



UNITED STATES DEPARTMENT *of* JUSTICE

**Guidelines for 2013
Chief FOIA Officer Reports**



President Obama's FOIA Memorandum

President Obama demonstrated his commitment to the ideals of transparency and openness by issuing a Memorandum calling on agencies to “renew their commitment to the principles embodied in FOIA.”



President Obama's FOIA Memorandum

The President directed all agencies to administer the FOIA with:

- a clear presumption in favor of disclosure,
- 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

Attorney General Holder issued FOIA guidelines in 2009 which called on all agencies to reaffirm the government's "commitment to accountability and transparency."

The Attorney General strongly encouraged agencies to make discretionary disclosures of information and to consider making partial disclosures when full disclosures are not possible.



Attorney General Holder's FOIA Guidelines

The Attorney General stressed the importance of agencies ensuring that they:

- have in place an effective system for responding to requests,
- make proactive disclosure of information,
- use technology, and
- respond to requests promptly.



Attorney General Holder's FOIA Guidelines

The Attorney General emphasized that “[e]ach agency must be fully accountable for its administration of the FOIA.”



Agency Accountability

The Attorney General directed agency Chief FOIA Officers to review “all aspects of their agencies’ FOIA administration” and to report each year to the Department of Justice on the steps taken “to improve FOIA operations and facilitate information disclosure.”



Agency Accountability

The first Chief FOIA Officer Reports were submitted in March 2010.

Agencies reported on a wide variety of initiatives, big and small, that had been undertaken across the government to improve transparency.



Agency Accountability

Office of Information Policy:

- prepared an extensive summary of the Chief FOIA Officer Reports, and
- issued guidance to agencies on steps they could take to achieve even greater transparency in the year ahead.



Summary of Agency Chief FOIA Officer Reports



United States Department of Justice
OFFICE OF INFORMATION POLICY

FOIA Post



SUMMARY OF AGENCY CHIEF FOIA OFFICER REPORTS WITH FINDINGS AND OIP GUIDANCE FOR IMPROVEMENT

Introduction

This Spring marked the first time that agencies submitted to the Department of Justice Chief FOIA Officer Reports describing the steps taken by each agency to improve FOIA operations and facilitate information disclosure. The Attorney General required submission of these reports as part of his new FOIA Guidelines issued on March 19, 2009. The Office of Information Policy (OIP) has conducted a comprehensive review of all ninety-four Chief FOIA Officer Reports and has prepared this summary. Included in the summary are OIP's findings and guidance to agencies on the next steps that should be taken so that even greater transparency can be achieved in the year ahead.

President Obama's FOIA Memorandum

In an unprecedented action that signaled his commitment to the ideals of transparency and openness, President Obama, on his first full day in office, issued a Memorandum to the heads of all Executive Branch Departments and agencies calling on them to "renew their commitment to the principles embodied in FOIA." 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 not to withhold information based on "speculative or abstract fears."



Agency Accountability

In March 2011, agencies submitted their second Chief FOIA Officer Reports highlighting particular initiatives that were emblematic of their efforts.



President Obama's FOIA Memorandum

Office of Information Policy:

- compiled and posted a summary of the agencies success stories
- prepared an assessment of the cabinet agencies' compliance with the Attorney General's FOIA Guidelines



2010-2011 Agency FOIA Success Stories



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NEWS



2010-2011 Agency FOIA Success Stories: Creating a Culture of Transparency

In the two years since the President issued his FOIA Memorandum directing agencies to apply a presumption of openness to all decisions involving the FOIA, agencies across the government have taken steps to create a more open and accountable government. Attorney General Holder's FOIA Guidelines underscored the President's commitment to open government and provided agencies with guidance on how to apply the presumption of openness. The Attorney General directed all agency Chief FOIA Officers to report each year to the Department of Justice on the steps that they had taken to improve transparency. This week marks the second year since the issuance of both the President's FOIA Memorandum and the Attorney General's FOIA Guidelines that agencies have submitted Chief FOIA Officer Reports to the Department of Justice. These reports outline the wide variety of initiatives, big and small, undertaken over the past year as agencies build upon the concrete steps taken last year to implement the President's directive. The 2011 Chief FOIA Reports reveal that a trend is emerging in the way agencies implement the FOIA, demonstrating that a new culture of transparency is taking hold. The below highlights, from the 2011 Chief FOIA Officer Reports of cabinet and other key agencies, are just some of the success stories that are emblematic of steps taken by all agencies to "renew their commitment to the principles embodied in the FOIA" and to achieve an unprecedented level of transparency.

Key Agency Highlights

Department of Agriculture (USDA): Meeting Public Demand Through Proactive Disclosures

- By making more information available to the public online, USDA's Animal and Plant Health Inspection Service (APHIS) drastically reduced the number of FOIA requests it received in 2010, slashing its incoming requests by 42% after posting a wide variety of agency reports, enforcement actions, and prior FOIA responses.
- USDA's APHIS reduced its overall backlog of FOIA requests by almost 43% from 2009.





