

# 2015 CHIEF FOIA OFFICER REPORT

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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.

### *FOIA TRAINING*

- 1. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice?**

Yes, the Copyright Office staff attorney attended the Advanced FOIA Training seminar offered by the Department of Justice on March 26, 2014.

- 2. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.**

25%.

3. **In the 2014 *Chief FOIA Officer Report Guidelines* OIP asked agencies to provide a plan for ensuring that core, substantive FOIA training is offered to all agency FOIA professionals at least once each year. Please provide the status of your agency's implementation of this plan.**

The Copyright Office did not provide OIP a plan in Fiscal Year 2014.

***DISCRETIONARY RELEASES:***

4. **Does your agency have a distinct process or system in place to review records for discretionary release? If so, please briefly describe the process. If your agency is decentralized, please specify whether all components at your agency have a process in place for making discretionary releases.**

The analysis applied by FOIA staff begins from the perspective that a responsive record will be released, unless consideration of its particular content indicates that there is a reasonable and foreseeable harm that requires it to be withheld to protect a legitimate interest identified by one of the exemptions. The Copyright Office routinely redacts documents in order to release any portion that is not protected by an exemption. Finally, records are not withheld in order to protect the personal interests of Government officials, to avoid embarrassment, or to hide errors or failures.

5. **During the reporting period did your agency make any discretionary releases of otherwise exempted information?**

Due in part to the few FOIA requests received, the Copyright Office did not make any discretionary disclosures in Fiscal Year 2014.

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

N/A. Please see item I.5 above.

7. Provide a narrative description of some examples of, the types of information that your agency released as a matter of discretion.

N/A. Please see item I.5 above.

8. If your agency was not able to make any discretionary releases of information, please explain why.

N/A. Please see item I.5 above.

#### **OTHER INITIATIVES:**

9. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here. If any of these initiatives are online, please provide links in your description.

N/A.

## **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.” It is essential that agencies manage their FOIA program.

#### **PROCESSING PROCEDURES:**

1. For Fiscal Year 2014 what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency’s Fiscal Year 2014 Annual FOIA Report.

The Copyright Office did not receive any requests for expedited processing in Fiscal Year 2014.

2. **If your agency's average number of days to adjudicate requests for expedited processing was above 10 calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.**

N/A. Please see item II.1 above.

### **REQUESTER SERVICES:**

3. **Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration? See OIP Guidance, "Notifying Requesters of the Mediation Services Offered by OGIS." (July 9, 2010)**

The Office does not notify the requesters of the mediation services offered by OGIS. However, the Office includes in its final responses a standard paragraph stating that such services are offered by OGIS. The statement includes the contact information for OGIS.

4. **When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester? For example, does your agency explain the amount of fees attributable to search, review, and duplication? See OIP Guidance, "The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications." (Nov. 22, 2013)**

Yes, when replying to FOIA requests and when applicable, the Office provides the itemized breakdown of fees. Fees are contained in the Copyright Office regulations. 37 C.F.R. §203.6.

5. **If estimated fees estimates are particularly high, does your agency provide an explanation for the estimate to the requester? See *id.***

Yes. the itemized and detailed breakdown of fees provides an explanation of the estimate.

**OTHER INITIATIVES:**

6. **If there are any other steps your agency has undertaken by to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc. please describe them here.**

N/A.

**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.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

**POSTING MATERIAL:**

1. **Does your agency have a distinct process or system in place to identify records for proactive disclosure? If so, please describe your agency's process or system.**

No, the Copyright Office does not have a distinct process or system in place to identify records for proactive disclosure.

2. **Does your process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.**

N/A. Please see item III.1.

**3. Describe your agency’s process or system for identifying “frequently requested” records that should be posted online.**

The Copyright Office does not have a category of “frequently requested” records.

**4. Provide examples of material that you agency has proactively disclosed during the past reporting year, including links to the posted material.**

Updated circulars, forms and informational fact sheets, Federal Register notices, public comments to rulemakings; data about registered works and documents recorded by the U.S. Copyright Office; online service provider “designation agents;” reports and studies; and transcripts of Register’s testimony. All of these materials can be found on the Copyright Office’s website: [www.copyright.gov](http://www.copyright.gov).

**OTHER INITIATIVES:**

**5. If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.**

In 2014, the Copyright Office undertook a number of special projects to improve the design of our website, increase searchability of copyright-related documents, and make accessible 70 million copyright registration records dating back to 1790, including FOIA requested materials.

**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.

**MAKING MATERIAL POSTED ONLINE MORE USEFUL:**

1. **Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?**

Yes. Please see item III.5 above.

2. **If yes, please provide examples of such improvements.**

The FOIA webpage was redesigned to improve visibility, accessibility and transparency. In addition please see item III.5 above.

3. **Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?**

Yes.

