



# **U.S. DEPARTMENT OF STATE**

***CHIEF FREEDOM OF INFORMATION ACT OFFICER***

***ANNUAL REPORT***

***MARCH 2010***

## Background

The Department of State has a centralized FOIA Program, with one office receiving and coordinating the processing of all requests made to the Department. The Office of Inspector General is the only exception, processing requests independently and providing input into the Department's annual report.

The Department is responsible for formulating and executing U.S. foreign policy and maintains records dealing with U.S. foreign relations, in addition to the programs and activities that support it. However, not only is the substance of the Department's records of a global nature, but the records themselves also are maintained globally - the Department of State maintains records domestically, and also at hundreds of posts located throughout the world. FOIA requests made to the Department vary in size from very narrow requests for a single document to voluminous in size and complex in scope, requiring the review of thousands of documents, frequently retrieved from multiple sources both domestically and at posts overseas. Many of the Department's records contain sensitive national security information and are classified pursuant to executive orders. The review of responsive records often requires coordination with other Federal agencies, and with other governments, before an appropriate release determination can be made.

Due to its global structure and the nature of its record holdings, the Department faces great challenges in achieving full compliance with the time limits of the FOIA. However, it remains committed to achieving the fullest possible compliance, with the greatest level of customer service. FOIA requests are processed incrementally, with responses made to requesters as segments are completed, instead of waiting until the conclusion of all processing.

## I. Steps Taken to Apply the Presumption of Openness.

### 1. Description

- The Secretary of State sent a Department Notice to all employees worldwide notifying them of the President's memos, and calling on every employee to meet the challenge of informing the public and protecting information in a way that fulfills the President's strong commitment to transparency.
- Copies of the President's and the Attorney General's memoranda were posted on the Department's intranet, where they are readily available to employees worldwide.
- Comprehensive quarterly training is provided to employees who review documents in response to FOIA requests, and training conducted in 2009 and 2010 addressed both the President's FOIA memo and the Attorney General's FOIA Guidelines.
- The Department of State maintains a public webpage that contains a rich collection of FOIA request documents, and consciously strives to make as much information public as possible.
- A spring refresher training session is planned for FOIA contacts throughout the Department, which will also provide them with an opportunity to interact with other Department FOIA contacts and discuss current issues.
- State has long sought to comply with the spirit of the FOIA and to always release as much information as possible, although there are no specific examples/statistics illustrating the Department's action in making discretionary releases. A two-tiered review process at the initial level and review by a formal Appeals Review Panel at the appeal level ensure that information is repeatedly scrutinized for the greatest possible release.
- The Department's annual report for 2009 shows that most frequently cited exemptions are non-discretionary - exemptions 1, 3, and 6.

## 2. Disclosure Comparisons

The number of full releases fell in fiscal year 2009 to 370 from 606 in fiscal year 2008. The number of partial releases stayed around the same. There were 834 partial releases in fiscal year 2009 and 903 in fiscal year 2008. However, as stated above, most of the withholdings made by the Department were based on non-discretionary exemptions.

### II. Steps Taken to Ensure that the Department has an Effective System for Responding to FOIA Requests.

As discussed previously, the Department has a centralized FOIA processing system. The central office continuously evaluates the Department's program and FOIA process, and modifies the structure and process to promote increased efficiency. A number of initiatives have been identified that we believe will lead to a more effective system for responding to requests. These initiatives are discussed in section V.

The Department of State also continues to employ retired senior Foreign Service Officers to review documents requested under FOIA. This cadre of expert reviewers relieves Department personnel who are responsible for the day-to-day functioning of the Department from also having to conduct FOIA reviews. This greatly reduces the amount of time needed to conduct FOIA reviews.

The Department has always been at the forefront in utilizing technology to support the FOIA program. The Department has been using an electronic case tracking system to manage requests since 1982, and moved to a more advanced tracking and processing system in 1998 which allowed electronic review and redaction. At the request of the Chief FOIA Officer, the Department has committed \$700,000 to transition to a newer, more advanced electronic case tracking and processing system. The Department is currently making this transition, and this system is expected to provide greater capability and reduce processing time.

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

The two primary mechanisms for the Department to make proactive disclosures of information are through the website [www.state.gov](http://www.state.gov) (which contains a wealth of information about the Department, including Daily Appointments Schedules for the Secretary and other "latest news" information, as well as links to social media used by the Department, such as Twitter and Facebook), and through the new Open Government webpage at [www.state.gov/open](http://www.state.gov/open) (which contains, among other things, several recently posted datasets of information that are of interest to the public).

