



Chief FOIA Officer Report 2014

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I: Steps Taken to Apply the Presumption of Openness

FOIA Training

OIP has issued guidance that every agency should make core, substantive FOIA training available to all their FOIA professionals at least once each year. Provide your agency's plan for ensuring that such training is offered to all agency FOIA professionals by March 2015. Your plan should anticipate an upcoming reporting requirement for your 2015 Chief FOIA Officer Reports that will ask whether all agency FOIA professionals attended substantive FOIA training in the past year.

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

No.

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

No.

3. *Provide your agency's plan for ensuring that substantive FOIA training is offered to all agency FOIA professionals by March 2015. Your plan should anticipate an upcoming reporting requirement for your 2015 Chief FOIA Officer Reports that will ask whether all agency FOIA professionals attended substantive FOIA training in the past year.*

To ensure that all agency FOIA personnel receive annual substantive FOIA training, agency FOIA personnel will be required to include FOIA training on their Individual Development Plan; which is an agency management tool for managing training needs. This will become a mandatory annual training requirement for all agency FOIA personnel beginning in FY 2014.

Outreach

Did your FOIA professionals engage in any outreach and dialogue with the requester community or open government groups regarding your administration of the FOIA?

No.

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.

Discretionary Disclosures

1. *Does your agency have a formal process in place to review records for discretionary release?*

The agency does not have a formal process to review records for discretionary release since it is a rare occurrence that the agency does not release all requested information.

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

The agency releases almost all of the records requested under FOIA, with limited redactions, and does not formally track whether a release of information is discretionary. However, it is likely that several documents disclosed to requestors in the FY 2013 requests could have been withheld or redacted under Exemptions 2 or 5.

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

Not applicable.

4. *Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.*

Not applicable.

Other Initiatives

1. *Did your agency post all of the required quarterly FOIA reports for Fiscal Year 2013?*

Yes the agency posted all quarterly reports for 2013.

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

The agency has not taken any other formal initiatives to ensure that the presumption of openness is being applied to decisions involving releases under FOIA.

However, the agency has been successful in its efforts to implement the President's memo and the Attorney General's Guidelines regarding openness: in FY 2013, the agency did not withhold information from requestors.

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

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.

Personnel

During Sunshine Week 2012 OPM announced the creation of a new job series entitled the Government Information Series, to address the work performed by FOIA and Privacy Act professionals. Creation of this distinct job series was a key element in recognizing the professional nature of their work.

- 1. Has your agency converted all of its FOIA professionals to the new Government Information Specialist job series?*

No.

- 2. If not, what proportion of personnel has been converted to the new job series?*

The agency has not converted any personnel to the new job series.

- 3. If not, what is your plan to ensure that all FOIA professionals' position descriptions are converted?*

The NMB has no full-time FOIA personnel so there are no plans to convert personnel to the new job series.

Processing Procedures

- 1. For Fiscal Year 2013 did your agency maintain an average of ten or less calendar days to adjudicate requests for expedited processing? If not, describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.*

No..

- 2. Has your agency taken any steps to make the handling of consultations and referrals more efficient and effective, such as entering into agreements with other agencies or components on how to handle certain categories or types of records involving shared equities so as to avoid the need for a consultation or referral*

altogether, or otherwise implementing procedures that speed up or eliminate the need for consultations. If so, please describe those steps.

No.

Requester Services

1. *Do you use e-mail or other electronic means to communicate with requesters when feasible?*

Yes.

2. *Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at NARA?*

No. The agency has not notified requesters of mediation services by OGIS because the agency did not have any administrative appeals.

3. *Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, streamlining consultations, eliminating redundancy, etc.*

The agency routinely conducts self-assessments regarding its FOIA program. During FY 13, the agency met with NARA on improving the agency's system for greater efficiency for requestors and agency personnel.

III: Steps Taken to Increase Proactive Disclosures

Describe here the steps your agency has taken to increase the amount of material that is available on your agency's 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 2013 to March 2014). 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.

Posting Material

1. *Do your FOIA professionals have a system in place to identify records for proactive disclosures?*

Yes.

2. *If so, describe the system that is in place.*

Personnel periodically review agency records to determine their status, make recommendations to Chief FOIA Officer who makes final determination and directs the records to be posted on the agency's website. Agency FOIA

personnel and agency public information personnel work closely together to facilitate this process.

3. *Provide examples of material that your agency has posted this reporting period, including links to where this material can be found online.*

The agency posted numerous types of records on its website and the Knowledge Store, including Board determinations in representation dispute cases, jurisdictional opinions, arbitration awards, press releases regarding mediation cases and collective bargaining agreements. <http://www.nmb.gov/publicinfo/inquiry.html>

Making Posted Material More Useful

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. The NMB is continuously updating its on-line Lyceum to respond to the needs of the public. The NMB Lyceum was implemented to serve as an easily accessible resource, providing training and information on the daily activities of the NMB and how the agency operates. Through the Lyceum, the NMB offers on-line courses which provide information about the agency, provide training for air and rail carriers and labor organizations involved in mediation, and provide information about the Railway Labor Act. In addition to the Lyceum the agency also works diligently at providing the public with access to information via the Knowledge Store. The Knowledge Store is the agency's repository for Board determinations, arbitration awards, Presidential Emergency Board reports and collective bargaining agreements and is accessible to the public via the agency's website.

