

Office of Management and Budget (OMB)  
Chief Freedom of Information Act (FOIA) Officer's Report  
April 2012

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

As discussed below, OMB continues to maintain one of the smallest backlogs of FOIA requests government-wide. At the end of Fiscal Year 2011, OMB had a backlog of one request, which was a decrease from the end of Fiscal Year 2010, when OMB had two backlogged requests. Even with these low numbers, OMB continues to look for ways to improve the accessibility of information to the public and to establish more efficient FOIA procedures. Accordingly, OMB has recently enhanced the use of technology in its FOIA processing and is now undertaking a business process improvement initiative. This report provides greater detail on OMB's efforts in these areas.

Copies of this report, as well as information on how to make a FOIA request to OMB, are available at the "FOIA" site on the OMB Home Page at <http://www.whitehouse.gov/omb/foia>.

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

I. Steps Taken to Apply the Presumption of Openness.

OMB continues to take steps to ensure that the presumption of openness is applied when examining records that are responsive to FOIA requests the agency receives. This begins by ensuring that the President's FOIA Memorandum, the Attorney General's FOIA Guidelines, and the presumption of openness are being applied to all decisions involving the FOIA. For each FOIA request received, OMB's FOIA Officer and OMB's Office of the General Counsel work through each step of the FOIA process with the program offices that have the responsive material. This effort includes ensuring that the search for responsive material is comprehensive and that the presumption of openness is applied in the review of responsive material to determine what can be released. Additionally, OMB personnel continue to attend DOJ's FOIA seminars and training that discuss the Attorney General's Guidelines.

The document review process begins with an initial document-by-document, line-by-line review conducted by agency personnel to identify material that is appropriate for release, including whether OMB can discretionarily release material that falls within one of the FOIA's exemptions. This careful review is followed by review, in the General Counsel's Office, of any redactions made during the initial review to ensure that OMB has properly implemented the

presumption of openness. Therefore, all releases undergo review more than once to ensure that the presumption of openness is applied where appropriate.

The continued attention to applying the presumption of openness has resulted in an increase in the discretionary release of material covered by FOIA Exemption 5, which protects “inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.” Most notably, in several instances OMB has been able to identify deliberative documents that can appropriately be released, while only protecting the specific aspects of the deliberations that would be harmful if disclosed. By applying the presumption of openness to each responsive document, OMB has been able to release additional draft material and inter-agency and intra-agency email communications.

From Fiscal Year 2010 to Fiscal Year 2011, OMB experienced an increase in the number of requests received and processed. Specifically, the number of requests received increased from 147 to 188 (an increase of 22%), and the number of requests processed rose from 141 to 173 (an increase of 19%). In applying the presumption of openness to this increased number of responses, OMB increased the number of full grants from thirty-nine to fifty-seven. At the same time, there was a decrease in the number of partial grants, from thirty-nine in Fiscal Year 2010 to thirty-one in Fiscal Year 2011. Lastly, a comparison of data concerning responses where records were produced shows that the number of full denials based on exemptions increased from six to fifteen.

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

OMB continues to operate an effective system for responding to FOIA requests and to further improve that system so that the agency’s resources are utilized in the most effective and efficient manner. To identify areas of improvement and enhance overall FOIA program efficiencies, OMB began conducting a comprehensive Business Process Improvement Initiative in October 2011. Through examination of the personnel, technology, and communication supporting its FOIA process, the agency’s goal is to properly identify ways to increase overall efficiency in responding to requests that will better achieve and further enhance open government.

This examination has included various steps over the past several months, including (1) a series of one-on-one interviews conducted with key subject matter experts; (2) development of business process modules to aid in further examination and analysis; (3) evaluation of current and new electronic and collaborative technology; (4) analysis of historical data to better understand resource needs and allocations; and (5) gathering and examining best business practices for potential adaption and agency use from various Federal departments, agencies, and other offices.

