

MEMORANDUM

To: Kevin Reed, Vice President and General Counsel

From: Lisa Thornton, Public Records Officer

Date: October 26, 2023

Re: Annual Report - Office of Public Records, FY 2023

Created in 2010, the Office of Public Records responds to requests from members of the public for university records. The office believes the primary purpose of the Oregon Public Records Law is to provide transparency in the workings of public entities. To that end, this annual report will look at the details of records production, challenges faced by the office, and future goals of the office.

Public Record Production:

In Fiscal Year 2023, the Office of Public Records processed 464 requests, a nearly 15 percent increase from the 404 requests processed in Fiscal Year (FY) 2022 (*figure 1*). 444 of the requests received were closed by the end of the fiscal year. For the 20 requests that remained open at the end of the fiscal year, all were awaiting responses from the requestor in the form of clarification or payment.

Of the closed requests, the average completion time was 6.56 business days.

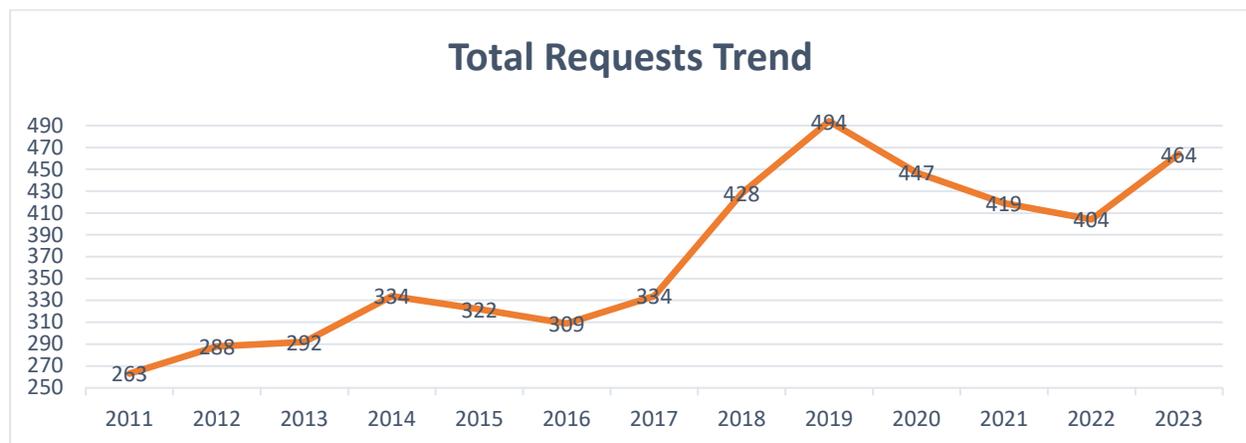


Figure 1

Case Complexity

As in years past, the office uses a four-category rating system¹ to measure and track the complexity of the requests, with a rating of (1) being the simplest request and (4) the most complex (*figure 2*). This rating system evaluates the state of the documents, the number of

¹ Category 1: Office has responsive records prepared to deliver

Category 2: Office can easily and quickly collect records from one or two campus locations; responsive records require minimal redaction

Category 3: Responsive records require redaction and/or the Office of the General Counsel's advice

Category 4: Office collects records from multiple sources; responsive records are difficult to locate or require forensic reproduction; documents require complex processing and/or redaction; advice required from the Office of the General Counsel

locations from which they must be gathered, and the complexity of the required redactions. Sixty percent of FY23 requests fall into the first and second categories, in which the office already possessed the records, or records could be gathered from one or two campus locations and with minimal required redactions. Response times in FY23 remain consistent with these complexity ratings, with all but one of the requests requiring over 15 business days to complete rated as a category 3 or category 4. One request requiring additional time was a category two request, however the office that held the records was unavailable until the day after the records were due. Records were provided to the requestor one business day after the office received them.

