



**U.S. SECURITIES AND EXCHANGE  
COMMISSION**

**FREEDOM OF INFORMATION ACT  
PROGRAM ACTION PLAN**

*Pursuant to*  
**Executive Order 13392 “Improving Agency  
Disclosure of Information”**

**As submitted to:  
Department of Justice  
and  
Office of Management and Budget**

**June 14, 2006  
As Revised on:  
October 13, 2006  
February 1, 2008**

U.S. Securities and Exchange Commission

FREEDOM OF INFORMATION ACT PROGRAM  
ACTION PLAN


*Pursuant to*

**Executive Order 13392 “Improving Agency Disclosure of Information”  
As Revised on February 1, 2008**

*Pursuant to Section 3 of Executive Order 13392, the Securities and Exchange Commission (SEC) submits this revision to the plan of action to improve FOIA Program operations. The appointment of the Commission’s Chief FOIA Officer has been revised. As the Director for Investor Education and Advocacy for the Commission, I will serve as the Chief FOIA Officer. This designation is effective as of October 1, 2007.*

Signed:   
Kristin Kaeppler

*Director for Investor Education and Advocacy*

Date:   
February 1, 2008

**U.S. Securities and Exchange Commission**

**FREEDOM OF INFORMATION ACT PROGRAM**

**ACTION PLAN**

*Pursuant to*

**Executive Order 13392 "Improving Agency Disclosure of Information"**

*As Revised on October 13, 2006*

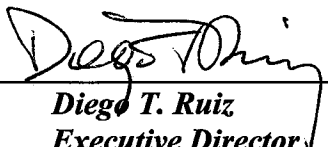
*Pursuant to Section 3 of Executive Order 13392, the Securities and Exchange Commission (SEC) submits this revised plan of action to improve its FOIA Program operations. The preliminary appointment of the Commission's Chief FOIA Officer has been revised. As the Executive Director for the Commission, I will serve as the Chief FOIA Officer. I have reviewed the FOIA Operations of the Commission and have directed modifications to the June 14, 2006 report, which are included herein.*

*On December 14, 2005, President Bush issued Executive Order 13392, entitled "Improving Agency Disclosure of Information." The purpose of the Executive Order is to require federal agencies to review and improve their FOIA operations and the processing of FOIA requests. When fully implemented, the requirements of the Executive Order will improve the transparency, responsiveness and efficiency of the government. For the Commission, the improvements to the FOIA Program will result in citizens and individual investors who are more informed about the operations and activities of the securities oversight work of the government.*

*The Executive Order imposes certain review, planning and reporting requirements on federal agencies to achieve these objectives. The Chief FOIA Officer is required to conduct a review of the current FOIA operations to determine if those operations are consistent with the policies and goals of the Executive Order. Agencies are also required to develop an agency-specific plan to ensure the administration of the FOIA program is in accordance with applicable law and the policies and goals set forth in section 1 of the Executive Order.*

*Upon review of the Commission's FOIA program, I find that staff are striving for quality customer service in dealing with requests and the public at large; continuous improvement to FOIA operations; processing requests completely, efficiently and effectively; and placement of information in the public domain to the extent feasible through the SEC website so that information can be made available to the public through means other than the FOIA process. Further, the FOIA Office is committed to a proactive approach to information disclosure; the use of technology to track, measure and expedite processing; and the use of creative and unique measures to reduce backlog and provide timely responses.*

*The Commission's revised plan to improve its FOIA Program is as follows, in accordance with the template provided by the Department of Justice.*

Signed:  Date: 10/13/06  
Diego T. Ruiz  
Executive Director

## **A. Overall nature of Commission FOIA operations.**

The Securities and Exchange Commission (SEC) Freedom of Information Act (FOIA) program provides centralized FOIA processing and customer service center access from Commission Headquarters in Washington, DC. The SEC FOIA/Privacy Act Operations Branch (FOIA Office) is located within the Office of Filings and Information Services in the Office of the Executive Director. The Executive Director of the Commission is designated as the Chief FOIA Officer. The FOIA Office receives and responds to all FOIA requests and requests for confidential treatment; provides FOIA policy, procedure, and training to all Commission staff; receives and responds to referrals and questions from Members of Congress, other Federal agencies and state and local governments; maintains an electronic FOIA document management system for the Commission; and implements guidance issued by the Department of Justice and the Office of Management and Budget.

The Commission generally receives requests based on the interest of investors or other parties, for regulated company or entity reporting and registration review activities; consumer complaints; and investigations. The number of FOIA requests to the SEC has grown over the past five fiscal years from 2500 requests in FY 02 to 9500 requests for FY 05. A rapid 220% increase occurred from FY 03 to FY 05, creating a sizable backlog of requests. The Commission recognized the mounting demand for information and began initiating measures to improve access to information in 2003. A number of initiatives have already been accomplished and FOIA program improvements have been realized and continue to progress.

## **B. Areas selected for review.**

All 27 areas identified for review under EO 13392 by the Department of Justice Implementation Guidance were considered. Those areas selected for in-depth review were: Proactive disclosure of information; Electronic FOIA automated processing; Multi-track processing; Case-by-case problem identification; Backlog reduction/elimination; and Internal Resource Improvement.

