



**FOIA PLAN AND REPORT OF THE  
DEPARTMENT OF LABOR  
REQUIRED UNDER EXECUTIVE ORDER 13392**

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Submitted to:

U.S. Department of Justice  
and the  
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## **A. DESCRIPTION OF AGENCY FOIA PROGRAM**

The Department of Labor (DOL) is a widely diverse agency whose activities include, among others, law-enforcement programs such as the occupational safety and health and mine safety and health programs, wage standards and child labor programs, and programs to protect the pensions of American workers. They also include benefit programs such as workers compensation and unemployment compensation programs, job training initiatives, and a variety of informational and statistical activities.

Because of this diversity, the Department operates a decentralized FOIA program at the initial request level. Each of the Department's agencies or offices has been given flexibility to design a program that meets its needs. Most agencies have delegated their disclosure responsibilities to officials at the Office Director or Division Chief level in Washington as well as to their regional offices. The Mine Safety and Health Administration and the Office of Workers Compensation Programs have delegated their field FOIA responsibilities to their district offices, and the Occupational Safety and Health Administration has delegated field-level FOIA responsibilities to its area offices. Some small agencies handle all of their FOIA requests centrally in Washington. A list, of disclosure officers arranged by title, can be found at 29 CFR Part 70, App. A. The Department's FOIA appeal function is centralized in the Office of the Solicitor (SOL).

Most requests are to be sent directly to the agency that has custody of the records being sought. A requester who does not know where the records are located may send its requests to the Office of the Solicitor, and SOL will then forward them to the FOIA coordinator for the appropriate agency or agencies. The normal practice is for each agency to respond to requests separately. When it is determined that responsive records may be located in multiple agencies, SOL provides any necessary coordination of the Department's response. If SOL determines that a consolidated response is appropriate, it will issue such a response on behalf of the Department.

The Office of the Solicitor provides legal advice to agency disclosure officers regarding initial FOIA requests. A separate staff within SOL assists in the preparation of FOIA appeals decisions. The Office of the Solicitor has also periodically conducted FOIA training courses for DOL employees.

The number and nature of FOIA requests varies greatly from agency to agency. For example, in FY 2005, the Department received 23,505 FOIA requests nationwide. Of this number, the Occupational Safety and Health Administration accounted for almost half, 11,423. Approximately 95 percent of these requests to OSHA are for investigation files maintained in regional and area offices. These requests are usually made by lawyers involved in



private litigation arising out of a matter that DOL investigated. In other agencies, the nature of the requests may differ substantially.

The Department of Labor has recently issued FOIA regulations to revise the regulations that were last updated in 1989. See 29 CFR Part 70--Revision of the Department of Labor Freedom of Information Act Regulations and Implementation of Electronic Freedom of Information Act Amendments of 1996, 71 FR 30762 (May 30, 2006). Among the revisions were changes in fees, disclosure officers, and other responsibilities under the FOIA program, and revisions to allow the acceptance of e-mail requests and appeals and to reflect practices under the Electronic Freedom of Information Act Amendments of 1996.

## **I. Steps Taken to Implement the Executive Order**

Following the promulgation of Executive Order 13392, the Department of Labor took several steps to implement its provisions. It designated Robert Shapiro, Associate Solicitor for the Office of Legal Counsel in the Office of the Solicitor, as its Chief FOIA Officer. It designated Barbara Bingham, Director, Office of Compliance Assistance Policy in the Office of the Assistant Secretary for Policy, as its Public Liaison, and it has established FOIA Service Centers in components throughout the Department. The Department has posted contact information for these officials on its Website, along with a comprehensive list of the Service Centers established by the Department of Labor under the Executive Order. See <http://www.dol.gov/dol/foia/RequestorServiceCenters.htm>.

In addition, the Department's Chief FOIA Officer engaged in extensive outreach efforts to inform Labor Department officials of the new responsibilities prescribed by the Executive Order. He briefed the Department's Management Review Board (consisting of DOL agency heads) on the objectives of the Executive Order and the steps being taken to implement it. He conducted a similar briefing for key management officials in each agency through the Department's Chief Financial Officer's Council.

He briefed the Administrative Officers of each of the DOL agencies about the Order and sought their input concerning the optimum structure for the Department's FOIA Service Centers and FOIA Public Liaison(s). He provided them with a memorandum describing the Order's key provisions and asking their assistance in providing information needed to prepare the Report/Plan that the Order directs each government agency to submit. He also engaged in discussions with officials within DOL to obtain further information and assistance that would be useful. He has made himself available to brief individual DOL agencies about the Order and its implementation.



Finally, he briefed the leadership of the Department's national and field office labor unions to describe the Order and explain how it might affect its members.