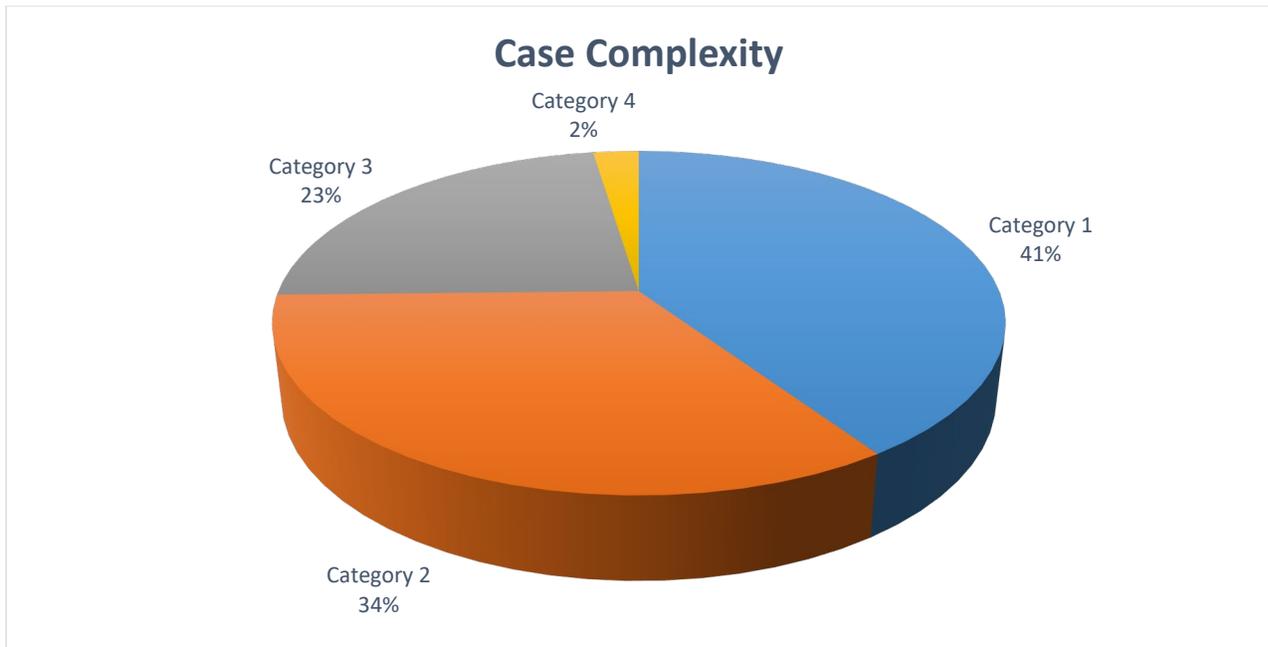


Figure 2

Requestor Categories

This fiscal year, the Media placed the highest number of requests, totaling 174. This category comprised 37.5% of the total requests (*figure 3*). The office breaks the media into two sub-categories, the commercial news media and student media. In years past the number of requests by the news media and student media have been nearly equal. In FY23, as with FY22, and FY21 however, student media made significantly fewer requests than the news media. The news media made 164 requests, while the student media made 10. The office notes that only one of the requests made by student media resulted in a charge, though that request was not pursued.

The office notes that 87% of requests made by the media were made for Athletics-related documents. In years past, the majority of Athletics related requests have been for coaching contracts. The office posts these documents on its website, in recognition of their interest to the public, and their commonly requested nature. This year, the majority of requests were for records regarding athletic conferences.

Commercial requestors placed 164 requests, comprising 35% of all requests received. Commercial requestors largely represented groups seeking to do business with the University through the RFP/RFQ process, or businesses seeking student directory information.

Requestors in the private category made 90 requests, comprising 19% of total requests. As might be expected from unaffiliated requestors, requests in this category touched on many different areas of the University, including Athletics (12 requests), the Dean of Students office (8

requests) and the Registrar's office (7 requests). Several private requestors also mirrored requests that had been made by others, with 22 requests being fulfilled by the Office with records it already possessed.

Requestors in the education category made 28 requests, requestors from labor unions made four requests, and four requests were made by legal firms.

