

U.S. Small Business Administration

Executive Order 13392 Report and Implementation Plan

“Improving Agency Disclosure of Information”

June 14, 2006

Table of Contents

Introduction	1
A. Agency FOIA Operations	2
B. Areas Selected for Review	4
1. FOIA Case Processing	4
2. FOIA Training	4
C. Narrative Statement Summarizing Results of Survey	5
1. FOIA Case Processing	5
Backlog Reduction/Elimination	5
Communication with FOIA Requesters	5
Contact Information Provided to FOIA Requesters	5
Timeliness of FOIA Responses	5
Proper Citation of FOIA Exemptions	6
Administrative Appeal Rights	6
Suggestions from SBA Office for Improved FOIA Processing	6
2. FOIA Training	6
Use of the FOIA Case Tracking System	7
SBA Employees Familiarity with the FOIA	7
D. Areas Chosen as Improvement Areas for Agency Plan	8
Goal 1	8
Goal 2	8
E. Improvement Areas	9
Goal 1	9
1. Review Disclosure Determinations	9
2. Conduct FOIA Training for Public Liaisons, Service Center Representatives and SBA Management Board	10
3. FOIA Training for Agency Personnel and Contractors	11
4. FOIA Case Tracking System Training for all Public Liaisons and Service Center Representatives	12
Goal 2	13
1. Redesign the FOIA Webpage	13
2. Affirmative FOIA Disclosure	14
3. Revision of SBA's FOIA Reference Guide	15
F. Time Periods for Improvement Areas	16

INTRODUCTION

On December 14, 2005, the President signed Executive Order (EO) 13392, "Improving Agency Disclosure of Information". www.whitehouse.gov/news/releases/2005/12/print/20051214-4.html. EO 13392 sets new standards for Federal Agency Freedom of Information Act (FOIA) programs by ordering agencies to ensure citizen-centered and results-oriented FOIA operations.

The EO requires Federal agencies take the following actions:

- Name an Agency Chief FOIA Officer at the Assistant Secretary or equivalent level by January 13, 2006
- Establish one or more FOIA Requester Service Centers and place contact information for the Center(s) on the agency's website
- Designate one or more FOIA Public Liaisons and place contact information for the public liaisons on the agency's website
- Conduct a thorough review of agency FOIA operations to determine whether agency practices are consistent with the policies set forth in the EO
- Develop agency-specific plans to improve FOIA operations for Fiscal Year (FY) 2006 and FY 2007
- Submit a report to the Attorney General and Director, Office of Management and Budget (OMB) summarizing the results of the agency's review and its FOIA improvement plan by June 14, 2006

With the submission of this report, the U.S. Small Business Administration (SBA) has completed, on or ahead of schedule, all actions required to date.

This report presents the results of the review of the SBA's FOIA operations and provides the Agency's FOIA Improvement Plan, including concrete milestones, with specific timetables and outcomes to be achieved. The review of the Agency's FOIA operations focused on two key areas. The first area of review assessed FOIA request processing, including a review of processing times and an assessment of whether there was a current backlog; whether Agency responses provided proper citation of FOIA exemptions and administrative appeal rights; the level of communication with a requester, including whether the requester was provided contact information, and a request and review of suggestions for improving SBA's FOIA processing. The second area of review addressed training needs and requirements, including the familiarity of all SBA employees with the FOIA and their use and familiarity with the Agency's FOIA Case Tracking System.

A. AGENCY FOIA OPERATIONS

The SBA established the Freedom of Information and Privacy Acts Office (FOI/PA) in 1977 to provide management oversight and implementation of the Agency's FOIA and PA programs in accordance with Title 5 of the United States Code, sections 552 and 552a. The FOI/PA Office adjudicates FOIA administrative appeals and provides guidance and training to Agency staff with regard to the collection, use, and disclosure of Agency information.

The FOI/PA Office operates under the direction of the Agency Chief FOIA Officer. Pursuant to EO 13392, the FOI/PA Office was designated as one of the Agency's FOIA Requester Service Centers. All of SBA's program and field offices are now also designated Requester Service Centers. Currently the staff of the FOI/PA Office consists of three FOIA Specialists; the Director of the FOI/PA Office is designated the FOIA Public Liaison and the two FOIA Specialists are the Requester Service Center staff.