## B. AREAS SELECTED FOR REVIEW

- |                                    |                                       |
|------------------------------------|---------------------------------------|
| • Affirmative Disclosure           | • Proactive Disclosure of Information |
| • Overall FOIA Website Improvement | • Automated Tracking Capabilities     |
| • Electronic FOIA                  | • Multi-track Processing              |
| • Expedited Processing             | • Backlog Reduction/Elimination       |
| • Politeness/Courtesy              | • Communications with Requesters      |
| • Acknowledgment Letters           | • Referral and Consultation Handling  |
| • Interagency Cooperation          | • Training and Personnel Practices    |

## C. RESULTS OF THE REVIEW

### I. General

Because of their diverse missions, Department of Labor agencies have widely varying experiences in carrying out their FOIA responsibilities. Some consistently receive many FOIA requests, and others receive very few. Some agencies are more likely to be the object of public attention, whereas personal concerns may be the main focus of FOIA requests that other agencies receive. Some agencies more than others are the repository of especially sensitive, private, confidential, or FOIA exempt information. Because of this diversity, the Department of Labor administers its FOIA program on a decentralized basis at the initial request level.

Decentralization has led to DOL agencies adopting a variety of FOIA practices. Some agencies run a very structured FOIA program. Others operate with considerably greater flexibility. The differing agency practices are explained partly by the number of requests that agencies receive and partly by the nature of the programs they administer. Other differences, however, may have no solid policy or pragmatic basis but may result from the unique culture of each agency or the lack of significant agency experience with FOIA.

The relatively short time available and the wide decentralization of the FOIA program – both in the national and regional offices – limited the Department's ability to conduct a comprehensive, definitive study of its FOIA practices. Nevertheless, consultation with agency FOIA personnel, DOL employees actively involved in the administration of FOIA programs, and Departmental



leadership facilitated the compilation of sufficient baseline information to conduct a meaningful review and select areas of improvement. As the discussion of these areas of improvement indicates, the gathering of information about DOL's practices will be an ongoing process. We include below a summary of the results of our study.

**1. Communication with Requesters.** When DOL agencies receive FOIA requests, their practices of communicating with requesters differ. Most agencies typically send a written acknowledgement to the requester, but some do not and may rely on phone or other forms of communication. There is little agency consistency in these acknowledgement letters or other communications. Some agencies tell requesters when they can expect a response, but others do not. Some agencies tell requesters when their request will be referred to another office, but some do not attempt to estimate the additional time that this referral will add. Most appear to resolve fee issues before processing the request. Some agencies appear to make a special effort to communicate with the requester concerning the scope of the request. Such discussions are believed to be very helpful, because they can lead to more focused requests and responses that meet requester needs with less cost to the requesters. Some agency letters may provide information about persons to contact for questions and complaints. There appears to be little contact between agencies and their requester communities to seek their perceptions of the agencies' FOIA programs.

**2. Web Presence and Proactive Disclosure.** The Department of Labor Website provides information on FOIA to assist potential FOIA requesters. See <http://www.dol.gov/dol/foia/main.htm>. The Website includes a "Guide for Requesting FOIA Records," a list of the Department's FOIA disclosure officers, links to the FOIA Requester Service Centers established pursuant to the Executive Order, links to the FOIA Websites of individual agencies, and links to the Department of Labor's annual FOIA reports dating back to 1996. Not all of the information is in user-friendly form and some is outdated, and not all links are operable. For example, the list of FOIA disclosure officers is reproduced from an appendix to the Department's FOIA regulations and does not contain electronic cross-links, while pages under the FOIA "Electronic Reading Rooms" section are not functioning properly.

Individual Department of Labor agencies commonly have extensive Websites in which they post materials of interest to their constituencies and the public. These agency Websites are designed to allow the information they contain to be accessed in a variety of ways, such as by topic or by audience, and agencies periodically review their sites, including the use of focus groups or usability testing, to ensure that the information contained in them is easy to find and use. The agencies Websites include, for example, compliance assistance information and guidance, statistical information, and information



about the functions of the various DOL agencies. As might be expected, agencies that receive many FOIA requests have more formal procedures for the regular posting of commonly requested documents and for assuring that the public is aware of their availability. One agency is in the process of exploring how one of its more popular major databases can be posted on the web in searchable form. This would reduce the need to respond to individual FOIA requests regarding that database. If other agencies similarly examined their databases, they might also avoid the need to expend resources responding to individual FOIA requests.

**3. FOIA Tracking and Control Systems.** Department of Labor agencies use various methods to track the progress of FOIA requests. Most agencies use computer-based tracking and control tools, sometimes combined with manual tracking. In some cases, diverse parts of a major DOL agency may use different methods. Some agencies use software, such as spreadsheet programs, to track requests. These programs might be used, for example, to record the requester's name, date of request, items being requested, date request was received, due date, date of response, and final disposition. The Department of Labor has developed a computerized FOIA Tracking/Control tool which has been made available to all of its agencies. Although most agencies do use this FOIA system, at least in part, only approximately one-third of initial FOIA requests received by the Department are tracked through this electronic system. This tool, in addition to tracking requests, captures all data needed for the Department of Labor's Annual FOIA Report filed with the Department of Justice. DOL has identified important areas in which improvements are needed. These areas include: making the system more user friendly; making it more flexible for entering data; and providing for easier, more flexible, and more useful data retrieval and report generation.

