

# **DNFSB Chief FOIA Officer Report**

## **Reporting Period March 2011-March 2012**

*Name and Title of Agency Chief FOIA Officer: Brian Grosner, General Manager*

### **Section 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.

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.

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?

*Answer: No.*

2. Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice?

*Answer: No.*

In his 2009 FOIA Guidelines, the Attorney General strongly encouraged agencies to make discretionary releases of information even when the information might be technically exempt from disclosure under the FOIA. OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

3. Did your agency make any discretionary releases of otherwise exempt information?

*Answer: Yes, the Board made a partial release of otherwise exempt information.*

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

*Answer: Exemption 5.*

5. Describe your agency's process to review records to determine whether discretionary releases are possible.

*Answer: Each FOIA request is reviewed on a case-by-case basis. If no foreseeable harm exists in releasing the record(s), discretionary releases may be granted.*

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

*Answer: The public is now able to send FOIA requests directly to the FOIA Information Officer from the [Board's Public Website](#) FOIA Reading Room page.*

In Section V.B.(1) of your agency's Annual FOIA Report, entitled "Disposition of FOIA Requests – All Processed Requests" the first two columns list the "Number of Full Grants" and the "Number of Partial Grants/Partial Denials." Compare your agency's 2011 Annual FOIA Report with last year's Annual FOIA Report, and answer the following questions:

7. Did your agency have an increase in the number of responses where records were released in full?

*Answer: Yes. In 2010, nineteen FOIA requests were received and processed; four were full grants. In 2011, twenty-two FOIA requests were received and processed; nine were full grants.*

8. Did your agency have an increase in the number of responses where records were released in part?

*Answer: No. In 2010, four partial grants were issued to requestors. In 2011, three partial grants were issued.*

## **Section 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."

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.

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

1. Do FOIA professionals within your agency have sufficient IT support?

*Answer: Yes.*

2. Is there regular interaction between agency FOIA professionals and the Chief FOIA Officer?

*Answer: Yes, the Board's Chief FOIA Officer routinely tracks all current legislation and regulations regarding the Freedom of Information Act, and hosts informal meetings with the Board's FOIA professionals.*

3. Do your FOIA professionals work with your agency's Open Government Team?

*Answer: The Chief Information Officer directs the Information Technology group on what will be posted on the Board's Open Government links. A FOIA staff member works with IT for posting new FOIA materials. Recently, the annual FOIA report was posted on the [Board's Public Website](#) FOIA Reading Room page.*

4. Describe the steps your agency has taken to assess whether adequate staffing is being devoted to FOIA administration.

*Answer: In 2010, the Board's median response time to FOIA requests was five days. In 2011, the Board's median response time was fourteen days. The increase in number of days to process requests was due to a complex request that had to be cleared through another agency's security process before release to the requestor. Since the Board receives a small number of FOIA requests (nineteen in 2010; twenty-two in 2011), there has not been a reason to hire additional staff.*

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

*Answer: No other steps have been taken at this time.*

### **Section 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 both to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures that have been made during this past reporting period (i.e., from March 2011 to March 2012). In doing so, answer the questions listed below and describe any additional steps taken by your agency to make and improve proactive disclosures of information.

1. Has your agency added new material to your website since last year?

*Answer: In 2011, the Board's public website (located at <http://www.dnfsb.gov>) was completely redesigned. Highlights of the new website include:*

- *The content was developed with the public as the primary audience*
- *New sections such as "Who We Are," "What We Do," and "Where We Work" provide increased visibility into the Board's mission and supporting activities*
- *New features such as "Announcements" and "Recent Board Activity" make it easier to quickly find Board and DOE documents and correspondence*
- *Vastly improved search engine make it easier to search for information*
- *Cloud-based to increase reliability and security*

2. Provide examples of the records, datasets, videos, etc., that have been posted this past year.

*Answer: In 2011, the public is now able to send FOIA requests directly to the FOIA Information Officer from the [Board's Public Website](#) FOIA Reading Room page. Information requests such as press inquiries, technical questions, organizational and contact inquiries, etc. may also be requested online.*

*Video streaming of current Board public meetings continue to be provided to the public on the website. The videos are available for ninety days following the meetings.*

3. Describe the system your agency uses to routinely identify records that are appropriate for posting.

*Answer: A library management specialist identifies and directs the IT team to place records on the Board's FOIA website page.*

4. Beyond posting new material, is your agency taking steps to make the information more useful to the public, especially to the community of individuals who regularly access your agency's website, such as soliciting feedback on the content and presentation of the posted material, improving search capabilities, providing explanatory material, etc.?

