



United States Department of Justice *Office of Information Policy*

Guidelines for 2011 Chief FOIA Officer Reports to the Department of Justice Pursuant to Attorney General Holder's FOIA Guidelines

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President Obama's FOIA Memorandum

President Obama demonstrated his commitment to the ideals of transparency and openness by issuing a Memorandum calling on agencies to “renew their commitment to the principles embodied in FOIA.”



President Obama's FOIA Memorandum

The President directed all agencies to administer the FOIA with:

- **a clear presumption in favor of disclosure,**
- **to resolve doubts in favor of openness, and**
- **to not withhold information based on “speculative or abstract fears.”**

President Obama's FOIA Memorandum

The President called on agencies to:

- **ensure that requests are responded to in “a spirit of cooperation,”**
- **that disclosures are made timely, and**
- **that modern technology is used to make information available to the public even before a request is made.**

Attorney General Holder's FOIA Guidelines

Attorney General Holder issued new FOIA guidelines which called on all agencies to reaffirm the government's "commitment to accountability and transparency."

The Attorney General strongly encouraged agencies to make discretionary disclosures of information.



Attorney General Holder's FOIA Guidelines

The Attorney General called on agencies:

- **not to withhold information simply because they may do so legally and,**
- **to consider making partial disclosures when full disclosures are not possible.**

Attorney General Holder's FOIA Guidelines

The Attorney General stressed the importance of agencies ensuring that they:

- **have in place an effective system for responding to requests,**
- **make proactive disclosures of records,**
- **use technology, and**
- **respond to requests promptly.**

Agency Accountability

The Attorney General has highlighted the key role played by agency's Chief FOIA Officer.

Improving FOIA performance requires their active participation.

Annual Chief FOIA Officer Reports

The Attorney General directed agency Chief FOIA Officers to review “all aspects of their agencies’ FOIA administration” and to report each year to the Department of Justice on the steps taken “to improve FOIA operations and facilitate information disclosure.”

Annual Chief FOIA Officer Reports

The First Chief FOIA Officer Reports were submitted in March 2010.

Agencies reported on a wide variety of initiatives, big and small, that had been undertaken across the government to improve transparency.

Annual Chief FOIA Officer Reports

Office of Information Policy (OIP):

- prepared summary of those Chief FOIA Officer Reports and,
- issued guidance to agencies on steps they could take to achieve even greater transparency in the year ahead.

Content and Timing of 2011 Chief FOIA Officer Reports

OIP is responsible for providing guidance to agencies on the timing and content of agency Chief FOIA Officer Reports to the Attorney General.

Content and Timing of 2011 Chief FOIA Officer Reports

For 2011, while the overall topics remain the same, there are now additional, more targeted elements that should be addressed.

Format of 2011 Chief FOIA Officer Reports

As was done in 2010, agencies should address five key areas:

- 1) the steps taken to apply the presumption of openness;
- 2) the steps taken to ensure that the agency has an efficient and effective system in place for responding to requests;

Format of 2011 Chief FOIA Officer Reports

- 3) the steps taken to increase proactive disclosures;
- 4) the steps taken to improve use of technology; and
- 5) the steps taken to reduce any backlogs of pending FOIA requests.

Decentralized Agencies

For decentralized agencies the report should be organized by the five key areas and include within each key area the data for the various components.

Content of Chief FOIA Officer Reports

I. Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.

Content of Chief FOIA Officer Reports

1. Describe steps taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.

Content of Chief FOIA Officer Reports

Answer the questions listed below and include any other pertinent information:

- a. How have the President's FOIA Memorandum and the Attorney General's FOIA Guidelines been publicized throughout the agency?
- b. What training has been attended and/or conducted on the new FOIA Guidelines?
- c. How has your agency created or modified your internal guidance to reflect the presumption of openness?

Content of Chief FOIA Officer Reports

- d. To what extent has your agency made discretionary releases of otherwise exempt information?
- e. What exemptions would have covered the information that was released as a matter of discretion?
- f. How does your agency review records to determine whether discretionary releases are possible?
- g. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.

Content of Chief FOIA Officer Report

2. Report the extent to which the numbers of requests where records have been released in full and the number of requests where records have been released in part has changed from those numbers as reported in your previous year's Annual FOIA Report.

Content of Chief FOIA Officer Reports

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

As the Attorney General emphasized in his FOIA Guidelines, "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests."

Content of Chief FOIA Officer Reports

Describe steps taken to ensure that your agency system for responding to requests is effective and efficient.

