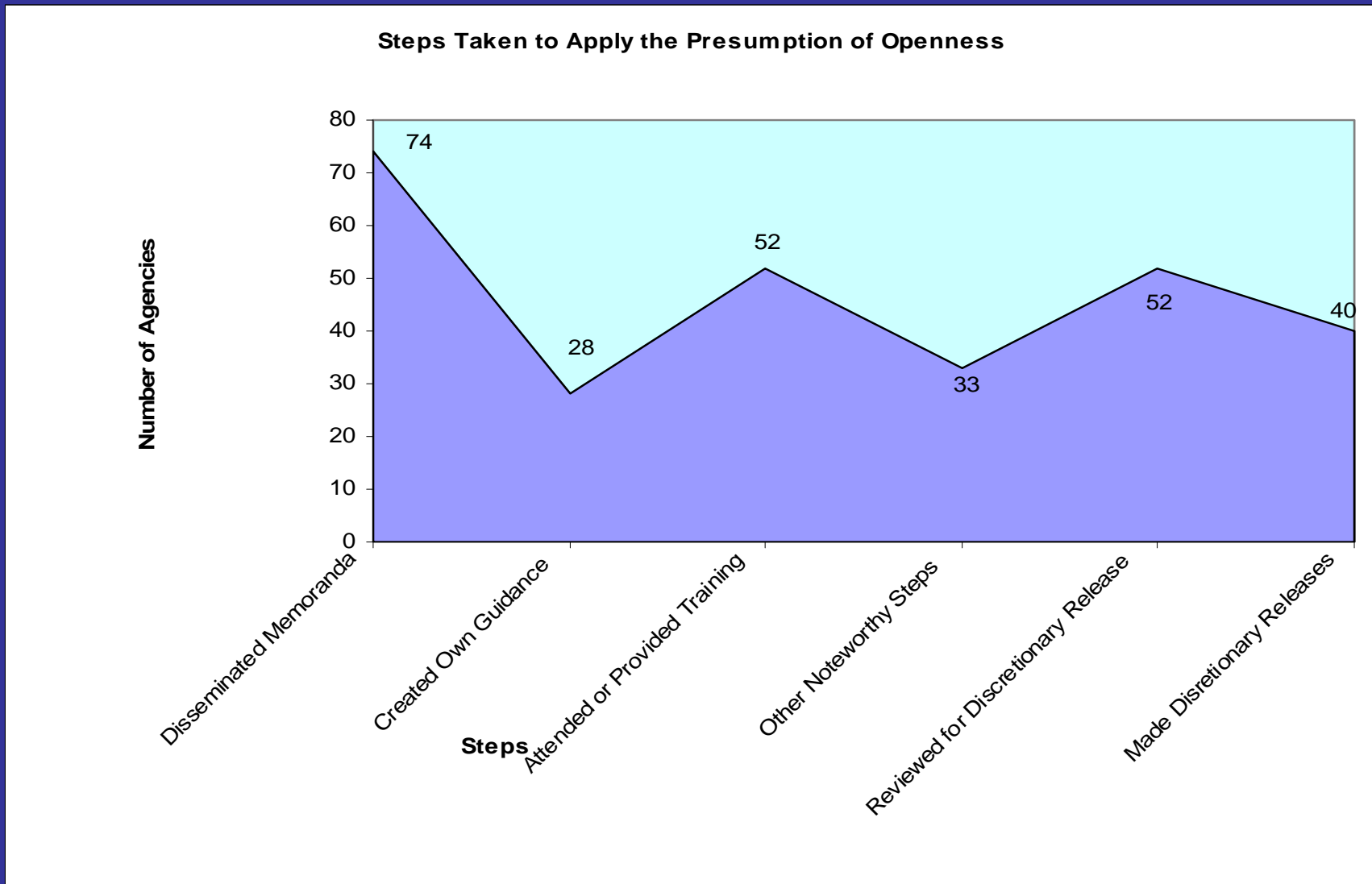
- Part I: Steps Taken to Apply the Presumption of Openness
- Part II: Steps Taken to Ensure that Each Agency has an Effective System for Responding to Requests
- Part III: Steps Taken to Increase Proactive Disclosures
- Part IV: Steps Taken to Greater Utilize Technology
- Part V: Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

Part I: Steps Taken to Apply the Presumption of Openness

“As President Obama instructed in his January 21 FOIA Memorandum, ‘The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails.’”

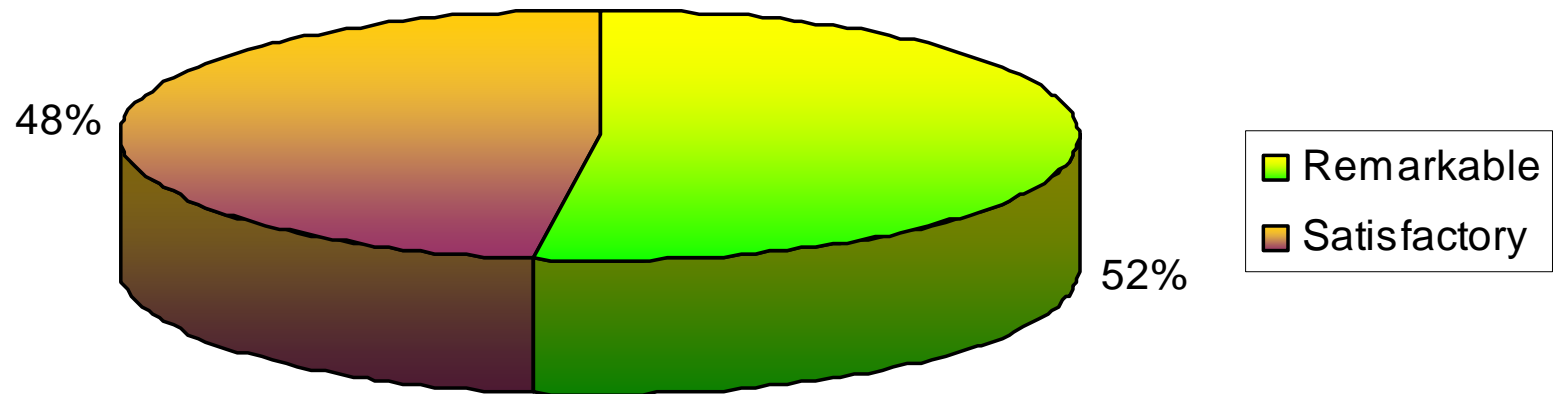
1. Description of steps each agency took to ensure that the presumption is being applied to all decisions involving the FOIA.
 - Steps Taken
 - Statistics/Examples