**4. Use of Electronic Tools in FOIA Processing.** Some agencies use a form of electronic searches as a means of locating documents responsive to FOIA requests. Sometimes, an internet search will be conducted to see where the request should be referred, including to a non-DOL agency. Some agencies deliver some responses to FOIA requests electronically. With respect to the processing of responses, we are aware of no significant use of electronic tools to redact exempt materials, either at the initial request level, or in connection with the processing of appeals.

**5. Multi-track Processing and Requests for Expedited Processing.** Most agencies appear responsive to requests for expedited treatment of requests, but most do not use a multi-tracking process to handle FOIA requests. The absence of multi-tracking appears to be explained, in part, by the fact that many DOL agencies receive relatively few requests. Multi-tracking agencies use a three-tier system, consisting of "simple," "complex," and "expedited" requests.



**6. Increase Number of Appeals Processed.** While agencies do have some backlogs and some requests that have been pending for significant time periods, our study suggests that backlogs are a more substantial issue at the administrative appellate level. Because the Department operates a centralized appellate structure, all appeals of initial agency decisions are funneled through the Office of the Solicitor. As of April 30, 2006, the Department had a FOIA and Privacy Act appeal backlog (cases pending more than 30 days) of 273 cases, with a monthly average of 17 appeals processed in 2005. The Department recently has taken the following actions for the purpose of increasing appeals processing capacity and backlog reduction:

- (a). It has recently hired one GS-14 attorney and one GS-11 paralegal whose primary duties consist of reviewing FOIA files and drafting appeals decisions.
- (b). It has recently hired new top management in areas relating to appeals processing. This new management is prioritizing appeals production activities.
- (c). The Department recently obtained the services of a law school intern who is assisting with appeals. It has also begun a program of actively soliciting law school interns to supplement its appeals resolution capacity so that it may maintain one such intern at all times. This arrangement will allow for staffing flexibility as the backlog fluctuates downward.

**7. Staff Expertise and Training.** Development of staff expertise can occur through on-the-job experience, formal training, or through the ready availability to FOIA staff of relevant resource information. Through the Office of the Solicitor, the Department has been very effective over the years in providing training to employees working in the FOIA area. It has held a number of multi-day agency wide conferences covering a variety of FOIA-related issues. The Department of Justice highlighted the Department of Labor's efforts in underscoring the value of these conferences. See FOIA Post (February 22, 2005).

The Department of Labor can build on this foundation. The practices of individual DOL agencies with respect to formal training vary significantly. Many agency employees have attended sessions conducted by the Office of the Solicitor. Efforts to assure cost-effective formal training for all FOIA staff are complicated by the fact that some agencies receive few FOIA requests and therefore have few employees doing substantial FOIA work. Even those agencies with substantial FOIA responsibilities may have few full-time employees engaged in FOIA work and many who perform FOIA work along with their other non-FOIA duties. Using employees to perform FOIA work





on a part-time basis can increase an agency's flexibility in handling unexpected surges and downturns in FOIA workload. However, the FOIA workload fluctuations of individual employees can complicate an agency's task of using its resources cost-effectively to provide meaningful formal training.

With respect to formal training, the practices of agencies vary significantly. Many agency employees have attended training sessions conducted by the Office of the Solicitor or have received other formal training. However, some agencies make training available only to some of their employees, and in many cases, agency employees appear to have received no formal training.

Agency practices also vary in making FOIA written or electronic materials available to staff. Some agencies distribute to their employees written informational materials or instructions that they receive from the Solicitor's Office or elsewhere, including the Justice Department FOIA and Privacy Act Guide. Some make informational materials, such as the DOJ FOIA guide, available on their Websites or common servers.

#### **D. AREAS SELECTED FOR IMPROVEMENT**

<b>I.</b>	<b>Improve Communication with Requesters.</b> <b>A. Outreach to the Requester Community and Solicitation of Input.</b> <b>B. Acknowledgement Letters.</b> <b>C. Communication Practices with Requesters.</b>
<b>II.</b>	<b>Increase Web Presence and Proactive Disclosure.</b> <b>A. Improve DOL Website Information on FOIA.</b> <b>B. Required Affirmative Disclosure.</b> <b>C. Proactive Disclosure.</b>
<b>III.</b>	<b>Improve FOIA Tracking and Control Systems.</b>
<b>IV.</b>	<b>Consider Increased Use of Electronic Tools in FOIA Processing.</b>
<b>V.</b>	<b>Encourage and Improve Multi-track Processing and Expedited Processing.</b>
<b>VI.</b>	<b>Increase Appeals Processing Capacity, Backlog Reduction and Improved Timeliness.</b> <b>A. Initial Requests.</b> <b>B. Appeals.</b>
<b>VII.</b>	<b>Enhance Staff Expertise and Training.</b> <b>A. Formal Training and Meetings.</b> <b>B. Make Resource Material More Readily Available.</b>



## E. THE AGENCY PLAN

### I. Improve Communication with Requesters.

Adequate communication with requesters is central to the success of any FOIA effort. It assures that requesters are able to pursue their rights with maximum effectiveness and minimal costs. It improves requester confidence in the agency and is a sign of the agency's courtesy and the respect to which all requesters are entitled. It improves agency efficiency and effectiveness, because the agency can better tailor FOIA efforts to meeting the actual needs of requesters.