The SBA's FOIA process is decentralized, which allows the program and/or field office(s) that maintain the requested records to provide the initial response to the requester. The FOI/PA Office provides both general and detailed guidance at the initial level, but defers some issues to the Agency's Office of General Counsel (OGC) to avoid compromising a requester's administrative FOIA appeal rights. In addition, the FOI/PA Office works closely with OGC to ensure optimum FOIA practices for the public and the Agency.

As stated in the most recent Annual FOIA Report, in FY 2005, SBA received 3,739 initial requests and only 20 administrative appeals. This ratio reflects the success of SBA's FOIA program, yet areas of potential improvement exist. In the 1994 U.S. Department of Justice's "Agency Responses to Department of Justice Request For FOIA Backlog Data", SBA was listed as one of the 28 agencies that reported "no backlog." Since 1994, SBA has consistently reported "no backlog" of FOIA requests.

During the last 10 years, SBA has maintained official FOIA contacts in all program and field offices. Requesters may submit initial requests directly to the FOI/PA Office for referral or to the SBA office(s) that maintain the pertinent records. The receiving office (either the FOI/PA Office or program/field office) enters requests into the Agency's web-based FOIA Case Tracking System, provides an acknowledgment and referral usually within 48 hours of receipt. When a request is referred to another office or agency, the requester is provided a FOIA Case Tracking System case number and the name and telephone number of the office(s) that will process the request.

The Agency employs the principles of the Electronic Freedom of Information Act Amendments of 1996 and vigorously promotes electronic FOIA activity. The majority of initial FOIA requests that SBA receives are submitted electronically. Acknowledgments are also provided electronically whenever possible and all referrals are made electronically. Two years ago SBA's FOIA Case Tracking System was deployed agency-wide, allowing all FOIA contacts to enter and track FOIA cases for their offices. Due to privacy concerns, access is limited and password protected.

Consistent with the expedited processing requirement of the Electronic FOIA Amendments of 1996 (5 U.S.C. 552(a)(6)(E)), SBA implemented pertinent regulations and procedures. However, since this time the Agency has received a negligible number of expedited processing requests and no subsequent appeals have been received by the FOI/PA Office. The 1996 Amendments stipulate that a determination about expedited processing must be rendered within 10 working days. SBA's median response time for all FOIA requests is 7 working days. Therefore, the vast majority of FOIA requesters routinely receive expedited processing from SBA.

B. AREAS SELECTED FOR REVIEW

EO 13392 calls upon all agencies to improve their FOIA operations with both efficiency and customer service. The following areas were selected for review to determine potential areas of improvement:

1. FOIA Case Processing

- Backlog elimination
- Communication with FOIA requesters
- Contact information provided to FOIA requesters
- Timeliness of FOIA responses
- Proper citation of FOIA exemptions
- Administrative appeal rights
- Suggestions for improving SBA's FOIA processing

2. FOIA Training

- Familiarity of all SBA employees with the FOIA
- Use of the FOIA Case Tracking System

C. NARRATIVE STATEMENT SUMMARIZING RESULTS OF SURVEY

1. FOIA Case Processing

- ***Backlog Reduction/Elimination***

The FOI/PA staff continuously emphasizes the statutory time requirements of the FOIA and is pleased that none of the offices reported a backlog. The Agency's offices continue to be current in processing FOIA requests, with a median response time of 7 working days to respond to a FOIA request. Due to the size of the Agency, FOIA is a collateral duty for most of its Public Liaisons and the FOIA/Service Center Representatives (SCRs). However, these results support SBA's commitment to the intent and spirit of the FOIA.

