

U.S. Office of Personnel Management Chief FOIA Officer Report March 2012

**Chief FOIA Officer:
Matthew Perry, Chief Information Officer**

In the following report, the U.S. Office of Personnel Management's (OPM's) Chief Freedom of Information Act (FOIA) Officer provides the current status of the agency's FOIA program and its continual progress in increasing agency transparency and improving FOIA administration to facilitate information disclosure. This report follows the template provided by the Department of Justice and provides OPM's response to the questions.

Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?

No, we didn't hold an agency FOIA conference this year. However, we have conducted several one on one training sessions with program office FOIA contacts. We also trained staff in Records Management.

2. Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice?

Yes, we attended the FOIA training provided by DOJ and the Dispute Resolution training held by OGIS.

In his 2009 FOIA Guidelines, the Attorney General strongly encouraged agencies to make discretionary releases of information even when the information might be technically exempt from disclosure under the FOIA. OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

3. Did your agency make any discretionary releases of otherwise exempt information?

No.

4. What exemptions would have covered the information that was released as a matter of discretion?

Not Applicable.

5. Describe your agency's process to review records to determine whether discretionary releases are possible.

The goal of the OPM FOIA staff is to have requests for records that are potentially exempt from disclosure undergo a minimum of a two-level review. The responsive program office reviews the records, indicates the exemption that they believe applies and then forwards the case file to the FOIA team. At that point, the FOIA team will conduct a second level of review applying the foreseeable harm standard.

6. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.

We do not currently have any additional initiatives to ensure the presumption of openness is applied.

In Section V.B.(1) of your agency's Annual FOIA Report, entitled "Disposition of FOIA Requests – All Processed Requests" the first two columns list the "Number of Full Grants" and the "Number of Partial Grants/Partial Denials." Compare your agency's 2011 Annual FOIA Report with last year's Annual FOIA Report, and answer the following questions:

7. Did your agency have an increase in the number of responses where records were released in full?

Yes.

8. Did your agency have an increase in the number of responses where records were released in part?

Yes.

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

As the Attorney General emphasized in his FOIA Guidelines, "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests."

This section should include a discussion of how your agency has addressed the key roles played by the broad spectrum of agency personnel who work with FOIA professionals in responding to

requests, including, in particular, steps taken to ensure that FOIA professionals have sufficient IT support.

Describe here the steps your agency has taken to ensure that its system for responding to requests is effective and efficient. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

1. Do FOIA professionals within your agency have sufficient IT support?

Yes.

2. Is there regular interaction between agency FOIA professionals and the Chief FOIA Officer?

Yes.

3. Do your FOIA professionals work with your agency's Open Government Team?

Yes.

4. Describe the steps your agency has taken to assess whether adequate staffing is being devoted to FOIA administration.

We are using our FOIA tracking system to monitor and assess FOIA workload. This includes determining the number of requests that come through the Headquarters FOIA Staff, the number of days it takes to complete the FOIA, the complexity of the FOIA, the number program offices involved to complete the FOIA, and the number of emails and meetings required to complete the FOIA. From this assessment, we should be able to assess whether additional Headquarters FOIA staff will be needed to manage the FOIA program.

We are also currently utilizing non-FOIA staff members to assist with FOIA administration as needed.

5. Describe any other the steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively.

We are currently modifying the FOIA tracking system to streamline the intake process and workflow.

Section III: Steps Taken to Increase Proactive Disclosures

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Describe here the steps your agency has taken both to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures that have been made during this past reporting period (i.e., from March 2011 to March 2012). In doing so, answer the questions listed below and describe any additional steps taken by your agency to make and improve proactive disclosures of information.

1. Has your agency added new material to your website since last year?

Yes.

2. Provide examples of the records, datasets, videos, etc., that have been posted this past year.

Since last year OPM has added Federal Register Notices, Benefits Information, Inspector General Reports, Labor Management Relations information and Training videos to the OPM website. We have also updated the Benefits Calculator and the FAQ database. Additionally, we are currently undergoing a complete web refresh of OPM.gov that will not only change the "look and feel" of the website but, should ease accessibility. We anticipate the refresh will be complete by the end of February.

3. Describe the system your agency uses to routinely identify records that are appropriate for posting.

Although we do not have a routine method for identifying records that are appropriate for posting, several program offices take advantage of OPM's Document Management System to ensure that information is properly vetted prior to posting to the web.

4. Beyond posting new material, is your agency taking steps to make the information more useful to the public, especially to the community of individuals who regularly access your agency's website, such as soliciting feedback on the content and presentation of the posted material, improving search capabilities, providing explanatory material, etc.?

Yes, we have incorporated all FAQ content into a site wide user searchable database which also allows visitors to submit new questions not included on the site for specific subject matter. Our web site also includes the use of our Health Insurance Facebook site to solicit feedback on user experience during open season.

5. Describe any other steps taken to increase proactive disclosures at your agency.

We've used our Facebook and Twitter sites to inform interested stakeholders and the public about availability of new content and/or activities of the agency. We also use an RSS feed to inform interested stakeholders when new forms are posted.

Section IV: Steps Taken to Greater Utilize Technology

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition

to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests. In 2010 and 2011, agencies reported widespread use of technology in handling FOIA requests. For 2012, the questions have been further refined and now also address different, more innovative aspects of technology use.

Electronic receipt of FOIA requests:

1. Can FOIA requests be made electronically to your agency?

Yes.

2. If your agency processes requests on a decentralized basis, do all components of your agency receive requests electronically?

No, components that require PII to be transmitted in order to facilitate the request do not have a secure means of accepting that information electronically.

Online tracking of FOIA requests:

3. Can a FOIA requester track the status of his/her request electronically?

No.