Steps Taken



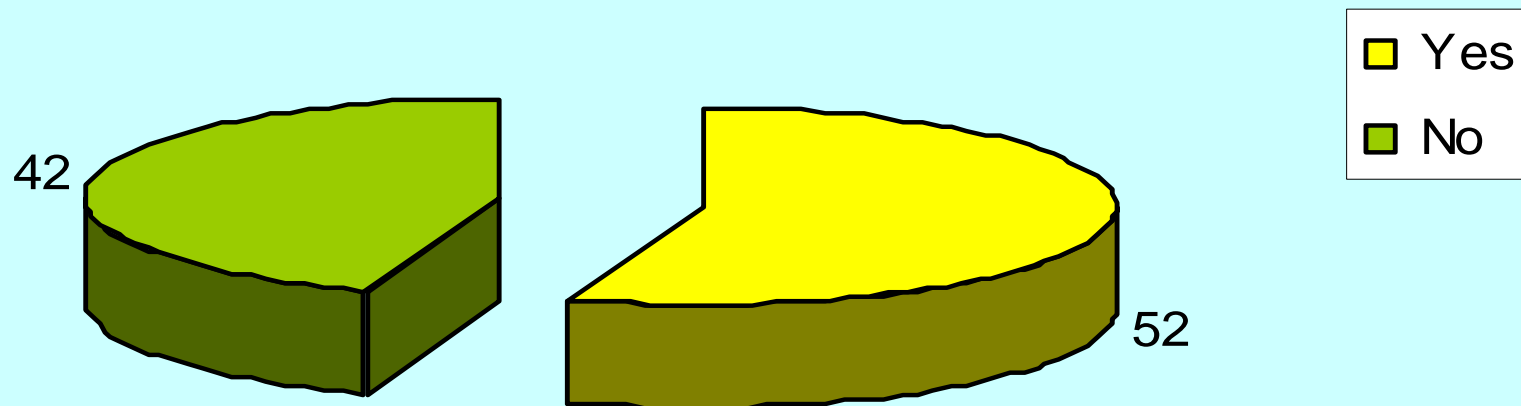
Level of Activity

Extent of Agency Participation



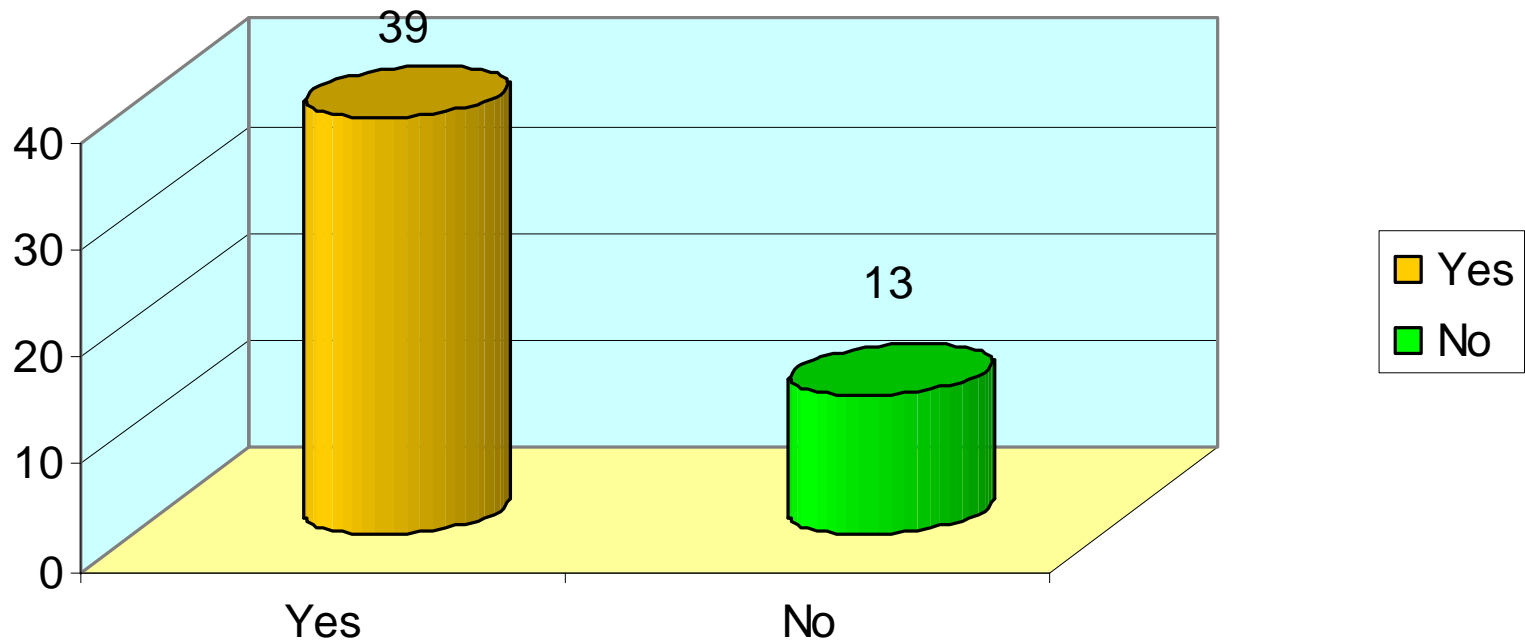
Discretionary Disclosures

Reviewed for Discretionary Release



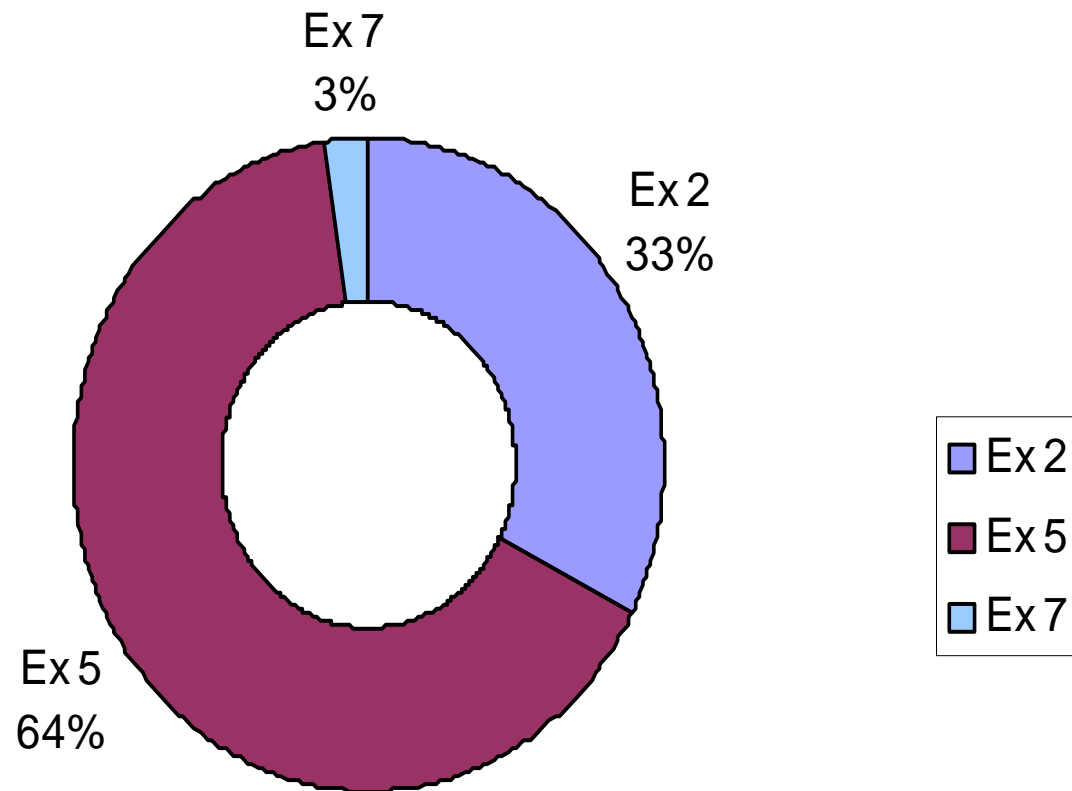
Discretionary Disclosures

**Agencies with Review Process Made
Discretionary Releases**



Discretionary Disclosures

Exemptions Not Applied as a Matter of Discretion

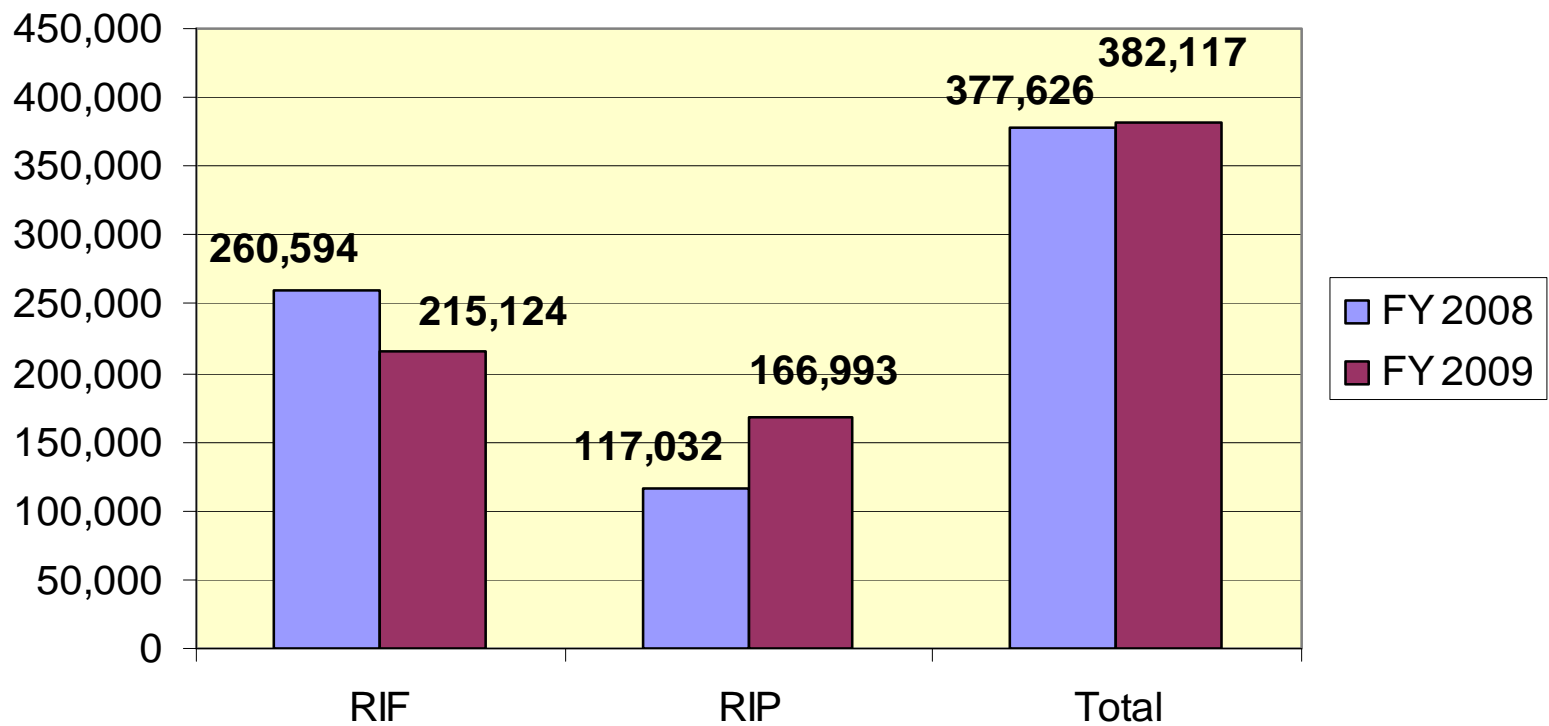


Part I: Steps Taken to Apply the Presumption of Openness

2. Agencies reported whether they had increases in the number of requests where records were released in full or where records were released in part when compared with those numbers in the previous year's Annual FOIA Reports.