Agency Accountability

In March 2012, once again agencies submitted their Chief FOIA Officer Reports reporting on initiatives undertaken to improve their administration of the FOIA.



Agency Accountability

Office of Information Policy:

- prepared an assessment of all 99 agencies and summary of the Chief FOIA Officer Reports, and
- issued guidance to agencies for further improvement, specifically, the importance of utilizing advanced technology to process requests, the need to employ multiple processing tracks, and the significance of closing the ten oldest pending requests and appeals each year.



Assessment of Federal Departments and Agencies



2012 Chief FOIA Officer Reports
Assessment of Federal Departments and Agencies

U.S. Department of Justice
Office of Information Policy

Agency (Key Agencies in Blue)	Section I: Applying the Presumption of Openness				Section II: Effective Systems for Responding to Requests			Section III: Increasing Proactive Disclosures		Section IV: Utilization of Technology (Tech.)		Section V: Reducing Backlogs & Improving Timeliness in Responding to Requests (Req.) and Appeals (App.)					
	Conducted or Attended Training	Made & Has Process to identify Discretionary Disclosures	High release Rate for Requests Processed for Disclosure	Sufficient IT Support	FOIA Staff Works w/Open New Team	Taken steps to Assess if there is Adequate Staffing	Added New Material in Website	Taken Steps to Make Website More Useful to Public	Offers Ability to Make FOIA Requests Electronically	Utilizing Advanced Tech. to Increase FOIA Efficiency	Processed Simple Req. in 20 Working Days or Less	Simple Track Y/N	Score	Ava. No of Days	Decrease in backlogged Req./App.	Closed 10 Oldest Req./App.	Sets Goals & Monitors Progress of FOIA Online!
ACUS	Red	Black	Green	Green	Green	Green	Green	Green	Green	Red	Y	Green	1.6	Green	Green	Green	Green
ABMC	Red	Green	Green	Green	Green	Red	Green	Green	Green	Red	N	Green	10	Yellow	Green	Green	Black
Amtrak	Green	Green	Green	Green	Green	Black	Green	Green	Green	Red	Y	Red	30	Green	Yellow	Red	Red
AFRH	Green	Red	Green	Green	Green	Green	Red	Yellow	Green	Red	Y	Red	32	Green	Green	Green	Green
FRD	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Y	Green	8	Green	Yellow	Red	Green
BBC	Green	Green	Green	Green	Green	Green	Green	Green	Red	Green	N	Yellow	N/A	Green	Green	Green	Green
UIA	Green	Green	Green	Red	Green	Green	Green	Green	Red	Green	Y	Red	28.95	Red	Green	Red	Red
CSB	Green	Green	Green	Red	Red	Green	Green	Green	Green	Green	Y	Green	18	Yellow	Green	Red	Green
CPFBSD	Red	Green	Green	Green	Green	Black	Green	Green	Green	Black	Y	Green	8	Green	Green	Green	Yellow
CFIC	Green	Green	Green	Yellow	Green	Yellow	Green	Yellow	Green	Green	Y	Red	26.39	Red	Yellow	Red	Green
LNCS	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Y	Green	18	Red	Green	Green	Green
CRIF	Black	Black	Green	Green	Black	Black	Green	Green	Green	Red	N	Green	14	Green	Green	Green	Green



Topics to Be Addressed in 2013 Chief FOIA Officer Reports

OIP is responsible for providing guidance to agencies on the timing and content of agency Chief FOIA Officer Reports to the Attorney General.



Topics to Be Addressed

For 2013, while the overall topics remain the same, the five key areas contain a few more targeted elements that should be addressed.



Topics to Be Addressed

The five key areas:

1. the steps taken to apply the presumption of openness;
2. the steps taken to ensure that the agency has an effective system in place for responding to requests;
3. the steps taken to increase proactive disclosures;



Topics to Be Addressed

4. the steps taken to greater utilize technology; and
5. the steps taken to improve timeliness in responding to requests and reduce backlogs



Topics to Be Addressed

- report whether your agency used an exclusion during Fiscal Year 2012, and if so, provide the total number of times
- include a transparency success story that your agency would like to highlight



Format of 2013 Chief FOIA Officer Reports

For decentralized agencies, the Report should be organized by the five topical areas and include within each key area, data and examples for the various components.



Content of 2013 Chief FOIA Officer Reports

Time Frame For Report

The general reporting period for the Chief FOIA Officer Reports is March 2012 to March 2013.



Content of 2013 Chief FOIA Officer Reports

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.



Content of 2013 Chief FOIA Officer Reports

Describe steps taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.



Content of 2013 Chief FOIA Officer Reports

Answer the questions listed below and include any other pertinent information:

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

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



Content of 2013 Chief FOIA Officer Reports

Attorney General Holder's FOIA Guidelines strongly encouraged agencies to make discretionary releases of information, and OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

2. Did your agency make any discretionary releases of otherwise exempt information?
3. What exemptions would have covered the information that was released as a matter of discretion?