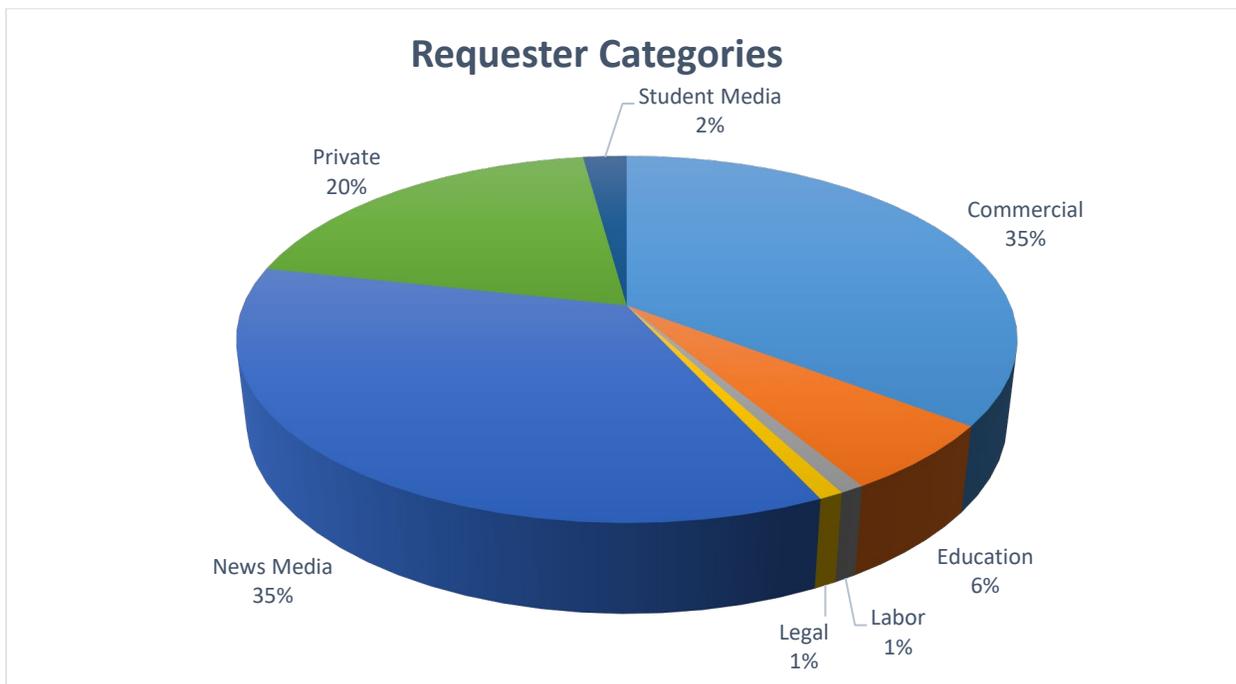


Figure 3

Fees

The office continues its practice of waiving costs to respond to simple requests, defined as “requests made by non-commercial entities that clearly require less than one hour of university staff time to fulfill.” Seventy-six percent of the requests received in FY23 were fulfilled at no cost to the requestor under this practice. (figure 4)