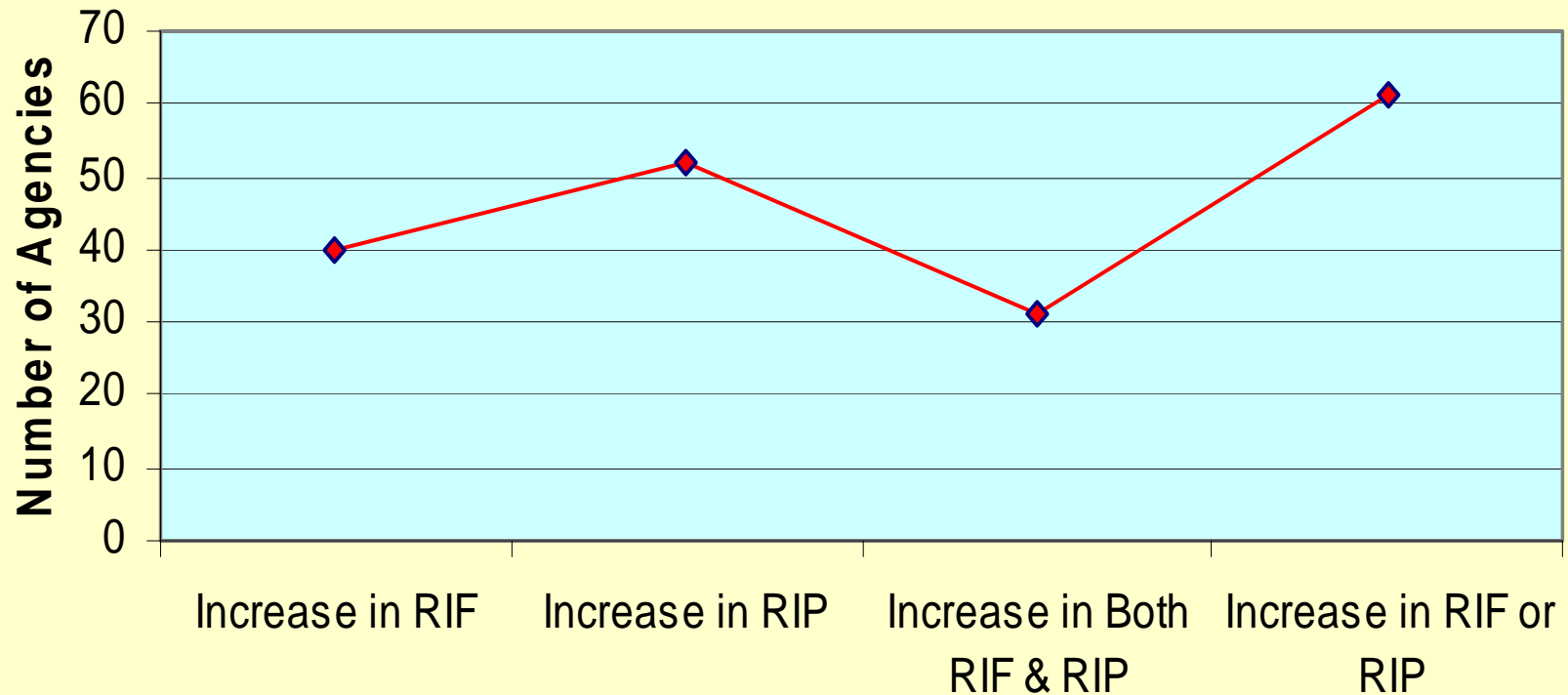
Disposition of FOIA Requests

Disposition Comparison FY 2008 to FY 2009



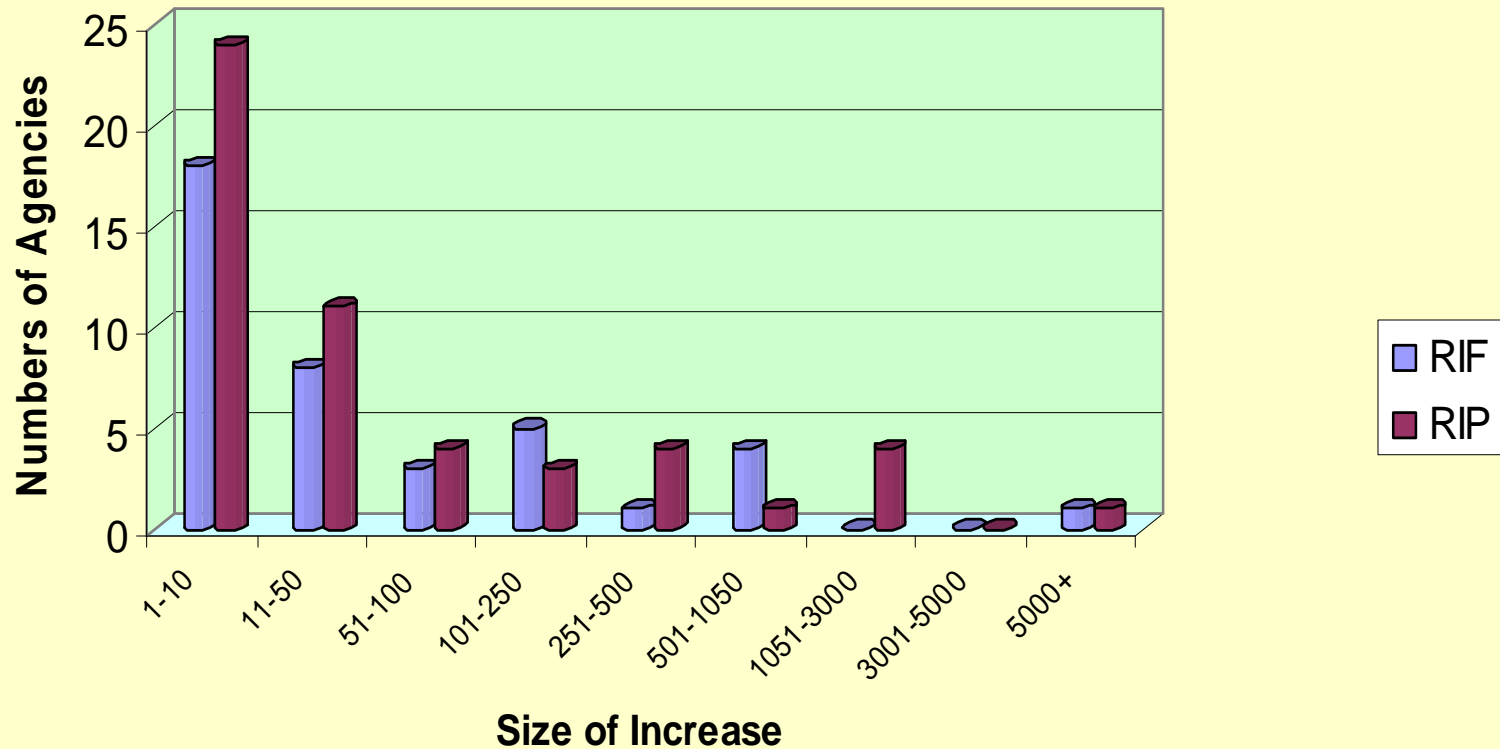
Disposition of FOIA Requests

Did Agencies Disclose More in FY 2009?



Disposition of FOIA Requests

Size of Increase in RIF and RIP



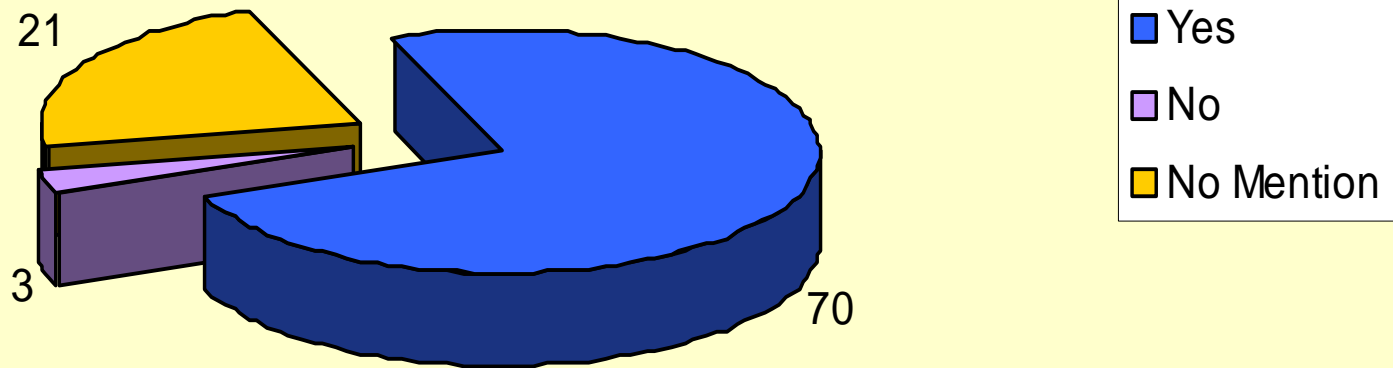
Part II: Steps Taken to Ensure that Your Agency has an Effective System for Responding to Requests

“Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests.”

- Description of steps each agency took to ensure that its system for responding to requests is effective and efficient.
 - Sufficient IT support.

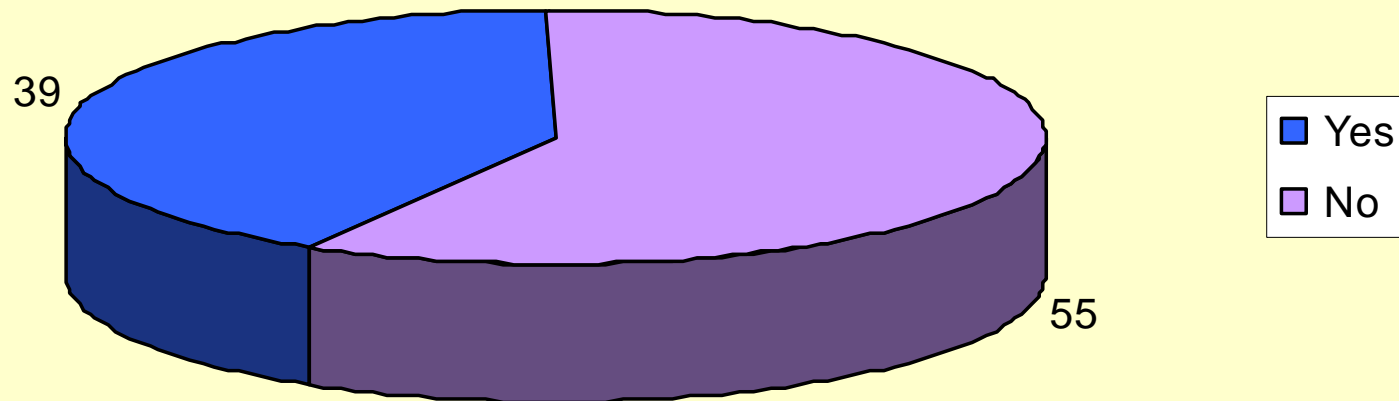
IT Support

Did Your Agency Have Sufficient IT Support?



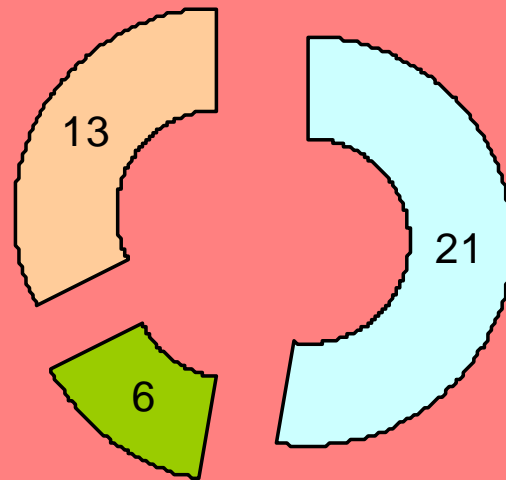
Upgrading IT Tools

Did Your Agency Upgrade or Procure IT Tools?



Improving Effectiveness

Agencies Reporting Involvement of Chief FOIA Officers



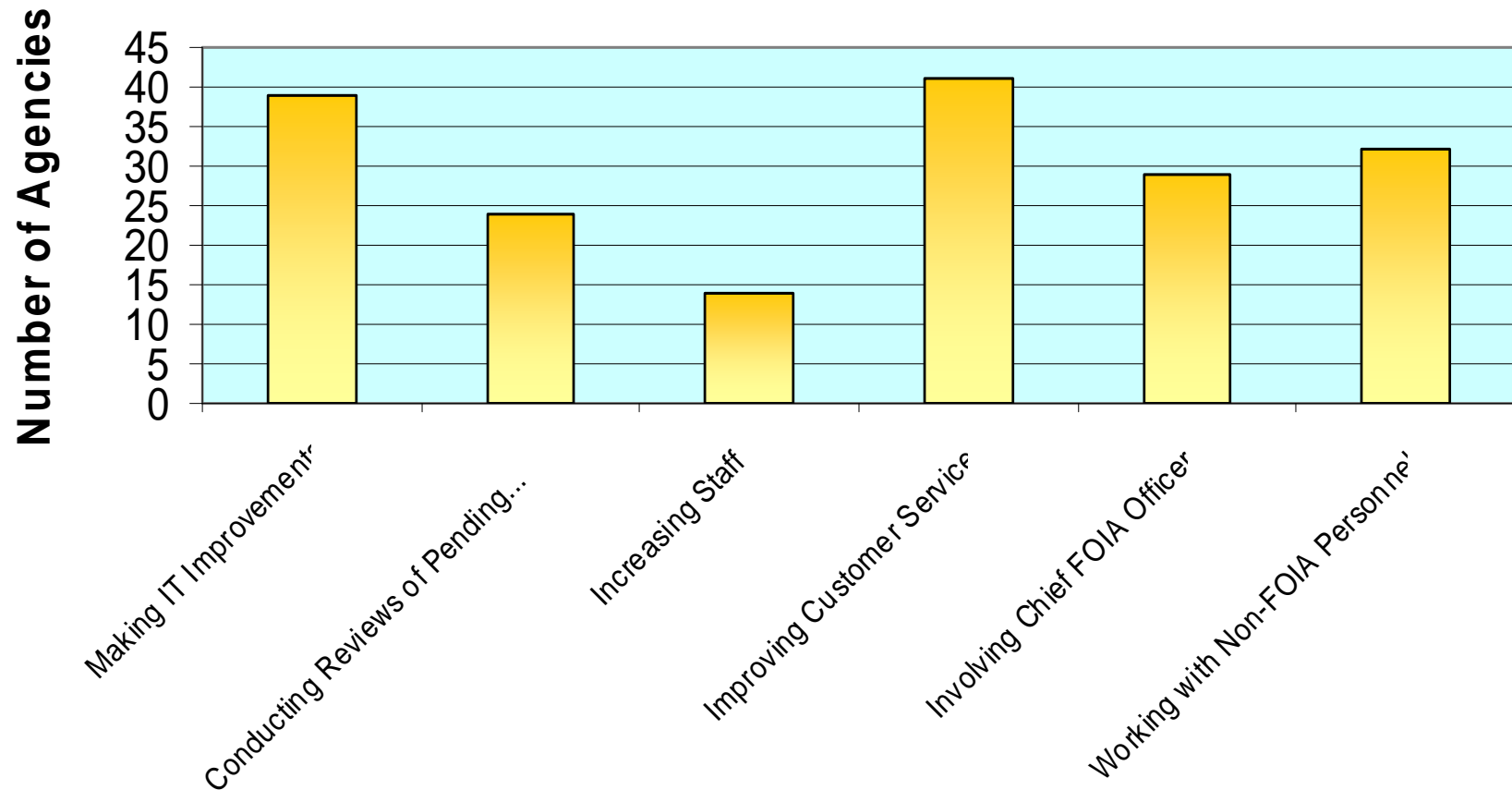
□ Sufficient IT Support

■ Increased Staff

■ Cooperation with Non-FOIA Personnel

Improving Effectiveness

Methods to Improve FOIA Systems



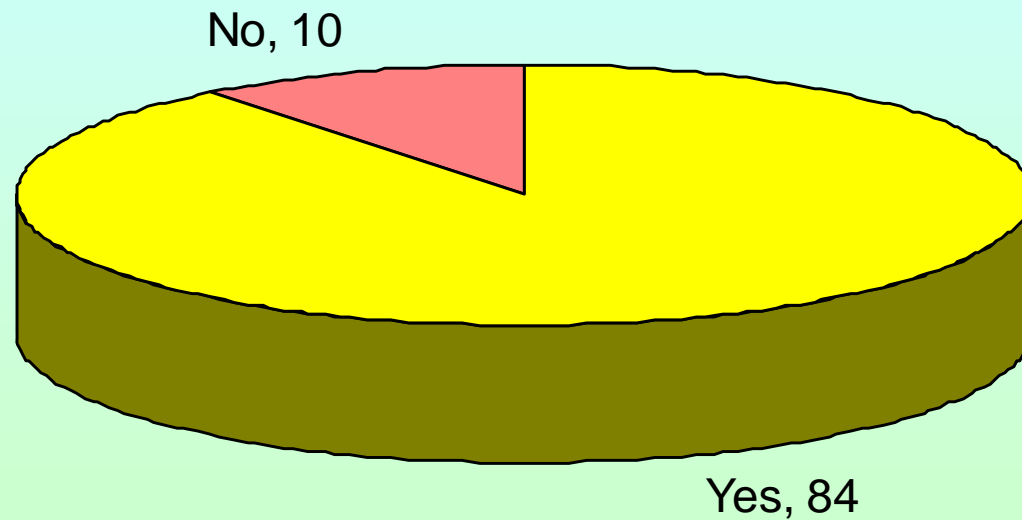
Part III: Steps Taken to Increase Proactive Disclosure

