

**NATIONAL ENDOWMENT FOR THE HUMANITIES  
CHIEF FOIA OFFICER REPORT FOR FY 2009**

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

1. The National Endowment for the Humanities (NEH) has taken several steps to ensure that the presumption of openness is being applied to all decisions at NEH involving the Freedom of Information Act (FOIA). First, NEH has posted both the President's FOIA Memorandum and the Attorney General's FOIA Guidelines on the agency's website so that they are immediately accessible to agency staff. Second, the Deputy Chairman who serves as the agency's Chief FOIA Officer and all Office of the General Counsel (OGC) staff who are responsible for processing FOIA requests and administrative appeals have read and understand the FOIA Memorandum and Guidelines.

Third, NEH has been implementing the presumption of openness in all of its responses to FOIA requests and administrative appeals since the FOIA Guidelines were issued last spring. For each request that has been received and for every record reviewed by the agency, NEH has been asking whether the record can be released, rather than whether the record can be withheld. The agency has also been mindful to withhold records only when it can reasonably foresee that disclosure would harm an interest protected by one of the exemptions or when the disclosure is prohibited by law.

For example, while NEH had previously withheld "low" Exemption 2 information in FY 2008, NEH made discretionary releases of all "low" Exemption 2 information in FY 2009. In addition, when NEH used Exemption 5 to withhold records in FY 2009, the agency segregated and released nonexempt portions where full disclosure was not possible and only withheld information after applying the foreseeable harm standard. Furthermore, apart from Exemption 5, NEH only withheld commercial or financial information under Exemption 4 or personal privacy information under Exemption 6 in FY 2009.

2. In contrast to FY 2008, the number of partial and full disclosures made by NEH has increased considerably. In FY 2009, NEH made thirteen full disclosures and sixteen partial disclosures, while in FY 2008, it only made seven full disclosures and ten partial disclosures.

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

NEH has taken various steps to ensure that it has an effective system for responding to requests. First, since last year, the agency has dedicated at least two members of the OGC staff to work on FOIA requests and administrative appeals for at least 50% of their time. This change over previous years has helped to significantly reduce the response time for FOIA requests and administrative appeals. For example, in NEH's FY 2008 Annual FOIA Report, the agency's average response times for simple and complex requests in the "Response Time for All Processed Perfected Requests" category were 21 and 67 days respectively. In FY 2009, NEH's average response times for simple and complex requests were 15 and 26 days respectively.

Second, the agency is currently working on an update to its FOIA directive to reflect the key changes made by the President's FOIA Memorandum and the Attorney General's FOIA Guidelines. Third, NEH is developing an internal electronic routing slip for FOIA requests which will replace the current system of using inter-office mail to notify agency divisions or offices that they need to provide NEH's FOIA staff with certain agency records.

As NEH is a small agency with approximately 150 employees, NEH's FOIA staff does not work with a broad spectrum of agency personnel. The FOIA staff does, however, regularly work with the agency's IT office, which has consistently provided the FOIA staff with valuable support on a timely basis.

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

NEH has taken affirmative steps to make disclosures to the public by increasing the amount of materials that is available on the agency's website. For example, since last spring, NEH has proactively posted all of the agency's recent annual reports to the President (2004-2008) on the NEH website. These reports provide a list of all the grants that were funded by NEH during the fiscal year, as well as the awarded amounts and purposes for which the grants were awarded.

To enable the public to easily gain access to NEH funded projects, the agency has also uploaded an online searchable database of funded projects dating back to 1980. Through the database, the public can search for grants in a variety of ways including by keyword search, project field, or program name. Additional databases have been uploaded onto the agency's Open Government Web page. Consistent with the requirements of the Open Government Directive issued by OMB, NEH has created five high-value datasets that contain information about institutional grants made by NEH since 1970 in XML format.

Furthermore, NEH has created individual web pages for each of the agency's divisions and offices that administer the agency's grant programs, and has recently posted information about past humanities conferences that were jointly sponsored by NEH and its international partners. The materials now available to the public include conference agenda, biographies of the attendees, and transcripts of remarks.

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

#### **1. Does your agency currently receive requests electronically.**

NEH has a system in place to receive requests electronically. In FY 2008, 8 out of 22 FOIA requests were received electronically, and in FY 2009, 29 out of 45 FOIA requests were received electronically.

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

Not applicable.

**3. Does your agency track requests electronically?**

NEH does not currently track requests electronically.

**4. If not, what are the current impediments to your agency establishing a system to track requests electronically.**

NEH is a small agency and receives a limited number of FOIA requests each year. Accordingly, NEH has determined that it is unnecessary and would not be cost-effective for the agency to employ an electronic tracking system.

**5. Does your agency use technology to process requests.**

NEH does not currently use technology to process requests.

**6. If not, what are the current impediments to your agency utilizing technology to process requests.**

NEH is a small agency and receives a limited number of FOIA requests each year. Accordingly, NEH has determined that it is unnecessary and would not be cost-effective for the agency to utilize technology to process requests.

**7. Does you agency utilize technology to prepare your agency Annual FOIA Report.**

NEH does not currently use technology to prepare the agency's Annual FOIA Report.

**8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report.**

NEH is a small agency and receives a limited number of FOIA requests each year. Accordingly, NEH has determined that it is unnecessary and would not be cost-effective for the agency to utilize technology to prepare the agency's Annual FOIA Report.

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

1. In NEH's FY 2008 Annual FOIA Report, the agency reported a backlog of two FOIA requests that were pending at the end of the fiscal year, while in FY 2009, the agency reported a backlog of three FOIA requests that were pending at the end of that fiscal year. In the FY 2008 report, one backlogged request was 28 days old and the other dating from July 1, 2005 was 750 days old. In the FY 2009 report, two backlogged requests were no more than 25 days old and the third dating from July 1, 2005 was 1052 days old. NEH had no backlogged administrative appeals in FY 2008 or 2009. At this time, NEH has responded to all three of the FY 2009 backlogged requests.

2. Since the number of backlogged FOIA requests increased only by one over the previous year and since NEH generally has had a significant decrease in the number of

backlogged requests since 2006, the agency does not plan to take any steps at this time to reduce the number of backlogged requests.

3. In FY 2009, NEH significantly improved its response times for FOIA requests and administrative appeals even though it received more than twice the number of requests in FY 2009 compared to the previous year. In FY 2009, NEH reported the median number of days for responding to all processed perfected requests was 14 for simple requests and 20 for complex requests, while in 2008, the median numbers for simple and complex requests were 19 and 28 days respectively. In addition, NEH reported that the median number of days for responding to administrative appeals was 24 days in FY 2009, while in FY 2008, the median number was 28.5. NEH has already taken steps to improve its response times by increasing the amount of time spent by OGC staff to work on FOIA requests and administrative appeals. NEH will also work to improve timeliness by implementing internal electronic routing slips as described in section II. above.