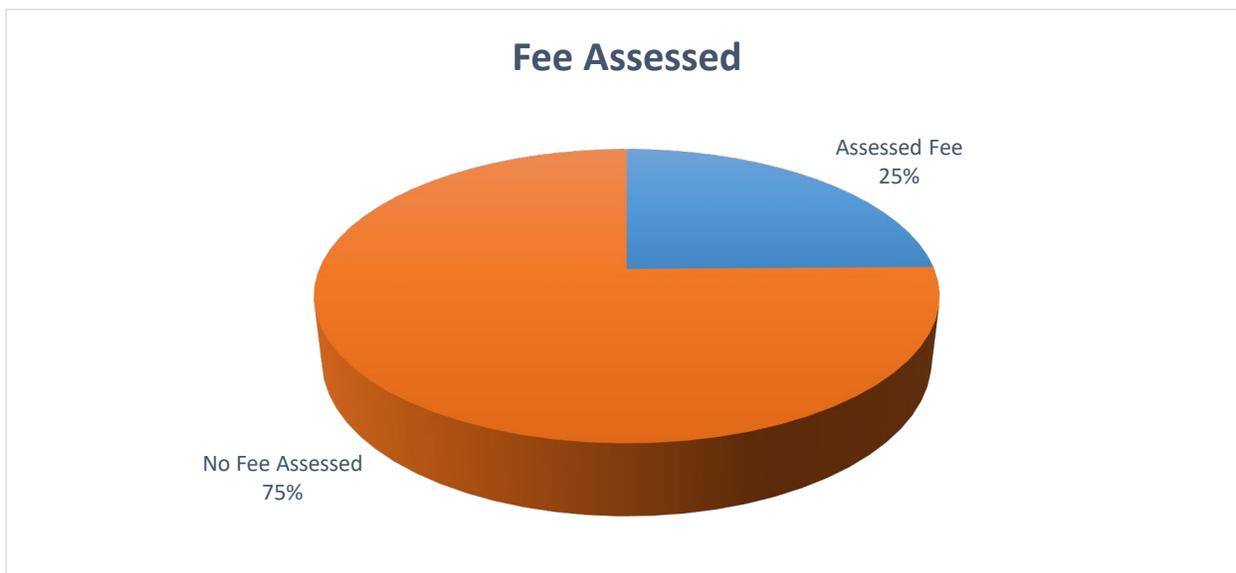


Figure 4

As in years past, the requestor category that was most likely to be charged for requests was the commercial category, with 46 of the 164 requests resulting in a charge for the response; 24 requestors ultimately paid. The average cost of responding to these requests was \$130.23. Of the requests that did not result in a fee estimate, 22 requests were made for either records that were exempt from disclosure in their entirety (largely because they were submitted for an RFP/RFQ process that was not yet complete), or for records that did not exist. 29 requests were made for records already possessed by the office. Thirty requests were either abandoned or withdrawn by the requestors. The remaining 58 requests were fulfilled at no cost to the requestor because the requests were for records that were either publicly available, or took so little time to fulfill that charging was logistically unsound.

The media were the next largest category of requestor, and as such the next most likely to be charged, with 38 of the 164 requests made by news media, and one of the 10 by the student media, resulting in a cost estimate. The average payment received was \$84.06. The single student media request that resulted in a cost estimate was not pursued. The remaining nine requests by student media were completed at no cost to the requestor or there were no responsive records. One hundred one requests made by the media were fulfilled under the office's simple request fee waiver. There were no records responsive to 23 requests, and the remaining 21 requests were either withdrawn by the requestor or abandoned after the office sought clarification of the request.

Private requestors, seeking records for personal use, received fee estimates to respond to 12 of their requests, two of which were ultimately pursued. The average payment received was \$258.24. For the remaining requests: 43 were fulfilled at no cost to the requestor under the office's simple request fee waiver, 12 requests had no responsive records, 14 were abandoned, and two were referred to other departments.

Compliance

Of the 464 requests received in FY23, the office processed 32 requests beyond the default statutory completion date of fifteen business days to completed. These cases comprised 7% of the public records requests handled by the office during the fiscal year. A fee was charged for 17 of these requests, with an average payment of \$330.19. Thirteen of the requests that required over fifteen business days to complete were made by the news media, all of which of which were complex requests for emails and other correspondence. Requests made by private requestors were the next category that required over fifteen business days to complete, with seven requests that went beyond the statutory completion date. Six of these cases were for student disciplinary materials, which required a high level of sensitivity in their review. In all cases, a reasonable estimated date was provided to the requester, and thus the office finished the year with 100 percent compliance with the deadlines imposed by the Oregon Public Records Law.

Timeliness

The metric the office tracks most closely is the time between receiving a request (or a clarification of that request), or the time from when requested payment is made, until the day the requested records are transmitted (*figure 5*). During FY23, the longest time from payment received to records produced was 76 days. This request touched on staffing changes to a college within the University. The office spent 177 business days on this request in total, with the vast majority of that time spent waiting for the requestor to respond to the office's correspondence.