Our review indicates that while good communication now exists, the Department needs to improve its communication with the requester community as a whole and should seek its input on ways to improve our FOIA efforts. Moreover, the Department needs to improve its written communication with individual requesters and ensure that it is more consistent. Although some inconsistency may have developed because of differences in agency mission or the size and scope of the agency FOIA program, our review suggests that many inconsistencies are not compelled by these differences.

The Department of Labor will improve its communication with requesters in the following ways:

#### A. Outreach to the Requester Community and Solicitation of Input.

**Goals and Objectives.** The Department of Labor will seek to improve its FOIA programs by encouraging members of the requester community to offer any suggestions that they may have to improve the quality and efficiency of the Department's FOIA efforts.

#### **Timetables.**

1. By the end of the Third quarter of CY 2006, the Chief FOIA Officer will meet with the FOIA Public Liaison and other agency officials, including the FOIA Service Center contacts, to plan outreach to the requester community. Planning will include a public forum or forums for the presentation of views by the requester community on the DOL FOIA program, and possible establishment of an electronic suggestion box or other means for the requester community to submit written comments and suggestions.



2. By the end of CY 2006, at least one public forum will be held, and other identified outreach efforts will be implemented throughout CY 2007.
3. The Chief FOIA Officer will prepare for the inclusion in the FOIA Annual Report for CY 2006 a report on the agency's development and implementation of measures to obtain input from the requester community.
4. By the end of the first quarter in CY 2007, agencies will assess the information and views received from requesters and take such actions as may be appropriate to improve their programs during CY 2007 or thereafter.
5. The Chief FOIA Officer will include in the FOIA Annual Report for CY 2007 a report on the agency's outreach activities and its response to input from the requester community.

#### B. Acknowledgement Letters.

**Goals and Objectives.** All DOL agencies will send written acknowledgement letters to requesters acknowledging receipt of FOIA requests, except when a substantive response is expected to be issued within a week. Acknowledgement letters will include agency contact points and, when feasible and appropriate, information on whether requests must be referred and an estimated response time.

#### **Timetables.**

1. By the end of CY 2006, the Chief FOIA Officer will prepare template letters containing information for requesters and distribute these templates to all agencies.
2. By the end of CY 2006, agencies will assure that all staff involved in FOIA work receives copies of these templates and that they utilize the templates or adapt them to suit the agencies' needs.

#### C. Communications Practices with Requesters.

**Goals and Objectives.** DOL and its components will provide clear guidance to potential FOIA requesters on how to obtain information from the Department, including through FOIA requests, and will clearly communicate responses to FOIA requests.

#### **Timetables.**



1. By the end of the second quarter of CY 2007, the Chief FOIA Officer, together with the FOIA Public Liaison, will review agency communication practices with requesters, including the use of agency Websites to communicate information about agency procedures, to determine whether further steps are needed to improve communications related to requests. The Chief FOIA Officer will communicate any such recommendations to appropriate agency officials.
2. During the third quarter of CY 2007 and thereafter, agency officials will implement needed improvements in their communication practices.
3. By January 1, 2008, agencies will report to the Chief FOIA Officer on their implementation of these new practices.

## **II. Increase Web Presence and Proactive Disclosure.**

The Department of Labor's Website can be used both to provide information on how to file a FOIA request, and to provide access to information that members of the public may want, thus avoiding the need for individual FOIA requests. The posting of frequently requested documents, final opinions and orders, policy and guidance statements, and certain administrative staff manuals is needed to comply with the agency's statutory obligations under FOIA. Moreover, such postings also serve both requester and agency needs. When documents are posted, requesters obtain information more quickly and are spared the effort of using FOIA to obtain the documents directly. Such postings also allow the agency to make the information available, while avoiding the effort, expense, and delays of processing unnecessary FOIA requests. For similar reasons, it may be more efficient for an agency to post information of significant public interest, even though it has not been the subject of frequent FOIA requests. The Department needs a more structured effort to assure that information appropriate for web postings is more effectively identified and posted.

### **A. Improve DOL Website Information on FOIA.**

**Goals and Objectives.** The Department and individual agencies should provide clear and up-to-date information on how and where to submit FOIA requests and appeals to the Department and its various components. Links should be available to current versions of guidance from the Department of Justice on FOIA and other information sources.



**Timetables.**

1. By the end of CY 2006, the Chief FOIA Officer, in consultation with the FOIA Liaison, appropriate agency FOIA staff, and the Department's Director of Enterprise Communications Services in the Office of Public Affairs will evaluate the FOIA web presence of DOL as a whole as well as the web presence of individual agencies and identify areas needing improvement.
2. By the end of the second quarter of CY 2007, the Chief FOIA Officer will develop a plan to implement the needed improvements, consistent with available resources and the needs for Departmental approvals, for the remainder of CY 2007 and into the following years.