## **C. Summary results of review.**

The overall review found that in FY 02 and in prior years, the FOIA staff and the FOIA liaisons across the Commission effectively managed an annual workload of approximately 3500 requests. The staffing level allowed the necessary coordination with other Commission offices and preparation of final responses, within the 20 day statutory time frame. FOIA requests which had to be referred out to other offices and divisions in the Commission could be responded to without disruption in the normal business of the components of the Commission.

Since FY 03, the factors listed below were found to be contributing factors to a backlog which has grown since October, 2002:

- The sheer number of FOIA requests from commercial entities, which currently represent approximately 92% of the total backlog;
- The complex and voluminous nature of many FOIA requests;
- The sheer number of requests for confidential treatment under the FOIA;
- The ease and speed by which requests can be submitted electronically;
- The need to provide original submitters notice when proprietary data may be at issue;
- An increase in requests involving litigation;
- The need to frequently perform detailed, line-by-line, word-by-word review of material located which may be responsive to FOIA requests;
- Complicated coordination of many requests, which require substantive research and work involving multiple offices across the Commission;
- An increased or more complex workload which exceeds staff resources and capabilities.

The backlog of FOIA requests, which began in FY 2003, is primarily for correspondence relating to disclosure filing reviews referred to as SEC comment letters and company response letters. The increase in FOIA requests for these records clearly indicates public awareness and interest in the information. There are primarily two entities filing thousands of requests per year to obtain access to these letters for commercial use, thereby creating the overwhelming backlog. The cost to commercial requestors for the information is minor as compared to the profit realized when information is sold to the public. Fulfilling requests for this distinct category of records, for a distinct few commercial requestors, requires staff to defer the primary work of the Commission – reviewing filings for compliance with federal securities laws – in order to fulfill FOIA requests. The use of FOIA resources for such distinct commercial use, is an ineffective means of providing the public with access to government information, and is an inappropriate use of the FOIA.

In FY 2003, the two commercial users submitted 2067 FOIA requests, or 35.5% of the total annual requests; in FY 2004, these entities submitted 5728 requests, or 60% of total annual requests; in FY 2005, over 4000 requests were submitted for 45% of total requests; and in FY 2006, over 3500 requests were submitted for almost 40% of total annual requests received. Other FOIA requestors submit requests for a variety of Commission records, however, the overwhelming number of commercial requests has slowed response time to all requestors.

In response to public interest in SEC comment and response letters, the Commission announced a new policy to release correspondence related to disclosure filings reviewed after August 1, 2004, as stated in a press release dated June 24, 2004 (SEC Press Release 2004-89). The SEC began posting correspondence to its public EDGAR website in May 2005. Over time, as additional postings of comment and response letters take place, the need to file a FOIA request for this correspondence will diminish. The posting of correspondence has already had an impact on reducing the backlog of FY 05 and 06 requests, as many requests have been satisfied by posted materials. In future years, the commercial value of this information will be reduced by the public availability.

To reduce the backlog of FY 03 and 04 requests, the FOIA Staff has undertaken a case-by-case review of each request to determine the most feasible method to respond to requests for dated information. The FY 03 review was completed in May 2006 and resulted in closure of over 100 requests, significantly reducing the backlog. The review of FY 04 requests is on-going. Included in these FY 03 and 04 reviews is the status of requests placed into the Commissions multi-track queues. The FIFO track (first-in, first-out) includes requests requiring focused and extensive staff time in order to review large volumes of records. Requestors sign an agreement to be placed into the FIFO track and are notified periodically of their status in the queue. The SEC FOIA Office receives a very minor number of requests for expedited treatment.

In November, 2004, the SEC FOIA Office implemented an internal FOIA electronic document management and tracking system. In FY 07, this system will be enhanced with upgrades providing expanded document management, tracking, reports, archiving and redacting capabilities.

The SEC recognizes the need to provide updated FOIA guidance to the Commission to reinforce awareness of records management and release of information issues. Specific internal training is being developed for each liaison office to provide a baseline of processing guidance and to provide continuity to frequently changing FOIA liaison staff. To accommodate the workload level and increasing complexity, the FOIA Office is included in a review of staffing as part of an internal staff reorganization. Improvements to staffing resources will contribute to the ability of the FOIA Office to provide Commission-wide training, implement enhancements to the E-FOIA tracking and document management system, and better manage and resolve the backlog.

**D. List of improvement areas.** The following areas have been selected for improvement:

- 1) Backlog reduction
- 2) Eliminating future backlog/proactive disclosure of information
- 3) Improve resources (staffing, training, internal policies and practices)

**E. Improvement areas.**

SEC has targeted 3 specific areas – reducing backlog; eliminating future backlog/proactive disclosure of information; improve internal resources - as the key areas which will result in reduced/eliminated backlogs and allow the Commission to be more responsive to the public in the future.

**1) Backlog reduction.** The current backlog of requests from FY 03 and FY 04 must be reduced. These cases will be reviewed to validate the continued need for the information and the current availability of the requested records. The goal is to reduce the FY 03 and 04 backlog by 15% per quarter beginning 4<sup>th</sup> quarter FY 06.

