



2012 Chief FOIA Officer Report

Legal Services Corporation Chief FOIA Officer:

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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?

***Answer:** The LSC President sent a memorandum to all staff on March 21, 2011, regarding the importance of FOIA compliance. That memorandum provided guidance on FOIA administration, described in detail the FOIA process and explained the role of employees in the process. It further instructed employees regarding the proper handling of inquiries and correspondence that are, or potentially could be, FOIA-related. We did not hold an agency FOIA conference.*

The LSC President will be issuing a similar written FOIA guidance to all staff shortly and continue doing

so annually.

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

Answer: LSC's FOIA professionals are experienced and keep current with FOIA requirements and guidance.

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?

Answer: No, we made no discretionary releases of otherwise exempt information during the reporting period.

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

Answer: Not applicable.

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

Answer: When responding to individual FOIA requests, LSC personnel consider whether any of the requested records contain information exempt under FOIA and, as to any that do, whether there is any foreseeable harm that could result from their release. If not, then the records are released. Also, we engage in an ongoing review of categories of records to determine whether any general categories of records which might be technically exempt from disclosure, but in which the

public could reasonably expect to have some interest, are appropriate for discretionary release.

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

Answer: Issuance of a corporate-wide directive from LSC's President. The 2011 directive reflected a deep commitment to ensuring LSC's compliance with FOIA and made clear the priority given to achieving such compliance. The directive specifically stated that "LSC's obligations under FOIA are important - as important as any other statutory obligations the Corporation has." Corporation managers are aware of their responsibility to make records available to the public on an ongoing basis, and to identify new categories of such records when they are created.

The FOIA Officer and LSC managers consult regarding the proactive disclosure of records and have now systematized the process of proactively disclosing staff reports on the performance of LSC grantees without awaiting the receipt of a FOIA request. In addition, LSC's website was recently redesigned to facilitate public access to records and to make it easier and faster for staff to post records to the LSC website.

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?

Answer: Yes, there was an increase in the number of responses where records were released in full from 1 in Fiscal Year 2010 to 33 in Fiscal Year 2011.

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

Answer: Yes, there was an increase in the number of responses where records were released in part from 6 in Fiscal Year 2010 to 12 in Fiscal Year 2011.

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?

Answer: Yes, they receive all necessary support from our IT Department.

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

Answer: Yes, there is regular interaction between the

FOIA professional and Chief FOIA Officer. Their offices are only a few steps from one another and interactions are on a daily basis, generally.

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

Answer: The Corporation (other than its Office of Inspector General) consists of only about 100 employees, all in one building, and does not have a formally designated "Open Government Team." The function (involving both FOIA and the Sunshine Act) is performed by the Corporation's Office of Legal Affairs, which interacts with the LSC Office of Inspector General on FOIA issues of mutual interest.

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

Answer: Because of the close coordination between FOIA staff and the Chief FOIA Officer, the operations of the FOIA system are under constant scrutiny and review. The Chief FOIA Officer has personal familiarity with all FOIA operations and makes adjustments as necessary to ensure efficiency and effectiveness.

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

Answer: Starting this past reporting period, the President receives and reviews a formal weekly written report on FOIA, showing the number of FOIA requests being processed (pending from the last report, received since the last report, closed since the last report and noting any backlog), the status of each open FOIA in the FOIA process (e.g., communicating with the requester, records search in progress, FOIA Officer's disclosure review, review by the Chief FOIA Officer, etc.) and any FOIA appeals. The President reads and acknowledges each

report and follows up with status inquiries as appropriate.

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?

Answer: Yes, as per its longstanding practice, the Corporation continued to add new material to its website during this reporting period. During the last fiscal year, LSC has posted all reports of visits to grantees since 2008 and implemented a procedure for regular and current posting of new reports.

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

Answer: Examples of materials posted to the Corporation's website during the covered reporting period are verbatim transcripts of open meetings of the LSC Board of Directors ("Board") and its committees, reports and recommendations of a special Board-established task force as well as public comments thereto, and records related to grantee funding and oversight. As noted above, during the last fiscal year, LSC posted all reports of visits to grantees since 2008 and implemented a procedure for regular and current posting of new reports.

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

Answer: Managers, in consultation with FOIA staff, identify record categories appropriate for disclosure. Records in those categories are then routinely posted to the Corporation's website. A consultation also occurs when a new category of records is created to determine the appropriateness of discretionary posting of that category of records.

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.?

Answer: The Corporation recently redesigned its website. The redesign effort focused on making the website easier for the public to use and improving its search capabilities. The result is a website that is more user-friendly and easier to navigate.

The Corporation's website includes a feature that provides visitors with the ability to provide feedback. The Corporation also regularly interacts with its grantees and their trade association, as well as Congressional staff members, and is able to obtain input via that means as well.

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

Answer: The measures described above are the principal steps taken to increase proactive disclosures at the Corporation.

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?

Answer: Yes, FOIA requests can be submitted electronically. See 45 CFR § 1602.8(b).

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

Answer: With one exception, the Corporation's FOIA function is centralized. The one exception is that the Corporation's Office of Inspector General performs the FOIA function for those records "which are exclusively in the[ir] possession and control" (45 CFR §1602.2(f) & 1602.8(b)).

Online tracking of FOIA requests:

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

Answer: No, a FOIA requester cannot track the status of his/her request electronically.

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

Answer: During this reporting period, LSC will explore the feasibility of developing measures to enable requesters

to track the status of their FOIA requests electronically.

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?

Answer: The Corporation's new website was built using Drupal Content Management Technology and permits keyword searches of the html content on the website.

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

Answer: Not applicable.

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?

Answer: Yes, LSC uses 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?

Answer: No, the average number of days to process simple requests was not twenty 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?

Answer: Not applicable.

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? The total backlog for 2011 is less than the total backlog for 2010.

Answer: The Corporation's Fiscal Year 2010 backlog of 32 FOIA requests was eliminated by the end of Fiscal Year 2011.

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

Answer: The Corporation did not have a backlog of administrative appeals in Fiscal Years 2010 and 2011.

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

Answer: Yes, the ten oldest requests pending at the end of Fiscal Year 2010 were closed.

- 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?

Answer: Not applicable.

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: *Not applicable.*

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

Answer: Not applicable.

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

Answer: Not applicable.

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

Answer: Not applicable.

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

Answer: Not applicable.

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?

Answer: Not applicable.

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

Answer: Not applicable.

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

Answer: Not applicable.

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

Answer: Not applicable.

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?

Answer: The Corporation's goal is to process requests within twenty business days. Progress is monitored on a weekly basis and monitoring includes written reporting to the President and to the Chief FOIA Officer.

2. Has your agency increased its FOIA staffing?

Answer: The Corporation did not increase the number of persons assigned to the FOIA function but, during the reporting period, did increase the number of person-hours devoted to the FOIA function and completely eliminated its FOIA backlog.

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

Answer: No major IT improvements unique to the FOIA function were made to increase response times.

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?

Answer: There has been no occasion requiring the Corporation to consult with other agencies.

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?

Answer: The Corporation did not invoke a statutory exclusion during Fiscal Year 2011.

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

Answer: No, the Corporation did not invoke exclusions during Fiscal Year 2011.

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.

Success Story (Stories):

As indicated above, LSC staff reports containing programmatic and/or compliance assessments of LSC grantees are now available to the public in the FOIA Electronic Public Reading Room of the Corporation’s web site. In excess of 100 reports have been posted for onsite visits dating back to January 1, 2008, and grantee reports falling within this category of records will continue to be disclosed proactively by posting to the FOIA Electronic Public Reading Room promptly upon being finalized.