5. *Is so, provide examples of such improvements.*

During FY 2013 the agency also updated Its Knowledge Store to improve search capabilities for users.

6. *Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If so, was social media utilized?*

The agency's issues press releases through its public information office to highlight proactive disclosures. Social media was not used.

7. *Has your agency encountered challenges that make it difficult to post records you otherwise would like to post? If so, please briefly explain what those challenges are.*

No.

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

No other steps have been taken at this time.

IV: Steps Taken to Greater Utilize Technology

Online tracking of FOIA requests

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

No.

2. *If yes, how is this tracking function provided to the public? For example, is it being done through regularly updated FOIA logs, online portals, or other mediums?*

Not applicable.

3. *Describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review." List the specific types of information that are available through your agency's tracking system.*

Not applicable.

4. *In particular, does your agency tracking system provide the requester with an estimated date of completion for his/her request?*

Not applicable.

4. *If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability? If not, please explain why.*

The agency does not provide online tracking of requests because the number of requests received is relatively small.

Use of technology to facilitate processing of requests

6. *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?*

No.

7. *If so, describe the technological improvements being made.*

Not applicable.

8. *Are there additional technological tools that would be helpful to achieving further efficiencies in your agency's FOIA program?*

Yes.

Section V: Steps Taken to Improve Timelines in Responding to Requests and Reducing Backlogs

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.

Simple Track Requests

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 time for processed requests. 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 FY 2013, 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?*

Yes.

Backlogs and "Ten Oldest" Requests, appeals and Consultations

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 FY 2013 as compared to*

FY 2012. 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 FY 2012 and FY 2013 should be used for this section.

Backlogs

- a. If your agency had a backlog of requests at the close of FY 2013, did that backlog decrease as compared with FY 2012?*

The agency did not have a backlog at the close of FY13.

- b. If your agency had a backlog of administrative appeals in FY 2013, did that backlog decrease as compared to FY 2012?*

The agency did not have a backlog of administrative appeals in FY13.

Ten Oldest Requests

- c. In FY 2013, did your agency close the ten oldest requests that were pending as of the end of FY 2012?*

Yes. The agency had one request pending at the end of FY 2012 and processed the request during FY 2013.

- d. In FY 2013, did your agency close the ten oldest administrative appeals that were pending as of the end of FY 2012?*

Not applicable.

Ten Oldest Appeals

- e. In Fiscal Year 2013, did your agency close the ten oldest administrative appeals that were pending as of the end FY 2012?*

Not applicable.

- f. If no, please provide the number of these appeals your agency was able to close, as well as the number of appeals your agency had in Section VI.C.(5) of your Fiscal Year 2012 Annual FOIA Report.*

Not applicable.

Ten Oldest Consultations

- g. In FY 2013, did your agency close the ten oldest consultations received by your agency and pending as of the end of FY 2012?*

The agency did not have any consultations during this period.

- h. If no, please provide the number of these consultations your agency did close, as well as the number of pending consultations your agency listed in Section XII.C. of your Fiscal Year 2012 Annual FOIA Report.

Not applicable.

Reason for Any Backlogs

- 3. *If your agency had a backlog of more than 1000 pending requests and did not reduce that backlog in Fiscal Year 2013, provide your agency's plan for achieving backlog reduction in the year ahead.*

Not applicable.

Request and / or Appeal Backlog

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

Not applicable.

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

Not applicable.

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

Not applicable.

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

Not applicable.

"Ten oldest" not Closed

- d. *Briefly explain the obstacles your agency faced in closing its ten oldest requests, appeals, and consultations.*

Not applicable.

Plans for Closing of ten Oldest Pending Requests, appeals, and Consultations and Reducing Backlogs

- 4. If your agency did not close its ten oldest pending requests, appeals, and consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2014.

Not applicable.

5. *If your agency had a backlog of more than 1000 pending requests and did not reduce that backlog in Fiscal Year 2013, provide your agency's plan for achieving backlog reduction in the year ahead.*

Not applicable.

Interim Responses

OIP has issued guidance encouraging agencies to make interim releases whenever they are working on requests that involve a voluminous amount of material or require searches in multiple locations. By providing rolling releases to requestors agencies facilitate access to the requested information.

6. *Does your agency have a system in place to provide interim responses to requesters when appropriate?*

Yes.

7. *If your agency had a backlog in FY 2013, please provide an estimate of the number of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.*

Not applicable.

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) (1-3), please answer the following questions:

1. *Did your agency invoke a statutory exclusion during FY 2013?*

No. The NMB is not a law enforcement agency and therefore did not use any statutory law enforcement exclusions.

Spotlight On Success

During FY 13, 95% of all FOIA requests were received electronically which resulted in decreased response times. The agency's average response time in FY 13 was 7 days.