Content of 2013 Chief FOIA Officer Reports

New:

4. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.
5. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.



Content of 2013 Chief FOIA Officer Reports

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.”



Content of 2013 Chief FOIA Officer Reports

Describe steps taken to ensure that your agency system for responding to requests is effective and efficient.



Content of 2013 Chief FOIA Officer Reports

Answer the questions below and then include any additional pertinent information:

1. Do FOIA professionals within your agency have sufficient IT support?
2. Do your FOIA professionals work with your agency's Open Government Team?



Content of 2013 Chief FOIA Officer Reports

3. Has your agency assessed whether adequate staff is being devoted to FOIA administration?
4. 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.



Content of 2013 Chief FOIA Officer Reports

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.



Content of 2013 Chief FOIA Officer Reports

Describe steps taken 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.



Content of 2013 Chief FOIA Officer Reports

Answer the questions listed below and include any other pertinent information:

1. Provide examples of materials that your agency has posted this year.



Content of 2013 Chief FOIA Officer Reports

2. Beyond posting new material, is your agency taking steps to make the posted 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 on the site, creating mobile applications, providing explanatory material, etc.?



Content of 2013 Chief FOIA Officer Reports

3. If so, provide examples of such improvements.
4. Describe any other steps taken to increase proactive disclosures at your agency.



Content of 2013 Chief FOIA Officer Reports

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.”



Content of 2012 Chief FOIA Officer Reports

Answer the following targeted questions:

Electronic receipt of FOIA requests:

1. Can FOIA requests be made electronically to your agency?
2. If your agency is decentralized, can FOIA requests be made electronically to all components of your agency?



Content of 2012 Chief FOIA Officer Reports

Online tracking of FOIA requests:

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

New:

4. If so, 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.



Content of 2012 Chief FOIA Officer Reports

New:

5. In particular, does your agency tracking system provide the requester with an estimated date of completion for his or her request?
6. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability?



Content of 2012 Chief FOIA Officer Reports

Use of technology to facilitate processing of requests:

7. 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?
8. If so, describe the technological improvements being made.



Content of 2013 Chief FOIA Officer Reports

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.



Content of 2013 Chief FOIA Officer Reports

1. Refer to Section VII.A of your Annual FOIA Report for figures on FOIA Requests – Response Time for All Processed Requests
 - a. Does your agency utilize a separate track for simple requests?
 - b. If so, for your agency overall, for Fiscal Year 2012, was the average number of days to process simple requests twenty working days or fewer?
 - 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?



Content of 2013 Chief FOIA Officer Reports

2. Refer to Sections XII.D.(2) and XII.E.(2) of your Annual FOIA Report for figures on backlogged requests/appeals, and Sections VII.E and VI.C.(5) on the ten oldest pending requests/appeals
 - a. If your agency had a backlog of requests at the close of Fiscal Year 2012, did that backlog decrease as compared with Fiscal Year 2011?
 - b. If your agency had a backlog of administrative appeals in Fiscal Year 2012, did that backlog decrease as compared to Fiscal Year 2011?



Content of 2013 Chief FOIA Officer Reports

- c. In Fiscal Year 2012, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2011?
- d. In fiscal year 2012, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2011?



Content of 2013 Chief FOIA Officer Reports

3. If you answered “**no**” to any question in “item 2,” answer the following questions and 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?
- b. Was the lack of reduction in the request backlog caused by a loss of staff?



Content of 2013 Chief FOIA Officer Reports

- c. Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?
- d. What other causes, if any, contributed to the lack of a decrease in the request backlog?



Content of 2013 Chief FOIA Officer Reports

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?
- b. Was the lack of a reduction in the appeal backlog caused by a loss of staff?
- c. Was the lack of a reduction in the appeal backlog caused by an increase in the complexity of the appeals received?
- d. What other causes, if any, contributed to the lack of a decrease in the appeal backlog?



Content of 2013 Chief FOIA Officer Reports

New:

4. OIP issued guidance encouraging agencies to make interim releases on requests that involve a voluminous amount of material or require searches in multiple locations. If your agency had a backlog in Fiscal Year 2012, 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.



Use of FOIA's Law Enforcement "Exclusions"

Answer the following questions concerning the use of the FOIA's statutory law enforcement exclusions, 5 U.S.C. § 552(c)(1), (2), (3):

1. Did your agency invoke a statutory exclusion during Fiscal Year 2012?
2. If so, what was the total number of times exclusions were invoked?



Spotlight on Success

Describe one success story that you would like to highlight as emblematic of your agency's efforts.



Deadlines for Submitting 2013 Chief FOIA Officer Reports

- Submit a draft of your Chief FOIA Officer Report to OIP for **review no later than February 4, 2013.**
- The drafts should be submitted by e-mail to DOJ.OIP.FOIA@usdoj.gov. The subject line should read: Draft [insert agency name] Chief FOIA Officer Report.
- Each agency should post its Chief FOIA Officer Report on its **website by March 11, 2013.**