The Department has established a permanent, full-time position for a Web Content Manager of the FOIA website in recognition of the importance of proactive disclosures, as well as leveraging technology to reach a worldwide audience.

IV. Steps Taken to Greater Utilize Technology.

1.) Does State currently receive requests electronically?

Yes. The Department of State has an electronic FOIA request generator on its website which can be used to submit requests electronically, with the exception of those for personal information. Approximately 50% of FOIA requests submitted to the Department are submitted electronically.

2.) If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

N/A

3.) Does State track requests electronically?

Yes. A custom built case tracking and processing system called FREEDOMS is utilized to process every aspect of a request, including searching, reviewing, and redacting.

4.) If not, what are the current impediments to your agency utilizing a system to track electronically?

N/A

5.) Does State use technology to process requests?

Yes. A custom built case tracking and processing system called FREEDOMS is utilized to process every aspect of a request, including searching, reviewing, and redacting.

6.) If not, what are the current impediments to State utilizing technology to process requests?

N/A

7.) Does State utilize technology to prepare its Annual FOIA Report?

Yes. The Department programs queries to extract data from its custom built tracking and processing system called FREEDOMS.

8.) If not, what are the current impediments to State utilizing technology in preparing the Annual FOIA Report?

N/A

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

1. Backlog Status

The Department's backlog of requests is not decreasing\*. The backlog at the end of fiscal year 2008 was 4,327 and at the end of fiscal year 2009 was 8,784. The oldest request pending at the end of fiscal year 2008 was from 02/23/2000 and has been completed; the oldest pending case at the end of fiscal year 2009 was from 02/08/2001.

The Department's backlog of administrative appeals is decreasing. The backlog at the end of fiscal year 2008 was 480 and at the end of fiscal year 2009 was 458. All of the ten oldest administrative appeals pending at the end of fiscal year 2008 were completed. The oldest appeal pending in fiscal year 2008 was from 01/19/2001; the oldest appeal pending at the end of fiscal year 2009 was from 09/28/2004.

\* The rise in backlog is due primarily to a marked increase in consultations from other agencies (see 2 below).

2. Backlog Reduction Steps

The rise in backlog of requests is due in large part to an influx of referrals of documents from other agencies for Department review. The Department reported 769 referrals of documents ("consultations") pending at the end of fiscal year 2008, with 1,676 received during the fiscal year. At the end of fiscal year 2009, the Department reported 4,451 pending referrals of documents from other agencies, receiving 6,014 during the fiscal year. The overall number of requests received by the Department rose from 5,909 in 2008 (consisting of 1,676 consultations and 4,233 direct requests to the Department) to 10,717 in 2009 (consisting of 6,014 consultations and 4,703 direct requests to the Department).

As discussed previously, the Department has a centralized FOIA processing system. The central office is committed to continuous process improvement, and modifies the structure and procedures to promote increased efficiency. Measures taken to increase efficiency include the following:

- Activities related to FOIA requests in litigation are time-consuming, labor-intensive and deadline-driven, and have long placed a heavy strain on FOIA resources. To alleviate this, the Department has realigned resources to pilot a separate litigation team, which will enable the core FOIA workforce to focus on processing cases.
- A Rapid Response Team has also been established to handle the most pressing work, allowing FOIA analysts to maintain focus on processing requests. This group will also be responsible for processing the thousands of FOIA referrals sent by other agencies to the Department for coordination.
- The Department has established a task force dedicated to the processing of the 250 oldest FOIA cases.
- A team of contractors has been engaged with extremely rigorous production metrics to supplement a shortfall in our FOIA workforce.
- The Department has completed initial recruitment efforts to hire area students, who will be trained in FOIA casework. This program is in its tenth year and has proven to be an investment in building a corps of FOIA experts. Once on board in late May, the students will work full time over the summer, assisting in the backlog reduction effort.

### 3. Steps to Improve Timeliness

- See #2 above for information about initiatives for processing initial requests.
- The appeals program continues to streamline processes, cross-train employees, develop management reports to facilitate the monitoring of the processing of appeals, initiate negotiations with requesters to clarify scope and ensure responsiveness and to hold frequent Appeals Review Panel sessions (the Appeals Review Panel consists of three former ambassadors who return to the Department for approximately three weeks per session to review, discuss and make final review determinations on appeals).