4. **If so, please briefly explain what those challenges are.**

The Copyright Office wishes to post recorded documents related to copyright registrations as well as records related to pre-1978 registrations. Resource limitations prevent this from happening at this time.

**OTHER INITIATIVES:**

5. **Did your agency successfully post all four quarterly reports for Fiscal Year 2014?**

Yes, it did.

6. **If your agency did not successfully post all quarterly reports with information appearing on *FOIA.gov*, please explain why and provide your agency's plan for ensuring that such reporting is successful in 2015.**

N/A. See item IV.5 above.

7. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible? See OIP Guidance, "*The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications.*" (Nov. 22, 2013). If yes, what are the different types of electronic means utilized by your agency to communicate with requesters?

Whenever feasible, email is the only electronic means used by the agency's FOIA professionals to communicate with requesters.

8. If your agency does not communicate electronically with requester as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requester about such limitations?

N/A, see item IV.7 above.

## SECTION V:

### STEPS TAKEN TO IMPROVE TIMELINESS IN RESPONDING TO REQUESTS AND REDUCE BACKLOGS

#### **SIMPLE TRACK:**

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.

1. 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, the CO receives few FOIA requests every year and a majority of them are in a "simple" category.

2. **If so, for your agency overall, for Fiscal Year 2014, 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 34.8 for Fiscal Year 2014.

3. **Please provide the percentage of requests processed by your agency in Fiscal Year 2014 that were placed in your simple track.**

100% of requests received by the agency in Fiscal Year 2014 were simple track requests.

4. **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?**

N/A.

### **BACKLOGS**

Sections XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" show the numbers of any backlogged requests or appeals from the fiscal year. You should refer to those numbers from your Annual FOIA Reports for both Fiscal Year 2013 and Fiscal Year 2014 when completing this section of your Chief FOIA Officer Report.

### **BACKLOGGED REQUESTS**

5. **If your agency had a backlog of requests at the close of Fiscal Year 2014, did that backlog decrease as compared with Fiscal Year 2013?**

There were three (3) backlogged requests at the end of Fiscal Year 2013 and three (3) at the end of Fiscal Year 2014.

6. **If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2014. If your agency did not receive any requests in Fiscal Year 2014 and/or has no request backlog, please answer with “N/A.”**

The three (3) requests unanswered at the end of Fiscal Year 2014 made 6.1 percent of the 43 requests received.

7. **If your agency had a backlog of appeals in Fiscal Year 2014, did that backlog decrease as compared to Fiscal Year 2013?**

There was one (1) backlogged appeal at the end of Fiscal Year 2013. It closed after 57 days (December 5th, 2013). There were no backlogged appeals in Fiscal Year 2014.

8. **If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2014. If your agency did not receive any appeals in Fiscal Year 2014 and/or has no appeal backlog, please answer with “N/A.”**

N/A.

## STATUS OF TEN OLDEST REQUESTS, APPEALS AND CONSULTATIONS:

### *TEN OLDEST REQUESTS*

9. **In Fiscal Year 2014, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2013 Annual FOIA report?**

There were three (3) pending requests at the end of Fiscal Year 2013, and all of them closed in Fiscal Year 2014.

10. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E. of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that. For example, if you had only seven requests listed as part of your “ten oldest” in Section VII.E. and you closed two of them, you should note that you closed two out of seven “oldest” requests.

Three (3) out of three (3) oldest requests closed in Fiscal Year 2014.

11. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn, did you provide any interim responses prior to withdrawal.

The Copyright Office did not have any withdrawn requests in Fiscal Year 2014.

#### **TEN OLDEST APPEALS**

12. In Fiscal Year 2014, did your agency close the ten oldest appeals that were pending as of the end of Fiscal Year 2013?

There was 1 (one) pending appeal at the end of Fiscal Year 2013 that was closed in Fiscal Year 2014.

13. If no, please provide the number of these appeals your agency was able to close by the end of fiscal year, as listed in Section VII.C. (5) of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

N/A.

#### **TEN OLDEST CONSULTATIONS**

14. In Fiscal Year 2014, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

There were no pending consultations at the end of Fiscal Year 2013.

15. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

N/A. Please see above, Section V. 14.

***ADDITIONAL INFORMATION ON TEN OLDEST REQUESTS, APPEALS, AND CONSULTATIONS & PLANS:***

16. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals and consultations from Fiscal Year 2013.

The FOIA office encounters some difficulties in finding archived materials. Also, changes and reductions in staff have contributed to delays.

17. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

N/A. Please see above, Section V. 14.

18. If your agency did not close its ten oldest pending requests, appeals or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2015.

N/A.

***USE OF THE FOIA’S LAW ENFORCEMENT EXCLUSIONS***

19. Did your agency invoke a statutory exclusion, 5 U.S.C. § 552 (c)(1), (2), (3), during Fiscal Year 2014?

No, none of the statutory exclusions were invoked during Fiscal Year 2014.



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