“[A]gencies should readily and systematically post information online in advance of any public requests.”

- Description of steps each agency took to increase the amount of material that is available on their websites, including providing examples of proactive disclosures that have been made since issuance of the new FOIA guidelines.

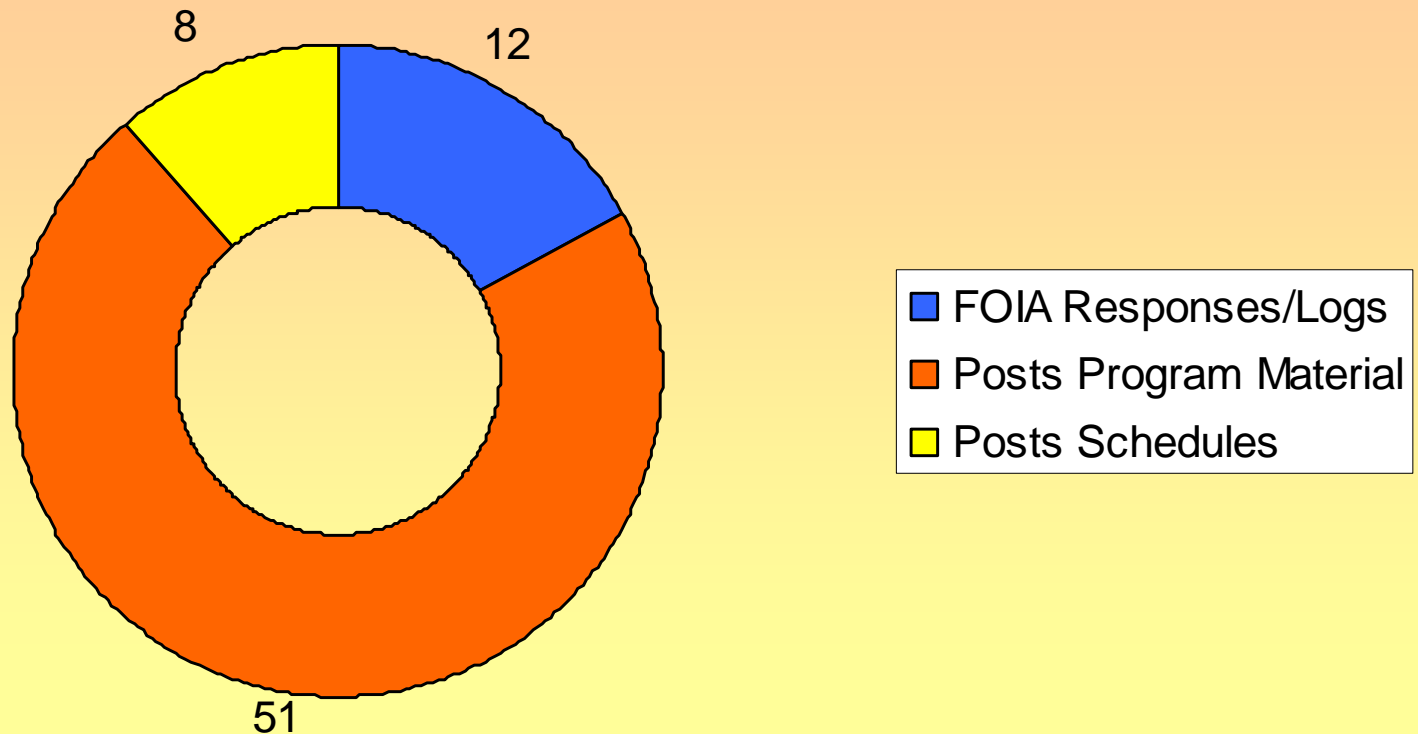
Increasing Postings

Has the Agency Added Information to its Website?



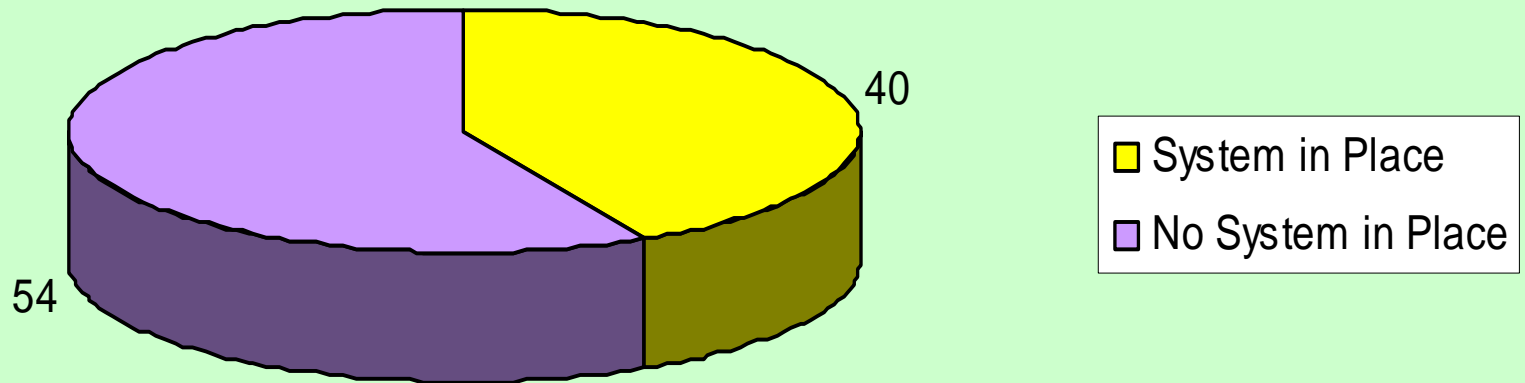
Increasing Postings

What are Agencies Posting?



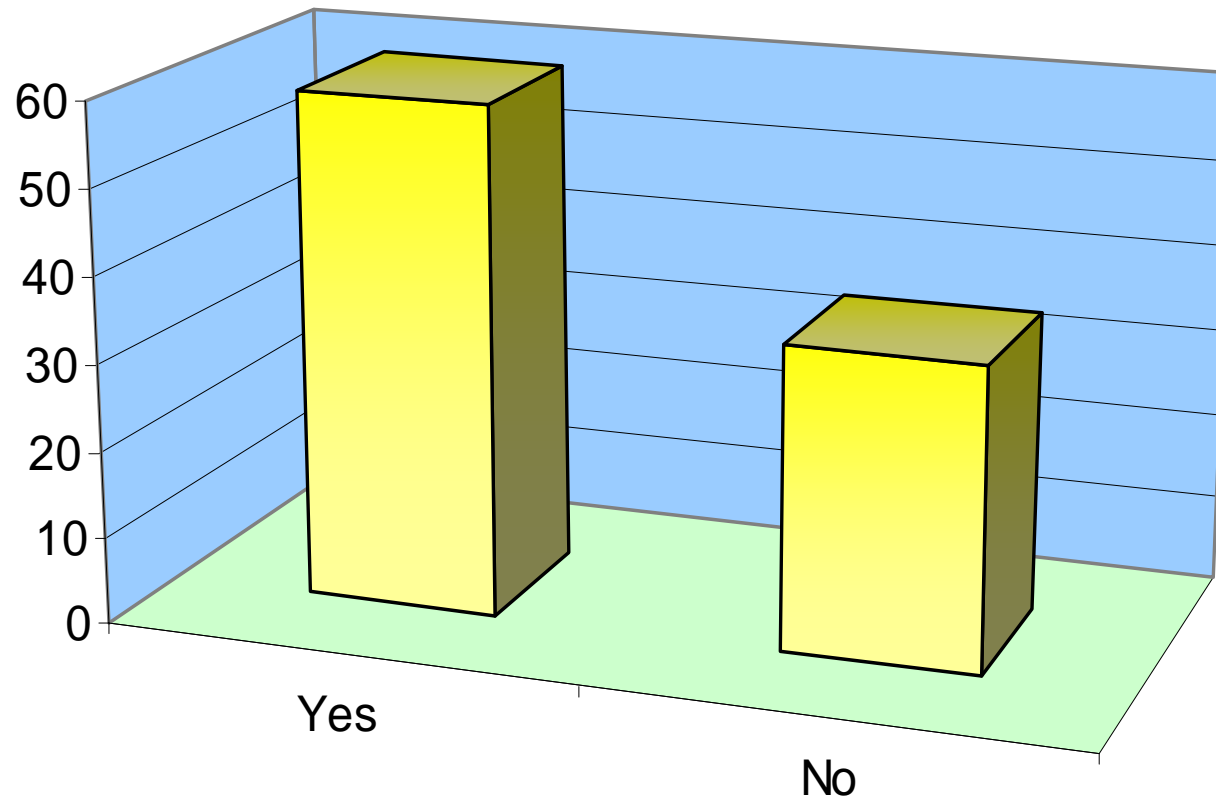
Systems for Posting

Agency Methods for Identifying Records to Proactively Post



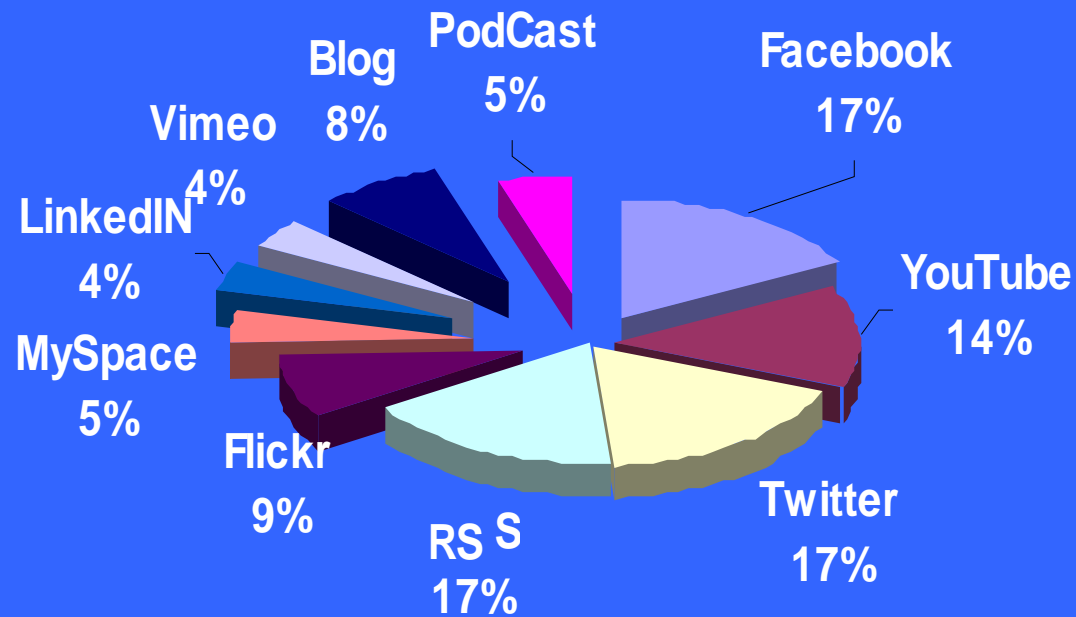
Achieving Transparency in New Ways

Does your agency use social media?