Content of Chief FOIA Officer Reports

Answer the questions below and then include any additional pertinent information:

- Do FOIA professionals within your agency have sufficient IT support?
- Describe the steps you have undertaken to ensure that your FOIA system operates efficiently and effectively.

Content of Chief FOIA Officer Reports

III. Steps Taken To Increase Proactive Disclosures

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

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Describe steps taken to increase the amount of material that is available on agency website, including providing examples.

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Answer the questions listed below:

- Has your agency added new material to your agency website since last year?
- What types of records have been posted?
- What system do you have in place to routinely identify records that are appropriate for posting?

Content of Chief FOIA Officer Reports

- How do you utilize social media in disseminating information?
- Describe any other steps taken to increase proactive disclosures at your agency.

Content of Chief FOIA Officer Reports

IV. Steps Taken To Greater Utilize Technology

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government."

Content of Chief FOIA Officer Reports

Answer the following targeted questions:

1.) Electronic receipt of FOIA requests:

- a. What proportion of the components within your agency which receive FOIA requests have the capability to receive such requests electronically?
- b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?
- c. What methods does your agency use to receive requests electronically?

Content of Chief FOIA Officer Reports

- 2.) Electronic tracking of FOIA requests:
 - a. What proportion of components within your agency which receive FOIA requests have the capability to track such requests electronically?
 - b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?
 - c. What methods does your agency use to track requests electronically?

Content of Chief FOIA Officer Reports

- 3.) Electronic processing of FOIA requests:
 - a. What proportion of components within your agency which receive FOIA requests have the capability to process such requests electronically?
 - b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?
 - c. What methods does your agency use to process requests electronically?

Content of Chief FOIA Officer Reports

- 4.) Electronic preparation of your Annual FOIA Report:
 - a. What type of technology does your agency use to prepare your agency Annual FOIA Report, i.e., specify whether the technology is FOIA-specific or a generic data-processing system.
 - b. If you are not satisfied with your existing system to prepare your Annual FOIA Report, describe the steps you have taken to increase your use of technology for next year.

Content of Chief FOIA Officer Reports

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

Improvements to timeliness in responding to pending FOIA requests and reductions in backlogs are both ongoing agency efforts. The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests.

Content of Chief FOIA Officer Reports

Refer to Section XII of your Annual FOIA Report for figures on backlog.

Address the following elements:

1. If you have a backlog, report here whether your backlog is decreasing.

Content of Chief FOIA Officer Reports

That reduction should be measured in two ways –

- a) numbers of cases, i.e., whether the number of backlogged requests and backlogged administrative appeals that remain pending at the end of the fiscal year decreased or increased, and by how many, when compared with last fiscal year.

Content of Chief FOIA Officer Reports

b) age of the oldest cases, i.e., whether you closed in Fiscal Year 2010 the ten oldest of those pending requests and appeals from Fiscal Year 2009, and if not, report how many of them did you close.

Content of Chief FOIA Officer Reports

2. If there has not been a reduction in the backlog as measured by either of these metrics, describe why that has occurred.

Content of Chief FOIA Officer Reports

Answer the following questions and then include any other additional explanation:

- a. Is the backlog increase a result of an increase in the number of incoming requests or appeals?
- b. Is the backlog increase caused by a loss of staff?

Content of Chief FOIA Officer Reports

- c. Is the backlog increase caused by an increase in the complexity of the requests received?
- d. What other causes, if any, contributed to the increase in backlog?

Content of Chief FOIA Officer Reports

3. Describe steps being taken to reduce any backlogs and to improve timeliness in responding to requests and administrative appeals.

Content of Chief FOIA Officer Reports

Answer the following questions and then also include any other steps being taken to improve timeliness.

- a. Does your agency routinely set goals and monitor the progress of your FOIA caseload?
- b. Has your agency increased its FOIA staffing?

Content of Chief FOIA Officer Reports

- c. Has your agency made IT improvements to increase timeliness?
- d. Has your agency Chief FOIA Officer been involved in overseeing your agency's capacity to process requests?

Spotlight on Success

Describe a success story that you would like to highlight as emblematic of your efforts.

Timing for Submission of Chief FOIA Officer Reports

- Submit a draft of your Chief FOIA Officer Report to OIP for review no later than February 1, 2011.
- The drafts should be submitted by e-mail to DOJ.OIP.FOIA@usdoj.gov

Timing for Submission of Chief FOIA Officer Reports

- Each agency Chief FOIA Officer must then submit a finalized Chief FOIA Officer Report to the Department of Justice by March 8, 2011, to the e-mail address noted above.
- Each agency must also post its Chief FOIA Officer Report on its website by March 8, 2011.