

Office of Management and Budget
Chief Freedom of Information Act Officer's Report
March 2015

This Chief Freedom of Information Act (FOIA) Officer's Report is issued in accordance with the Attorney General Guidelines on FOIA issued on March 19, 2009. In compliance with those Guidelines, OMB's Chief FOIA Officer has reviewed all aspects of OMB's FOIA administration and issues this report on the steps OMB has taken to improve FOIA operations and facilitate information disclosure.

Copies of this report, as well as information on how to make a FOIA request to OMB, are available at the "FOIA" site on the OMB home page at http://www.whitehouse.gov/omb/foia_default.

Those wishing to submit FOIA requests to OMB should submit their request, in writing, to OMB either via email at OMBFOIA@omb.eop.gov, fax at (202) 395-3504, or to the following mailing address: Office of Management and Budget, New Executive Office Building, FOIA Officer, Room 9026, 725 17th Street, N.W., Washington, D.C. 20503.

I. Steps Taken to Apply the Presumption of Openness.

FOIA Training

Given the relatively small number of personnel in OMB that perform FOIA work on a regular basis, OMB does not hold any formal FOIA training of its own. Outside of the few staff members that perform FOIA work on a regular basis, personnel throughout the agency may be assigned FOIA responsibilities periodically. To ensure that this staff is properly trained, OMB's staff who work with FOIA more frequently offer guidance tailored to the specific needs of other staff members. Typically this guidance will address specific issues, which can include discussing the legal framework of FOIA, such as the applicability of an exemption, or offering practical best practices, including how to most efficiently conduct a search for records.

Additionally, OMB leadership and staff meet periodically to assess the amount of staff conducting FOIA work at that time and discuss ways in which the importance of FOIA compliance may be stressed within the agency. All agency FOIA personnel are also made aware of substantive FOIA training that is offered government-wide, including at the Department of Justice (DOJ), and are encouraged to attend the sessions that they feel will help them in working on FOIA matters for OMB. Each member of OMB's FOIA staff attended government-wide training that was offered by DOJ in Fiscal Year (FY) 2013. While FOIA staff did not attend any government-wide training this past year, they continue to monitor the training offered and will attend as needed.

Discretionary Releases

OMB continues to focus on applying the presumption of openness in all decisions involving FOIA. OMB's FOIA Officer and OMB's Office of General Counsel (OGC) apply a presumption of openness consistent with the President's FOIA Memorandum and the Attorney General's FOIA Guidelines. This presumption is applied during the review of responsive

material, to best determine what can be released, and additionally the initiative is undertaken during the search for responsive material, to ensure that the search is comprehensive.

OMB continues to use a document-review procedure that involves a document-by-document, line-by-line review conducted by agency personnel to identify material that is appropriate for release, including whether OMB can discretionarily release material that falls within one of the FOIA exemptions. This careful review is followed by an additional review of any redactions made during the initial review, to ensure that OMB has properly implemented the presumption of openness. OMB institutionalized this review process in 2014. Now, all potential withholdings undergo review more than once to ensure that the presumption of openness has been applied appropriately. As a result of this review, OMB has identified material that is protected under Exemption 5, but has determined it could be released, as a matter of agency discretion, as a disclosure would not create a harm protected by that exemption. For instance, OMB was able to release portions of email traffic within OMB and between OMB and other Federal agencies that are discussing the development of guidance, which are deliberative and pre-decisional.

OMB's personnel who work on FOIA have also informed non-FOIA professionals of their obligations and discussed the presumption of openness as set forth in the President's FOIA Memorandum and the Attorney General's FOIA Guidelines.

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

Processing Procedures

As OMB used a "first-in, first-out" FOIA processing system during FY 2014, its processing of incoming FOIA requests was not delayed by the processing of other pending requests and no requests for expedited processing were adjudicated.

Requester Services

OMB continues to focus on improving the FOIA requester services it makes available to the public. Whenever feasible, communications with requesters are done over the phone or through e-mail, in order to provide the quickest response or feedback. Additionally, OMB's responses to administrative appeals inform requesters of the mediation services available at the National Archives and Records Administration's (NARA) Office of Government Information Services (OGIS) and provides the contact information for that office.