During the Business Process Improvement Initiative, OMB continues to operate largely under the same procedures as reported in last year’s Chief FOIA Officer Report, including the full implementation of initiatives first addressed in that report. The FOIA procedure begins

when the request is received and logged in by OMB's FOIA Officer. At that time, the FOIA Officer assigns the request to the appropriate program office(s) within OMB to conduct a search for potentially responsive records and notifies them of the statutory deadline imposed by the FOIA. The FOIA Officer directly interacts with the appropriate OMB program offices and OMB's General Counsel's Office to ensure that questions regarding the FOIA search can be answered timely. In addition, the FOIA Officer and the General Counsel's Office meet with the program office within days of receiving the request to discuss the scope of the request and identify any complex search issues that may cause delay. Furthermore, in order to streamline a potentially complicated search, the FOIA Officer provides a "FOIA Search Checklist" that itemizes the different places where responsive records may be located. This allows the program office to immediately apply the necessary resources to all areas that may house responsive material. Furthermore, the FOIA Officer continues to determine whether OMB needs to contact other agencies regarding the necessary consultations or referrals of information that originated from another agency. Additionally, where appropriate, the FOIA Officer communicates with requesters to clarify requests, as soon as practicable.

As records are located, OMB's Office of General Counsel devotes substantial resources to careful, line-by-line reviews of potentially responsive documents. With resources available in the FOIA Officer and in the General Counsel's Office, OMB is able to ensure that adequate staffing is available to handle complex FOIA requests when received by the agency. The level of resources available when needed demonstrates OMB's commitment to following the Administration's presumption of openness. After this review is concluded, and all the appropriate offices have had an opportunity to review, the response is sent to the requester by OMB's FOIA Officer.

OMB continues to receive sufficient IT support. As discussed in previous years' reports, OMB's FOIA Officer is located within the agency's Management and Operations Division, which houses OMB's Information Technology Office. Working within the same Division as the IT Team provides the FOIA Officer with IT resources to meet its needs. For instance, during Fiscal Year 2010, the IT Team was instrumental in OMB's acquisition of document redaction software. In Fiscal Year 2011, the IT Team and FOIA Officer continued to work together to create a more streamlined electronic FOIA process and move the agency away from relying on paper.

OMB's FOIA professionals directly interact with the agency's Open Government Team. Most notably, a FOIA professional now sits on OMB's Open Government Steering Committee that oversees the agency's implementation of its Open Government Plan, to ensure that FOIA remains a priority during the implementation. This has also brought FOIA to the attention of personnel at every level of the agency as OMB continues to explore ways to improve the accessibility of information to the public. These efforts are reflected in the information now proactively released as discussed in Part III below.

### III. Steps Taken to Increase Proactive Disclosures.

As explained in last year's Chief FOIA Officer's Report, OMB relies on several websites to increase the amount of publicly available information. Prior to the postings described here, the public's predominant method of receiving many OMB datasets was through a FOIA request. OMB now offers a number of high-value datasets that for downloading online; a catalogue of these datasets is located here: <http://www.whitehouse.gov/open/around/eop/omb/datasets>. Additionally, OMB has made more information publicly available on the following sites: (1) the Regulatory Review and Information Collection Review Dashboard, at <http://www.reginfo.gov/public/>; (2) OMB's record management policy, at [http://www.whitehouse.gov/omb/records\\_management\\_policy/](http://www.whitehouse.gov/omb/records_management_policy/); and (3) the OMBlog, which is frequently updated by OMB officials. Other websites that OMB continues to update include [Data.gov](http://Data.gov), [ITdashboard.gov](http://ITdashboard.gov), [USAspending.gov](http://USAspending.gov), [Performance.gov](http://Performance.gov), and [Recovery.gov](http://Recovery.gov). As OMB completes its response to a FOIA request, it determines whether it would be helpful to post any material provided to the requester on one of these, and other, websites.

