



**National Science Foundation
4201 Wilson Boulevard
Arlington, Virginia 22230**

OGC 11-002

Chief FOIA Officer Report for 2010

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.

1. Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

a. Describe how the President's FOIA Memorandum and the Attorney General's FOIA Guidelines have been publicized throughout your agency.

The National Science Foundation (NSF) FOIA Officer provides New Employee Training to all new NSF employees. This training includes information on the FOIA and covers the President's FOIA Memorandum and the Attorney General's FOIA Guidelines.

b. What training has been attended and/or conducted on the new FOIA Guidelines?

During this reporting period, the NSF's FOIA staff has attended all Department of Justice (DOJ) and Office of Government Information (OGIS) training. NSF's FOIA Officer/FOIA Liaison attended OGIS-provided Dispute Resolution Training. NSF's FOIA Officer/FOIA Liaison attends all American Society of Access Professional (ASAP) offered training.

NSF's FOIA Officer provides New Employee Training to all new NSF employees. NSF's FOIA Officer also provides periodic group and individual training to NSF staff that is tailored to the specific types of records handled by the office. This training includes information on the FOIA, transparency, and the administrations goals.

c. How has your agency created or modified your internal guidance to reflect the presumption of openness?

The NSF has a longstanding policy of making the fullest possible disclosure of information and records to any requester, without unnecessary expenses or delay. All records which may contain withholdable information are reviewed by the NSF FOIA Officer. The NSF General Counsel makes the determination on all administrative appeals. These reviews assure that the presumption of openness is routinely and consistently applied to the review of NSF records under the FOIA.

d. To what extent has your agency made discretionary releases of otherwise exempt information?

The majority of Foundation requests are for copies of funded grant proposals. Most funded grant proposals would be released in full, but for

the fact that every proposal contains some personal information that is protected under FOIA Exemption 6. In addition, responses to requests for Office of Inspector General investigative records routinely involve protection of personal privacy. Primarily for these reasons, NSF reports a significant number of withholdings under Exemption 6 protecting personal privacy – 315 of the 465 requests processed in 2010. An agency may not waive Exemption 6. Therefore, the "pool" of responsive documents from which the Foundation might make discretionary disclosures as a percentage of total agency requests is relatively small.

As noted in Department of Justice Guidance on implementation of the President's FOIA Memorandum and the Attorney General's FOIA Guidelines, records protected by Exemption 5 hold the greatest potential for increased discretionary release. The Foundation has carefully applied the exemption and discretionary release guidance as evidenced by the fact that, while the number of requests processed in 2010 increased by 83 (38%), rising from 382 in 2009 to 465 in 2010, the application of Exemption 5 in NSF determinations remained essentially steady at only 6% of requests processed in 2010.

e. **What exemptions would have covered the information that was released as a matter of discretion?**

Exemption 5.

f. **How does your agency review records to determine whether discretionary releases are possible?**

Records which may contain withholdable information are reviewed by the NSF FOIA Officer. The NSF General Counsel makes the determination on all administrative appeals. These centralized reviews assure that the presumption of openness is routinely and consistently applied to the review of NSF records under the FOIA. Records are examined for information that will not cause harm to any of the parties, considering, for example, the age of the records, to help determine whether waiving an applicable Exemption is appropriate. The Chief FOIA Officer is frequently consulted in making a final determination on discretionary disclosures. See subsection "d." above.

g. **Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.**

NSF has a comprehensive agency-wide open government and transparency initiative described at <http://www.nsf.gov/open/>.

The NSF Open Government Directive Plan is available at http://www.nsf.gov/publications/pub_summ.jsp?ods_key=opengov. NSF-wide transparency initiatives through Research.gov are described at http://www.nsf.gov/news/news_summ.jsp?cntn_id=112544.

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

In 2009, NSF received 395 requests and processed 382 requests. For 87 requests, records were released in full, and for 217 requests, records were released in part.

In 2010, NSF received 500 requests (an increase of 105 or nearly 27% over 2009), and processed 465 requests (an increase of 83 or nearly 22% over 2009). For 62 requests, records were released in full, and for 317 requests, records were released in part.

The majority of Foundation requests are for copies of funded grant proposals. Most funded grant proposals would be released in full, but for the fact that every proposal contains some personal information that is protected under FOIA Exemption 6. In addition, responses to requests for Office of Inspector General investigative records routinely involve protection of personal privacy. For these reasons, the number of requests where records have been released in full is limited, while the number of requests where records have been released in part is correspondingly higher. As a result, the data is skewed away from "full" release and toward partial releases of records.

