

**INSTITUTE OF MUSEUM AND LIBRARY SERVICES
CHIEF FOIA OFFICER REPORT
2011**

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.

1. 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.

a. Describe how the President's FOIA Memorandum and the Attorney General's FOIA Guidelines have been publicized throughout your agency.

The Institute of Museum and Library Services (IMLS or the "Institute") is committed to ensuring transparency in the work of the agency and maximum access to the agency's records. The President's FOIA Memorandum and Attorney General's FOIA Guidelines have been placed on the agency's website and all staff has been informed of the guidelines and the President's requirement that federal agencies, to the extent possible, proactively release public information.

b. What training has been attended and/or conducted on the new FOIA Guidelines?

During 2010, the Chief FOIA Officer provided instruction to IMLS staff regarding the President's FOIA Memorandum and Attorney General's FOIA Guidelines. Key FOIA representatives and agency managers also attended meetings regarding the new FOIA guidelines and the Openness in Government Act. In March 2011, agency-wide FOIA training is scheduled for the Institute's staff.

c. How has your agency created or modified your internal guidance to reflect the presumption of openness?

In response to the President's FOIA Memorandum and Attorney General's FOIA Guidelines, members of the Institute's Executive Leadership Team engaged in a comprehensive review of the agency's internal and external FOIA processes. Though no major barriers to openness were noted during the review, the need to update the Institute's FOIA Directive and conduct agency-wide training of staff and Key FOIA representatives were identified.

d. To what extent has your agency made discretionary releases of otherwise exempt information?

The agency is committed to discretionary release of information that will not result in foreseeable harm to the agency, its employees or clients. This year the Institute had limited occasions to make discretionary release of agency information.

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

The limited information that was released as a matter of agency discretion could have been covered under 5 U.S.C. § 552(b)(5).

f. How does your agency review records to determine whether discretionary releases are possible?

The agency's FOIA principals and senior managers meet periodically to discuss proactive and discretionary release of agency documents pursuant to the FOIA and Open Government Act. If a specific recommendation for discretionary release of documents is suggested, the agency's General Counsel/Chief FOIA Officer will review the recommendation and provide guidance to the FOIA Officer on the appropriateness of the document for discretionary release.

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

N/A

2. Report the extent to which the numbers of requests where records have been released in full and the numbers of requests where records have been released in part has changed from those numbers as reported in your previous year's Annual FOIA Report.

The Institute is a small grant making agency that provides federal assistance to museums and libraries throughout the nation. In fiscal years 2009 and 2010, IMLS did not have any full denials and only 18 and 27 partial denials, respectively. In both fiscal years 2009 and 2010, partial denials accounted for approximately 38 % and 45%, respectively of the total number of requests received by the agency. Also, of the limited number of partial denials in fiscal years 2009 and 2010, approximately 70% and 88%, respectively consisted of withholding information pursuant to 5 U.S.C. § 552(b)(4). This exemption is used to protect commercial or financial information which is privileged and confidential and is therefore not appropriate for discretionary release.

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

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

Yes. The IT support within the Institute is sufficient to properly carry out the agency's FOIA processing needs.

b. Describe how your agency's FOIA professionals interact with your Open Government Team.

The agency's FOIA principals, Open Government personnel, and senior managers meet periodically (or as needed) to discuss FOIA processing issues and/or to recommend documents for proactive or discretionary agency release.

c. Describe the steps your agency has taken to assess whether adequate staffing is being devoted to responding to FOIA requests.

Upon completion of a comprehensive review of the agency's FOIA processes and after an evaluation of statistical information gathered from the agency's Annual FOIA reports (i.e., number of requests, response time, etc.), it was determined that the Institute's current FOIA staff is sufficient to respond adequately and appropriately to FOIA requests in a timely manner.

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

Beside the steps outlined above, the agency's FOIA principals continue to seek and receive training and guidance from the Department of Justice (DOJ), Office of Government Information Services (OGIS), and the American Society of Access Professionals (ASAP) on new FOIA regulations, procedures, and best practices which are designed to enhance FOIA processing and accountability throughout the Federal government. These steps help to ensure that the Institute's FOIA system continues to operate efficiently and effectively to achieve and maintain the presumption of openness as outlined the President's Memorandum and Attorney General's Guidance.

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 here the steps your agency has taken to increase the amount of material that is available on your agency website, including providing examples of proactive disclosures that have been made since issuance of the new FOIA Guidelines. In doing so, answer the questions listed below and describe any additional steps taken by your agency to make proactive disclosures of information.

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

Yes.

b. What types of records have been posted?

Public and State Library Surveys.

c. Give examples of the types of records your agency now posts that used to be available only by making a FOIA request for them.

The Institute has posted its statutory authority, agency budget information, sample grant application narratives, etc.

d. What system do you have in place to routinely identify records that are appropriate for posting?

As a result of the President's FOIA Memorandum, Attorney General's FOIA Guidelines, and the Open Government Directive, the agency's General Counsel/Chief FOIA Officer, FOIA principals, and senior agency managers meet regularly or as needed to discuss the proactive and discretionary release of various agency documents.

e. How do you utilize social media in disseminating information?

The agency provides an RSS feed (<http://www.ims.gov/rss.xml>) to subscribers who wish to be notified of new or updated information on the agency's website. This information includes but is not limited to: press releases, grant guidelines, project profiles, etc.

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

The Institute posts on its website all releasable agency information that has wide-public applicability. In addition, in compliance with the FOIA, Privacy Act, and the Institute's current FOIA regulations, the agency's FOIA principals continue to review other agency records, submitted by IMLS program managers and other staff members, to determine the appropriateness of proactive release. Some specific examples of items that have been released by the agency pursuant to the FOIA and Open Government Act can be found on the Institute's website at: <http://www.ims.gov/open/>.