Furthermore, in situations when a requester will incur fees for the processing of their request, OMB takes additional steps to keep the requester informed. OMB's response letters typically describe the services OMB performed (or those the agency anticipates performing) that will require a fee to be paid. For example, a response letter would detail that a search was conducted for a period of time at a particular rate. Furthermore, if the fee estimate is particularly high, OMB calls the requester to explain the estimated fee and the basis for the amount. OMB uses this opportunity to discuss ways to narrow the request with the requester to see if a more affordable approach is available.

OMB continues to actively review its FOIA processing system to find ways to increase efficiencies. This includes examining whether searches can be conducted at a greater speed and if there are opportunities to streamline document review procedures.

III. Steps Taken to Increase Proactive Disclosures

Posting Material

OMB offers a number of records and high-value datasets online. Some of this material that OMB releases publicly is identified through the agency's FOIA processing system. As OMB completes a response to a FOIA request, staff in the relevant program office, OGC, and the Management and Operations Division (MOD) review those records to determine whether it would be helpful to post any material provided to the requester on OMB's various websites, including examining whether the material is subject to frequent requests. Those websites include: (1) the Regulatory Review and Information Collection Review Dashboard, at <http://www.reginfo.gov/public/>; (2) OMB's record management policy, at http://www.whitehouse.gov/omb/records_management_policy/; and (3) the OMBlog, at <https://www.whitehouse.gov/omb/blog>, which is frequently updated by OMB officials. If so, staff in MOD work to put the information in a format accessible to the public on one of these sites. In some cases, notification of these postings is then made through the OMBlog, by officials at public meetings, or through Twitter accounts.

Furthermore, OMB staff outside of the personnel working on FOIA are involved in several initiatives to proactively release information. Throughout the year, OMB staff throughout the agency have worked to make datasets and information publicly available on a host of sites, including <http://www.whitehouse.gov/open/around/eop/omb/datasets>, Data.gov (<http://www.data.gov/>), ITdashboard.gov (<https://itdashboard.gov/>), USAspending.gov (<http://www.usaspending.gov/>), Performance.gov (<http://www.performance.gov/>), and Recovery.gov (<http://www.recovery.gov/>).

Data.gov provides an example of OMB's initiative in this area. This website provides citizens with access to approximately 137,000 distinct datasets and 409 government application programming interfaces (APIs) from 400 publishers representing 88 Federal agencies and sub-agencies, as well as state, local, and academic sources. Furthermore, Data.gov is open-source, allowing governments around the world to implement their programs faster and with less cost and the development process is also open to the public, allowing transparency and collaboration between government and the public. It also provides descriptions of the Federal datasets, information on how to access the datasets, contact mechanisms, metadata information, and links to publicly accessible applications that leverage the datasets. End users are provided with opportunities to provide information feedback and ratings. By the close of 2014, Data.gov featured over 137,000 open, machine-readable datasets on topics such as health, education, energy, and public safety.

OMB also helped launch Project Open Data in FY 2014. Project Open Data provides agencies with tools and best practices to make their data publically available, and the Project Open Data Dashboard provides publicly accessible evaluations of agency progress in

implementation of the Open Data Policy. OMB updates the agency evaluations on a quarterly basis and enhances its features regularly.

IV. Steps Taken to Greater Utilize Technology

Making Material Posted Online More Useful

As mentioned in Section III above, OMB is involved in several initiatives to make more information available and easy to use and has not encountered challenges in posting records that it would like to otherwise post. The websites mentioned above allow for the public to provide feedback, ratings, and access machine-readable datasets on a variety of topics.