In addition to including more information on these websites, OMB has also continued to make several of its initiatives more transparent. For instance, all SAVE Award submissions are now posted online for public review and comment (subject to an opt-out from the submitter and a screen for inappropriate, confidential, and personally identifiable information). Federal employees around the nation can rank submissions, OMB reviews the highest ranked ideas, and public voting determines the final SAVE Award winners. Improvements of the public participation interface have also continued on [Regulations.gov](http://Regulations.gov). This includes an upgraded public commenting mechanism, search functionality, user interfaces, and other major features to help the public find, follow, and participate in Federal rulemakings. Additionally, starting with the Fiscal Year 2012 Budget, OMB has started to publish the President's Budget and the Mid-Session Review online in machine-readable formats, in addition to hard copy and PDF formats.

Additionally, as noted above, OMB's officials use a blog to provide more information to the public, which can be found here: <http://www.whitehouse.gov/omb/blog>. This blog is further supplemented with a "share/bookmark" feature, which allows readers to share a posting they find interesting or useful on Facebook or other social media sites. OMB uses this tool to explain and describe OMB activities, along with links to additional information for the reader who wishes to learn more about a particular topic or participate in a corresponding discussion. For instance, the Administrator for the Office of E-government and Information Technology, Steven VanRoekel, recently posted information regarding efforts by the Federal government to improve its use of mobile technology. In addition to detailing steps already taken, he invited the public to share its thoughts on how the Federal government can take advantage of the mobile opportunity.

### IV. Steps Taken to Greater Utilize Technology.

1. *Electronic receipt of FOIA requests:*
  - a. *Can FOIA requests be made electronically to your agency?*
  - b. *If your agency processes requests on a decentralized basis, do all components of your agency receive requests electronically?*

Only one office within OMB receives FOIA requests and that office has the capability to receive those requests electronically. OMB uses the email address OMBFOIA@omb.eop.gov to receive requests electronically.

2. *Online tracking of FOIA requests:*

- a. *Can a FOIA requester track the status of his/her request electronically?*
- b. *If not, is your agency taking steps to establish this capability?*

Even with a significant increase in the number of requests received in Fiscal Year 2011, OMB still only receives less than 200 requests a year. At the same time, only a portion of those requests are pending at any one time, and OMB maintains a very small backlog of requests from year to year. Requesters can now call or email OMB's FOIA Officer to inquire on the status of their request. Given the relatively small number of requests pending at any one time, OMB's FOIA Officer is familiar with each request and can provide the requester with the status of his or her request quickly. This procedure allows for the requester to effectively track the status of his or her request. Through the Business Process Improvement Initiative, mentioned in Part II, OMB is also continuing to evaluate whether this procedure can be further improved by allowing requesters to track their request electronically.

3. *Use of technology to facilitate processing of requests:*

- a. *Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?*
- b. *If so, describe the technological improvements being made.*

Yes, OMB has begun transitioning to the use of more advanced software technology to facilitate FOIA processing efficiency. OMB believes this technology will improve several steps in FOIA processing, such as searching for and reviewing potentially responsive records. This should reduce the average length of time necessary to process requests.

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

1. *Response Time for All Processed Requests.*

- a. *Does your agency utilize a separate track for simple requests?*
- b. *If so, for your agency overall, for Fiscal Year 2011, was the average number of days to process simple requests twenty working days or fewer?*
- c. *If your agency does not track simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer?*

OMB does not use a separate track for processing simple requests, as it has a “first-in, first-out” processing system. The average number of days for processing requests was eighty-two days.

2. *Backlogged and Ten Oldest Requests and Appeals*

- a. *If your agency had a backlog of requests at the close of Fiscal Year 2011, did that backlog decrease as compared with Fiscal Year 2010?*

OMB had a backlog of one request at the end of Fiscal Year 2011, which is a decrease from the end of Fiscal Year 2010, when OMB had two backlogged requests.

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

OMB did not have a backlog of administrative appeals at the end of Fiscal Year 2011 or Fiscal Year 2010.

- c. *In Fiscal Year 2011, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2010?*

During Fiscal Year 2011, OMB closed all but one of the ten oldest requests that were pending at the end of Fiscal Year 2010.