- ***Communication with FOIA Requesters***

Our survey revealed that the vast majority of the respondents routinely contact FOIA requesters directly to refine requests. Many FOIA requests received by SBA pertain to voluminous loan and contract files that require lengthy and detailed FOIA review and processing. The FOI/PA staff regularly advises the Public Liaisons and FOIA/SCRs (previously the designated FOIA contacts) to contact requesters directly in order to determine the specific pertinent records. Since SBA fully utilizes the Internet and electronic mail, as a whole, communication with FOIA requesters is prompt and, at times, instantaneous. The Public Liaisons and FOIA/SCRs have discovered that this also conserves their resources and facilitates enhanced customer satisfaction.

- ***Contact Information Provided to FOIA Requesters***

The SBA has historically provided FOIA requesters with the name and telephone number of the responding office and the telephone number and contact information for the FOI/PA Office. With the use of the Internet, email addresses are routinely provided and since the deployment of the FOIA Case Tracking System in 2004, SBA also provides requesters with the case tracking number assigned to the FOIA correspondence.

- ***Timeliness of FOIA Responses***

As previously discussed, in FY 2005, SBA's median response time for responding to FOIA requests was 7 working days. This is a reflection of the professional commitment the Agency maintains to FOIA requesters and to the FOIA. The communication that the Public Liaisons and the FOIA/SCRs maintain with FOIA requesters is essential and vital to the median response time. Refined requests and dialogue between involved parties again conserves resources and allows constructive concentration, which results in timely and prompt responses.

- ***Proper Citation of FOIA Exemptions***

All of the survey responses indicate that FOIA exemptions are cited whenever information is withheld. FOIA requests that are referred by the FOI/PA Office to SBA program and field offices are accompanied by both a cover memorandum that provides itemized FOIA processing guidance and FOIA exemption language. This requirement is enforced in all training, reference materials and guidance that the FOI/PA Office provides and prepares.

- ***Administrative Appeal Rights***

Ninety-nine percent of survey responses indicate that FOIA appeal rights were provided when there was a negative response in FY 2005. The remaining 1 percent reflects previous responses that did not contain the proper administrative appeal rights, and when necessary a requester receives an amended response in order to ensure that they receive the full benefit of the FOIA. The FOI/PA Office collects and reviews copies of all FOIA responses and promptly provides guidance to the responding office/employees whenever a response is not sufficient. This practice reflects SBA's commitment to the public and is also indicative of the ongoing communication between the FOI/PA Office and the FOIA/SCRs.

- ***Suggestions From SBA Offices For Improved FOIA Processing***

The overwhelming response to this question was for additional training. As indicated, under the "FOIA Training" section, the U.S. Department of Justice's Deputy Director, Office of Information and Privacy, will conduct a training session on August 15, 2006, in our Headquarters' building. The session will be simulcast to our field Public Liaisons and FOIA/SCRs and will also be available on compact disks to all SBA personnel and offices. In order to remain responsive to the public and to SBA employees, the FOI/PA Office will continue to survey training needs and requirements.

2. FOIA Training

Approximately 90 percent of the respondents indicated that they welcome additional FOIA training. The FOI/PA staff has prepared mandatory electronic FOIA training that is available on the Agency's internal homepage. The training is for all agency employees and requires annual certification. The FOI/PA staff routinely provides individual guidance to all employees and also conducts FOIA training sessions to program offices and staffs. The office briefs the new District Directors about the FOIA and SBA's process. However, in keeping with the spirit of the EO we feel that there is a need to further enhance SBA's FOIA process and emphasize the visibility and importance of FOIA. Thus, we have arranged an onsite FOIA training for SBA's Management Board, Headquarters' Public Liaisons and FOIA/SCRs. The U.S.

Department of Justice's Deputy Director, Office of Information and Privacy, will conduct this session on August 15, 2006, in our Headquarters' building and it will be simulcast to our Field Public Liaisons and FOIA/SCRs. The session will also be available on compact disks to all SBA personnel and offices. This will be a valuable tool since attrition and workload often tend to stress FOIA resources.