Achieving Transparency in New Ways

Types of Social Media

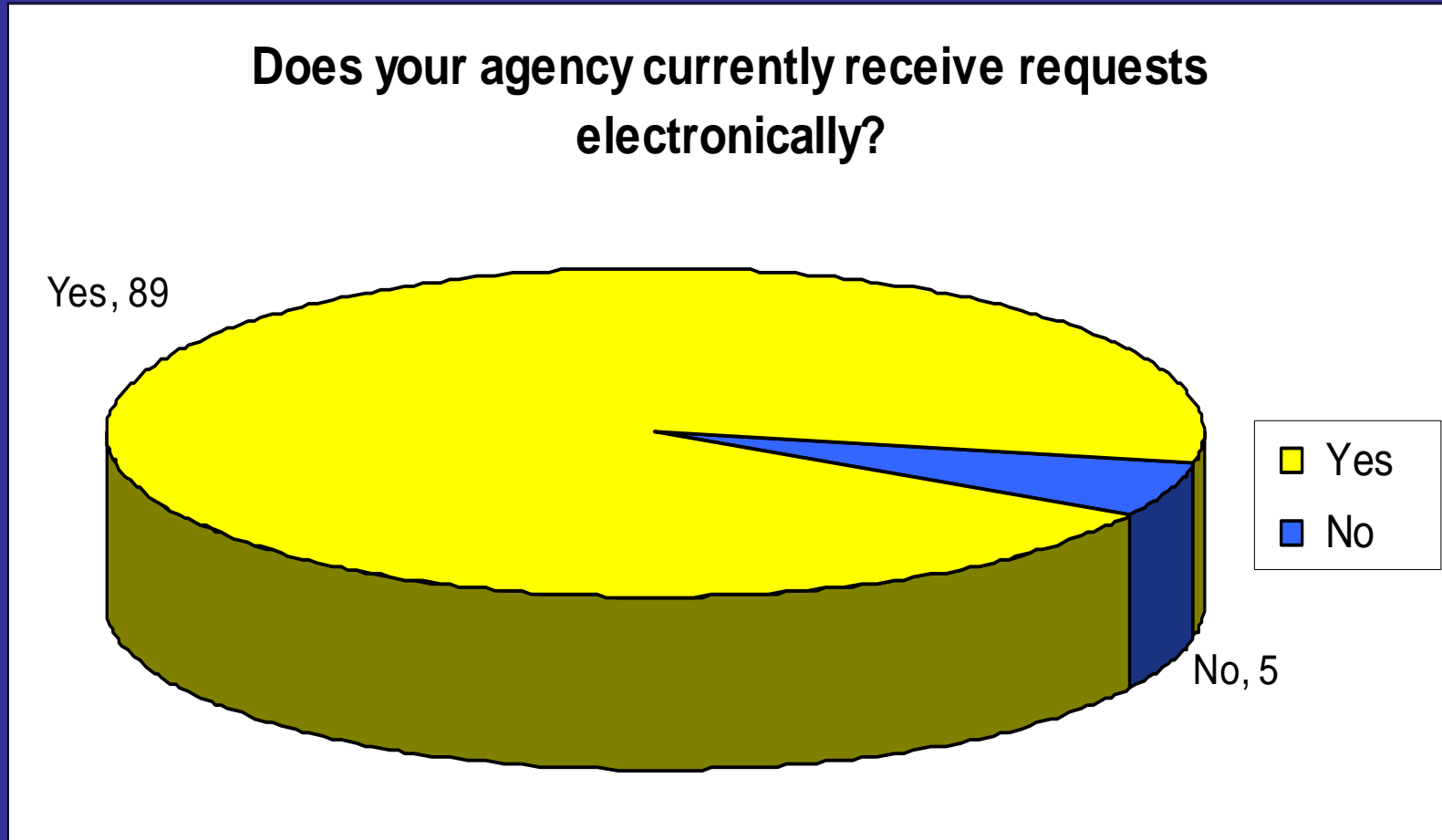


Part IV: Steps Taken to Greater Utilize Technology

“[U]se modern technology to inform citizens about what is known and done by their Government.”

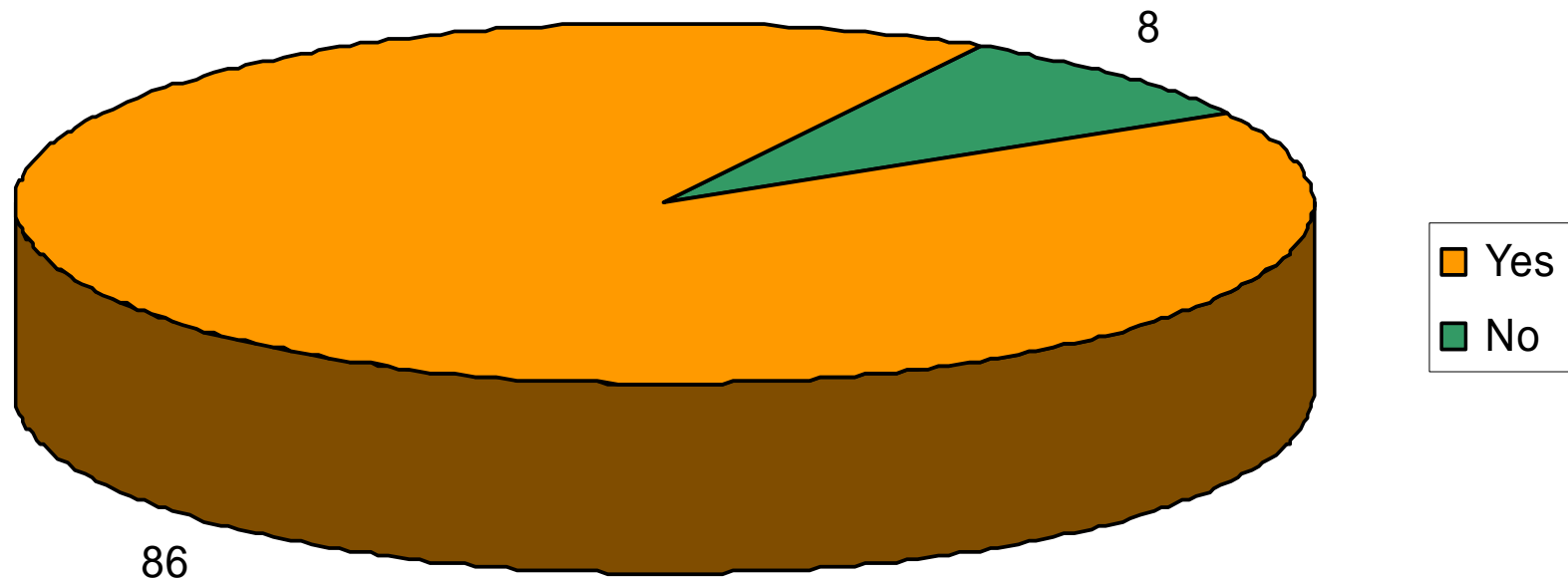
Description of use of technology.

IV. A. Electronic receipt of requests



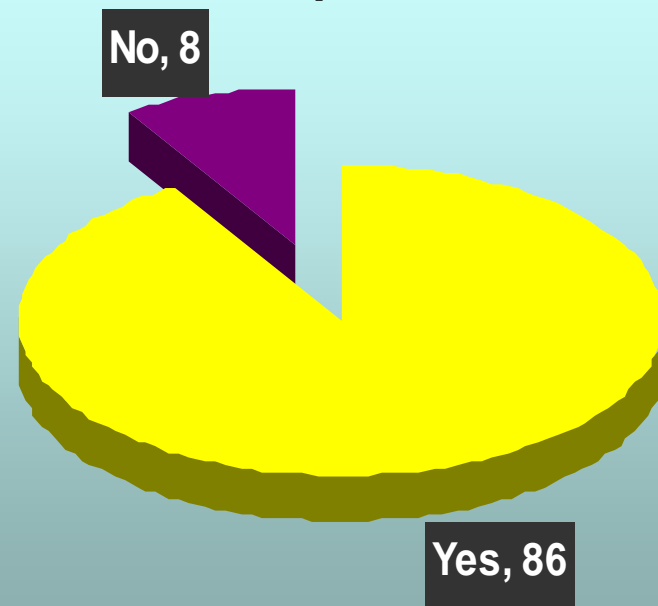
IV. B. Electronic tracking of requests

Does your agency track requests electronically?



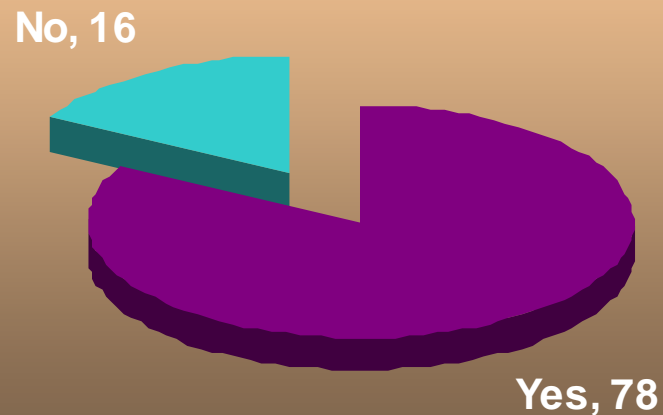
IV. C. Electronic processing of requests

Does your agency use technology to process requests?