**B. Required Affirmative Disclosure.**

**Goals and Objectives.** Agencies will develop and implement a plan to ensure that they will systematically review their FOIA requests to identify frequently requested records, as well as agency decisions, policies, and guidance, and ensure that, where required by law, appropriate documents are posted on the web.

**Timetables.**

1. By the end of CY 2006, agencies will develop and submit to the Chief FOIA Officer a plan describing the internal procedures and appropriate assignments of responsibility that the agency will implement to assure that it systematically reviews FOIA requests to the agency, identifies frequently requested records, agency opinions, orders, policy statements and interpretations and administrative staff manuals and staff instructions that affect a member of the public and assures that these records are posted on the web.
2. By the end of the first quarter of CY 2007, agencies will submit for review by the Chief FOIA Officer in conjunction with the FOIA Public Liaison a report on their progress in implementing their plan.
3. By the close of CY 2007, agencies will discuss their plans with the Chief FOIA Officer and the FOIA Public Liaison, make such adjustments as may be appropriate, and implement the plan.



4. In years following CY 2007, agencies will make further appropriate adjustments to their plans.

C. Proactive Disclosure.

**Goals and Objectives.** In some cases, agencies can avoid FOIA requests and the resulting burdens and administrative costs by increased posting of documents on the web that are likely to be of interest to the public, even though the posting of such documents is not legally required. Under appropriate circumstances, these postings may include, for example, program statistics or other information about enforcement or claims activity, information about Department grantees or contractors, certain portions of existing internal case tracking systems, Departmental budget and audit information, and other releasable information of interest to the public. Agencies should review their posting of such documents and seriously consider increasing their web postings. It is recognized, however, that the posting of these documents raises some difficult issues because of the volume of these materials and their diversity and complexity.

**Timetables.**

1. By the close of CY 2006, agencies should identify those classes of documents not otherwise required to be posted that it would be useful and practicable to post proactively. They should develop a plan for the posting of such documents on a continuing basis and discuss this plan with the Chief FOIA Officer and the FOIA Public Liaison.
2. By the close of CY 2007, agencies should implement their plan, discussing their progress with the Chief FOIA Officer and the FOIA Public Liaison.
3. In each succeeding year, agencies shall continue to implement their plans, making such adjustments as may be appropriate, after discussions with the Chief FOIA Officer and the FOIA Public Liaison.

**III. Improve FOIA Tracking and Control Systems.**

An adequate tracking system is crucial to an agency's ability to meet deadlines, identify deficiencies, prepare needed reports, and maintain good customer relationships. Because DOL agencies have diverse needs an effective tracking system must take these needs into account.



**Goals and Objectives.** The Department needs to examine systematically the special needs of FOIA and the special requirements of DOL agencies to see whether it can improve its methods of tracking FOIA requests and more fully meet the needs of FOIA requesters and DOL agencies.

**Timetables.**

1. By the close of the third quarter of CY 2006, the Chief FOIA Officer will convene a working group that includes the Office of the Assistant Secretary for Administration and Management, the Office of the Solicitor, and stakeholding DOL agencies.
2. By the close of CY 2006, the working group will review the need for improvements in agency FOIA tracking systems, including the ability of DOL tracking tools to meet DOL and agency needs, and will identify inadequacies and possible improvements or changes to meet agency needs.
3. By the close of the first quarter of CY 2007, the working group will develop a report to the Chief FOIA Officer, which may take the form of one or more software specification documents, outlining a plan to address any inadequacies, improvements or changes identified. Agencies will implement the improvement plan to the extent appropriate.
4. In CY 2007, the Chief FOIA Officer will present the plan to the relevant Department officials for action and implementation on a Department-wide basis as appropriate.
5. By the close of CY 2007, the Chief FOIA Officer will again convene the workgroup that will review the plan developed in CY 2006, consider the progress made in implementing the plan, and develop and implement a revised plan to correct any persisting inadequacies and institute desired enhancements, within the limits of available resources and Departmental approvals.

**IV. Consider Increased Use of Electronic Tools in FOIA Processing.**

The use of electronic tools can potentially improve the efficiency and effectiveness of an agency's response to FOIA requests. These tools include scanning, electronic redaction, and delivery of FOIA responses electronically. While the nature of the requested records in many cases may not be conducive to the efficient use of such tools, agencies need to give more systematic



attention to the possibility that their use can improve the operation of the agency's FOIA program.

**Goals and Objectives.** Each agency, with respect to initial requests, and the Office of the Solicitor, with respect to appeals, should review the principal areas where they may benefit from automation, drawing, in part, upon any information that may be developed in the study under Section III. To the extent that an agency already has resources or equipment for automation (i.e. scanners, redacting software, etc.), it should consider whether these resources can be shared or used more systematically and effectively.

**Timetables.**

1. By the end of CY 2006, each agency will complete their study and implement any improvements it is in a position to make. It shall report the results of its efforts to the Chief FOIA Officer.
2. By the end of CY 2007, for those areas identified in its study that could effectively be automated, but not with existing resources, each agency will consider whether available funding and agency priorities permit the acquisition of necessary resources. Should additional resources become available, agencies shall develop and deploy a plan for their effective use, reporting the results to the Chief FOIA Officer.