- ***Use of the FOIA Case Tracking System***

We surveyed each Public Liaison and FOIA/SCR for every SBA program and field office to determine their familiarity with SBA's FOIA Case Tracking System. The results showed that each office has, at minimum, one employee, the FOIA/SCR, who is currently assigned FOIA related duties and who is already familiar with and is using the Tracking System on a regular basis. As the majority of the Public Liaisons are recent appointees to this position, they are not currently familiar with and/or using the Tracking System. Therefore, the FOI/PA Office will conduct a Tracking System training session for Headquarters' Public Liaisons and FOIA/SCRs that will be simulcast to field Public Liaisons and FOIA/SCRs. The training will be made available on compact disks to all SBA personnel and offices. An online training program and a users' manual are both available electronically to all SBA employees from the internal SBA Homepage. In addition, the FOI/PA staff provides individualized assistance to help train and assist all employees with the Tracking System. The FOI/PA staff also communicates frequently with the Office of the Chief Information Officer in order to address any technical matters pertaining to the Tracking System. Therefore, we anticipate that all of SBA's Public Liaisons and FOIA/SCRs will very quickly possess the knowledge to efficiently operate the Tracking System, which will help to enhance SBA's FOIA processing and will help benefit the public's experience with the Agency.

- ***SBA Employees' Familiarity With the FOIA***

This question received a positive 100 percent response due to the annual mandatory FOIA training that is required of all SBA employees and contractors. The training includes a mandatory test and upon completion of the training and testing, a certificate is available, which verifies training compliance. The online training module is available at all times from SBA's Employee Training site and is routinely used as a resource material by FOIA/SCRs. This is critical since the majority of the Public Liaisons are new to this position and they are not as familiar with the FOIA. In addition, the FOI/PA staff provides assistance to all employees or contractors and conducts training sessions for individual offices. It has proven to be extremely beneficial to the public and to the SBA that all Agency employees and contractors are knowledgeable of the FOIA and its intent.

D. AREAS CHOSEN AS IMPROVEMENT AREAS FOR AGENCY PLAN

The following sets forth SBA's major FOIA goals and initiatives for FY 2006 and FY 2007.

Goal 1 – Strengthen FOIA internal systems and processes to support a continually improving, highly efficient and effective organization

- *Review Disclosure Determinations*
- *Conduct FOIA Training for all SBA Public Liaisons, Service Center Representatives, and SBA's Management Board*
- *Conduct FOIA Training for all SBA Employees and Contractors*
- *Conduct FOIA Tracking Case Tracking System Training for all Public Liaisons and Service Center Representatives*

Goal 2 – Maintain and expand the use of the Internet to simplify the interaction between the Agency, staff, and the public

- *Redesign FOIA Website*
- *Affirmative Disclosure – Posting of Frequently Requested Records*
- *Revise SBA's FOIA Reference Guide*

E. IMPROVEMENT AREAS

Goal 1 – Strengthen FOIA internal systems and processes to support a continually improving, highly efficient and effective organization.

1. Review Disclosure Determinations

The FOIA requires government records to be made accessible to the public unless they are protected by an exemption specified by FOIA. Individuals seeking records are not required to show a need for the information; instead the government has to justify its decision to withhold the information. SBA's policy is to provide the maximum allowable disclosure of agency records upon request by any individual.

The FOI/PA Office will conduct a review of offices with high volumes of FOIA requests to determine whether the SBA properly applied FOIA exemptions to deny a written request for information. The goal is to determine whether the Agency improperly withheld information when the information should have been completely or partially provided to the requester under FOIA and to ensure that we provide maximum allowable disclosure of agency records as appropriate.

Steps Planned to be Taken (Milestones)

Projected Completion Dates

- | | |
|--|------------------|
| • Select three high-volume offices for audit | July 31, 2006 |
| • Conduct random review of FOIA responses from January 1, 2004 – December 31, 2005 | October 31, 2006 |
| • Analyze responses for proper disclosure and/or improper withholding of information | March 31, 2007 |
| • Meet with the FOIA contacts for the selected offices to discuss results and remedies, as appropriate | June 1, 2007 |

Means of Measurement of Success/Outcomes

- Improved accuracy and efficiency of the service
- Enhanced customer service

2. Conduct FOIA Training for Public Liaisons, Service Center Representatives and SBA Management Board

SBA has designated Public Liaisons and FOIA/SCRs for the Agency, pursuant to EO 13392. The Order also requires agencies to place a higher degree of senior level oversight on their respective FOIA programs. As such, it is imperative to ensure that SBA's Management Board members and newly designated Public Liaisons and FOIA/SCRs receive FOIA training commensurate with their needs and responsibilities.