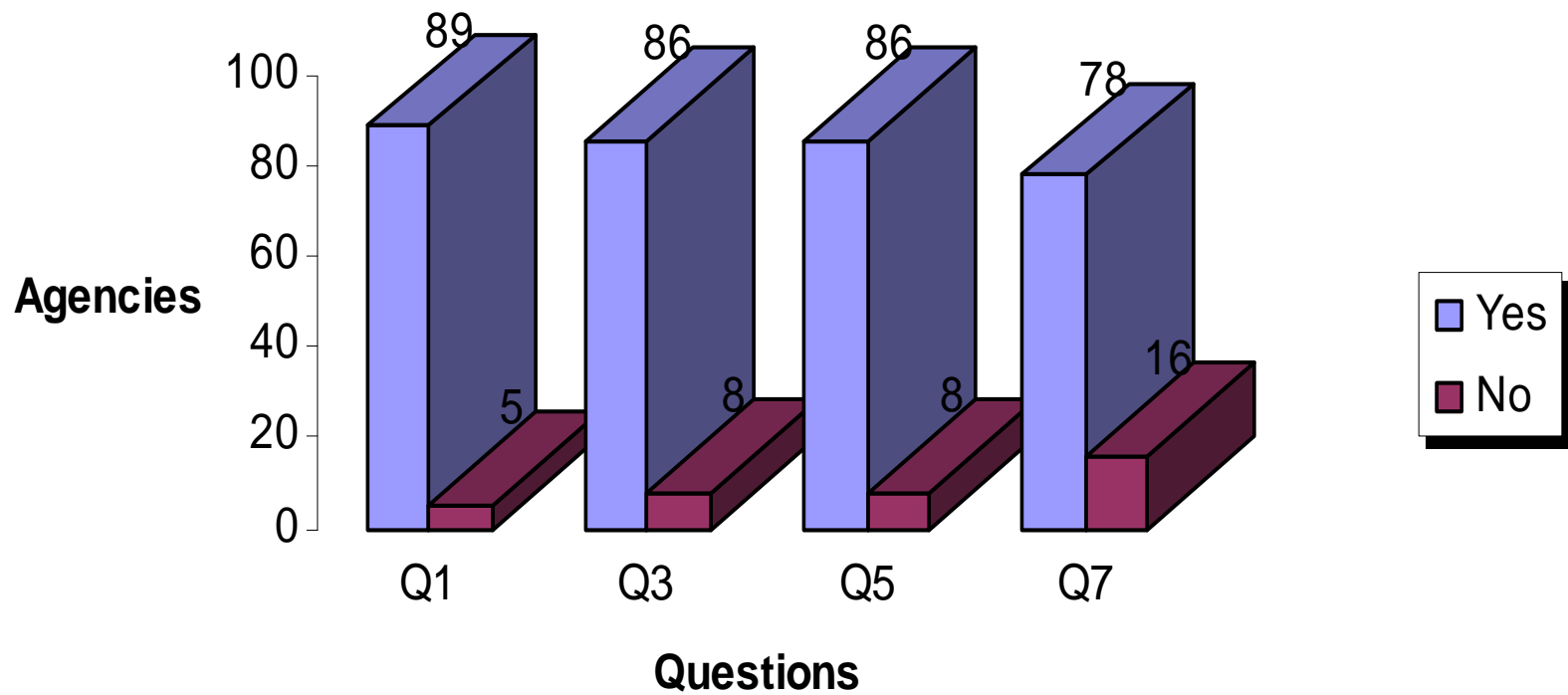
IV. D. Electronic Preparation of Annual FOIA Report

Does your agency utilize technology to prepare your Annual FOIA Report?



Use of Technology

Section IV: Answers



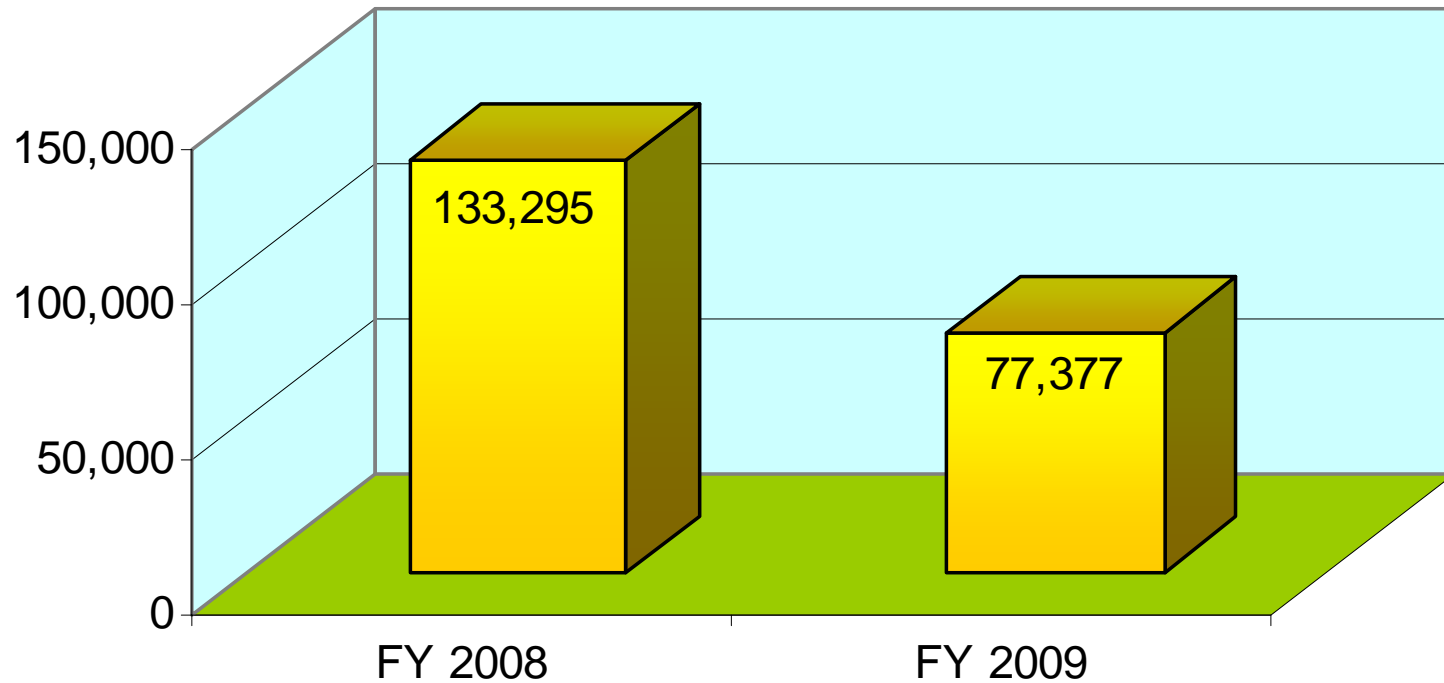
Part V: Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

“Timely disclosure of information is an essential component of transparency.”

Improvements to timeliness in responding to pending FOIA requests and reductions in backlogs should be an ongoing agency effort.

Overall Backlog Reduced

Number of Backlogged Requests Pending

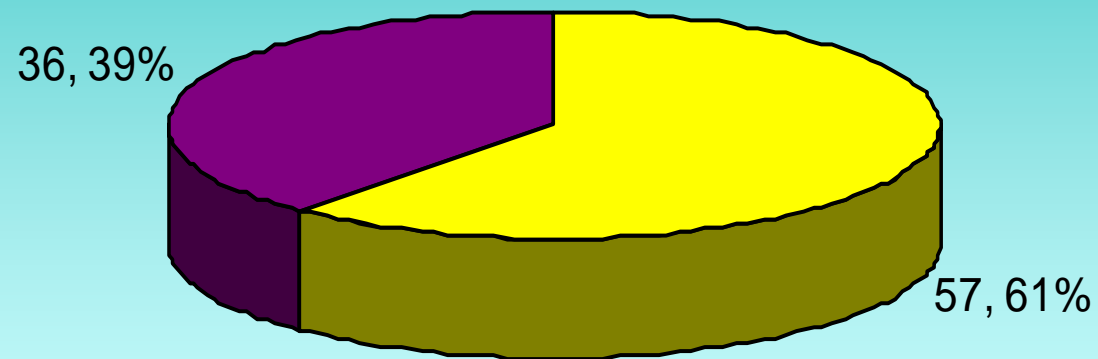


Part V: Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

- Agencies with backlogs reported whether their backlogs were decreasing. That reduction was measured two ways:
 1. Numbers of backlogged requests and administrative appeals that remained pending at the end of the fiscal year, and
 2. Age of those requests and appeals.