*Answer: The Board's redesigned public website was built using a standards-based content management system which allowed for significant improvements of the graphical design and site layout. The search engine was vastly improved, and the public can now electronically send information requests to the FOIA Information Officer from the [Board's Public Website](#) FOIA Reading Room page.*

5. Describe any other steps taken to increase proactive disclosures at your agency.

*Answer: None.*

## **Section 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 and 2011, agencies reported widespread use of technology in handling FOIA requests. For 2012, the questions have been further refined and now also address different, more innovative aspects of technology use.

*Electronic receipt of FOIA requests:*

1. Can FOIA requests be made electronically to your agency?

*Answer: Yes.*

2. If your agency processes requests on a decentralized basis, do all components of your agency receive requests electronically?

*Answer: No.*

*Online tracking of FOIA requests:*

3. Can a FOIA requester track the status of his/her request electronically?

*Answer: No.*

4. If not, is your agency taking steps to establish this capability?

*Answer: No.*

*Use of technology to facilitate processing of requests:*

5. 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?

*Answer: No.*

6. If so, describe the technological improvements being made.

*Answer: None.*

## **Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reduce Backlogs**

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests and appeals. *For the figures required in this Section, please use those contained in the specified sections of your agency's 2011 Annual FOIA Report.*

Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested. If your agency does not utilize a separate track for processing simple requests, answer the question below using the figure provided in your report for your non-expedited requests.

1. Does your agency utilize a separate track for simple requests?

*Answer: Yes. As each request is reviewed by a FOIA professional, the requestor is sent a response for simple requests, usually within five working days.*

2. 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?

*Answer: Yes.*

3. 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?

*Answer: Yes.*

Sections XII.D.(2) and XII.E.(2) of your agency's Annual FOIA Report, entitled "Comparison of Numbers of Requests/Appeals from Previous and Current Annual Report – Backlogged Requests/Appeals," show the numbers of any backlog of pending requests or pending appeals from Fiscal Year 2011 as compared to Fiscal Year 2010. You should refer to those numbers when completing this section of your Chief FOIA Officer Report. In addition, Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," and Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," from both Fiscal Year 2010 and Fiscal Year 2011 should be used for this section.

4. 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?

*Answer: The Board has never had a backlog of requests.*

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

*Answer: The Board has never had a backlog of appeals.*

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

*Answer: NOT APPLICABLE*

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

*Answer: NOT APPLICABLE*

8. 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:

9. a. Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests?

*Answer: NOT APPLICABLE*

- b. Was the lack of a reduction in the request backlog caused by a loss of staff?

*Answer: NOT APPLICABLE*

- c. Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?

*Answer: NOT APPLICABLE*

- d. What other causes, if any, contributed to the lack of a decrease in the request backlog?

*Answer: NOT APPLICABLE*

#### Administrative Appeal Backlog:

- a. Was the lack of a reduction in the backlog of administrative appeals a result of an increase in the number of incoming appeals?

*Answer: NOT APPLICABLE*

- b. Was the lack of a reduction in the appeal backlog caused by a loss of staff?

*Answer: NOT APPLICABLE*

- c. Was the lack of a reduction in the appeal backlog caused by an increase in the complexity of the appeals received?

*Answer: NOT APPLICABLE*

- d. What other causes, if any, contributed to the lack of a decrease in the appeal backlog?

*Answer: NOT APPLICABLE*

All agencies should strive to both reduce any existing backlogs or requests and appeals and to improve their timeliness in responding to requests and appeals. Describe the steps your agency is taking to make improvements in those areas. In doing so, answer the following questions and then also include any other steps being taken to reduce backlogs and to improve timeliness.

- a. Does your agency routinely set goals and monitor the progress of your FOIA caseload?

*Answer: Yes. Each request is monitored by a FOIA professional for a timely response.*

- b. Has your agency increased its FOIA staffing?

*Answer: No.*

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

*Answer: Yes.*

- 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?

*Answer: There have only been two consultations received from other agencies in the past five years.*

## **Use of FOIA's Law Enforcement "Exclusions"**

In order to increase transparency regarding the use of the FOIA's statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to "treat the records as not subject to the requirements of [the FOIA]," 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

1. Did your agency invoke a statutory exclusion during Fiscal Year 2011?

*Answer: No*

2. If so, what is the total number of times exclusions were invoked?

*Answer: NOT APPLICABLE*

## **Spotlight on Success**

Out of all the activities undertaken by your agency since March 2011 to increase transparency and improve FOIA administration, describe here one success story that you would like to highlight as emblematic of your agency's efforts.

*In 2011, the Board's public website (located at <http://www.dnfsb.gov>) was completely redesigned. The site's layout and content make the information easier to access by the public. Additionally, the public is now able to send FOIA requests directly to the FOIA Information Officer from the [Board's Public Website](#) FOIA Reading Room page. Information requests such as press inquiries, technical questions, organizational and contact inquiries, etc. may also be requested online. Video streaming capabilities of current Board public meetings continue to be provided to the public.*