4. If not, is your agency taking steps to establish this capability?

We are looking into whether the licenses for the current FOIA tracking system will allow the public to track the status of their request. If this is not allowed because of a licensing issue, we are considering the possibility of having a weekly log posted to the FOIA page where a requester can check on status by looking for their FOIA number in the log.

Use of technology to facilitate processing of requests:

5. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?

Yes.

6. If so, describe the technological improvements being made.

Records Management staff is currently meeting with IT and OGC to discuss e-mail management and review current IT solutions owned or operated by OPM for possible utilizations as a Records Management Application.

OPM is involved in ongoing shared drive cleanup which will help improve record searches. We also have some IT solutions that are capable of de-duplication. Additionally, the Knowledge Management System is being linked to Records

Management by the Open Government Requirements for better categorization and retrieval of information.

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

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests and appeals. *For the figures required in this Section, please use those contained in the specified sections of your agency's 2011 Annual FOIA Report.*

1. Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested. If your agency does not utilize a separate track for processing simple requests, answer the question below using the figure provided in your report for your non-expedited requests.
 - a. Does your agency utilize a separate track for simple requests?

No.
 - b. If so, for your agency overall, for Fiscal Year 2011, was the average number of days to process simple requests twenty working days or fewer?

Not applicable.
 - c. If your agency does not track simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer?

No.
2. Sections XII.D.(2) and XII.E.(2) of your agency's Annual FOIA Report, entitled "Comparison of Numbers of Requests/Appeals from Previous and Current Annual Report – Backlogged Requests/Appeals," show the numbers of any backlog of pending requests or pending appeals from Fiscal Year 2011 as compared to Fiscal Year 2010. You should refer to those numbers when completing this section of your Chief FOIA Officer Report. In addition, Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," and Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," from both Fiscal Year 2010 and Fiscal Year 2011 should be used for this section.
 - a. If your agency had a backlog of requests at the close of Fiscal Year 2011, did that backlog decrease as compared with Fiscal Year 2010?

No.

- b. If your agency had a backlog of administrative appeals in Fiscal Year 2011, did that backlog decrease as compared to Fiscal Year 2010?

No.

- c. In Fiscal Year 2011, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2010?

Yes.

- d. In Fiscal Year 2011, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2010?

Yes.

3. If you answered “no” to any of the above questions, describe why that has occurred. In doing so, answer the following questions then include any additional explanation:

Request Backlog:

- a. Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests?

Yes, we received approximately 2000 more requests from FY 2010 to FY 2011.

- b. Was the lack of a reduction in the request backlog caused by a loss of staff?

No.

- c. Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?

Yes.

- d. What other causes, if any, contributed to the lack of a decrease in the request backlog?

No other causes were identified.

Administrative Appeal Backlog:

- a. Was the lack of a reduction in the backlog of administrative appeals a result of an increase in the number of incoming appeals?

No.

- b. Was the lack of a reduction in the appeal backlog caused by a loss of staff?

No.

- c. Was the lack of a reduction in the appeal backlog caused by an increase in the complexity of the appeals received?

Yes.

- d. What other causes, if any, contributed to the lack of a decrease in the appeal backlog?

No other causes were identified.

All agencies should strive to both reduce any existing backlogs or requests and appeals and to improve their timeliness in responding to requests and appeals. Describe the steps your agency is taking to make improvements in those areas. In doing so, answer the following questions and then also include any other steps being taken to reduce backlogs and to improve timeliness.

1. Does your agency routinely set goals and monitor the progress of your FOIA caseload?

Yes. Backlog reduction goals are incorporated into the FOIA work plan each year. Additionally, the FOIA staff provides a daily FOIA report to senior management.

2. Has your agency increased its FOIA staffing?

No, however, we are currently using a member of the Records Management staff to assist with FOIA duties. We anticipate this person will take on additional FOIA responsibilities throughout FY 2012.

3. Has your agency made IT improvements to increase timeliness?

Yes, we are currently working on streamlining the workflow with the FOIA tracking system. We anticipate having the first phase of this completed by the second week in February.

4. If your agency receives consultations from other agencies, has your agency taken steps to improve the efficiency of the handling of such consultations, such as utilizing IT to share the documents, or establishing guidelines or agreements with other agencies on the handling of particular information to speed up or eliminate the need for consultations?

No, consultations are typically worked on a case by case basis. Our goal is to adhere to the deadlines set forth by the other agency.

Use of FOIA's Law Enforcement "Exclusions"

In order to increase transparency regarding the use of the FOIA's statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to "treat the records as not subject to the requirements of [the FOIA]," 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

1. Did your agency invoke a statutory exclusion during Fiscal Year 2011?

No.

2. If so, what is the total number of times exclusions were invoked?

Not applicable.

Spotlight on Success

Out of all the activities undertaken by your agency since March 2011 to increase transparency and improve FOIA administration, describe here one success story that you would like to highlight as emblematic of your agency's efforts.

OPM has increased transparency by establishing a searchable frequently asked questions engine (<http://www.opm.gov/faqs/>), hosting an "Unconference" on transparency in collaboration with the Open Forum Foundation, and providing data to Data.gov. This included providing 46 individual raw datasets to the Data.gov portal and was one of the first agencies to provide an automated tool for the use, access, and manipulation of data in real time for that initiative. Additionally, at the June 10, 2011 White House Champions of Change event, OPM's "Combined Federal Campaign (CFC) Detailed Results by Local Campaign" dataset received the Highest Rated Dataset Award from the Federal Chief Information Officer and the Data.gov team. That dataset received 1460 5-star ratings from customers, more than 10 times more 5-star ratings than the next highest-rated dataset.