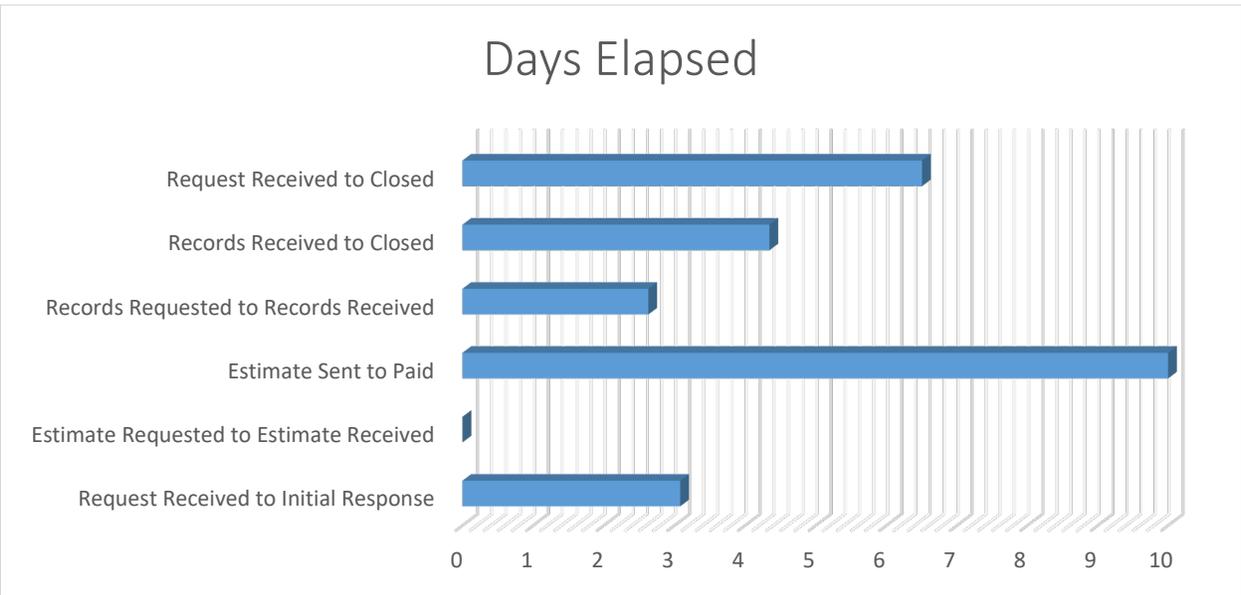


Figure 5

Transparency

The office believes the primary purpose of the Oregon Public Records Law is to provide transparency in the workings of public entities. The office strives to balance this transparency with the need to protect certain types of information submitted to public bodies, including student records, private information, personnel records, faculty research, and trade secrets. In FY23, 204 requests had records provided to requestors without redactions, 94 were provided with some redactions, 26 were denied in full, 47 had no responsive records, three were referred, and 90 were closed for other reasons, mostly due to being abandoned by the requester. (figure 6)