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, "application 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."

Describe here the steps your agency has taken to ensure that your system for responding to requests is effective and efficient. This section should include a discussion of how your agency has addressed the key roles played by the broad spectrum of agency personnel who work with FOIA professionals in responding to requests, including, in particular, steps taken to ensure that FOIA professionals have sufficient IT support. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

a. Do FOIA professionals within your agency have sufficient IT ?

Yes, NSF's Information Technology support is exceptional. NSF IT staff provides immediate and accurate assistance to all FOIA staff requests for FOIA Sharepoint database assistance.

b. Describe how your agency's FOIA professionals interact with your Open Government Team.

The Chief FOIA Officer and the FOIA Officer are members of and participate as a part of NSF's Open Government working group.

c. Describe the steps your agency has taken to assess whether adequate staffing is being devoted to responding to FOIA requests.

During 2009/2010 NSF added FOIA assistant duties to the OGC Executive Secretary position. This staff member works side by side with the NSF FOIA Team (Chief FOIA Officer and FOIA Officer/FOIA Liaison) and assists the FOIA Officer with the day-to-day implementation of the agency-wide FOIA process, including logging, tracking and all submitter notification letters. The FOIA assistant attends DOJ training, seminars and ASAP conferences.

In 2010, the NSF FOIA Officer/Privacy Act Officer position was raised to a GS-14 level in recognition of the increased duties of the position.

d. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively.

The FOIA Officer and IT staff continually review the NSF Sharepoint Database to increase the efficiency of the database and to implement any new DOJ requirements.

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.

Describe here the steps your agency has taken to increase the amount of material that is available on your agency website, including providing examples of proactive disclosures that have been made since issuance of the new FOIA Guidelines. In doing so, answer the questions listed below and describe any additional steps taken by your agency to make proactive disclosures of information.

- a. **Has your agency added new material to your agency website since last year?**

Yes.

- b. **What types of records have been posted?**

All NSF Annual FOIA reports (1998 forward) have been reformatted and posted to NSF's FOIA web site and NSF's OPENgov web site. NSF's Public Information Handbook was revised and re-posted during 2010. Information on OGIS and links to OGIS have been included on the NSF FOIA web site.

- c. **Give examples of the types of records your agency now posts that used to be available only by making a FOIA request for them.**

Additional posted records -- NSF data sources, tools, records and reports, news and updates, and links to other sources -- are available at <http://www.nsf.gov/open/>.

- d. **What system do you have in place to routinely identify records that are appropriate for posting?**

NSF's Open Government Working Group is routinely seeking to identify additional records that can be posted to the NSF Open Government web site. See the NSF Open government report: http://www.nsf.gov/publications/pub_summ.jsp?ods_key=opengov.

- e. **How do you utilize social media in disseminating information?**

NSF has an active presence in the Social Media world such as blogs (e.g., Blogger, LiveJournal), wikis (e.g., Wikipedia), social networks (e.g., LinkedIn, Facebook), file sharing sites (e.g., Flickr, YouTube), microblogging tools (e.g., Twitter), social bookmarking and news sites (e.g., Digg, StumbleUpon), and virtual worlds (e.g., Second Life). NSF's Social Media policy encourages employees to use social media tools to enhance communication, collaboration, and information sharing in support of NSF's mission.

- f. **Describe any other steps taken to increase proactive disclosures at your agency.**

NSF continues to post frequently requested records on its FOIA web site.

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." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests. In 2010 agencies reported widespread use of technology in handling FOIA requests. For this section of your Chief FOIA Officer Report for 2011, please answer the following more 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?

All NSF FOIA components (2) are capable of and receive over 90% of their FOIA 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?**

N/A

- c. **What methods does your agency use to receive requests electronically?**

NSF utilizes a NSF FOIA.gov and OIG FOIA.gov alias to receive electronic FOIA requests. In addition, NSF's FOIA Officer/FOIA Public Liaison receives requests directly through her public email address.

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?**

All NSF components (2) track FOIA 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?**

No change from prior year's report.

- c. **What methods does your agency use to track requests electronically?**

Electronic database.

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?**

All components (2) process FOIA 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?**

No change.

- c. **What methods does your agency use to process requests electronically?**

Electronic redaction tool.

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.**

NSF's FOIA report is generated through the Sharepoint database.