Backlogs Improving

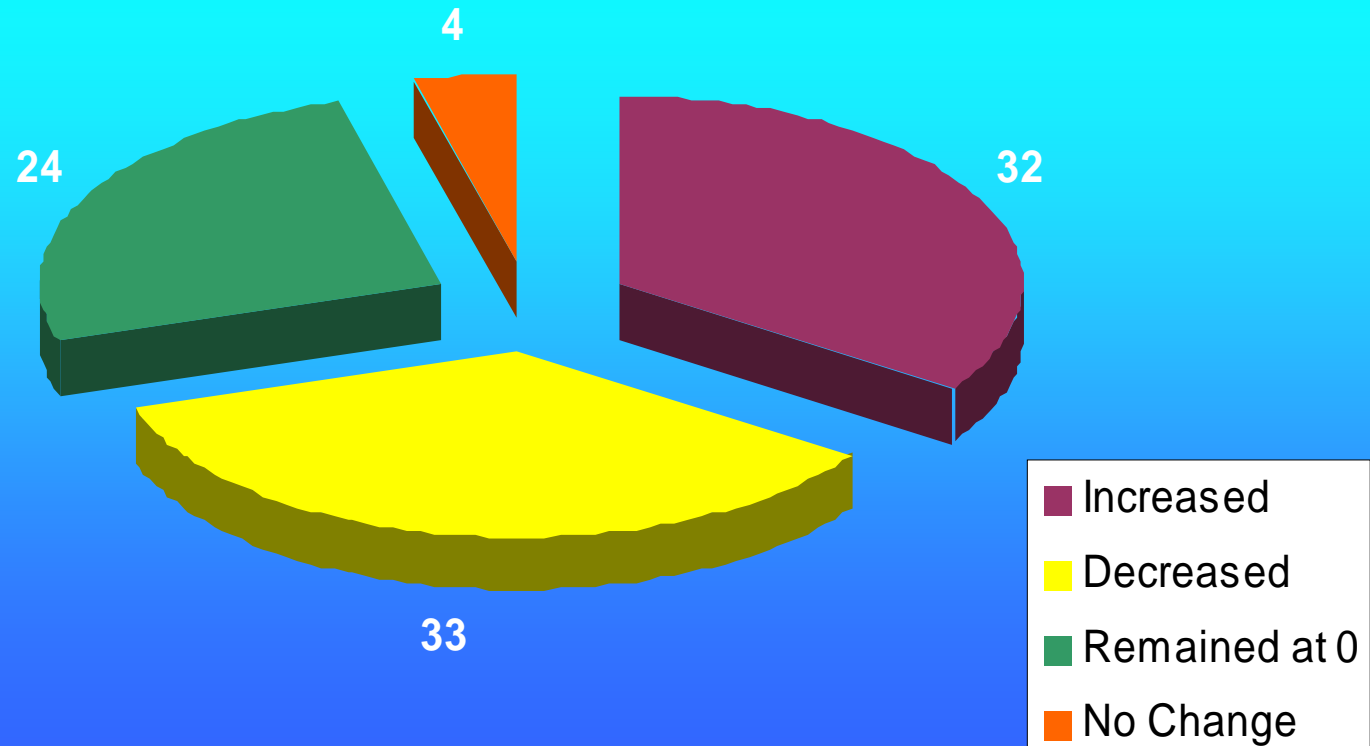
Backlog Difference from FY08 to FY09



■ Decreasing or at 0 ■ Increasing or not Improving

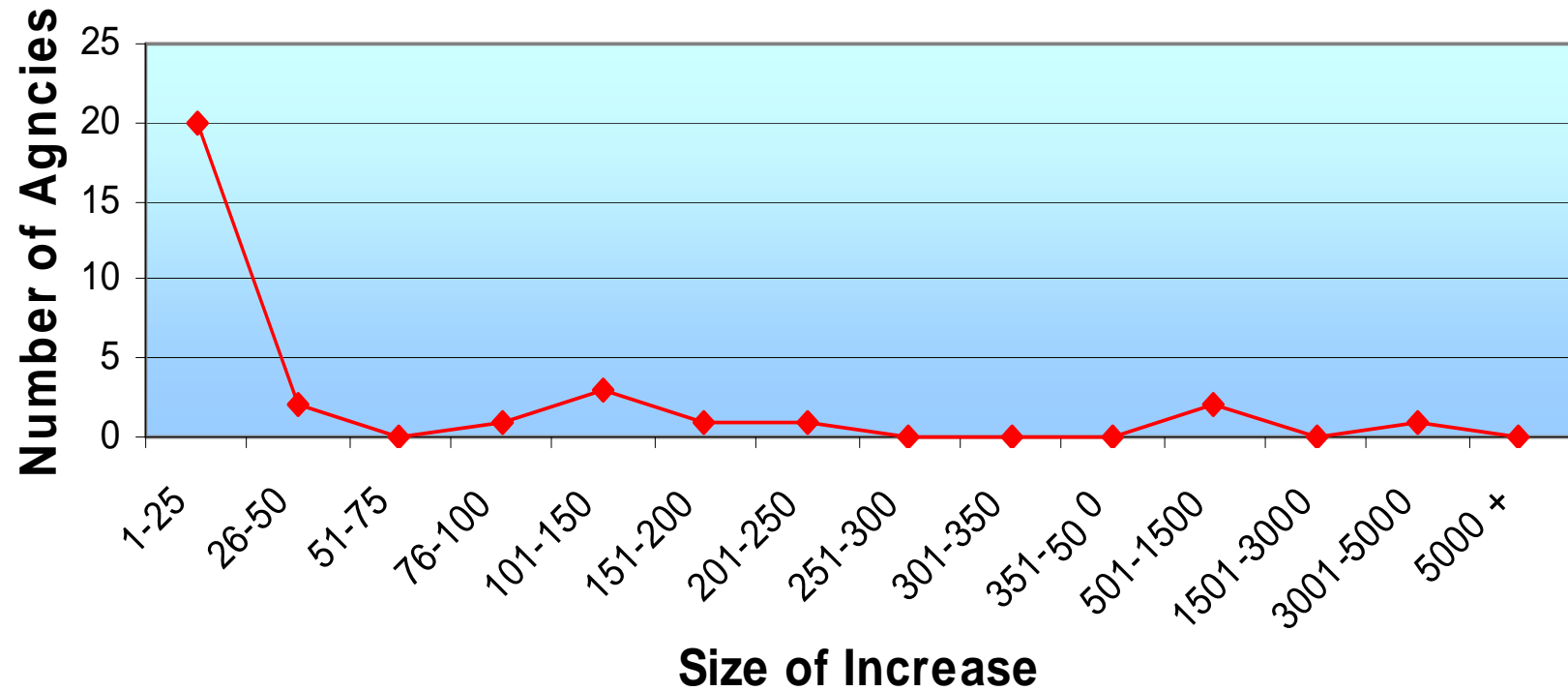
Backlogs Improving

Backlog Difference from FY08 to FY09



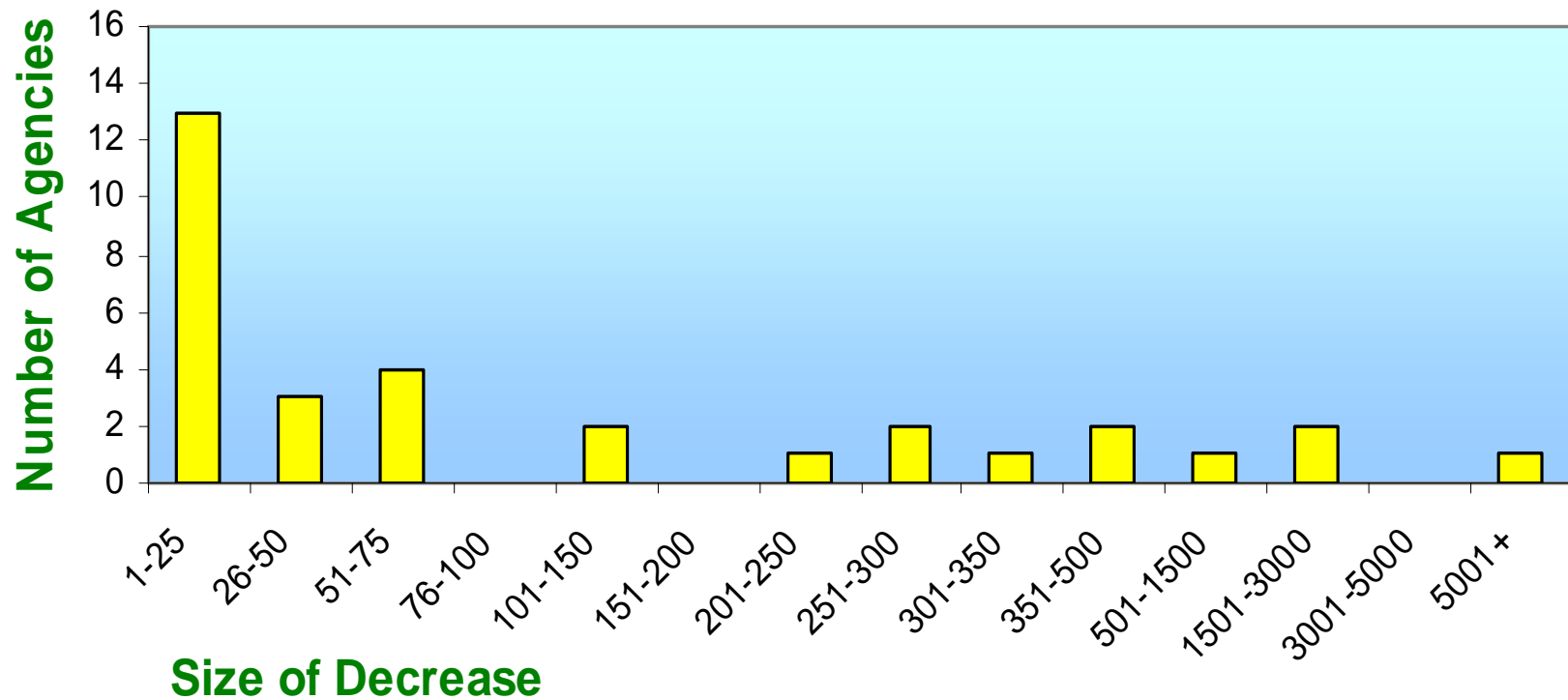
Backlogs Improving

How Much of an Increase?



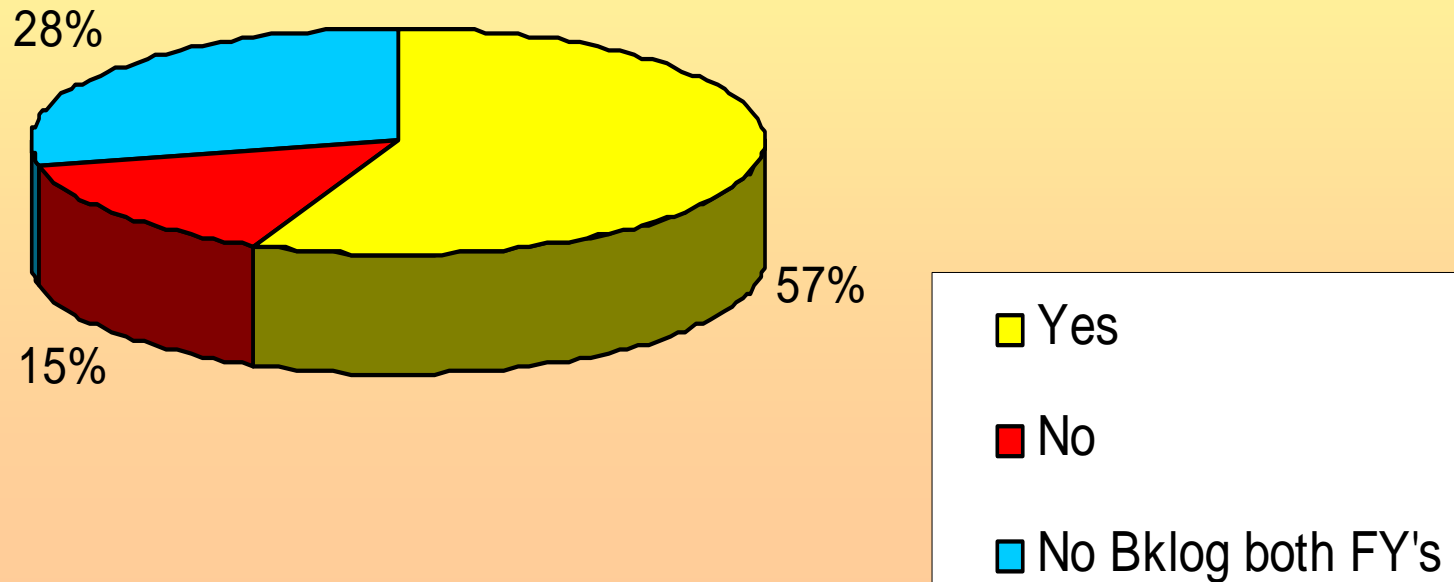
Backlogs Improving

How Much of a Decrease?

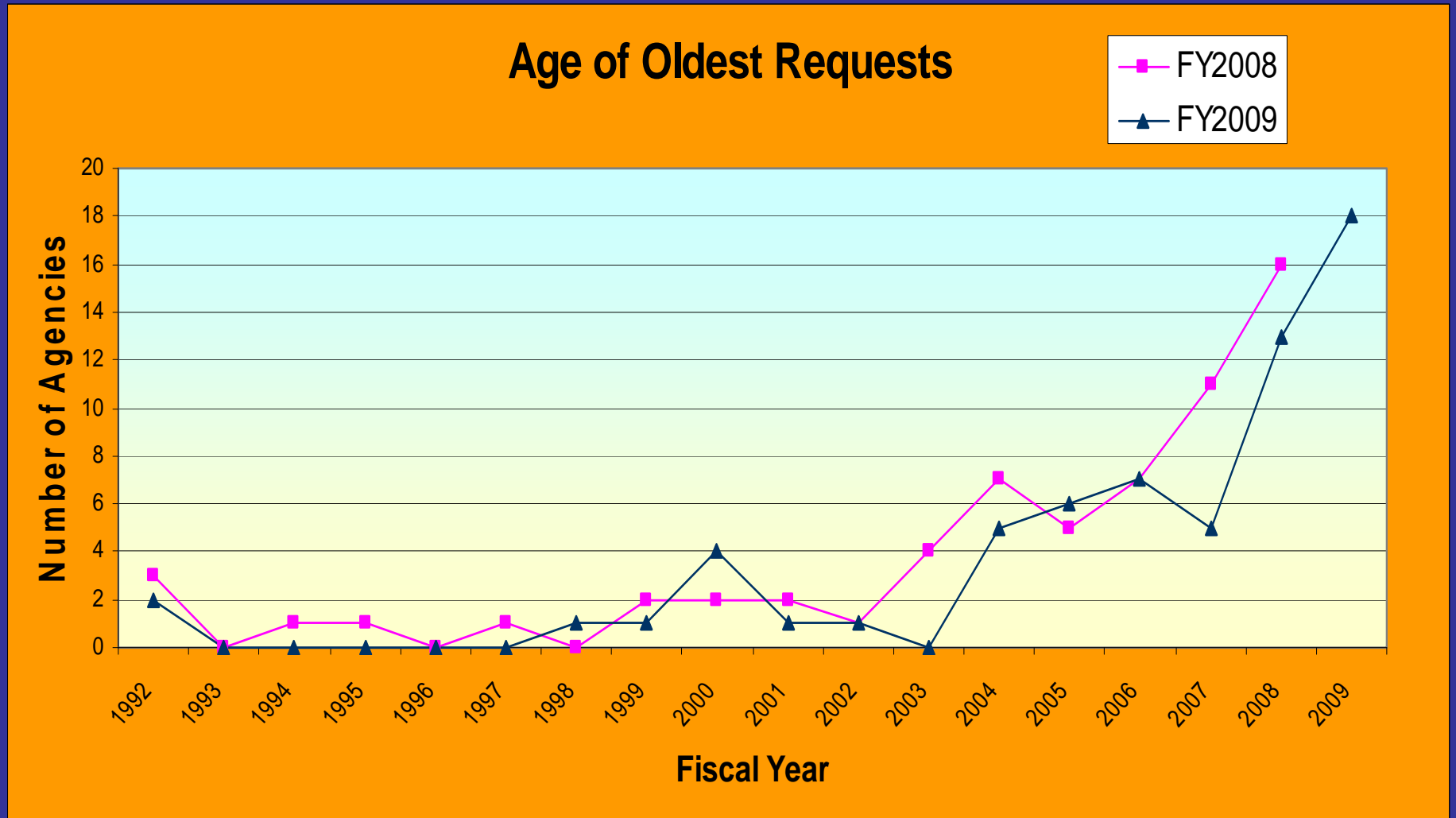


Backlogs Improving

Improved Age of Oldest Request?

