



United States Department of Justice *Office of Information Policy*

Guidelines for 2012 Chief FOIA Officer Reports

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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 new FOIA guidelines 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 disclosures 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.

Agency Accountability

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

The Office of Information Policy:

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

Topics to Be Addressed in 2012 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 2012, while the overall topics remain the same, the five key areas contain new, 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 efficient and effective system in place for responding to requests;

Topics to Be Addressed

3. the steps taken to increase proactive disclosures;
4. the steps taken to improve use of technology; and
5. the steps taken to reduce any backlogs of pending FOIA requests and to improve timeliness in responding to requests.

Topics to Be Addressed

For 2012, there is a “**new**” stand-alone reporting requirement concerning the application of FOIA’s statutory exclusions, 5 U.S.C. § 552(c) (2006 & Supp. III 2009):

- Report whether your agency used an exclusion during Fiscal Year 2011, and if so, provide the total number of times

Topics to Be Addressed

Each agency is to include
a transparency success story
that they would like to highlight.

Format of 2012 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 2012 Chief FOIA Officer Reports

Time Frame for Report

The general reporting period for the Chief FOIA Officer Reports is March 2011 to March 2012.

Content of 2012 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 2012 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 2012 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?
2. Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice?

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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.

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

Content of 2012 Chief FOIA Officer Reports

5. Describe your agency's process to review records to determine whether discretionary releases are possible.
6. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.

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Compare your agency's 2011 Annual FOIA Report with last year's Annual FOIA Report -- Section V.B.(1)
[Disposition of FOIA Requests -- All Processed Requests]

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

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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."

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

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

1. Do FOIA professionals within your agency have sufficient IT support?
2. Is there regular interaction between agency FOIA professionals and the Chief FOIA Officer?

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3. Do your FOIA professionals work with your agency's Open Government Team?
4. Describe the steps your agency has taken to assess whether adequate staffing is being devoted to FOIA Administration.
5. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively.

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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.

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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 2012 Chief FOIA Officer Reports

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

1. Has your agency added new material to your website since last year?
2. Provide examples of the records, datasets, videos, etc., that have been posted this past year.
3. Describe the system your agency uses to routinely identify records that are appropriate for posting.

Content of 2012 Chief FOIA Officer Reports

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

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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."

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Answer the following targeted questions:

Electronic receipt of FOIA requests:

1. Can FOIA requests be made electronically to your agency?
2. If your agency processes requests on a decentralized basis, do all components of your agency receive requests electronically?

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Online tracking of FOIA requests:

3. Can a FOIA requester track the status of his/her request electronically?
4. If not, is your agency taking steps to establish this capability?

Content of 2012 Chief FOIA Officer Reports

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

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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.

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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 2011, 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?

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

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

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3. If you answered “no” to any question in “item 2,” answer the following questions and include any additional information:

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 a reduction in the request backlog caused by a loss of staff?
- 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?

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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?

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Describe steps being taken to reduce backlogs and to improve timeliness in responding to requests and appeals.

1. Does your agency routinely set goals and monitor the progress of your FOIA caseload?
2. Has your agency increased its FOIA staffing?
3. Has your agency made IT improvements to increase timeliness?
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?

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 2011?
2. If so, what is 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 2012 Chief FOIA Officer Reports

- Submit a draft of your Chief FOIA Officer Report to OIP for review **no later than February 1, 2012.**
- 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 12, 2012.**