- d. *In Fiscal Year 2011, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2010?*

OMB did not have any pending administrative appeals at the end of Fiscal Year 2010.

3. *If you answered “no” to any of the above questions, describe why that has occurred. In doing so, answer the following questions then include any additional explanation:*  
Request Backlog:

- a. *Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests?*  
b. *Was the lack of a reduction in the request backlog caused by a loss of staff?*  
c. *Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?*  
d. *What other causes, if any, contributed to the lack of a decrease in the request backlog?*

As mentioned above, in Fiscal Year 2011, OMB closed all but one of the ten oldest requests that were pending at the end of Fiscal Year 2010. OMB has made several interim releases in response to the one backlogged request, some of which were several hundred pages, but has not yet completed processing the remaining responsive documents. The time necessary to process this request is significantly longer than

OMB's normal processing time due to the complexity of the particular request and the volume of responsive material. The majority of the responsive records consist of hundreds of pages of email communications among officials and employees in a variety of offices in the Executive Branch. Furthermore, the contents of these communications are largely deliberative. In order to properly apply the deliberative process privilege, as well as the presumption of openness, OMB has been conducting a line-by-line review of the material.

Administrative Appeal Backlog:

This section is not applicable, as OMB did not have any pending administrative appeals at the end of the Fiscal Year.

4. *Improvements to reduce backlog and timeliness in responding to requests and appeals.*
  - a. *Does your agency routinely set goals and monitor the progress of your FOIA caseload?*
  - b. *Has your agency increased its FOIA staffing?*
  - c. *Has your agency made IT improvements to increase timeliness?*
  - d. *If your agency receives consultations from other agencies, has your agency taken steps to improve the efficiency of the handling of such consultations, such as utilizing IT to share the documents, or establishing guidelines or agreements with other agencies on the handling of particular information to speed up or eliminate the need for consultations?*

OMB has historically had a very low number of backlogged requests and appeals and has not needed to increase the size of the FOIA staffing. Throughout the fiscal year, OMB monitors the status of all FOIA requests in order to address any potential difficulties as quickly as possible. To further improve its FOIA procedures, OMB has begun conducting a Business Process Improvement Initiative as detailed in Section II above and transitioning to the use of advanced technology, as explained in Section IV.3 above. OMB hopes these initiatives further improve its response time, by eliminating duplicative steps in its search efforts and by streamlining the internal review procedures.

With regard to consultations from other agencies, OMB has a separate procedure to handle those as efficiently as possible. The majority of agency consultation requests are handled in a central location within the General Counsel's Office. By creating a single point of contact, agencies and OMB can communicate easily in order to meet short deadlines, often imposed by the statute or litigation.

VI. Use of FOIA's Law Enforcement "Exclusions."

1. *Did your agency invoke a statutory exclusion during Fiscal Year 2011?*
2. *If so, what is the total number of times exclusions were invoked?*

OMB did not invoke a statutory exclusion during Fiscal Year 2011.

### Spotlight on Success

A success story that is emblematic of OMB's efforts to increase its transparency and improve its FOIA administration is the Business Process Improvement Initiative that OMB has recently undertaken. Recognizing that there is always room for improvement, OMB examined the personnel, technology, and communication supporting the FOIA process within the agency. By devoting resources to this analysis, OMB hopes to develop an even more streamlined and effective FOIA procedure, which will have lasting impact within the agency. While the review is still ongoing, OMB has already begun to identify and address agency practices that delay the agency's response to requests. There are two important benefits that the agency has recognized so far in this initiative. First, by having this review conducted in one central location, OMB is able to recognize overlap among the many offices involved in the many different aspects of FOIA, from proactive disclosures to preparing a response to a request. This has allowed the agency to begin to think of ways to increase the efficient use of its resources. Another important aspect of this initiative is the recognition of similarities between FOIA procedures and other agency procedures, both within OMB and government-wide. Consequently, OMB can examine the best business practices of similar models for potential adaption to OMB's FOIA procedures. These are just two of the benefits OMB has recognized so far in this initiative.