

2013 CHIEF FOIA OFFICER REPORT

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March 2012–March 2013

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.

All staff involved with processing FOIA requests have reviewed, considered, and discussed the memorandum and guidelines, particularly the presumption of openness. They have also been shared throughout the Copyright Office with managers who do not have direct responsibility for processing FOIA requests to enhance their understanding of FOIA’s principles and goals.

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

A primary function of the Copyright Office is to be an office of public records and therefore most records may be obtained without a FOIA request. Consequently, most Copyright Office staff are involved with maintaining the public record and providing services to make those records publicly available. Only a small percentage of records require a FOIA request to obtain. Each year fewer than 50 requests are typically received. Many of these are not processed for administrative reasons. Due to the limited number of FOIA requests received each year; few staff are involved with processing FOIA requests, either routinely or on an occasional basis. Therefore there is no need for establishing training sessions for staff or for developing training materials.

- 2 Did your agency make any discretionary releases of otherwise exempt information?**

Due in part to the few FOIA requests received, the Copyright Office did not make any discretionary disclosures in Fiscal Year 2012.

- 3 What exemptions would have covered the information that was released as a matter of discretion?**

Not applicable. See Section I.2 above.

- 4 Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.**

Not applicable. See Section I.2 above.

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

Not applicable.

Section II: STEPS TAKEN TO ENSURE THAT YOUR AGENCY HAS AN EFFECTIVE SYSTEM IN PLACE FOR RESPONDING TO REQUESTS

- 1 Do FOIA professionals within your agency have sufficient IT support?**

Yes.

- 2 Do your FOIA professionals work with your agency's Open Government Team?**

Not applicable.

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

Due to the centralized nature of the FOIA process in the Copyright Office and the minimal number of FOIA requests received each year, the Chief FOIA Officer evaluates the need for staff to process FOIA requests on an ongoing, informal basis. In general, there is rarely any backlog and when there is one, it is very minimal. There are no indications based on backlogs, other processing problems or any public comment or complaint that formal procedures or a structured study is required to determine whether staffing is adequate.

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

As previously stated, the Copyright Office receives few FOIA requests each year and does not have a backlog problem. However, we continue to make improvements, such as incorporating the use of spreadsheets to automate tracking, revising form letters to improve communications, and reviewing procedures and practices on an ongoing basis to ensure they appropriately mesh with and take into account adjustments and changes the Copyright Office makes in its other areas of operations.

Section III: STEPS TAKEN TO INCREASE PROACTIVE DISCLOSURES

1 Provide examples of material that you agency has posted this past year.

Updated circulars, forms and informational factsheets, *Federal Register* notices, public comments to rulemakings; data about registered works and documents recorded by the Copyright Office; online service provider “designation agents;” reports and studies; and transcripts of Congressional testimony.

2 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.?

Yes.

3 If so, provide examples of such improvements.

The Copyright Office launched a website survey, held meetings with website users, and is undertaking a website redesign project.

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

Not applicable.

Section IV: STEPS TAKEN TO GREATER UTILIZE TECHNOLOGY

ELECTRONIC RECEIPT OF FOIA REQUESTS:

1 Can FOIA requests be made electronically to your agency?

Yes. FOIA requests can be made electronically to the Copyright Office.

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

Not applicable. The Copyright Office has a single component.

ONLINE TRACKING OF FOIA REQUESTS:

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

No. The requester has no access to his/her request electronically.

- 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 “document currently in review.” List the specific types of information that are available through your agency tracking system.**

Due to the limited number of FOIA requests received each year as well as few staff involved with processing FOIA requests, the Copyright Office has no plans to establish a system that would enable the requester to track his/her request electronically.

- 5 In particular, does your agency tracking system provide the requester with an estimated date of completion for his or her request?**

Not applicable. Please see above Section IV.4.

- 6 If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability?**

No. Please see above, Section IV.4.

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?**

As mentioned above, due to the limited number of requests as well as few staff involved with processing FOIA requests, the Copyright Office is not currently taking any steps to utilize more advanced technology when processing FOIA requests.

- 8 If so, describe the technological improvements being made.**

Not Applicable.

Section V: STEPS TAKEN TO IMPROVE TIMELINESS IN RESPONDING TO REQUESTS AND REDUCE BACKLOGS

- 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?**

The Copyright Office is utilizing a multi-track system to process FOIA requests with categories: simple, complex, and expedited processing. However, as mentioned above, the Copyright Office receives few FOIA requests every year, and a majority of them are in a "simple" category.

- 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?**

No. The average number of days to process simple requests was 29.7 for Fiscal Year 2012.

- 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?**

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 2012 as compared to Fiscal Year 2011. 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 2011 and Fiscal Year 2012 should be used for this section.

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?

There was one (1) backlogged request at the end of Fiscal Year 2011 and four (4) at the end of Fiscal Year 2012.

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

There were no backlogged administrative appeals in Fiscal Year 2011 and Fiscal Year 2012.

c In Fiscal Year 2012, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2011?

There was one pending request at the end of Fiscal Year 2011, and it was not closed in Fiscal Year 2012.

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?

There were no pending administrative appeals at the end of Fiscal Year 2011.

- 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: 4 (four)

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

Not applicable.

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

Not applicable.

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

Not applicable.

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

The increase in the request backlog was caused by lack of necessary resources.

ADMINISTRATIVE APPEAL BACKLOG:

- e Was the lack of a reduction in the backlog of administrative appeals a result of an increase in the number of incoming appeals?

Not applicable

- f Was the lack of a reduction in the appeal backlog caused by a loss of staff?

Not applicable

- g Was the lack of a reduction in the appeal backlog caused by an increase in the complexity of the appeals received?**

Not applicable.

- h What other causes, if any, contributed to the lack of a decrease in the appeal backlog?**

Not applicable.

- 4 OIP has issued guidance encouraging agencies to make interim releases whenever they are working on requests that involve voluminous amount of material or require searches in multiple locations. By providing rolling releases to requesters, agencies facilitate access to the requested information. If your agency had a backlog in 2012, please 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.**

Not applicable.

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 2012?**

No.

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

Not applicable.

SPOTLIGHT ON SUCCESS

- A major multiyear project is making historical copyright records created between 1870 and 1977 searchable and available online. The Office has imaged nearly 23 million index cards for copyright registrations and assignments from 1955 to 1977, many of which represent copyrights with monetary value.
- In Fiscal Year 2012, the Office finished digitizing all 667 volumes of the *Catalog of Copyright Entries* dating from 1891 to 1978.
- As part of developing a new database for the older records, the Copyright Office is hosting periodic open forums to facilitate public discussion about the digitization project, particularly metadata capture and keyword indexing, to help ensure that the database meets the needs of users.



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