- 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.**

N/A

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. Section XII of your Annual FOIA Report includes figures that show your agency's backlog of pending requests and administrative appeals for the past two fiscal years. You should refer to those numbers when completing this section of your Chief FOIA Officer Report. In this section you should address the following elements.

- 1. If your agency has a backlog, report here whether that backlog is decreasing. That reduction should be measured in two ways. First, report 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. Second, report whether your agency 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 your agency did close.**

NSF has no Appeals backlog.

NSF has its first major backlog this past reporting period of 2010, increasing from none for 2009 to 24 for 2010. This backlog was incurred do to a major increase in the number of requests received, including 59 from a single requester; a significant increase in the number of funded grant proposals requested, which require more extensive processing; and numerous requests which required the processing of a large volume of responsive documents.

In 2010, NSF received 500 requests, an increase of 105 or nearly 27% over 2009. Largely through the diligent efforts of the NSF FOIA Officer, NSF processed 465 requests in 2010, an increase of 83 or nearly 22% over 2009.

The majority of NSF FOIA requests are for copies of funded grant proposals. Each request for a copy of a funded grant requires a submitter notification as part of processing -- adding time, increased effort, and complexity to the processing of these requests. This year, 2010, NSF processed for release 815 proposals, an increase of over 100 proposals from the previous year. This is a dramatic increase of FOIA processing for a small agency.

In addition, numerous FOIA requests during the 2010 reporting period resulted in responses that required processing of over 2,000 pages of responsive records. This added to the processing burden during 2010.

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

Yes. In 2010, NSF received 500 requests, an increase of 105 or nearly 27% over 2009. NSF processed 465 requests in 2010, an increase of 83 or nearly 22% over 2009.

- b. Is the backlog increase caused by a loss of staff?**

No.

- c. Is the backlog increase caused by an increase in the complexity of the requests received?**

Yes. Previous FOIA requests were typically for copies of from one to three NSF funded grant proposals. Many requesters now ask for ten or more

proposals, each of which requires a submitter notification as part of processing. A request for ten proposals is nearly as much work as ten requests for one proposal. In addition, there has been a large increase of requests asking for "any and all records." Numerous requests during the reporting period entailed responses that included review of over 2,000 pages of responsive records.

d. **What other causes, if any, contributed to the increase in backlog?**

NSF's backlog consists of one request which is pending consultation with a number of other agencies, and of 23 other requests, all from a single frequent requester. This single requester filed 59 requests in 2010. This high number from a single requester – 56% of the increase of 105 requests during 2010 -- has skewed NSF's backlog figure. NSF processed 465 requests in 2010, an increase of 83 or nearly 22% over 2009

3. **Describe the steps your agency is taking to reduce any backlogs and to improve timeliness in responding to requests and administrative appeals. In doing so 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?**

Yes.

b. **Has your agency increased its FOIA staffing?**

Yes. See section II.c. above.

c. **Has your agency made IT improvements to increase timeliness?**

Yes. The NSF Sharepoint Database is continually reviewed by the FOIA Officer and IT staff to increase the efficiency of the database and to implement any new DOJ requirements.

d. **Has your agency Chief FOIA Officer been involved in overseeing your agency's capacity to process requests?**

Yes, NSF's Chief FOIA Officer routinely advises and supports all FOIA personnel to accomplish all tasks associated with Foundation-wide FOIA processing.

V. **Spotlight on Success**

Out of all the activities undertaken by your agency in this last year to increase transparency, describe here one success story that you would like to highlight as emblematic of your efforts.

During the past Fiscal Year, NSF management took steps to both acknowledge the importance of the agency's FOIA program, and to add resources to the agency's FOIA program. NSF management raised the NSF FOIA Officer/Privacy Act Officer position to a GS-14 level to reflect the increased duties of the position, to increase the FOIA Officer's status and visibility, and to reflect the increased Foundation-wide responsibilities of the position.

NSF also added FOIA assistant duties to the OGC Executive Secretary position. This staff member works side by side with the NSF FOIA Team (Chief FOIA Officer and FOIA Officer/FOIA Liaison), and assists the FOIA Officer with the day-to-day implementation of the agency-wide FOIA process, including logging, tracking and all submitter notification letters. The FOIA assistant attends DOJ training, seminars and ASAP conferences.

In a time of tight budgets, this increase in FOIA resources demonstrates NSF's commitment to a strong FOIA program.