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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." 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 agencies reported widespread use of technology in handling FOIA requests. For this section of your Chief FOIA Officer Report for 2011, please answer the following more targeted questions:

1. Electronic receipt of FOIA requests:

a. What proportion of the components within your agency which receive FOIA requests have the capability to receive such requests electronically?

The Institute has only one component. This component has the capacity to receive FOIA requests electronically.

b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?

N/A

c. What methods does your agency use to receive requests electronically?

The Institute receives FOIA requests via the agency's on-line FOIA request link and through its FOIA e-mail account.

2. Electronic tracking of FOIA requests:

a. What proportion of components within your agency which receive FOIA requests have the capability to track such requests electronically?

The Institute has only one component. This component has the capacity to track FOIA requests electronically.

b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?

N/A

c. What methods does your agency use to track requests electronically?

The Institute tracks requests through an off-the shelf software database system.

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3. Electronic processing of FOIA requests:

a. What proportion of components within your agency which receive FOIA requests have the capability to process such requests electronically?

The Institute has only one component. This component currently does not have the capacity to process FOIA requests electronically.

b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?

N/A

c. What methods does your agency use to process requests electronically?

N/A

4. Electronic preparation of your Annual FOIA Report:

a. What type of technology does your agency use to prepare your agency Annual FOIA Report, i.e., specify whether the technology is FOIA-specific or a generic data-processing system.

The Institute does not use technology that is FOIA-specific to prepare its Annual FOIA report. Institute does, however, use an off-the-shelf database software product that is designed to record, track, and maintain FOIA-related information needed to complete the agency's Annual FOIA Report.

b. If you are not satisfied with your existing system to prepare your Annual FOIA Report, describe the steps you have taken to increase your use of technology for next year.

The Institute is currently satisfied with the off-the-shelf database software product used to prepare its Annual FOIA Report.

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

Improvements to timeliness in responding to pending FOIA requests and reductions in backlogs are both ongoing agency efforts. The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. Section XII of your Annual FOIA Report includes figures that show your agency's backlog of pending requests and administrative appeals for the past two fiscal years. You should refer to those numbers when completing this section of your Chief FOIA Officer Report. In this section you should address the following elements.

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1. If your agency has a backlog, report here whether that backlog is decreasing. That reduction should be measured in two ways. First, report whether the number of backlogged requests and backlogged administrative appeals that remain pending at the end of the fiscal year decreased or increased, and by how many, when compared with last fiscal year. Second, report whether your agency closed in Fiscal Year 2010 the ten oldest of those pending requests and appeals from Fiscal Year 2009, and if not, report how many of them your agency did close.

The Institute does not have any backlog of FOIA requests or administrative appeals and consistently responds to simple FOIA requests well under the time limits allotted by the FOIA statute. Although five (5) requests were pending at the end of 2009 and three (3) requests were pending requests on hand at the end of fiscal year 2010, these requests were not part of a backlog and the agency was well within FOIA's statutory processing time limits. Additionally, all pending cases for both fiscal years have since been closed.

2. If there has not been a reduction in the backlog as measured by either of these metrics, describe why that has occurred. In doing so, answer the following questions and then include any other additional explanation:

a. Is the backlog increase a result of an increase in the number of incoming requests or appeals?

The Institute does not have any backlogged FOIA requests or administrative appeals.

b. Is the backlog increase caused by a loss of staff?

N/A

c. Is the backlog increase caused by an increase in the complexity of the requests received?

N/A

d. What other causes, if any, contributed to the increase in backlog?

N/A

3. Describe the steps your agency is taking to reduce any backlogs and to improve timeliness in responding to requests and administrative appeals. In doing so answer the following questions and then also include any other steps being taken to improve timeliness.

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

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Although the Institute does not have any backlogged FOIA requests or administrative appeals, the agency's FOIA principles and senior managers are committed to ensuring public access to agency information in a timely manner. As such, this agency endeavors to maintain its longstanding goal of processing simple requests within an average of 10 working days.

b. Has your agency increased its FOIA staffing?

No.

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

Yes. The agency has made several changes to its FOIA database that will ensure proper tracking, reporting, and records maintenance of all FOIA requests and consultations.

d. Has your agency Chief FOIA Officer been involved in overseeing your agency's capacity to process requests?

Yes. The Chief FOIA Officer regularly meets with agency managers, FOIA principals and Open Government personnel to ensure that the agency is proactively releasing agency-related information to the public whenever possible. The Chief FOIA Office also ensures that the agency is effectively responding to FOIA requesters; processing FOIA requests in a timely manner; and adhering to the new openness in government guidelines and requirements. The Chief FOIA Officer also meets periodically with the agency's IT staff to ensure that its on-line FOIA request links are operating properly and that the agency's FOIA database is updated, as needed, to meet all new FOIA reporting requirements and guidelines.

Spotlight on Success

Out of all the activities undertaken by your agency in this last year to increase transparency, describe here one success story that you would like to highlight as emblematic of your efforts.

Since the Institute's creation in 1996, the number of FOIA requests received by the agency has steadily increased from three (3) FOIA requests in 1999 to fifty-one (51) FOIA requests received in 2010. Throughout this period, the agency has consistently processed most of these requests within 10 working days. Additionally, since the creation of the Institute's current FOIA processing system, there have been no instances of administrative appeals or backlogged FOIA requests. Though this is not one single success story, this longstanding agency achievement is reflective of an overall commitment by the agency's senior managers, FOIA principals and staff employees to ensure transparency, openness and access to the agency's public information.