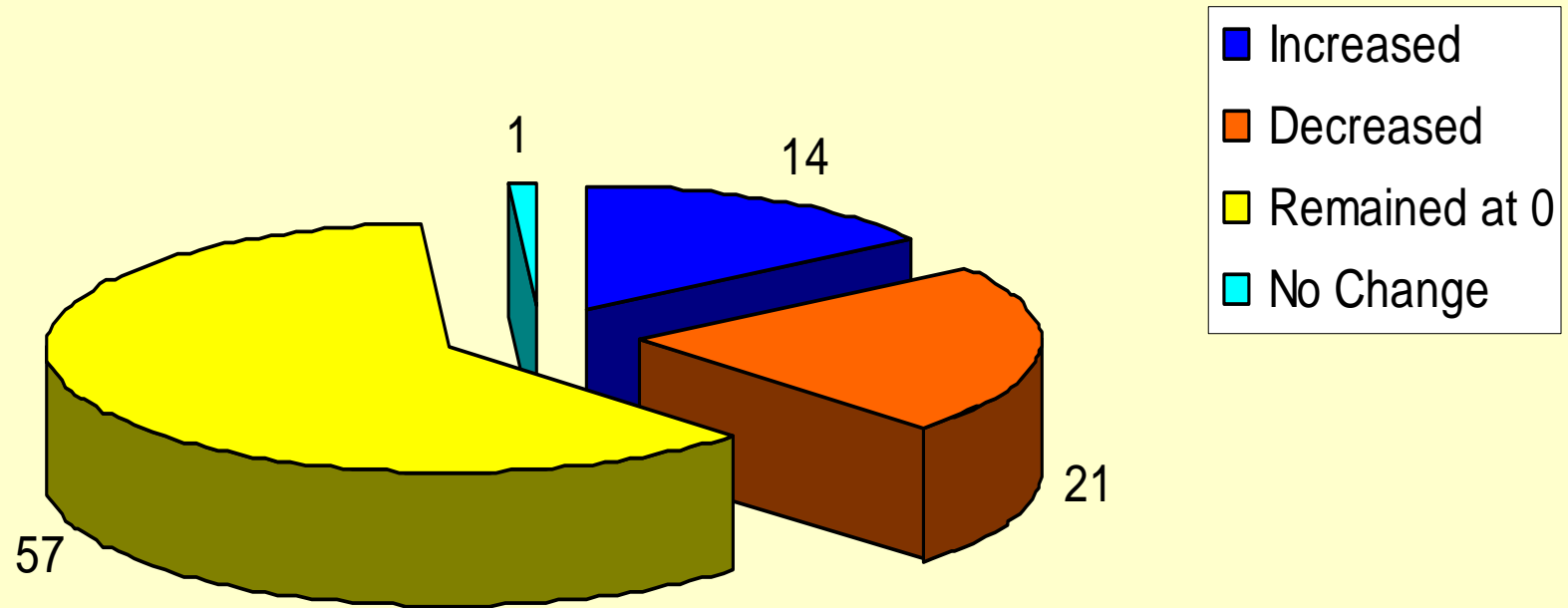


Backlogs Improving



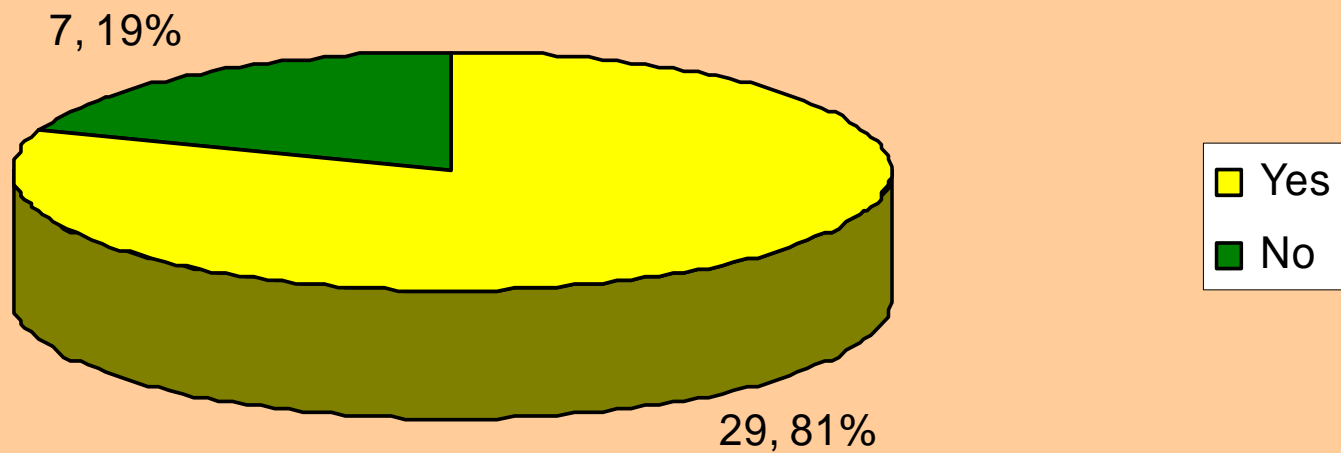
Backlogs Improving

Appeal Backlog Difference from FY 08 to FY 09



Backlogs Improving

Improved Age of Oldest Appeal?

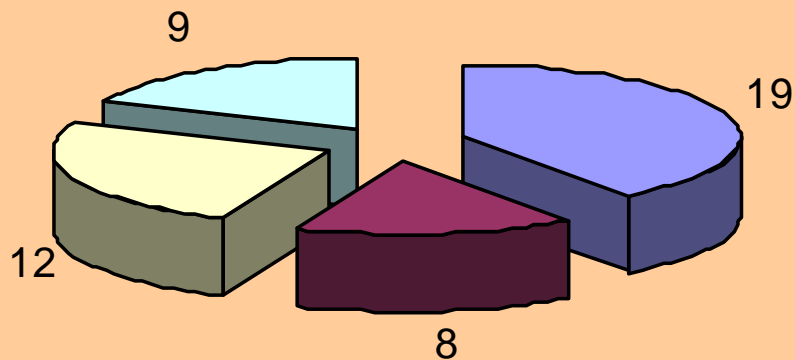


Part V: Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

- Agencies that did not reduce their backlogs described why that has occurred and what steps they were taking to bring about a reduction.

Reasons Given for Backlogs

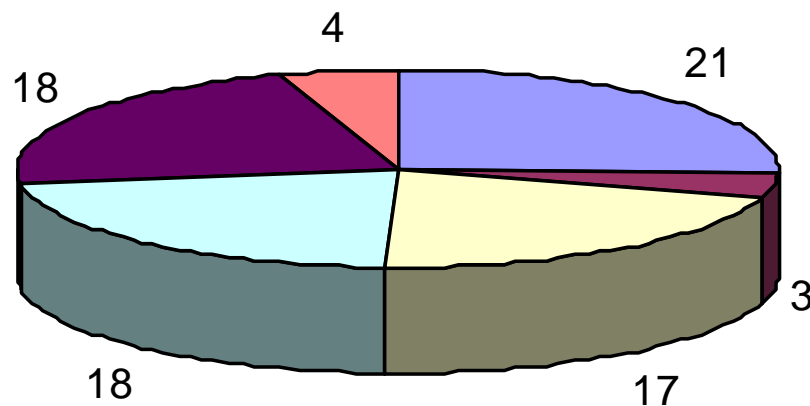
Reasons Given for Backlogs



- Increased Incoming
- Lost Staff
- More Complex Requests
- Competing Priorities

Backlog Reduction Steps

What Steps Did Agencies Take to Reduce Backlogs or Improve Timeliness?



- Increased Staffing
- Increased Resources
- IT Improvements
- Training
- Monitored Personnel or Shifted Resources
- Involved Chief FOIA Officer

FOIA BEST PRACTICES

- Improving Transparency
- Creating an Effective FOIA System
- Increasing Proactive Disclosures
- Utilizing Technology for Increased Effectiveness
- Reducing Backlogs & Improving Timeliness

I. Applying the Presumption of Openness

- Conduct separate review to find possible discretionary releases
- Certify/memorialize foreseeable harm determinations
- Institute two-tiered review whenever records are not being released in full
- Issue memorandum from agency head or Chief FOIA Officer on importance of new transparency policies

I. Applying the Presumption of Openness (cont'd)

- Attend Department of Justice training and conduct in-house training on new FOIA policies
- Create agency-specific guidance/directives on applying presumption of openness
- Train non-FOIA personnel on their vital role in achieving greater transparency
- Keep track of discretionary releases – success builds on success

II. Creating an Effective System for Responding to Requests

- Continually examine and monitor existing system to identify roadblocks and then streamline system to improve efficiency
- Conduct regular meetings between agency Chief FOIA Officer and agency FOIA professionals
- Establish dialogue between FOIA professionals and agency IT team
- Create teams for specific subject-matter areas (e.g., litigation team, ten-oldest team)

II. Creating an Effective System for Responding to Requests (cont'd)

- Ensure there is regular communication with FOIA requesters regarding the scope of their requests, searches involved, etc.
- Regularly review and monitor pending cases
- Increase staff
- Enter into agreements with agencies to eliminate need for consults

III. Increasing Proactive Disclosures

- Improve search capability online
- Establish systems to identify documents for posting
- Create standard set of documents to post online (e.g., schedules, contracts, Congressional correspondence, OIG Reports)
- Establish point of contact for each agency component who is responsible for updating website

III. Increasing Proactive Disclosures (cont'd)

- Hold regular meetings between web content point of contact and FOIA professionals to facilitate posting of documents
- Link together component websites
- Post FOIA logs/lists of documents released under the FOIA

IV. Utilizing Technology

- Expand existing technologies to all components of agency
- Convert data sets to open format
- Utilize online FOIA request forms
- Create online capability for FOIA requesters to obtain status information
- Communicate electronically with requester when requested to do so
- Provide materials electronically when practical
- Expand electronic record search capabilities

V. Reducing Backlogs and Improving Timeliness

- Set goals
- Close the ten oldest requests and appeals each year
- Monitor progress
- Publicize backlogs within agency each month
- Ensure high-level attention to issue of backlogs
- Use contractors to assist process