**V. Encourage and Improve Multi-track Processing and Expedited Processing.**

At times, fairness, courtesy to requesters, and the efficiency of the FOIA process may require that certain requests be handled more expeditiously than others. Such situations may arise when agencies can identify certain classes of requests that should be handled more quickly (multi-tracking). In other cases, a particular requester may ask for and appropriately justify the need for expeditious handling. While many agencies do not employ a multi-track FOIA process, the review does not indicate how deliberately they have studied the potential benefits of such a process. It is also not clear how systematically agencies have reviewed their handling of requests for expedited processing of individual FOIA requests.

**Goals and Objectives.** Agencies that do not currently multi-track should determine if a multi-track process should be established and what number of tracks would be sufficient. If a multi-track system is in place, the agency should review its functionality, determine if the tracks are sufficient and whether the delineation between tracks is clear, and develop





the changes it deems appropriate to maximize fairness and efficiency. Agencies should also review their handling of expedited requests.

**Timetables.**

1. By the end of CY 2006, agencies will complete a review of the multi-tracking issues within their agencies and their handling of requests for expedited FOIA processing. Each agency will develop any appropriate changes in its processes, and report the results of its review and any resulting changes in its processes to the Chief FOIA Officer and the FOIA Public Liaison. It will implement as many of these changes as is practicable by the end of CY 2006.
2. By the end of CY 2007 and beyond, agencies should implement the remaining changes that have not been implemented in CY 2006 and establish quality control mechanisms to assure that the changes are evaluated and maintained or modified, as appropriate.

**VI. Increase Appeals Processing Capacity, Backlog Reduction and Improve Timeliness.**

One matter of central concern to requesters is the timeliness of agency responses to FOIA requests and appeals. Increasing timeliness and appeal processing capacity are complex matters, since many factors often contribute to agency performance, including, for example, the variable volume and complexity of incoming initial FOIA requests and appeals, and changing FOIA staff. While our review indicates that backlogs and timeliness within DOL are a more substantial issue at the administrative appeals level, those agencies with satisfactory performance at the initial request level need to continuously monitor their own performance so that they can identify and remedy any problems that arise at the earliest possible stage and before the problems become serious. Vigorous efforts must be made to increase capacity and timeliness at the appeals level.

A. Initial Requests.

**Goals and Objectives.** Agencies will develop and implement a system to monitor backlogs on a real-time basis. They will report to the Chief FOIA Officer the steps they have taken to assure the early detection of growing backlogs and the development of any timeliness issues. They will regularly report their backlogs to the Chief FOIA Officer.

**Timetables.**



1. By the end of the third quarter of CY 2006, the Chief FOIA Officer will provide guidance on the definition of "backlogs" and develop a template for reporting backlogs.
2. By the end of CY 2006, agencies will develop and implement a system to monitor backlogs and report to the Chief FOIA Officer on the steps they have taken.
3. By the end of the second quarter of CY 2007, and semiannually thereafter, agencies shall report their backlogs to the Chief FOIA Officer.
4. These reports will continue through CY 2007 and thereafter.

#### B. Appeals.

**Goals and Objectives.** To increase the number of appeals adjudicated by the Department's FOIA appeals unit (273 appeals pending for more than 30 days as of April 30, 2006 with an average of 17 appeals closed each month for CY 2005), the Department will systematically increase from its 2005 baseline the number of appeals completed and closed.

#### **Timetables.**

1. By December 31, 2006, the number of appeals completed and closed will increase 61 percent over the 2005 baseline.
2. By the end of CY 2006, the Chief FOIA Officer will assess the impact of actions taken to increase output in the appeals unit (discussed in Results of the Review, paragraph 6) and determine whether additional measures are needed. Recommended measures will be implemented, consistent with the availability of resources, by the end of the first quarter of CY 2007 and continuing thereafter, as appropriate. The Department's annual FOIA Report for FY 2006 will report on increased output in the appeals area.
3. By December 31, 2007, the number of appeals completed and closed will increase 93 percent over the 2005 baseline.
4. It is anticipated that the appeals adjudication capacity will increase and continue into 2008 and beyond.
5. By the end of CY 2007, the Chief FOIA Officer again will assess the progress of the appeals unit and determine whether



additional measures are needed and can be implemented, consistent with the availability of resources.

## **VII. Enhance Staff Expertise and Training.**

A knowledgeable and well-trained staff can greatly enhance an agency's ability to provide prompt, courteous, efficient, and timely service to requesters, and it can help to assure that requesters receive the rights guaranteed by law. The widespread use in DOL of staff that spends only a portion of its time on FOIA matters and is spread across the U.S. presents significant challenges to the development of cost effective staff training efforts. Agencies can improve their efforts by making resource materials readily available to staff and by providing employee training and orientation efforts, commensurate with agency staffing patterns and available resources.