Public feedback on how to improve analytical capabilities and user experience is welcomed on each of these initiatives. A good example of this type of collaboration is found in the improvements made to the IT Dashboard. Launched in June 2009, the IT Dashboard, collects initial and updated budget submissions from agencies and displays the budget and performance of agency IT investments. The IT Dashboard provides transparency to the public in how approximately \$80B is spent in Federal IT. Through the IT Dashboard, Federal agencies and the public have the ability to view details of Federal IT investments online and to track their progress over time. The IT Dashboard displays data received from agency IT Portfolio and Business Case reports, including general information on over 7,000 Federal IT investments and detailed data for over 700 of those investments that agencies classify as “major.” The IT Dashboard gives the public access to the same tools and analysis that the government uses to oversee the performance of the Federal IT investments. The transparency and analytical features of the IT Dashboard make it harder for underperforming projects to go unnoticed, and easier for the government to focus on the projects in greatest need of attention.

Since its launch, OMB has made improvements to increase the usability of this tool based on user feedback. Notably, based on feedback from both Federal agency users and the software development community, the source code for the IT Dashboard was made available to the public. Additionally, OMB has used this tool to enhance transparency and accessibility to the data in OMB’s Report to Congress on Implementation of the E-Government Act of 2002 (E-Gov Act Report). The length of this annual report has traditionally made it difficult to use, with the FY 2013 report reaching approximately 150 pages. The vast majority of the report was approximately 130 pages of appendices, which were comprised of agency responses to questions required by the E-Gov Act. This made the information difficult to read and search. In an effort to both increase transparency and create a more readable report what was previously the appendices were moved to the IT Dashboard, where submissions can be searched for and viewed by agency and exported as a PDF. The result is a more helpful view of the data and a drastically slimmed down report, which was only 40 pages in FY 2014 (including several appendices highlighting initiatives discussed in greater depth on the IT Dashboard).

Other Initiatives

Over the past year, OMB has also posted all quarterly FOIA reports for FY 2014. Those are available at the following link: <http://www.foia.gov/index.html>. Furthermore, OMB’s FOIA professionals use e-mail to communicate with requesters whenever feasible. Requesters can submit requests and status inquiries to OMB’s via email at OMBFOIA@omb.eop.gov.

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

Tracking

As mentioned above in Section II, during FY 2014, OMB used a “first-in, first-out” FOIA processing system, and so its processing of incoming FOIA requests was not delayed by the processing of other pending requests. Accordingly, OMB did not identify “simple” requests and the average processing time to respond to a request was 106 days, while the mean was 39 days. OMB currently is reviewing its FOIA procedures to identify areas of improvement, including examining how requests are tracked within the agency.

Backlogs

The number of FOIA requests in OMB’s backlog dropped from 41 at the close of FY 2013 to 27 at the close of FY 2014 and OMB did not report any backlog of FOIA appeals at the end of FY 2014. With regard to FOIA requests, as OMB received 152 requests in FY 2014, the number of backlogged requests at the end of the FY is 17.7% of the incoming received. (OMB also had an additional 61 requests pending at the start of the FY, which required processing this past FY. Thus, the percentage of requests that remained in the backlog out of the total number of requests pending at the start of the FY, plus those received over this past FY, is 12.6%.)

Status of Ten Oldest Requests, Appeals, and Consultations

In FY 2014, OMB closed the ten oldest requests that were reported in its FY 2013 Annual FOIA Report, including one that was withdrawn by the requester. Additionally, at the end of FY 2013, OMB reported 5 pending appeals and 2 pending consultations, all of which were closed in FY 2014.

Use of the FOIA’s Law Enforcement Exclusions

OMB did not invoke the statutory exclusions found at 5 U.S.C. § 552(c)(1), (2), and (3) during FY 2014.

Success Story

As mentioned above in Section V, OMB reduced its backlog from 41 at the start of the FY to 27 at the close of the FY. OMB was able to implement a process to identify obstacles that had delayed the processing of certain requests and then tailor its resources to address those concerns. Most notably, OMB identified the types of obstacles that were occurring during the search and document processing stages of its oldest pending requests. OMB is now examining its FOIA procedures and applying the lessons learned from the work completed in the prior FY to establish a more efficient procedure that can be established permanently within the agency. Through this work, OMB hopes to further reduce its existing backlog and improve processing times generally.