<i><b>Specific Steps Planned to be taken</b></i>	<i><b>Projected Completion Dates</b></i>	<i><b>Means of Measurement of Success/Outcomes: Reduction in 03/04 Backlog</b></i>
<i><b>FY 03 Case by Case Review</b></i>	<i>FY 03 review completed 5/30/06</i>	<i>As of 8/15/06, FY 03 requests had been reduced by 100 requests or 20% reduction.</i>
<i><b>FY 04 Case by Case Review</b></i>	<i>FY 04 1<sup>st</sup> Qtr completed by 12/31/06 FY 04 2<sup>nd</sup> Qtr completed by 2/1/07 FY 04 3<sup>rd</sup> Qtr completed by 5/1/07 FY 04 4<sup>th</sup> Qtr completed by 7/1/07</i>	<i>15% reduction in pending requests by quarter</i>

**2) Eliminating future backlog/proactive disclosure of information.** Reducing the current FY 05 and 06 backlog and improving the time frame for responding to requests in the future involves the dissemination of filing related correspondence. Public dissemination significantly reduces the need to request these records under the FOIA.

<i><b>Specific Steps Planned to be taken</b></i>	<i><b>Projected Completion Dates</b></i>	<i><b>Means of Measurement of Success/Outcomes: Reduction in 05/06 Backlog and Decrease in 07 Requests</b></i>
<i><b>Correspondence Dissemination:</b> Routine and on-going dissemination of filing related correspondence via SEC's Public EDGAR website. Filing Reviews are posted no sooner than 45 days from completion of staff review.</i>	<i>From 5/12/05 to 7/12/06, there were 1874 filings publicly posted with related correspondence.  From 7/13 to 9/6/06, there were 1977 filings publicly posted with related correspondence.</i>	<i>Over 160 pending FY 05 and 06 requests were fulfilled due to postings as of 7/12/06.  The number of FOIA requests fulfilled is under review.</i>

**3) Improve resources (staffing, training, internal policies and practices).** The SEC FOIA Program will take the following steps to improve resource utilization and increase FOIA knowledge. The goal is to reduce the median number of days requests are pending by 5% and to reduce the number of appeals by 15%.

<b><i>Specific Steps Planned to be taken</i></b>	<b><i>Projected Completion Dates</i></b>	<b><i>Means of Measurement of Success/Outcomes: Reduction in FOIA Processing Time; Reduce Appeals</i></b>
<p><b><i>Review and improve internal practices and procedures:</i></b>  <i>Issue internal FOIA Policy Memo</i></p> <p><i>Overall FOIA Regulations Review including: Confidential Treatment policy &amp; procedures; Appeals; and review and update of FOIA fees.</i></p>	<p><i>10/31/2006</i></p> <p><i>Preliminary Review by 1/31/07; Federal Register publication and effectiveness by 7/1/07</i></p>	<p><i>Reduce median number of days requests are pending by 5%</i></p>
<p><b><i>Provide FOIA Training to Divisions and Staff Offices:</i></b></p> <p><i>Develop enhanced guidance to SEC employees specific to divisions and offices</i></p> <p><i>Train Field and HQ FOIA Liaison Staff</i></p>	<p><i>12/31/06</i></p> <p><i>7/31/07</i></p>	<p><i>Reduce median number of days requests are pending by 5%; Reduce number of appeals filed by 15%.</i></p>
<p><b><i>FOIA Office Staffing</i></b> As part of internal reorganization, analyze utilization of staffing resources for FOIA Office</p>	<p><i>7/1/07</i></p>	<p><i>Reduce median number of days requests are pending by 5%</i></p>



**F. Improvement area time periods:** Improvement milestones are listed below in chronological order of expected accomplishment dates.

<i><b>Actions to be completed by:</b></i>	<i><b>December 31, 2006</b></i>
<i>FY 03 Case by Case Review</i>	<i>Completed 5/30/06</i>
<i>Issue Internal FOIA Policy Memo</i>	<i>10/31/06</i>
<i>FY 04 Case by Case Review 1st Qtr</i>	<i>12/31/06</i>
<i>Provide FOIA Training: Develop enhanced guidance to SEC staff</i>	<i>12/31/06</i>
<i>Correspondence Dissemination</i>	<i>On-going through 12/31/06.</i>

<i><b>Actions to be completed by:</b></i>	<i><b>December 31, 2007</b></i>
<i>Overall FOIA Regulations Review</i>	<i>Preliminary Review by 1/31/07 (Effectiveness by 7/1/07)</i>
<i>FY 04 2nd Qtr review</i>	<i>2/1/07</i>
<i>FY 04 3rd Qtr review</i>	<i>5/1/07</i>
<i>FY 04 4th Qtr review</i>	<i>7/1/07</i>
<i>Staffing – complete review of FOIA staffing as part of internal re-organization</i>	<i>7/1/07</i>
<i>Deliver training to All SEC FOIA Staff</i>	<i>7/31/07</i>
<i>Correspondence Dissemination</i>	<i>On-going through 12/31/07</i>