### **A. Formal Training and Meetings.**

**Goals and Objectives.** Each agency shall establish a plan to ensure that 100 percent of its identified FOIA staff has the opportunity to receive adequate FOIA training. Where agency resources are limited, the agency will work with the Chief FOIA Officer to identify low-cost options, such as FOIA training DVDs. In addition, regular meetings of DOL FOIA Service Center Staff will be held so that there will be an opportunity to share lessons learned and help identify best FOIA practices.

#### **Timetables.**

1. Throughout CY 2006, agencies will continue to seek opportunities to provide FOIA training to the agency's FOIA staff, such as attendance at formal training sessions, and distribution of FOIA guidance materials.
2. By September 30 of CY 2006 and each 6 months thereafter, the Chief FOIA Officer will convene a meeting of FOIA Service Center Staff to share information about lessons learned and best FOIA practices.
3. By the end of CY 2006, the Chief FOIA Officer will research, develop and share with the agencies a catalogue of available training opportunities for agency staff. The Chief FOIA Officer will investigate the availability of low cost options, such as DVDs and online training materials. Consistent with agency resources, the Chief FOIA Officer will arrange for in-house training for DOL FOIA staff.



4. By the end of the first quarter of CY 2007, every agency will develop and implement a plan which will ensure that 100 percent of its identified FOIA staff are provided an opportunity to receive appropriate FOIA training by the close of CY 2007. Each agency will transmit its plan to the Chief FOIA Officer by the end of the first quarter of CY 2007.

5. Within 15 days of the end of CY 2007, each agency will report to the Chief FOIA Officer concerning the results of its training efforts during the prior calendar year.

**B. Make Resource Material More Readily Available.**

**Goals and Objectives.** Agencies should make resource materials more readily available to staff working on FOIA matters.

**Timetables.**

1. By the end of CY 2006, all agencies, in consultation with the Chief FOIA Officer, will make resource materials such as the Justice Department's FOIA Guide electronically available to employees with FOIA responsibilities.

**F. SUMMARY IMPROVEMENT AREAS BY YEAR WITH SELECT ACTION ITEMS**

- 2006
- 2007
- Beyond 2007

**I. Improvement Areas Anticipated to be Completed by December 31, 2006**

**Improvement Areas Anticipated to be Completed by December 31, 2006**

**A. Improve Communications with Requesters.**

**1) Outreach to Requester Community and Solicitation of Input.**

- Chief FOIA Officer will hold public forum with requester community after consultation with FOIA Liaison.
- Possibly deploy electronic suggestion box for requester community and DOL agencies.



## **Improvement Areas Anticipated to be Completed by December 31, 2006**

### **2) Acknowledgement Letters**

- Chief FOIA Officer will prepare and distribute standardized acknowledgment letters.
- All agencies will distribute and utilize or adopt the new acknowledgment letter.

## **B. Improve Web Presence and Proactive Disclosure**

### **1) Improve DOL FOIA Website**

- Evaluate DOL and agency FOIA Website.

### **2) Required Affirmative Disclosure**

- Agencies will develop and submit to the Chief FOIA Officer a plan for improving their required affirmative disclosure of information.

### **3) Proactive Disclosure**

- Agencies will identify and develop a plan for the posting of classes of documents not legally required to be disclosed but that could be disclosed proactively.

## **C. Improve FOIA Tracking and Control**

### **1) Review**

- Chief FOIA Officer will convene a working group including stakeholding agencies to review the issue.
- FOIA working group will review tracking tools and identify agency needs and requirements.

## **D. Increase use of Technology in FOIA Processing**

### **1) Review**

- Each agency is to review its current use of technology for FOIA processing.

### **2) Implementation**

- Each agency is to increase the use of technologies identified in its study to the extent permissible with available resources.

### **3) Report**

- Each agency is to report its findings to the Chief FOIA Officer.

## **E. Encourage and Improve Multi-track processing and Expedited Processing**

### **1) Review**

- Each agency will review its multi-track processing and its handling of expedited requests.

### **2) Report**

- Each agency will report to the Chief FOIA Officer the results of the study and outline any proposed changes in its processes.

### **3) Implementation**

- To the extent changes can be made during CY 2006, each agency will make the appropriate changes to its processes to increase the use of multi-tracking and increase its efficiency in handling expedited requests.

## **F. Increase Appeals Capacity, Backlog Reduction and Improve Timeliness**

### **1) Initial Requests**



### Improvement Areas Anticipated to be Completed by December 31, 2006

- The Chief FOIA Officer will develop a standard definition of “backlog” and a template for reporting backlogs.
  - Each agency will develop and implement a backlog monitoring system and report the implementation to the Chief FOIA Officer.
- 2) Appeals**
- By December 31, 2006, the number of appeals completed and closed will increase 61 percent over the 2005 baseline.
  - By the end of CY 2006 the Chief FOIA Officer will assess the progress made and determine whether additional measures are needed.

### G. Enhance Staff Expertise and Training

#### 1) Formal Training and Meetings

##### a) Review

- The Chief FOIA Officer will convene meetings of the Service Center Staff to ascertain training needs and share best practices.

##### b) Report

- The Chief FOIA Officer will compile and disseminate a catalog of available training materials.