The FOI/PA Office has coordinated and received confirmation that the U.S. Department of Justice's Deputy Director for Information Policy will conduct in-house FOIA training at SBA's Headquarters for the Agency's Public Liaisons, FOIA/SCRs, and Management Board Members on August 15, 2006.

<i>Steps Planned to be Taken (Milestones)</i>	<i>Projected Completion Dates</i>
• Draft Information Notice for FOIA training	June 30, 2006
• Submit Notice for Distribution to Public Liaisons, FOIA/SCRs, and Management Board Members	July 17, 2006
• Coordinate teleconferencing and video-taping requirements with OCIO	July 21, 2006
• Conduct training	August 15, 2006
• Compact disks of the DOJ training available for distribution	November 1, 2006

Means of Measurement of Success/Outcomes

- Enhanced accuracy, timeliness, and efficiency of service provided to those customers filing FOIA requests
- Enhanced customer service
- Continued lack of backlog

3. FOIA Training for Agency Personnel and Contractors

The FOI/PA Office will provide online FOIA training designed to provide employees and contractors with a basic understanding of FOIA and specific procedures for processing routine requests. The training will be posted on SBA's website and access will be unlimited to all employees and contractors. The course will consist of four modules with several self-paced lessons. It will use a step-by-step format to present information about FOIA in a clear, simple manner and to reinforce the appropriate process for responding to a FOIA request. Completion of the course will be mandatory for all employees.

In addition to the online training, the in-house specialized training provided by the U.S. Department of Justice for the Management Board and FOIA Public Liaisons and FOIA/SCRs will be available on compact disks.

Steps Planned to be Taken (Milestones)

Projected Completion Dates

- | | |
|---|--------------------|
| • Make compact disks available of the in-house specialized FOIA training by DOJ for program heads and FOIA contacts | November 1, 2006 |
| • Review and identify updates for the online FOIA training | March 31, 2007 |
| • Meet with OCIO to implement changes | June 30, 2007 |
| • Prepare agencywide notice advising Agency personnel of the mandatory online FOIA training for all SBA employees and contractors | July 15, 2007 |
| • Provide 30 day time period for the mandatory online FOIA training by all SBA employees and contractors | September 30, 2007 |

Means of Measurement of Success/Outcomes

- Enhanced accuracy, timeliness, and efficiency of service provided to those customers filing FOIA requests
- Enhanced customer service

4. FOIA Case Tracking System Training for all Public Liaisons and Service Center Representatives

The FOI/PA Office deployed a web-based tracking system for all FOIA and Privacy Act inquiries received by the Agency nationwide. The system allows users to enter FOIA and PA request data and to track and update each step of processing from receipt to final determination. Use of the system is mandatory for all designated FOIA contact personnel.

The FOI/PA Office will conduct a FOIA Case Tracking System training session at Headquarters to ensure that all SBA personnel assigned with FOIA duties have access to and expertise with the FOIA Case Tracking System. The training will be simulcast to field Public Liaisons and FOIA/SCRs. The training will also be made available on compact disks to all SBA personnel and offices. One-on-one specialized assistance will be provided on an as needed basis.

<i>Steps Planned to be Taken (Milestones)</i>	<i>Projected Completion Dates</i>
• Update user access to the FOIA Case Tracking System	July 15, 2006
• Make available prior on-line training slides and instruction manual to all users	September 30, 2006
• Conduct additional live training of the FOIA Case Tracking System at Headquarters, simulcast to field	March 31, 2007
• Compact disk of Tracking System training available for distribution	September 30, 2007

Means of Measurement of Success/Outcomes

- All SBA employees with FOIA duties are proficient at operating the system
- All FOIA related correspondence is entered and tracked in the system
- All correspondents are provided a FOIA Case Tracking number
- Correspondents can receive prompt status of FOIA cases
- Continued lack of backlog

Goal 2 – Maintain and expand the use of the Internet to simplify the interaction between the Agency, staff, and the public.