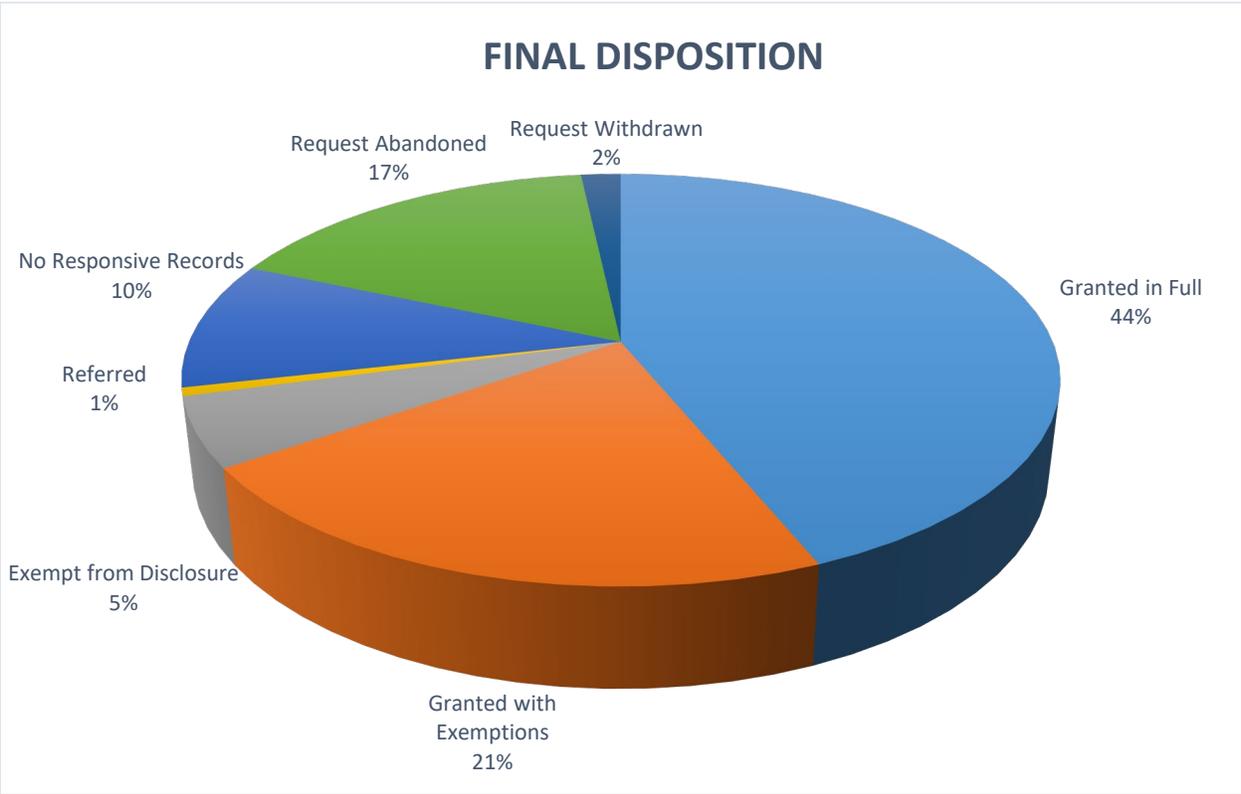


Figure 6

Of the 94 requests that were partially redacted, 18 were redacted in part under the federal law exemption in order to comply with the Family Education Rights and Privacy Act (FERPA), 43 were redacted for personal privacy, and 30 were redacted for trade secrets.

Of the 26 requests denied in full, seven were exempt in order to comply with FERPA. 13 requests were for documents relating to incomplete RFP/RFQ processes, which are exempt under Oregon law and University policy, one for confidential submissions, one for faculty records and three were exempt entirely due to trade secrets.

Responding Departments

Consistent with past years, the Athletics Department received the plurality of public records requests, with 31 percent of the total. Three other departments on campus also received a high concentration of requests: Purchasing and Contracting Services received 10 percent, Capital Construction received eight percent, and the Business Affairs Office received four percent of the total public records requests (*figure 7*).

The remaining requests were distributed relatively evenly across the University, with concentrations in the Office of the President, the Office of the Registrar, The Dean of Students, Human Resources, Office of the General Counsel, Institutional Research, and the Office of Investigations and Civil Rights Compliance