##### c) Implementation

- Agencies will seek appropriate training to further augment the skill and expertise of its FOIA staff.

#### 2) Make Resource Material More Readily Available

- Agencies will make resource material such as the DOJ FOIA guide available to all FOIA staff electronically.

## II. Improvement Areas Anticipated to be Completed by December 31, 2007

### Improvement Areas Anticipated to be Completed by December 31, 2007

#### A. Improve Communications with Requesters

##### 1) Outreach to Requester Community and Solicitation of Input.

- Chief FOIA Officer will prepare for inclusion in the FOIA Annual Report for 2006 an analysis of the agencies efforts to implement changes recommended by the requester community.
- Agencies will assess and continue to take such actions as appropriate to implement changes suggested by the requester community.

##### 2) Communications Practices with Requesters

- Chief FOIA Officer will review agency communication practices and determine if further steps are needed to improve communications with requesters.
- All agencies will implement the recommended improvements.

#### B. Improve Web Presence and Proactive Disclosure

##### 1) Improve DOL FOIA Website

- Chief FOIA Officer will develop a plan to implement the needed



## Improvement Areas Anticipated to be Completed by December 31, 2007

improvements.

### 2) Required Affirmative Disclosure

- Agencies will submit a report to the Chief FOIA Officer on their progress in implementing their improvement plan.
- Agencies will discuss their plans with the Chief FOIA Officer, make any adjustments, and implement the plan.

### 3) Proactive Disclosure

- Agencies will implement their plan of improvement and communicate their progress to the Chief FOIA Officer and the Public Liaison.

## C. Improve FOIA Tracking and Control

- Working group will develop a plan on inadequacies, improvements, and needed changes and report it to the Chief FOIA Officer.
- Chief FOIA Officer will present the plan of improvement to the appropriate Department officials for action and implementation as appropriate.
- Chief FOIA Officer will reconvene the working group and review the plan and its execution and cure any persistent inadequacies.
- Working group will develop a report to the Chief FOIA Officer identifying inadequacies and areas of improvement.
- Consider Department wide implementation.

## D. Increase use of Technology in FOIA Processing

- Agencies will consider whether existing resources will allow further automation of the processes identified in the report.
- Agencies shall continue to develop and deploy their improvement plan and report the results to the Chief FOIA Officer.

## E. Encourage and Improve Multi-track Processing and Expedited Processing

- Agencies should continue to implement their improvement plans and establish mechanisms for quality control to assure changes are maintained and modified as needed.

## F. Increase Appeals Capacity, Backlog Reduction and Improve Timeliness

### 1) Initial Requests

- Agencies shall report backlogs, if any, to the Chief FOIA Officer semi-annually.

### 2) Appeals

- By December 31, 2007, the number of appeals completed and closed will increase 93 percent over the 2005 baseline.
- The Chief FOIA Officer will reassess the backlog reduction and determine if additional measures are needed.

## G. Enhance Staff Expertise and Training

### 1) Formal Training and Meetings.

- Agencies will develop, implement, and transmit to the Chief FOIA Officer a plan ensuring that 100 percent of FOIA staff is provided an opportunity to



**Improvement Areas Anticipated to be Completed by December 31, 2007**

receive training.

**III. Improvement Areas to Continue Beyond December 31, 2007**

**Improvement Areas to Continue Beyond December 31, 2007**

**A. Improve Communications with Requesters**

**1) Outreach to Requester Community and Solicitation of Input**

- Agencies shall continue to improve communications based on the requester community feedback.
- Chief FOIA Officer will include in the FOIA Annual Report for 2007 a report on the agency's response to input by the requester community.

**B. Improve Web Presence and Proactive Disclosure**

**1) Improve DOL FOIA Website**

- FOIA Website review and improvements will continue.

**2) Required Affirmative Disclosure**

- Agencies will continue to make further appropriate adjustments to their affirmative disclosure improvement plans.

**3) Proactive Disclosure**

- Each succeeding year, agencies shall continue to identify documents eligible for proactive disclosure and report such activities to the Chief FOIA Officer.
- Continue to dynamically adjust agency plans in consultation with the Chief FOIA Officer.

**E. Encourage and Improve Multi-track Processing and Expedited Processing**

- Agencies will continue to deploy changes and implement a quality control mechanism.

**C. Increase Appeals Capacity, Backlog Reduction and Improve Timeliness**

**1) Initial Requests**

- Each agency shall continue to report to the Chief FOIA Officer on its backlog, if any.

**2) Appeals**

- Backlog reduction will continue in 2008 and beyond.

**D. Enhance Staff Expertise and Training**

- Refresher courses will be offered continuously and new staff will receive appropriate training.
- Agencies will report the results of their training activities to the Chief FOIA Officer.
- The Chief FOIA Officer will continue to hold bi-annual "lessons learned and best practices" meetings.





## **G. CONCLUSION**

The Department of Labor has identified areas of improvement and proposes a realistic and workable plan for implementing the needed changes to its current FOIA practices. The improvements realized over the next two years will be reported in the 2006 and 2007 Annual FOIA Reports.