1. Redesign the FOIA Webpage

The FOIA/PA website represents an increasingly important service that the Agency provides to the public. The website will continue to evolve in years ahead as technology advances, public information expands, and as government continues to develop its online services, capabilities, and personnel. The FOI/PA Office will enhance and update the FOIA Homepage. Through this process, we will refine existing features and incorporate new features, as appropriate.

<i>Steps Planned to be Taken (Milestones)</i>	<i>Projected Completion Dates</i>
<ul style="list-style-type: none">• Review the FOIA Homepage	November 30, 2006
<ul style="list-style-type: none">• Submit revisions to webmaster/OCIO	February 28, 2007
<ul style="list-style-type: none">• Meet with webmaster/OCIO to discuss revisions	May 31, 2007
<ul style="list-style-type: none">• Revised FOIA Homepage posted on SBA website	September 30, 2007

Means of Measurement of Success/Outcomes

- Improved accuracy and availability of information to internal staff and the public
- Enhanced customer service; customers will experience significant administrative efficiencies

2. Affirmative FOIA Disclosure

The FOIA, as amended in 1996, requires agencies to post frequently requested records, policy statements, staff manuals and instructions to staff, and final agency opinions on their websites. It is a continuing obligation to ensure that frequently requested records are current and available from the FOIA Homepage.

The FOI/PA Office will review the FOIA webpage to update and/or delete dated materials to ensure that the information posted is current and available to the public.

<i>Steps Planned to be Taken (Milestones)</i>	<i>Projected Completion Dates</i>
<ul style="list-style-type: none">• Review Frequently Requested Records	August 31, 2006
<ul style="list-style-type: none">• Consult with pertinent offices/program areas to develop record update schedule	December 15, 2006
<ul style="list-style-type: none">• Meet with web-manager and OCIO to implement update schedule	February 1, 2007
<ul style="list-style-type: none">• Conduct first quarterly status review of record updates	June 30, 2007
<ul style="list-style-type: none">• Continue quarterly reviews and update as necessary (June 30, 2007; September 30, 2007 and December 31, 2007)	December 31, 2007

Means of Measurement of Success/Outcomes

- Improved accuracy and availability of information for internal staff and the public
- Enhanced customer service; customers will experience significant administrative efficiencies

3. Revision of SBA's FOIA Reference Guide

The FOI/PA Office will update the Agency's FOIA Reference Guide which is available on the Homepage.

Steps Planned to be Taken (Milestones)

Projected Completion Dates

- | | |
|---|--------------------|
| • Review the SBA's current FOIA Reference Guide | December 31, 2006 |
| • Submit revisions for approval | March 31, 2007 |
| • Submit approved revisions to webmaster/OCIO | June 30, 2007 |
| • Meet with webmaster/OCIO to present revisions | September 15, 2007 |
| • Revised FOIA Reference Guide available and posted | November 15, 2007 |

Means of Measurement of Success/Outcomes

- Enhanced guidance to SBA employees and contractors
- Improved accuracy and availability of information for internal staff and the public
- Enhanced customer service; customers will experience significant administrative efficiencies

F. TIME PERIODS FOR IMPROVEMENT AREAS

The following schedule provides SBA's time periods for the completion of improvements:

1. Completed by December 31, 2006

- a. U.S. Department of Justice FOIA Training for Public Liaisons, Service Center Representatives and SBA Management Board
- b. Online FOIA Training for Agency personnel and contractors
- c. Provide copies of prior FOIA Case Tracking System Training for all Public Liaisons and Service Center Representatives

2. Completed by December 31, 2007

- a. Review Disclosure Determinations
- b. Update Affirmative FOIA Disclosures under Frequently Requested Records
- c. Provide additional live FOIA Case Tracking System training
- d. Redesign the FOIA Webpage
- e. Revision of SBA's FOIA Reference Guide