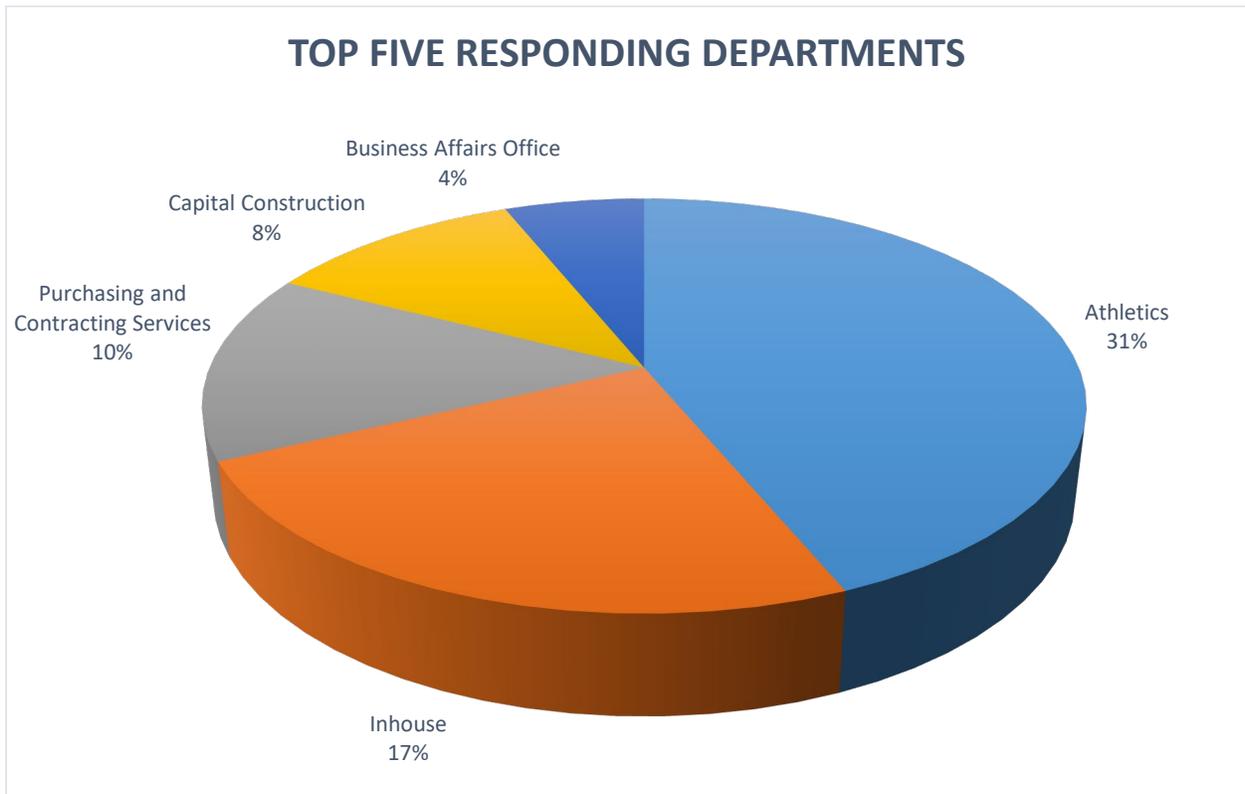


Figure 7

Challenges:

FY23 was an eventful year for the University, and the requests received by the office reflect that. Over 40% of the requests received by the office were related to University Athletics in some

way. Of these, roughly 25% of the requests focused on the University's athletics conference. These requests were often very large in scope, using vague search terms and long search timeframes to capture as many records as possible. These requests are particularly challenging for the office to respond to, as they require significant conversation with the requestors to determine appropriate search terms and search timeframes. The nature of these requests can also mean that large amounts of records are captured, which in turn require significant staff time to review to ensure protection of privilege and privacy. Roughly 20% of the Athletics related requests were requests for employment contracts for Athletics staff, largely coaches. In an effort to improve transparency, the office posts Athletics coaching contracts on its [document library](#). The rest of the Athletics related requests focused on facilities use contracts, non-conference game contracts, and records resulting from requests for procurement or quotes put out by Athletics.

The volume of requests received proved to be the biggest challenge for the office this year. While staffing has remained the same since the office was founded in 2010, the number of requests received has nearly doubled. This increase in requests has led to an increase in time to respond to requests, and an increase in the number of requests that require more than 15 business days to respond to. This fiscal year, in line with having the second highest number of requests received since FY19, it also had the most requests that required over 15 business days to complete, and the longest average response times since FY19. In FY19 the office received the highest number of requests to date, however the office was staffed by an additional temporary employee for most of that fiscal year. Despite the increase in requests received, this additional staff person enabled the office to improve its average response time by 8% over FY18. This additional staff person was also critical to the office's ability to balance its highest ever workload while embarking on its first records management program, and beginning the Public Records Roundtable event. Without the additional staff person, the office has been able to maintain these programs, but has not been able to meet its goals of improving training of campus partners or establishing long term plans for improving the office. The office is concerned that if requests continue to increase, and additional support is not available, the quality and stability of the program will suffer.

Future Endeavors:

The office is looking to improve its training program for campus partners, through in person trainings and the development of on-line reference material. To this end, the office will present to the University's Financial Stewardship Institute this January, along with partners in Information Services, Internal Audit, and Records Management. The office also looks to update its materials for onboarding new University employees.

The office will host its sixth annual public records roundtable in November, for public records professionals from municipal governments, K-12 school districts, community colleges and Universities across Oregon and Washington.